ORDINANCE LIST

Ordinance	Approved by the Mayor	
96…. 1926	November 23,1926	Zoning Map—Change from Business to Apartment involving Ferry Street, Hillside Avenue to Elm Street
837…1927	December 22,1927	Zoning Map—change from Dwelling to Apartment Silver Road (both sides)
472…1927	April 30, 1927	Amendment to Section 7, new section added.
156…1928	May 18, 1928	Amendment to Section 12, City Council revising Ordinance.
……..1928	December 26, 1928	Extending Business District Sea Street, at Broadway.
206…1930	May 16, 1930	Zoning Map—Change from Apartment to Business corner Union and Malden Streets
11…..1930	October 24, 1930	Exempting certain land at Garland Street, Lawrence Street and Fremont Avenue from Height, Area's Front Yards, for hospital purpose.
11…..1931	March 12, 1931	Zoning Map—Change from Apartment to Business lots 67-72, Revere Beach Parkway.
48…..1931	December 28, 1931	Zoning Map—Change from Dwelling to Business Northeast corner Lynn and McKinley Streets.
9……1942	March 18, 1942	Zoning Map—Change from Dwelling to Apartment corner of Bucknam and Swan Streets.
178…1943	May 17, 1943	Amendment to Section 10, add new paragraph.
……..1945	November 15, 1945	Zoning Map—Change from Apartment to Industrial 57-63 Tileston Street.
86….1947	February 26, 1947	Zoning Map—Change by extending Apartment to include lot 26, Parker Street.
88….1947	February 15, 1947	Zoning Map—Change from Apartment to Industrial Winter and Spring Streets (Standard Duplicating).
…….1949	December 30, 1949	Zoning Map—Change from Dwelling to Business 232 Fuller Street.

574A..1949	December 30, 1949	Zoning Map—Change from Apartment to Industrial Winter Street (Standard Duplicating).
107…1952	March 24, 1952	Amendment to Section 11, rewrite section.
61…..1952	May 8, 1952	Zoning Map—Change from Apartment to Business Carter Street at B & M Railroad.
89….1955	June 28, 1955	Zoning Map—Change from Apartment to Business School Street near Main Street.
48….1956	April 12, 1956	Zoning Map—Change from Apartment to Business Coburn Terrace and Sycamore Street.
120...1956	December 17, 1956	Zoning Map—Change from Apartment to Business 21 Everett Avenue.
88….1956	May 25, 1956	Amendment to Section 1 April to February.
137...1956	December 28, 1956	Zoning Map—Change from Apartment to Business Lots 61-64, Revere Beach Parkway.
77….1958	August 8, 1958	Zoning Map—Change from Apartment to Business Lot “A,” Corey Street.
110…1959	December 7, 1959	Zoning Map—Change from Apartment to Business Lot “B,” corner of Revere Beach Parkway and Everett Avenue.
26….1960	July 6, 1960	Zoning Map—Change from Apartment to Business corner of Union and Malden Street.
27….1960	July 6, 1960	Zoning Map—Change from Apartment to Business corner of Chelsea Street and Everett Avenue.
31…1961	December 28, 1961	Zoning Map—Change from Dwelling to Apartment Lots 9, 54 and 56, Liberty Street.
39…1962	April 25, 1962	Zoning Map—Change from Apartment to Business 20 Everett Avenue.
52/1963	June 3, 1963	Zoning Map—Change from Residential to Apartment Broadway—land opposite Pope John High School, Near corner McKinley Street (Northhill Apartments).
65/1964	February 26, 1965	Amendment, inserting Section 16, Trailers and Mobile Homes.
……1964	February 28, 1964	Amendment, Section 7 (c), Industrial Districts, Street set-back requirements.

65/1964	February 26, 1965	Amendment, inserting Section 17, Off-Street Parking.
52/1966	May 17, 1966	Zoning Map—Change from Dwelling to Apartment Lots 9 and 10, Hamilton Street.
52/1966	October 25, 1966	Zoning Map—Change from Apartment to Business Lot “C,” Revere Beach Parkway.
60/1966	November 14, 1966	Amendment, Section 16, paragraph 1604 (C) changing 6 months to 8 months.
60/1966	July 18, 1966	Exception—City Hall Annex land (for elderly housing).
77/1970	December 18, 1970	Zoning Map—Change from Apartment to Business Lots 87 and 88, Revere Beach Parkway.
87…1971	March 19, 1971	Zoning Map—Change from Dwelling to Apartment Lot 1, Belmont Street.
14/1973	June 7, 1973	Zoning Map—Change from Apartment to Business (Piantedosi Bakery).
14/1973	Passed without the approval of the mayor	Amendment, Section 6, inserting new subsection (f) Special Exception.
24/1974	July 25, 1974	Zoning Map—Change from Apartment to Dwelling Central Avenue, Vernal Street Area.
……1974	October 11, 1974	Amendments to Section 17 Off-Street Parking
24/1974	December 26, 1974	Zoning Map—Change from Apartment to Business Revere Beach Parkway.
24/1974	December 26, 1974	Zoning Map—Change from Apartment to Dwelling Ferry Street, Broadway—Revere Boundary.
97/1975	February 6, 1975	Zoning Map—Change from Apartment to Dwelling Argyle Street, Clinton Street Area.
97/1975	March 10, 1975	Zoning Map—Change from Apartment to Dwelling Pearl Street to Parlin Street westerly of Main Street.
97/1975	May 30, 1975	Amendment, Section 4 (a) Uses, Dwelling district omitting 4 Family Dwellings.
97/1975	December 29, 1975	Amendment, Section 6, Business District, “access to off street parking.”

51/1985	October 18, 1985	Amend Section 3 General Requirements by adding new paragraph (8) “Billboards”
……1987	June 29, 1987	Rewriting of several sections and the total rewrite of “Section 17 Off-Street Parking,” insertion of “Section 18 Interim Overlay District.”
54/1988	April 11, 1988	Amend Section 3 General Requirements Paragraph 6 “frontage for residential use”
54/1988	April 11, 1988	Amendments Section 3 General Requirements Paragraph 10
54/1988	April 11, 1988	Amend the following: Section 4 Dwelling Districts; Section 5 Apartment Districts subsection 4 “height; Section 6, Business District sub section 3 “height”; Section 7; Industrial District, 3 “height.”
54/1988	April 11, 1988	Amendments to Section 19 delete paragraph 10 to subsection D and insert (E).
54/1988	May 27, 1988	Change the Zoning Map From Apartment to Dwelling District two area’s (1) Ferry; Broadway Rock Valley and Edith Streets (2) Parker Street
318/1998	June 4, 1998	Change the Zoning Map from Apartment District to Dwelling District Hancock Street (westerly of Tappan Street and Central Avenue to the Malden City Line)
54/1988	December 12, 1988	Change the Zoning Map from Apartment District to Dwelling District in the area of Blanchard Ave., Neilson Ave, Hillside Ave, Franklin St; Elm St, Reed Ave, Chestnut St, Chestnut Pl, and Magnolia Ct.
310..1989	February 28, 1989	Change the Zoning Map from Apartment District to Dwelling District in 3 area’s (1) Tileston Street; Saugus Railroad and Santilli Highway, (2) Parlin Street; Main Street; Spaulding Street and the Saugus Branch Railroad, (3) Winthrop Street; Norwood Street Sweetser Circle and Main Street
960/1990	December 3, 1990	Amending the Zoning Ordinance to create two (2) new Zoning Districts in the Revere Beach Parkway Area an Industrial Limited District and a Business Limited District

461/1991	January 14, 1991	Change the Zoning Map from Dwelling District to Business District (Adjacent to # 242.244 Ferry Street)
……1991	April 29, 1991	Rewrite of several sections, and create new sections “20 Business Limited District,” “Section 21 Industrial Limited District.”
462/1992	April 6, 1992	Change the Zoning Map from Apartment District to Business District (17.7 Revere Beach Parkway)
462/1992	April 6, 1992	Change the Zoning Map From Apartment District to Business District (17.7 Revere Beach Parkway)
464/1994	February 16, 1995	Insert new Sections “3A 2nd Class Motor Dealer,” “Section 3B Auto Body Shops,” “Section 3C Auto Repair Shops.”
460/1996	January 22, 1996	Change the Zoning Map from Business District to Dwelling District (Haskell Ave at Elm St.)
466/1996	December 19, 1996	Insert new Section 21A “Adult Entertainment Land Use.”
318..1998	June 9, 1998	Revised Section 23 “Building Department Fee Schedule”
……1998	December 2, 1998	Insert new Section 19 “Site Plan Review.”
469/1999	October 22, 1999	Insert new Section 24 “Telecommunications Overlay District.”
01-046	November 16, 2001	To change the Zoning Map for the City Yards from Business Limited and Industrial Limited to Commercial and Business Limited
01-046/2001	November 26, 2001	Revised Section 17 “Off-Street Parking paragraph I (parking space size from 81.2 x 20 to 9 x 18)
046/2002	July 10, 2002	Adding Line 7A in Section 17 Off-Street Parking
046/2002	July 16, 2002	Dwelling Districts Section 4; increase frontage to 30 feet and increase lot area to 4700 and 5500 sq. ft.
046/2002	August 10, 2002	Adding to line 3 of Section 17 (A) Off-Street Parking Rehabilitation centers, halfway houses.
02-046	August 12, 2002	Insert 7A for Places of Assembly in to Section 17 Off-Street Parking

046/2002	August 21, 2002	Insert New Section 25 Substance Abuse Centers
03/046	October 22, 2003	Insert new subsection 17 in Section 4 Dwelling Districts for minimum lot area and parking for all units if dwelling is altered.
04/046	February 12, 2004	Amendment to section 4 Dwelling Districts paragraph (a) subsection 3 to read as follows: 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 the outside; except for announcement card or sign of not more than (2) two square feet, and that such uses be confined to not over one-third of the total floor area occupied by each family
04/046	September 23,2004	Insert new section # 26 River Front Overlay District
04/046	September 23, 2004	Amend Section 4 Dwelling Districts by adding Broadway, East side from Gladstone Terrace to Mckinley Street and Broadway West Side from Marie Avenue to Shute Street
A0018/07	April 19, 2007	Change the Zoning Map from Industrial to River Front Overlay in the area bounded by Route 99 Route 16 and the Malden River and Mystic Rivers
0037/07	November 13, 2007	Section 4 Dwelling Districts Changes to Frontage, Lot Area and Building Height
0326/08	May 28, 2009	Amendment to Section 21A Adult Entertainment by adding Fortune Tellers
0270/08	January 27, 2009	Insert New Section (27) on Material Facilities, Incinerators, Landfills, Junk Yards and Facilities And Transfer Stations.
A0004/10	August 20,2010	Amendments to Section 21A by inserting the following: (6) Pawn Shops, (7) Body Piercing Studio, (8) Check Cashing Establishments, (9) Tattoo Parlors and (10) Gun Shops
C0074/10	December 20, 2010	Remove and replace the fee schedule for the Building Department.
A0301/10	December 30, 2010	Remove and replace the fee schedule for the

		Plumbing Division of the Building Department.
A0026/11	July 26, 2011	Add New Section 28 Storm water Management and Land Disturbance Ordinance.
A0027/11	July 26, 2011	Add New Section 29 Governing Post-Construction Storm water Managements of New Developments and Redevelopments.
CO116-13	Nov. 26, 2013	Insert New Section 30 Lower Broadway Economic Development District (LBEDD) (Originally known in the draft phase as 28A).
C0217-16	May 11, 2016	City council salary (7)
C0218-16	May 11, 2016	Mayor salary (7)
C0220-14	Apr. 27, 2015	Repeals and replaces Ch. 3, animal control (3)
C114-14	Jan. 28, 2015	Insert New Section 31 Registered Medical Marijuana Dispensaries
C0212-16	May 11, 2016	Amends § 12-28(c), door-to-door solicitation (12)
C0282-16	June 15, 2016	Amends § 14-2, appointment of police officers (14)
C0334-16	Aug. 24, 2016	Adds § 16-113, beverage container collectors (16)
C0349-16	Aug. 24, 2016	Adds § 12-221, donation bins (12)
C0368-16	Aug. 24, 2016	Adds § 10-35, rodent control (10)
C0369-16	Aug. 24, 2016	Amends § 16-78; repeals § 16-84, rodent control (16)
C0370-16	Oct. 18, 2016	Amends Appendix A, temporary parking facility zoning (Appx. A)
C0377-16	Oct. 18, 2016	Amends § 13B-4, vacant and foreclosed properties (13B)
C0419-16	Oct. 26, 2016	Amends § 13A-62.0(g)(14)(b)(6), loud and unnecessary noises (13A)
C0421-16	Oct. 18, 2016	Adds § 7-167, mayor longevity payment (7)
C0439-16	Nov. 17, 2016	Repeals § 13-7, sex offender residency restrictions (Repealer)
C0440-16	Jan. 3, 2017	Amends § 12-47, garage fees (12)
C0441-16	Jan. 3, 2017	Adds § 12-2(a)(1), licensing under MGL Chapter 140, Sections 57 and 59 (12)

C0442-16	Jan. 3, 2017	Adds § 12-48(b)(5), auto body and auto repair licenses (12)
C0468-16	Feb. 23, 2017	Adds § 3-19, animal care standards (3)

PART VI
COUNCIL RULES

DEFINITIONS

When used in this document, the following words, terms and phrases shall have the meanings ascribed by them in these definitions, except where the context clearly indicates a different meaning:

A. Charter: The City of Everett Home Rule Charter, 2011, including all amendments thereto subsequently adopted.

B. City: The city of Everett, Massachusetts.

C. City council: The duly elected, 11 member city council of the city of Everett, Massachusetts.

D. CMR: The Code of Massachusetts Regulations, as codified and published on January 1, 1978, and including all amendments thereto subsequently adopted.

E. Committee: Any standing committee or special committee of the city council.

F. Committee member: A member of the city council appointed to be a member of any of the committees of the city council.

G. Formal session: Any meeting of the city council as defined in Rule 4 of these rules.

H. Maintenance request: A request from a city council member(s) to a specific city department and/or the mayor's office for the specific repair, replacement or maintenance of pavement, sidewalks, traffic signals, signage, playground equipment or other similar request.

I. Majority vote: A vote of more than half of those city council members or those city council committee members present and voting thereon.

J. Massachusetts open meeting law: MGL, Chapter 30A, Sections 18 .to 25, inclusive.

K. Measure: Any order, ordinance, petition, resolution or vote to be considered by the city council.

L. Member: A duly elected or appointed member of the city council.

M. MGL: The General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

N. Ordinance: A law of the city prescribed by the city council, designed for the permanent regulation of any matter within the jurisdiction of the city council. All ordinances require the approval of the mayor or may also be in force in accordance with the other provisions of Section 3-6 of the charter.

O. President: The president of the city council.

P. Presiding officer:

1. At a session of the full city council, the permanent or acting president of the city council.

2. At a city council committee meeting, the permanent, acting or appointed chairman of such committee.

Q. Revised Ordinances: The "Revised Ordinances of the City of Everett, Massachusetts, 2007", including all amendments thereto subsequently adopted.

R. Rules: These rules of the city council of the city of Everett, Massachusetts, including all amendments thereto subsequently adopted.

S. Senior member: The member of the city council with the most seniority.

T. Seniority: The ranking of members of the city council by the total years of current continuous service on the current and previous versions of the city council and age. The seniority of members shall be determined in the following manner:

1. The member who currently has the longest period of current continuous service on the current and previous versions of the city council.

2. If such periods of current continuous service are identical, the member who is older.

U. Special committee: A temporary committee of the city council, established in accordance with Rule 38 of these rules.

V. Standing committee: A permanent committee of the city council, established in accordance with Rule 37 of these rules.

RULES OF CONSTRUCTION

A. Number and Gender

1. Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular.

2. Words importing the masculine gender shall include the feminine gender.

B. References to MGL, CMR, Charter, Revised Ordinances

All specific references to MGL, CMR, the Charter and the Revised Ordinances are intended to refer to and to include any amendments or revisions to such chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or re-codification of such statutes enacted or adopted subsequent to the original adoption of these rules.

C. Computation of Time

1. When computing time in days under these rules:

a. The day of the act or event after which the designated period of time begins to run shall not be included.

b. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

c. If the period of time designated is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall not be included; when the period of time designated is seven (7) days or more, every day shall be counted.

2. When computing time in hours under these rules, every hour shall be counted.

ORGANIZATION

RULE 1: Officers of the city council; terms of office.

Charter references

Section 2-2: President;

Section 2-8: Appointments of the city council;

Section 10-5(c): Certain laws recognized and retained with respect to incumbents

A. The officers of the city council shall be:

1. The president of the city council;

2. The clerk of committees;

3. The city clerk/clerk of the city council; and

4. The assistant city clerk.

B. The term of office for each of the officers of the city council is specified by the Charter.

RULE 2: Elections; appointments; temporary appointments.

A. The election or appointment of all officers of the city council shall be held by placing a separate order on the business agenda to fill each such office whenever it is required. Officers of the city council shall be elected/appointed in accordance with the following procedure:

1. A motion shall be made and seconded to open nominations for such city council office.

2. In order to be eligible for election/appointment, a candidate must have their name placed in nomination on the ballot and the nomination must have received a second. Any candidate for a city council office shall meet all requirements of the office in accordance with all applicable provisions of the Charter and the Revised Ordinances in order to be nominated. Nomination speeches shall be limited to a maximum of five (5) minutes per candidate.

3. After all nominations for such city council office have been completed, a motion shall be made and seconded to close nominations for such office.

4. A vote to fill such city council office shall be taken by the calling of the role. When their name is called by the clerk of the city council, each member present shall vote either by stating the name of a candidate currently on the ballot or by abstaining.

5. Any candidate receiving six (6) or more votes shall be elected/appointed to such city council office.

6. If there was only one candidate for such city council office and they did not receive the required six (6) votes, a motion shall be made, seconded and voted upon favorably to table the order until the next regularly scheduled meeting of the city council, at which time, this entire election/appointment procedure shall be restarted from the beginning.

7. If there were two or more candidates for such city council office and none received the required six (6) votes, the two or more candidates receiving the most votes shall move on to the next ballot. All other candidates shall be eliminated from the ballot.

8. In the event that no candidate for such city council office has received the required six (6) votes and a ballot remains to be voted upon, such ballot shall be voted on in accordance with Rule 2.A.4 and the result of said vote shall be evaluated in accordance with Rules 2.A.5, 2.A.6 and 2.A.7.

9. After at least five (5) ballots for such city council office have been voted on at a single formal session of the city council without a candidate for such office being elected or appointed, a motion may be made to table the order until the next regularly scheduled city council meeting. If such motion is seconded and approved by a roll call majority vote, the order shall be tabled until the next regularly scheduled meeting of the city council where voting on such order shall resume in accordance with Rule 2.A.8.

B. If, for any reason, any office of the city council becomes vacant, the nomination and election procedure in Rule 2.A will be used to fill such vacancy. Such vacancies shall be filled at the first meeting of the city council possible with respect to any applicable provisions of the Revised Ordinances and the Massachusetts Open Meeting Law. Any vacancy in any office of the city council shall only be filled for the remainder of the unexpired term.

C. Temporary appointments

1. In the case of a delay in the filling of any appointed office of the city council, the city council may choose to make a temporary appointment to such office.

2. All temporary appointees of the city council shall be subject to the same limitations regarding the exercise of powers and length of appointment as are temporary appointees of the mayor.

Charter reference –

Section 3-4: Temporary appointments to city offices

3. All temporary appointees shall hold such office until the permanent appointee for such office is chosen and qualified or their temporary appointment expires.

4. In the case of a delay in the appointment to the office of the city clerk, the city council may decide to make a temporary appointment to the office of the clerk of the city council without also necessarily conferring a temporary appointment to the office of the city clerk on said appointee.

5. In the case of the absence of the clerk of the council city from a formal session of the city council or the clerk of committees from any committee meeting, a temporary clerk shall be appointed for the duration of the current meeting. Such temporary appointments shall be made by making and seconding a motion to accept a suitable person as temporary clerk of the body. Unless the result is in doubt, a favorable voice vote shall be sufficient to approve such motion.

6. Temporary appointments of the city council for any duration longer than a meeting shall use the nomination and election procedure in Rule 7.A. The extension of an existing temporary appointment of the city council shall be accomplished by placing an order on the business agenda to extend such appointment and acting on it like any other order.

RULE 3: Seating of members, others.

A. The seats of the members other than the president shall be chosen by matter of seniority at the next formal session following the inaugural.

B. Unless a vacancy occurs on the city council, all members shall retain their chosen seats for the remainder of their term of office.

C. If a city council seat becomes vacant at any time during the city council's term of office, seating arrangements may be changed, as a matter of seniority, by choosing to move a vacant seat.

D. No person except a member of the body meeting shall be permitted inside the rail of the council chamber or to occupy the seat of a member, without permission from the presiding officer, when said room is being used as part of the city government meeting chamber.

FORMAL SESSIONS

RULE 4: Formal sessions; scheduling, notification.
A. The scheduling and notification of all formal sessions of the city council shall be in accordance with the applicable provisions of the Massachusetts open meeting law, including the posting of the business agendas of all such sessions.

B. An electronic copy of the business agenda of all such formal sessions shall be made available to be posted on the city's web site.

C. Regular meetings of the city council shall be held in accordance with the provisions of Section 1A-1 of the Revised Ordinances.

D. Special meetings of the city council shall be held as needed. The scheduling and notification of such meetings shall also be in accordance with the provisions of Rule 7.3 and either Section 2-6(c)(ii) or Section 3-5(b) of the Charter. Such special meetings shall not be scheduled as to conflict with any previously scheduled committee meeting.

E. Joint meetings of the city council and the school committee shall be held as needed or required. The scheduling and notification of such joint meetings shall be in accordance with the provisions of Rule 7.4.

F. Except with the approval of the president, no formal session, regular or special, shall be scheduled prior to 6:00 P.M.

RULE 5: Call to order; absence of the president.
A. The presiding officer shall take the chair at the hour appointed for a formal session and shall immediately call such session to order.

B. In the absence of the president, the most senior member present shall preside until a president pro-tempore shall be chosen by a plurality vote.

RULE 6: Determination of quorum; record of attendance.
A. Formal sessions shall be called to order by the calling of the roll to determine the presence of a quorum.

B. The presence of a majority of the entire membership of the body shall constitute a quorum for the transaction of business.

C. A record of said roll call shall be kept in the city clerk's office which shall be available for inspection by the public at all times.

RULE 7: Meetings.

RULE 7.1: Regular meeting; business agenda, deadline, placement.

A. All papers addressed to the city council for a regular meeting shall be presented by the president or by a member.

B. The sponsor(s) of each measure submitted for inclusion on the business agenda shall provide a brief description of the measure. Such descriptions need not set out the specific action or alternatives which will be considered by the city council, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the business agenda.

C. All such papers for a regular meeting shall be presented to a city council legislative assistant before the hour of 11:00 A.M. of the Thursday preceding a regular meeting. If such Thursday falls on a holiday, such deadline shall be pushed back to 11:00 A.M. of the Wednesday preceding a regular meeting.

D. A city council legislative assistant shall prepare a business agenda of said business for each regular meeting.

E. All measures to be included on the business agenda shall be placed on the agenda in the order in which they are received within the proper category on the business agenda, pursuant to Rule 7.2.

F. A city council legislative assistant shall cause such business agenda and associated materials to be delivered to the all members of the city council, the city clerk, the mayor and the city solicitor, no later than forty-eight (48) hours preceding the regular meeting in such manner as the president may direct.

G. No business shall be submitted under suspension without the approval of the president and pursuant to the Massachusetts open meeting law.

RULE 7.2: Regular meeting; order of business.
At every regular meeting of the city council, the order of business shall be as follows:

A. Roll Call

B. Pledge of Allegiance

C. Presentation of petitions, memorials, and remonstrance's

D. Public Hearings

E. Public Participation

F. Approval of the minutes of the previous meeting

G. Communications from His Honor the Mayor

H. Communications and Reports from City Officers and Department Heads

I. Committee Reports

J. Unfinished Business

K. New Business

L. Maintenance Requests

RULE 7.3: Special meeting; notification.

Charter references

Section 2-6(c)(ii): Special meetings of the city council;

Section 3-5(b): Special Meetings of the City Council

A. Whenever a special meeting of the city council shall be called, a written notice signed by the mayor, the president or the councilors who called for such meeting shall be filed with the city clerk.

B. Such notice shall state the date and hour of the meeting and the purpose for which such meeting is called.

C. A copy of such notice shall be served upon each member, the mayor and the city solicitor, either in person or by notice left at their place of residence.

D. No other business than the subject matter for which said special meeting was called shall be discussed or added to the special meeting business agenda.

RULE 7.4: School committee joint meeting; notification; presiding officer.

A. Annually, pursuant to Section 6-2 of the Charter, the mayor shall call a joint meeting of the city council and the school committee, to include the superintendent of schools, before the commencement of the budget process to review the financial condition of the city.

B. Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in Section 4-6(a) of the Charter, the president shall, pursuant to Section 4-6(b) of the Charter, call a joint meeting of the city council and the school committee to act to fill the vacancy.

C. Notification of such joint meetings shall follow the notification provisions of Rule 7.3 with the addition of a copy of such notice also being served on each member of the school committee, in the same manner prescribed for city council members, and the superintendent of schools.

D. The president shall be the presiding officer of such joint meeting. In the absence of the president, the most senior member of the city council present shall be the presiding officer.

E. No other business than the subject matter for which said joint meeting was called shall be discussed or added to the joint meeting business agenda.

RULE 7.5: Executive session.

State law reference - Meeting of public body in executive session, MGL Chapter 30A, Section 21.

A. The city council or any committee thereof shall only lawfully meet in executive session for one or more of the purposes enumerated in the Massachusetts open meeting law. If any member questions the validity of the reason for the body entering into executive session, the body shall seek the advice of the city solicitor's office before entering into such executive session.

B. The rules that govern any executive session of the city council or any committee thereof shall be as prescribed by the Massachusetts open meeting law.

RULE 8: Reading of the business agenda, papers; courtesies.
A. All items on the business agenda shall be read by the clerk of the city council as they appear on the business agenda. This portion of this rule shall not be suspended.

B. If a request is made by any member to read any or all papers associated with a business agenda item, such papers associated with the agenda items shall be read by the clerk of the city council barring any objections.

C. All agenda items and associated papers, when requested, shall be read in the order in which they appear on the business agenda, with due courtesy extended to invited guests, department heads and elected officials. A sign-in sheet shall be used to manage the order in which such due courtesy is extended.

RULE 9: Measures; expressions of action.
The expressions of action for the various types of measures that may appear on a city council business agenda are as follows:

A. Orders

1. The form of expression for everything by way of command shall be an order.

2. The enacting style for all proposed orders shall be "Be it ordered by the City Council of the City of Everett, as follows:".

B. Ordinances

1. The form of expression for all proposed laws of the city, revisions to existing laws of the city or repeals of existing laws of the city shall be an ordinance.

2. The enacting style for all proposed ordinances shall be “Be it ordained by the City Council of the City of Everett, as follows:”.

3. Further details for the required formatting of all proposed ordinances shall be found in Sections 1-4 and 1-12 of the Revised Ordinances.

C. Resolutions

The form of expression for any request or anything expressing opinions, principles, facts or purposes shall be a resolution.

The enacting style for all proposed resolutions shall be “Be it resolved by the City Council of the City of Everett, as follows:”.

RULE 10: Public participation.

A. Each formal session of the city council shall include a period of public participation which shall last up to ten (10) minutes.

B. At regular meetings of the city council, the subject matter of public participation shall not be limited to the items before the city council at the present regular meeting. At any special meeting of the city council, the subject matter of public participation shall be limited to the subject matter of the present special meeting.

C. For the purpose of this rule, the term “public” shall be construed to mean any member of the public at large and not limited as to restrict any individual from participation.

D. Each member of the public shall place their name, address and brief description of their topic(s) on the public participation sign in sheet prior to the start of the formal session of the city council.

E. Each member of the public shall be limited to no more than two (2) minutes of participation without unanimous consent of the members present. Large groups should designate a spokesperson to speak on a particular issue.

F. This rule does not limit or replace the provisions of Rule 16, which remains in full effect.

G. Participants shall address all comments to the president.

H. Participants shall not promote or oppose any candidate running for office.

I. Participants shall not use public participation for political purposes.

J. Participants shall not advertise for commercial purposes or private gain.

K. Participants shall not make personal attacks on any city council members or other elected or appointed city officials.

L. Anyone making out of order comments or acting in an unruly manner shall be subject to removal from the meeting.

M. This rule shall be posted in the chambers for public viewing and understanding of rules.

RULE 11: Applications and communications from the mayor.
A. For every application and communication to the city council submitted by the office of the mayor, a copy of the same shall be given to each member.

1. For regular meetings, such copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which it will be considered.

2. For special meetings, such copy shall be given to each member along with the notification of such special meeting.

B. Each such application shall be accompanied by an explanation of the application.

RULE 11A: Presentations.
A. Anyone wishing to make a presentation to the city council shall provide a paper copy of such presentation to each member of the city council prior to the meeting at which such presentation shall be made.

1. For presentation to be made at regular meetings, said copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which such presentation shall be made.

2. For special meetings, said copy shall be given to each member along with the notification for the special meeting of the city council at which such presentation shall be made.

FORMAL SESSIONS

RULE 4: Formal sessions; scheduling, notification.
A. The scheduling and notification of all formal sessions of the city council shall be in accordance with the applicable provisions of the Massachusetts open meeting law, including the posting of the business agendas of all such sessions.

B. An electronic copy of the business agenda of all such formal sessions shall be made available to be posted on the city's web site.

C. Regular meetings of the city council shall be held in accordance with the provisions of Section 1A-1 of the Revised Ordinances.

D. Special meetings of the city council shall be held as needed. The scheduling and notification of such meetings shall also be in accordance with the provisions of Rule 7.3 and either Section 2-6(c)(ii) or Section 3-5(b) of the Charter. Such special meetings shall not be scheduled as to conflict with any previously scheduled committee meeting.

E. Joint meetings of the city council and the school committee shall be held as needed or required. The scheduling and notification of such joint meetings shall be in accordance with the provisions of Rule 7.4.

F. Except with the approval of the president, no formal session, regular or special, shall be scheduled prior to 6:00 P.M.

RULE 5: Call to order; absence of the president.
A. The presiding officer shall take the chair at the hour appointed for a formal session and shall immediately call such session to order.

B. In the absence of the president, the most senior member present shall preside until a president pro-tempore shall be chosen by a plurality vote.

RULE 6: Determination of quorum; record of attendance.
A. Formal sessions shall be called to order by the calling of the roll to determine the presence of a quorum.

B. The presence of a majority of the entire membership of the body shall constitute a quorum for the transaction of business.

C. A record of said roll call shall be kept in the city clerk's office which shall be available for inspection by the public at all times.

RULE 7: Meetings.

RULE 7.1: Regular meeting; business agenda, deadline, placement.

A. All papers addressed to the city council for a regular meeting shall be presented by the president or by a member.

B. The sponsor(s) of each measure submitted for inclusion on the business agenda shall provide a brief description of the measure. Such descriptions need not set out the specific action or alternatives which will be considered by the city council, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the business agenda.

C. All such papers for a regular meeting shall be presented to a city council legislative assistant before the hour of 11:00 A.M. of the Thursday preceding a regular meeting. If such Thursday falls on a holiday, such deadline shall be pushed back to 11:00 A.M. of the Wednesday preceding a regular meeting.

D. A city council legislative assistant shall prepare a business agenda of said business for each regular meeting.

E. All measures to be included on the business agenda shall be placed on the agenda in the order in which they are received within the proper category on the business agenda, pursuant to Rule 7.2.

F. A city council legislative assistant shall cause such business agenda and associated materials to be delivered to the all members of the city council, the city clerk, the mayor and the city solicitor, no later than forty-eight (48) hours preceding the regular meeting in such manner as the president may direct.

G. No business shall be submitted under suspension without the approval of the president and pursuant to the Massachusetts open meeting law.

RULE 7.2: Regular meeting; order of business.
At every regular meeting of the city council, the order of business shall be as follows:

A. Roll Call

B. Pledge of Allegiance

C. Presentation of petitions, memorials, and remonstrance's

D. Public Hearings

E. Public Participation

F. Approval of the minutes of the previous meeting

G. Communications from His Honor the Mayor

H. Communications and Reports from City Officers and Department Heads

I. Committee Reports

J. Unfinished Business

K. New Business

L. Maintenance Requests

RULE 7.3: Special meeting; notification.

Charter references

Section 2-6(c)(ii): Special meetings of the city council;

Section 3-5(b): Special Meetings of the City Council

A. Whenever a special meeting of the city council shall be called, a written notice signed by the mayor, the president or the councilors who called for such meeting shall be filed with the city clerk.

B. Such notice shall state the date and hour of the meeting and the purpose for which such meeting is called.

C. A copy of such notice shall be served upon each member, the mayor and the city solicitor, either in person or by notice left at their place of residence.

D. No other business than the subject matter for which said special meeting was called shall be discussed or added to the special meeting business agenda.

RULE 7.4: School committee joint meeting; notification; presiding officer.

A. Annually, pursuant to Section 6-2 of the Charter, the mayor shall call a joint meeting of the city council and the school committee, to include the superintendent of schools, before the commencement of the budget process to review the financial condition of the city.

B. Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in Section 4-6(a) of the Charter, the president shall, pursuant to Section 4-6(b) of the Charter, call a joint meeting of the city council and the school committee to act to fill the vacancy.

C. Notification of such joint meetings shall follow the notification provisions of Rule 7.3 with the addition of a copy of such notice also being served on each member of the school committee, in the same manner prescribed for city council members, and the superintendent of schools.

D. The president shall be the presiding officer of such joint meeting. In the absence of the president, the most senior member of the city council present shall be the presiding officer.

E. No other business than the subject matter for which said joint meeting was called shall be discussed or added to the joint meeting business agenda.

RULE 7.5: Executive session.

State law reference - Meeting of public body in executive session, MGL Chapter 30A, Section 21.

A. The city council or any committee thereof shall only lawfully meet in executive session for one or more of the purposes enumerated in the Massachusetts open meeting law. If any member questions the validity of the reason for the body entering into executive session, the body shall seek the advice of the city solicitor's office before entering into such executive session.

B. The rules that govern any executive session of the city council or any committee thereof shall be as prescribed by the Massachusetts open meeting law.

RULE 8: Reading of the business agenda, papers; courtesies.
A. All items on the business agenda shall be read by the clerk of the city council as they appear on the business agenda. This portion of this rule shall not be suspended.

B. If a request is made by any member to read any or all papers associated with a business agenda item, such papers associated with the agenda items shall be read by the clerk of the city council barring any objections.

C. All agenda items and associated papers, when requested, shall be read in the order in which they appear on the business agenda, with due courtesy extended to invited guests, department heads and elected officials. A sign-in sheet shall be used to manage the order in which such due courtesy is extended.

RULE 9: Measures; expressions of action.
The expressions of action for the various types of measures that may appear on a city council business agenda are as follows:

A. Orders

1. The form of expression for everything by way of command shall be an order.

2. The enacting style for all proposed orders shall be "Be it ordered by the City Council of the City of Everett, as follows:".

B. Ordinances

1. The form of expression for all proposed laws of the city, revisions to existing laws of the city or repeals of existing laws of the city shall be an ordinance.

2. The enacting style for all proposed ordinances shall be “Be it ordained by the City Council of the City of Everett, as follows:”.

3. Further details for the required formatting of all proposed ordinances shall be found in Sections 1-4 and 1-12 of the Revised Ordinances.

C. Resolutions

The form of expression for any request or anything expressing opinions, principles, facts or purposes shall be a resolution.

The enacting style for all proposed resolutions shall be “Be it resolved by the City Council of the City of Everett, as follows:”.

RULE 10: Public participation.

A. Each formal session of the city council shall include a period of public participation which shall last up to ten (10) minutes.

B. At regular meetings of the city council, the subject matter of public participation shall not be limited to the items before the city council at the present regular meeting. At any special meeting of the city council, the subject matter of public participation shall be limited to the subject matter of the present special meeting.

C. For the purpose of this rule, the term “public” shall be construed to mean any member of the public at large and not limited as to restrict any individual from participation.

D. Each member of the public shall place their name, address and brief description of their topic(s) on the public participation sign in sheet prior to the start of the formal session of the city council.

E. Each member of the public shall be limited to no more than two (2) minutes of participation without unanimous consent of the members present. Large groups should designate a spokesperson to speak on a particular issue.

F. This rule does not limit or replace the provisions of Rule 16, which remains in full effect.

G. Participants shall address all comments to the president.

H. Participants shall not promote or oppose any candidate running for office.

I. Participants shall not use public participation for political purposes.

J. Participants shall not advertise for commercial purposes or private gain.

K. Participants shall not make personal attacks on any city council members or other elected or appointed city officials.

L. Anyone making out of order comments or acting in an unruly manner shall be subject to removal from the meeting.

M. This rule shall be posted in the chambers for public viewing and understanding of rules.

RULE 11: Applications and communications from the mayor.
A. For every application and communication to the city council submitted by the office of the mayor, a copy of the same shall be given to each member.

1. For regular meetings, such copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which it will be considered.

2. For special meetings, such copy shall be given to each member along with the notification of such special meeting.

B. Each such application shall be accompanied by an explanation of the application.

RULE 11A: Presentations.
A. Anyone wishing to make a presentation to the city council shall provide a paper copy of such presentation to each member of the city council prior to the meeting at which such presentation shall be made.

1. For presentation to be made at regular meetings, said copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which such presentation shall be made.

2. For special meetings, said copy shall be given to each member along with the notification for the special meeting of the city council at which such presentation shall be made.

RULE 12: Ordinances; zoning proposals.
At the first reading of a proposed ordinance to amend the city's zoning ordinances, such ordinance shall be referred to the planning board.

State law reference - Adoption or change of zoning ordinances or by-laws; procedure, MGL Chapter 40A, Section 5.

RULE 13: Ordinances and orders of a financial nature.
A. At the first reading of an annual appropriation order, such order shall be referred to the city council's committee on budget without engaging in any debate. Such motion may be expanded to invite department heads and others to the committee on budget's hearings and/or to request any required additional information. This portion of this rule shall not be suspended.

B. At the first reading of an order to transfer funds, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

C. At the first reading of an order to authorize a loan, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

D. An order for the disposal of assets, whether by trade-in, auction, direct sale or any other means, shall be accompanied by a copy of the department head's request describing the reasons for the disposal of such assets. At the first reading of any such disposal orders not in compliance with the first sentence of this Rule, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

E. At the first reading of a proposed ordinance of a financial nature, such ordinance shall be referred to the city council's committee on ways & means without engaging in any debate.

RULE 14: Ordinances; under suspension.
A. No measure shall be added to the business agenda under suspension without the prior approval of the president.

B. No proposed ordinance shall be voted for enrollment at the same meeting at which it is introduced under suspension.

C. All such ordinances shall be postponed until the next regular meeting of the city council or referred to an appropriate committee of the city council.

D. No part of this rule shall be suspended.

RULE 15: In-depth subject matters.
A. When the presiding officer determines that a measure to be considered by the city council, including all proposed new ordinances or any extensive modifications to an existing ordinance, shall require in-depth research, prolonged discussion or further information, he may stop debate and request a motion to refer the measure to an appropriate committee, which, once seconded, will not be debatable.

1. When committees are proposed, they shall be put in the following order:

    i. A standing committee of the city council.

    ii. A special committee of the city council.

2. Referral to the proposed committee shall require a majority vote.

B. No part of this rule shall be suspended.

RULE 16: Public discussion.
Any subject matter of sufficient importance pending before a formal session which warrants the expression of the views of citizens shall be, by majority vote, referred to a subsequent special

meeting or a committee meeting for the purpose of opening said meeting to a duly advertised public discussion and pursuant to the Massachusetts open meeting law.

RULE 17: Resolutions; maintenance requests.
A. All maintenance requests shall have been first reported to the appropriate city department(s) and/or the mayor's office prior to appearing on the business agenda.

B. After a reasonable amount of time, if such maintenance requests have not been completed or acceptable written responses on such requests have not been received, the city council sponsor(s) shall then contact a city council legislative assistant to have such requests added to the agenda for the next regular meeting of the city council.

C. Without the prior approval of the president, uncompleted maintenance requests shall only appear on a city council business agenda in the Maintenance Requests portion of the agenda.

D. The business agenda will include a brief description of each maintenance request and shall include the department(s) and/or person(s) to which the sponsor(s) would have such request referred.

E. The only discussion allowed on any item in the Maintenance Request portion of the agenda will be to allow the sponsor(s), or their designee if they are not present, to:

1. Amend the item to make any obvious and necessary corrections; or

2. Refer the item back to sponsor without further discussion.

F. All of the items in the Maintenance Requests portion of the business agenda shall be voted on collectively. If passed, the various items shall be referred to their respective departments for a timely response.

G. No part of this rule shall be suspended.

RULE 18: Resolutions requiring an expression of sentiment.
A. All resolutions requesting an expression of sentiment from the city council regarding state, federal or national interests, and requiring the same to be forwarded to proper agencies, shall be first referred, without debate, to the committee on legislative affairs & elections for its evaluation and recommendation.

B. No part of this rule shall be suspended.

RULE 19: Measures; absence of sponsor.
A. In the event that the sponsoring member of any measure is not present at the first reading of such measure, the presiding officer shall instruct the clerk of the city council to postpone said measure until the next regular meeting, except wherein the sponsor has requested another member

to act on their behalf.

B. Absence of the member from the second reading of such measure, without requesting another member to act on their behalf, shall cause the presiding officer to instruct the clerk of the city council to return the measure back to sponsor.

RULE 20: Mayoral appointments.

Charter reference –

Section 2-10: City Council confirmation of certain appointments

A. With the exception of public safety (police and fire) appointments that require city council approval, at the first reading of an order for a mayoral appointment requiring city council confirmation, such order shall be referred to the city council committee charged with legislative oversight of the appointee's department, board or commission.

B. Said committee shall meet, discuss the appointment and report their recommendation back to the full city council, at their next regular meeting.

RULE 21: Previous question.
When the previous question is ordered, the vote shall be taken, without debate, upon all pending amendments, and finally upon the main motion.

RULE 22: Previous question; incidental questions of order.
All incidental questions of order arising after a motion is made for the previous question shall be decided by the presiding officer without debate, except to an appeal and on such an appeal, no member shall speak more than once without a two-thirds vote of the city council.

RULE 23: Reconsideration.
A. After a vote for its final passage, every measure shall remain in the possession of the clerk of the city council until 12 P.M. of the second weekday (holiday excepted) after the day of the formal session at which the measure was considered for final passage unless a motion for reconsideration of such measure was already filed and acted upon at said formal session.

B. During the time period that the clerk of the city council retains possession of a measure, any member who voted on the prevailing side for said measure may file a notice for reconsideration of said measure. Such notice for reconsideration shall be placed on the business agenda of the next regularly scheduled formal session of the city council. The member(s) filing a notice of reconsideration may withdraw the same at any time prior to its being read and acted upon in the order of business.

C. Once any time period for reconsideration has expired and no notice for the reconsideration for such measure has been filed, an adopted measure shall be considered as having passed out of the

custody of the city council and such measure shall then be sent, if necessary, to the mayor for executive action.

D. This rule does not apply if a motion for reconsideration is made and acted upon at a formal session.

E. Because enrollment is not considered to be final passage of an ordinance and due to the need to promptly advertise all enrolled ordinances, no motion for the reconsideration of an enrolled ordinance shall be in order after the adjournment of the formal session at which said ordinance was enrolled.

RULE 24: Reconsideration; debate limited.
Debate on the motion for reconsideration shall be limited to thirty minutes, in total, and no member shall speak more than three (3) minutes.

RULE 25: Division of a question.
Any member may require a division of a question when the sense of it will permit.

RULE 26: Rule of necessity.

State Ethics Commission advisory – The Rule of Necessity, Advisory 05-05.

A. In accordance with Rule 36, a member may be required to remove themselves from participation in all discussions, deliberations and votes on certain measures before the city council or any of its sub-committees. This may lead to the lack of a quorum, especially when multiple members have to remove themselves from such participation on the same measure. In certain situations, the rule of necessity may be used to allow those members to participate in all discussions, deliberations and votes on such measures in order to allow the city council to act on such matters.

B. The rule of necessity shall only be used as a last resort and upon prior written advice from the city solicitor's office.

C. No part of this rule shall be suspended.

RULE 26A: Voting; orders and ordinances.
A. Before a formal session where proposed orders and ordinances are to be considered, the actual sponsor(s) of such measures shall insure that a current copy of such orders and ordinances, in a proper, word processing format, is distributed to each member for their consideration, in accordance with Rule 7.1.F.

B. Every proposed ordinance shall be in the form specified in Section 1.4(a) of the Revised Ordinances before any vote for its enrollment is held so that, if enrolled, such ordinance can be promptly and duly advertised in accordance with Section 1.4.5 of the Revised Ordinances. If such ordinance is not in its required form, any vote for its enrollment shall be tabled until the next regular

meeting where the provisions of this rule shall also apply.

C. If a current copy of any proposed order or ordinance was not received in accordance with Rule 7.1.F, any vote for final passage on such measure shall be tabled until the next regular meeting where the provisions of this rule shall also apply.

D. If any proposed order or ordinance is amended after it has been distributed to each member, upon the motion of any member, an amended copy of such measure, in a proper, word processing format, shall be distributed to each member present prior to any vote on such measure.

E. All orders and ordinances shall be voted on by the calling of the roll.

F. No part of this rule shall be suspended.

RULE 27: Voting; roll call vote.
A. A motion that any pending vote shall be taken by a roll call shall be in order at any time, without debate, and shall be passed by the assent of two of the members present and voting.

RULE 28: Voting; verification of voice vote by roll call.
A. After the announcement of a vote not taken by roll call, a motion for verification thereof by roll call shall be in order; and shall be passed by the assent of two of the members present and voting.

B. No debate of the motion or the original question shall be permitted.

RULE 29: Recess.
The presiding officer may, at any time, declare a recess for not more than ten minutes, and such action shall not be subjected to appeal, nor shall any motions apply thereto.

RULE 12: Ordinances; zoning proposals.
At the first reading of a proposed ordinance to amend the city's zoning ordinances, such ordinance shall be referred to the planning board.

State law reference - Adoption or change of zoning ordinances or by-laws; procedure, MGL Chapter 40A, Section 5.

RULE 13: Ordinances and orders of a financial nature.
A. At the first reading of an annual appropriation order, such order shall be referred to the city council's committee on budget without engaging in any debate. Such motion may be expanded to invite department heads and others to the committee on budget's hearings and/or to request any required additional information. This portion of this rule shall not be suspended.

B. At the first reading of an order to transfer funds, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

C. At the first reading of an order to authorize a loan, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

D. An order for the disposal of assets, whether by trade-in, auction, direct sale or any other means, shall be accompanied by a copy of the department head's request describing the reasons for the disposal of such assets. At the first reading of any such disposal orders not in compliance with the first sentence of this Rule, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

E. At the first reading of a proposed ordinance of a financial nature, such ordinance shall be referred to the city council's committee on ways & means without engaging in any debate.

RULE 14: Ordinances; under suspension.
A. No measure shall be added to the business agenda under suspension without the prior approval of the president.

B. No proposed ordinance shall be voted for enrollment at the same meeting at which it is introduced under suspension.

C. All such ordinances shall be postponed until the next regular meeting of the city council or referred to an appropriate committee of the city council.

D. No part of this rule shall be suspended.

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2. Referral to the proposed committee shall require a majority vote.

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Any subject matter of sufficient importance pending before a formal session which warrants the expression of the views of citizens shall be, by majority vote, referred to a subsequent special

meeting or a committee meeting for the purpose of opening said meeting to a duly advertised public discussion and pursuant to the Massachusetts open meeting law.

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A. All maintenance requests shall have been first reported to the appropriate city department(s) and/or the mayor's office prior to appearing on the business agenda.

B. After a reasonable amount of time, if such maintenance requests have not been completed or acceptable written responses on such requests have not been received, the city council sponsor(s) shall then contact a city council legislative assistant to have such requests added to the agenda for the next regular meeting of the city council.

C. Without the prior approval of the president, uncompleted maintenance requests shall only appear on a city council business agenda in the Maintenance Requests portion of the agenda.

D. The business agenda will include a brief description of each maintenance request and shall include the department(s) and/or person(s) to which the sponsor(s) would have such request referred.

E. The only discussion allowed on any item in the Maintenance Request portion of the agenda will be to allow the sponsor(s), or their designee if they are not present, to:

1. Amend the item to make any obvious and necessary corrections; or

2. Refer the item back to sponsor without further discussion.

F. All of the items in the Maintenance Requests portion of the business agenda shall be voted on collectively. If passed, the various items shall be referred to their respective departments for a timely response.

G. No part of this rule shall be suspended.

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A. All resolutions requesting an expression of sentiment from the city council regarding state, federal or national interests, and requiring the same to be forwarded to proper agencies, shall be first referred, without debate, to the committee on legislative affairs & elections for its evaluation and recommendation.

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A. In the event that the sponsoring member of any measure is not present at the first reading of such measure, the presiding officer shall instruct the clerk of the city council to postpone said measure until the next regular meeting, except wherein the sponsor has requested another member

to act on their behalf.

B. Absence of the member from the second reading of such measure, without requesting another member to act on their behalf, shall cause the presiding officer to instruct the clerk of the city council to return the measure back to sponsor.

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Charter reference –

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B. Said committee shall meet, discuss the appointment and report their recommendation back to the full city council, at their next regular meeting.

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When the previous question is ordered, the vote shall be taken, without debate, upon all pending amendments, and finally upon the main motion.

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All incidental questions of order arising after a motion is made for the previous question shall be decided by the presiding officer without debate, except to an appeal and on such an appeal, no member shall speak more than once without a two-thirds vote of the city council.

RULE 23: Reconsideration.
A. After a vote for its final passage, every measure shall remain in the possession of the clerk of the city council until 12 P.M. of the second weekday (holiday excepted) after the day of the formal session at which the measure was considered for final passage unless a motion for reconsideration of such measure was already filed and acted upon at said formal session.

B. During the time period that the clerk of the city council retains possession of a measure, any member who voted on the prevailing side for said measure may file a notice for reconsideration of said measure. Such notice for reconsideration shall be placed on the business agenda of the next regularly scheduled formal session of the city council. The member(s) filing a notice of reconsideration may withdraw the same at any time prior to its being read and acted upon in the order of business.

C. Once any time period for reconsideration has expired and no notice for the reconsideration for such measure has been filed, an adopted measure shall be considered as having passed out of the

custody of the city council and such measure shall then be sent, if necessary, to the mayor for executive action.

D. This rule does not apply if a motion for reconsideration is made and acted upon at a formal session.

E. Because enrollment is not considered to be final passage of an ordinance and due to the need to promptly advertise all enrolled ordinances, no motion for the reconsideration of an enrolled ordinance shall be in order after the adjournment of the formal session at which said ordinance was enrolled.

RULE 24: Reconsideration; debate limited.
Debate on the motion for reconsideration shall be limited to thirty minutes, in total, and no member shall speak more than three (3) minutes.

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Any member may require a division of a question when the sense of it will permit.

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A. In accordance with Rule 36, a member may be required to remove themselves from participation in all discussions, deliberations and votes on certain measures before the city council or any of its sub-committees. This may lead to the lack of a quorum, especially when multiple members have to remove themselves from such participation on the same measure. In certain situations, the rule of necessity may be used to allow those members to participate in all discussions, deliberations and votes on such measures in order to allow the city council to act on such matters.

B. The rule of necessity shall only be used as a last resort and upon prior written advice from the city solicitor's office.

C. No part of this rule shall be suspended.

RULE 26A: Voting; orders and ordinances.
A. Before a formal session where proposed orders and ordinances are to be considered, the actual sponsor(s) of such measures shall insure that a current copy of such orders and ordinances, in a proper, word processing format, is distributed to each member for their consideration, in accordance with Rule 7.1.F.

B. Every proposed ordinance shall be in the form specified in Section 1.4(a) of the Revised Ordinances before any vote for its enrollment is held so that, if enrolled, such ordinance can be promptly and duly advertised in accordance with Section 1.4.5 of the Revised Ordinances. If such ordinance is not in its required form, any vote for its enrollment shall be tabled until the next regular

meeting where the provisions of this rule shall also apply.

C. If a current copy of any proposed order or ordinance was not received in accordance with Rule 7.1.F, any vote for final passage on such measure shall be tabled until the next regular meeting where the provisions of this rule shall also apply.

D. If any proposed order or ordinance is amended after it has been distributed to each member, upon the motion of any member, an amended copy of such measure, in a proper, word processing format, shall be distributed to each member present prior to any vote on such measure.

E. All orders and ordinances shall be voted on by the calling of the roll.

F. No part of this rule shall be suspended.

FORMAL SESSIONS

RULE 4: Formal sessions; scheduling, notification.
A. The scheduling and notification of all formal sessions of the city council shall be in accordance with the applicable provisions of the Massachusetts open meeting law, including the posting of the business agendas of all such sessions.

B. An electronic copy of the business agenda of all such formal sessions shall be made available to be posted on the city's web site.

C. Regular meetings of the city council shall be held in accordance with the provisions of Section 1A-1 of the Revised Ordinances.

D. Special meetings of the city council shall be held as needed. The scheduling and notification of such meetings shall also be in accordance with the provisions of Rule 7.3 and either Section 2-6(c)(ii) or Section 3-5(b) of the Charter. Such special meetings shall not be scheduled as to conflict with any previously scheduled committee meeting.

E. Joint meetings of the city council and the school committee shall be held as needed or required. The scheduling and notification of such joint meetings shall be in accordance with the provisions of Rule 7.4.

F. Except with the approval of the president, no formal session, regular or special, shall be scheduled prior to 6:00 P.M.

RULE 5: Call to order; absence of the president.
A. The presiding officer shall take the chair at the hour appointed for a formal session and shall immediately call such session to order.

B. In the absence of the president, the most senior member present shall preside until a president pro-tempore shall be chosen by a plurality vote.

RULE 6: Determination of quorum; record of attendance.
A. Formal sessions shall be called to order by the calling of the roll to determine the presence of a quorum.

B. The presence of a majority of the entire membership of the body shall constitute a quorum for the transaction of business.

C. A record of said roll call shall be kept in the city clerk's office which shall be available for inspection by the public at all times.

RULE 7: Meetings.

RULE 7.1: Regular meeting; business agenda, deadline, placement.

A. All papers addressed to the city council for a regular meeting shall be presented by the president or by a member.

B. The sponsor(s) of each measure submitted for inclusion on the business agenda shall provide a brief description of the measure. Such descriptions need not set out the specific action or alternatives which will be considered by the city council, but should contain sufficient detail so that a person otherwise unaware could determine the general nature or subject matter of the item by reading the business agenda.

C. All such papers for a regular meeting shall be presented to a city council legislative assistant before the hour of 11:00 A.M. of the Thursday preceding a regular meeting. If such Thursday falls on a holiday, such deadline shall be pushed back to 11:00 A.M. of the Wednesday preceding a regular meeting.

D. A city council legislative assistant shall prepare a business agenda of said business for each regular meeting.

E. All measures to be included on the business agenda shall be placed on the agenda in the order in which they are received within the proper category on the business agenda, pursuant to Rule 7.2.

F. A city council legislative assistant shall cause such business agenda and associated materials to be delivered to the all members of the city council, the city clerk, the mayor and the city solicitor, no later than forty-eight (48) hours preceding the regular meeting in such manner as the president may direct.

G. No business shall be submitted under suspension without the approval of the president and pursuant to the Massachusetts open meeting law.

RULE 7.2: Regular meeting; order of business.
At every regular meeting of the city council, the order of business shall be as follows:

A. Roll Call

B. Pledge of Allegiance

C. Presentation of petitions, memorials, and remonstrance's

D. Public Hearings

E. Public Participation

F. Approval of the minutes of the previous meeting

G. Communications from His Honor the Mayor

H. Communications and Reports from City Officers and Department Heads

I. Committee Reports

J. Unfinished Business

K. New Business

L. Maintenance Requests

RULE 7.3: Special meeting; notification.

Charter references

Section 2-6(c)(ii): Special meetings of the city council;

Section 3-5(b): Special Meetings of the City Council

A. Whenever a special meeting of the city council shall be called, a written notice signed by the mayor, the president or the councilors who called for such meeting shall be filed with the city clerk.

B. Such notice shall state the date and hour of the meeting and the purpose for which such meeting is called.

C. A copy of such notice shall be served upon each member, the mayor and the city solicitor, either in person or by notice left at their place of residence.

D. No other business than the subject matter for which said special meeting was called shall be discussed or added to the special meeting business agenda.

RULE 7.4: School committee joint meeting; notification; presiding officer.

A. Annually, pursuant to Section 6-2 of the Charter, the mayor shall call a joint meeting of the city council and the school committee, to include the superintendent of schools, before the commencement of the budget process to review the financial condition of the city.

B. Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in Section 4-6(a) of the Charter, the president shall, pursuant to Section 4-6(b) of the Charter, call a joint meeting of the city council and the school committee to act to fill the vacancy.

C. Notification of such joint meetings shall follow the notification provisions of Rule 7.3 with the addition of a copy of such notice also being served on each member of the school committee, in the same manner prescribed for city council members, and the superintendent of schools.

D. The president shall be the presiding officer of such joint meeting. In the absence of the president, the most senior member of the city council present shall be the presiding officer.

E. No other business than the subject matter for which said joint meeting was called shall be discussed or added to the joint meeting business agenda.

RULE 7.5: Executive session.

State law reference - Meeting of public body in executive session, MGL Chapter 30A, Section 21.

A. The city council or any committee thereof shall only lawfully meet in executive session for one or more of the purposes enumerated in the Massachusetts open meeting law. If any member questions the validity of the reason for the body entering into executive session, the body shall seek the advice of the city solicitor's office before entering into such executive session.

B. The rules that govern any executive session of the city council or any committee thereof shall be as prescribed by the Massachusetts open meeting law.

RULE 8: Reading of the business agenda, papers; courtesies.
A. All items on the business agenda shall be read by the clerk of the city council as they appear on the business agenda. This portion of this rule shall not be suspended.

B. If a request is made by any member to read any or all papers associated with a business agenda item, such papers associated with the agenda items shall be read by the clerk of the city council barring any objections.

C. All agenda items and associated papers, when requested, shall be read in the order in which they appear on the business agenda, with due courtesy extended to invited guests, department heads and elected officials. A sign-in sheet shall be used to manage the order in which such due courtesy is extended.

RULE 9: Measures; expressions of action.
The expressions of action for the various types of measures that may appear on a city council business agenda are as follows:

A. Orders

1. The form of expression for everything by way of command shall be an order.

2. The enacting style for all proposed orders shall be "Be it ordered by the City Council of the City of Everett, as follows:".

B. Ordinances

1. The form of expression for all proposed laws of the city, revisions to existing laws of the city or repeals of existing laws of the city shall be an ordinance.

2. The enacting style for all proposed ordinances shall be “Be it ordained by the City Council of the City of Everett, as follows:”.

3. Further details for the required formatting of all proposed ordinances shall be found in Sections 1-4 and 1-12 of the Revised Ordinances.

C. Resolutions

The form of expression for any request or anything expressing opinions, principles, facts or purposes shall be a resolution.

The enacting style for all proposed resolutions shall be “Be it resolved by the City Council of the City of Everett, as follows:”.

RULE 10: Public participation.

A. Each formal session of the city council shall include a period of public participation which shall last up to ten (10) minutes.

B. At regular meetings of the city council, the subject matter of public participation shall not be limited to the items before the city council at the present regular meeting. At any special meeting of the city council, the subject matter of public participation shall be limited to the subject matter of the present special meeting.

C. For the purpose of this rule, the term “public” shall be construed to mean any member of the public at large and not limited as to restrict any individual from participation.

D. Each member of the public shall place their name, address and brief description of their topic(s) on the public participation sign in sheet prior to the start of the formal session of the city council.

E. Each member of the public shall be limited to no more than two (2) minutes of participation without unanimous consent of the members present. Large groups should designate a spokesperson to speak on a particular issue.

F. This rule does not limit or replace the provisions of Rule 16, which remains in full effect.

G. Participants shall address all comments to the president.

H. Participants shall not promote or oppose any candidate running for office.

I. Participants shall not use public participation for political purposes.

J. Participants shall not advertise for commercial purposes or private gain.

K. Participants shall not make personal attacks on any city council members or other elected or appointed city officials.

L. Anyone making out of order comments or acting in an unruly manner shall be subject to removal from the meeting.

M. This rule shall be posted in the chambers for public viewing and understanding of rules.

RULE 11: Applications and communications from the mayor.
A. For every application and communication to the city council submitted by the office of the mayor, a copy of the same shall be given to each member.

1. For regular meetings, such copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which it will be considered.

2. For special meetings, such copy shall be given to each member along with the notification of such special meeting.

B. Each such application shall be accompanied by an explanation of the application.

RULE 11A: Presentations.
A. Anyone wishing to make a presentation to the city council shall provide a paper copy of such presentation to each member of the city council prior to the meeting at which such presentation shall be made.

1. For presentation to be made at regular meetings, said copy shall be given to each member no less than forty-eight (48) hours before the regular meeting of the city council at which such presentation shall be made.

2. For special meetings, said copy shall be given to each member along with the notification for the special meeting of the city council at which such presentation shall be made.

RULE 12: Ordinances; zoning proposals.
At the first reading of a proposed ordinance to amend the city's zoning ordinances, such ordinance shall be referred to the planning board.

State law reference - Adoption or change of zoning ordinances or by-laws; procedure, MGL Chapter 40A, Section 5.

RULE 13: Ordinances and orders of a financial nature.
A. At the first reading of an annual appropriation order, such order shall be referred to the city council's committee on budget without engaging in any debate. Such motion may be expanded to invite department heads and others to the committee on budget's hearings and/or to request any required additional information. This portion of this rule shall not be suspended.

B. At the first reading of an order to transfer funds, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

C. At the first reading of an order to authorize a loan, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

D. An order for the disposal of assets, whether by trade-in, auction, direct sale or any other means, shall be accompanied by a copy of the department head's request describing the reasons for the disposal of such assets. At the first reading of any such disposal orders not in compliance with the first sentence of this Rule, such order shall be referred to the city council's committee on ways & means without engaging in any debate.

E. At the first reading of a proposed ordinance of a financial nature, such ordinance shall be referred to the city council's committee on ways & means without engaging in any debate.

RULE 14: Ordinances; under suspension.
A. No measure shall be added to the business agenda under suspension without the prior approval of the president.

B. No proposed ordinance shall be voted for enrollment at the same meeting at which it is introduced under suspension.

C. All such ordinances shall be postponed until the next regular meeting of the city council or referred to an appropriate committee of the city council.

D. No part of this rule shall be suspended.

RULE 15: In-depth subject matters.
A. When the presiding officer determines that a measure to be considered by the city council, including all proposed new ordinances or any extensive modifications to an existing ordinance, shall require in-depth research, prolonged discussion or further information, he may stop debate and request a motion to refer the measure to an appropriate committee, which, once seconded, will not be debatable.

1. When committees are proposed, they shall be put in the following order:

    i. A standing committee of the city council.

    ii. A special committee of the city council.

2. Referral to the proposed committee shall require a majority vote.

B. No part of this rule shall be suspended.

RULE 16: Public discussion.
Any subject matter of sufficient importance pending before a formal session which warrants the expression of the views of citizens shall be, by majority vote, referred to a subsequent special

meeting or a committee meeting for the purpose of opening said meeting to a duly advertised public discussion and pursuant to the Massachusetts open meeting law.

RULE 17: Resolutions; maintenance requests.
A. All maintenance requests shall have been first reported to the appropriate city department(s) and/or the mayor's office prior to appearing on the business agenda.

B. After a reasonable amount of time, if such maintenance requests have not been completed or acceptable written responses on such requests have not been received, the city council sponsor(s) shall then contact a city council legislative assistant to have such requests added to the agenda for the next regular meeting of the city council.

C. Without the prior approval of the president, uncompleted maintenance requests shall only appear on a city council business agenda in the Maintenance Requests portion of the agenda.

D. The business agenda will include a brief description of each maintenance request and shall include the department(s) and/or person(s) to which the sponsor(s) would have such request referred.

E. The only discussion allowed on any item in the Maintenance Request portion of the agenda will be to allow the sponsor(s), or their designee if they are not present, to:

1. Amend the item to make any obvious and necessary corrections; or

2. Refer the item back to sponsor without further discussion.

F. All of the items in the Maintenance Requests portion of the business agenda shall be voted on collectively. If passed, the various items shall be referred to their respective departments for a timely response.

G. No part of this rule shall be suspended.

RULE 18: Resolutions requiring an expression of sentiment.
A. All resolutions requesting an expression of sentiment from the city council regarding state, federal or national interests, and requiring the same to be forwarded to proper agencies, shall be first referred, without debate, to the committee on legislative affairs & elections for its evaluation and recommendation.

B. No part of this rule shall be suspended.

RULE 19: Measures; absence of sponsor.
A. In the event that the sponsoring member of any measure is not present at the first reading of such measure, the presiding officer shall instruct the clerk of the city council to postpone said measure until the next regular meeting, except wherein the sponsor has requested another member

to act on their behalf.

B. Absence of the member from the second reading of such measure, without requesting another member to act on their behalf, shall cause the presiding officer to instruct the clerk of the city council to return the measure back to sponsor.

RULE 20: Mayoral appointments.

Charter reference –

Section 2-10: City Council confirmation of certain appointments

A. With the exception of public safety (police and fire) appointments that require city council approval, at the first reading of an order for a mayoral appointment requiring city council confirmation, such order shall be referred to the city council committee charged with legislative oversight of the appointee's department, board or commission.

B. Said committee shall meet, discuss the appointment and report their recommendation back to the full city council, at their next regular meeting.

RULE 21: Previous question.
When the previous question is ordered, the vote shall be taken, without debate, upon all pending amendments, and finally upon the main motion.

RULE 22: Previous question; incidental questions of order.
All incidental questions of order arising after a motion is made for the previous question shall be decided by the presiding officer without debate, except to an appeal and on such an appeal, no member shall speak more than once without a two-thirds vote of the city council.

RULE 23: Reconsideration.
A. After a vote for its final passage, every measure shall remain in the possession of the clerk of the city council until 12 P.M. of the second weekday (holiday excepted) after the day of the formal session at which the measure was considered for final passage unless a motion for reconsideration of such measure was already filed and acted upon at said formal session.

B. During the time period that the clerk of the city council retains possession of a measure, any member who voted on the prevailing side for said measure may file a notice for reconsideration of said measure. Such notice for reconsideration shall be placed on the business agenda of the next regularly scheduled formal session of the city council. The member(s) filing a notice of reconsideration may withdraw the same at any time prior to its being read and acted upon in the order of business.

C. Once any time period for reconsideration has expired and no notice for the reconsideration for such measure has been filed, an adopted measure shall be considered as having passed out of the

custody of the city council and such measure shall then be sent, if necessary, to the mayor for executive action.

D. This rule does not apply if a motion for reconsideration is made and acted upon at a formal session.

E. Because enrollment is not considered to be final passage of an ordinance and due to the need to promptly advertise all enrolled ordinances, no motion for the reconsideration of an enrolled ordinance shall be in order after the adjournment of the formal session at which said ordinance was enrolled.

RULE 24: Reconsideration; debate limited.
Debate on the motion for reconsideration shall be limited to thirty minutes, in total, and no member shall speak more than three (3) minutes.

RULE 25: Division of a question.
Any member may require a division of a question when the sense of it will permit.

RULE 26: Rule of necessity.

State Ethics Commission advisory – The Rule of Necessity, Advisory 05-05.

A. In accordance with Rule 36, a member may be required to remove themselves from participation in all discussions, deliberations and votes on certain measures before the city council or any of its sub-committees. This may lead to the lack of a quorum, especially when multiple members have to remove themselves from such participation on the same measure. In certain situations, the rule of necessity may be used to allow those members to participate in all discussions, deliberations and votes on such measures in order to allow the city council to act on such matters.

B. The rule of necessity shall only be used as a last resort and upon prior written advice from the city solicitor's office.

C. No part of this rule shall be suspended.

RULE 26A: Voting; orders and ordinances.
A. Before a formal session where proposed orders and ordinances are to be considered, the actual sponsor(s) of such measures shall insure that a current copy of such orders and ordinances, in a proper, word processing format, is distributed to each member for their consideration, in accordance with Rule 7.1.F.

B. Every proposed ordinance shall be in the form specified in Section 1.4(a) of the Revised Ordinances before any vote for its enrollment is held so that, if enrolled, such ordinance can be promptly and duly advertised in accordance with Section 1.4.5 of the Revised Ordinances. If such ordinance is not in its required form, any vote for its enrollment shall be tabled until the next regular

meeting where the provisions of this rule shall also apply.

C. If a current copy of any proposed order or ordinance was not received in accordance with Rule 7.1.F, any vote for final passage on such measure shall be tabled until the next regular meeting where the provisions of this rule shall also apply.

D. If any proposed order or ordinance is amended after it has been distributed to each member, upon the motion of any member, an amended copy of such measure, in a proper, word processing format, shall be distributed to each member present prior to any vote on such measure.

E. All orders and ordinances shall be voted on by the calling of the roll.

F. No part of this rule shall be suspended.

RULE 27: Voting; roll call vote.
A. A motion that any pending vote shall be taken by a roll call shall be in order at any time, without debate, and shall be passed by the assent of two of the members present and voting.

RULE 28: Voting; verification of voice vote by roll call.
A. After the announcement of a vote not taken by roll call, a motion for verification thereof by roll call shall be in order; and shall be passed by the assent of two of the members present and voting.

B. No debate of the motion or the original question shall be permitted.

RULE 29: Recess.
The presiding officer may, at any time, declare a recess for not more than ten minutes, and such action shall not be subjected to appeal, nor shall any motions apply thereto.

RULE 27: Voting; roll call vote.
A. A motion that any pending vote shall be taken by a roll call shall be in order at any time, without debate, and shall be passed by the assent of two of the members present and voting.

RULE 28: Voting; verification of voice vote by roll call.
A. After the announcement of a vote not taken by roll call, a motion for verification thereof by roll call shall be in order; and shall be passed by the assent of two of the members present and voting.

B. No debate of the motion or the original question shall be permitted.

RULE 29: Recess.
The presiding officer may, at any time, declare a recess for not more than ten minutes, and such action shall not be subjected to appeal, nor shall any motions apply thereto.

CITY COUNCIL PRESIDENT

RULE 30: Duties and responsibilities.

A. Presiding officer

The president shall preside at all formal sessions of the city council.

B. Committee appointments

1. With the exception of the committee on the budget, the president shall appoint members to fill the seats on all standing committees of the city council and any special committees of the city council.

2. The president shall appoint the members of all standing committees on or before February 1st of each year; the president shall appoint the members of any special committees on an as needed basis.

3. The president shall be a non-voting, ex-officio member of all committees of the city council that they are otherwise not appointed to.

C. Assignment of the chair

The president shall temporarily assign another member to the chair, and if he participates in debate, he shall not resume the chair while the same question is pending. Such assignment shall not continue beyond adjournment.

D. Voting by the president

The president shall vote on all measures which are put to a vote.

E. Prohibition: smoking, beverages, food

The president shall prohibit smoking, the drinking of beverages, and the consumption of food in the council chambers.

F. Resolutions of condolences and citations

The president shall approve the issuance of resolutions of condolences and citations by any member.

G. Control of council premises

The president shall exercise control of all the premises occupied by the city council, consisting of the Peter J. McCarren City Council Chambers, the city council office, and the John Ciol Committee Room, including ante rooms. The approval of the president shall be required for the use of the city council's premises and such use shall be restricted to public use.

H. Employment of staff

The president shall employ such personnel, as may be necessary, to conduct the business of the city council, and shall cause to be placed in the city council annual budget sums sufficient for this purpose.

I. Office supplies: ordering and purchase

The president shall order the purchase of all office supplies and equipment as are necessary and incidental for the proper functioning of the membership, and shall sign all warrants authorizing payments thereof.

J. Annual appropriation requests

The president shall submit, annually, a city council appropriation request (budget) to the office of the mayor to pay all salaries and expenses of the city council deemed necessary for the prudent and efficient operation of the city council.

K. Display of political signs

The president shall prohibit the display of political signs of any description from the city council chambers.

L. Routine matters

In accordance with Section 2-9 (a) of the Charter, prior to each formal session of the city council, the president shall determine which measures appearing on a city council business agenda for the first time are routine matters and on which a final vote may occur.

Any member objecting to a measure being determined as routine may do so by charter objection as described in Section 2-9 (c) of the Charter.

M. No part of this rule shall be suspended.

CLERK OF THE CITY COUNCIL

RULE 31: Duties and responsibilities.
The clerk of the city council shall:

A. Act as clerk at all formal sessions of the city council.

B. Keep a record of all acts, votes and proceedings of the same.

C. Cause all subject matters of record to be cross-indexed.

D. Have the care and custody of all papers belonging to the city council, in such manner as the president may direct.

E. Retain in their possession all papers until the right to file a notice of reconsideration has expired.

CONDUCT OF MEMBERS

RULE 32: Rules violations.
All violations of rules and all questions of conduct of members and employees of the city council shall be referred by order of the city council to its committee on legislative affairs & elections.

RULE 33: Five minute rule; recognition.
A. Except when otherwise provided, no member shall speak for more than five minutes on a single measure during the debate of the members on said measure.

B. No member shall be recognized to speak a second time during the debate of the members on said measure if another member, who has not spoken during the debate of the members on said measure, seeks recognition.

C. By majority vote, a further amount of equal time to speak on a single measure may be granted to each member for the debate of the members on said measure.

RULE 34: Rules of address; contempt citation.
A. No member shall be recognized when away from their desk.

B. Every member seeking to speak shall, upon recognition, address the chair.

C. In speaking, members shall:

1. Refer to other members and officials by respectful designation only.

2. Confine their comments to the question.

3. Not use unbecoming, abusive, or non-parliamentary language.

D. No member, in debate or otherwise, shall make charges reflecting on the character of another member or guest.

E. Any member or guest aggrieved by such actions may, through the chair, demand an apology or may submit a written complaint to the city council's committee on legislative affairs & elections for their review and action.

RULE 35: Proper attire.
The proper attire for all formal sessions of the city council shall be business attire.

RULE 36: Conflict of interest.

State law reference - Conduct of Public Officials and Employees, MGL Chapter 268A

A. Unless the rule of necessity has been invoked in accordance with Rule 26, when a member has a financial or other private interest, direct or indirect, in a measure before the city council or any of

its sub-committees, said member shall remove themselves from the council chambers and abstain from any participation in all discussions, deliberations or votes on such measure to avoid even the appearance of any impropriety in the proper discharge of said member's official duties.

B. No part of this rule shall be suspended.

COMMITTEES OF THE CITY COUNCIL

RULE 37: Standing committees.
The following committees shall be the standing committees of the city council:

Committee on budget – consisting of the entire membership of the city council, to which, the department estimates and recommendations by the mayor as it relates to the annual appropriation orders shall be referred.

Committee on ways & means – consisting of four (4) councilors, to which, measures concerning the treasurer/collector's department, auditor's department, purchasing agent's department, retirement board and may consider all other fiscal measures with the exception of the annual appropriation orders, shall be responsible for examining all bills/invoices charged to the various city and school accounts in addition to approving salary rolls not assigned to an administrative board or to a department head and shall examine and approve of all printing measures of the city council, including the Municipal Register.

Committee on community & business development – consisting of four (4) councilors, to which, all measures relating to the board of appeals, board of assessors, planning board, engineering department, building department, economic and community development matters, all measures which require the approval of the city council pursuant to MGL and the Revised Ordinances for the locations of poles, or other apparatus for the transmission of electricity, cable or telephone, and the issuance of a permit or license to any person, corporation, partnership, trust or other entity upon an application being filed with the city clerk that requires approval of the city council may be referred. All petitions for new licenses that require city council approval must be referred to this committee for a recommended action before being the petition can be approved or denied by the city council.

Committee on government operations, public safety & public service – consisting of four (4) councilors, to which, all measures concerning the police department, fire department, E911, traffic commission, board of health, council on aging, city services, wire department, water department, stadium commission, recreation department, Everett Housing Authority, Parlin and Shute libraries, ecological affairs,

Glenwood Cemetery trustees, and any and all supplies used by any department of the city, and any properties owned, controlled, in custody of, and in which the city may have an interest. The committee may also consider any other matters regarding the safety, welfare and convenience of the public.

Committee on legislative affairs & elections – consisting of four (4) councilors, to which, all measures concerning the city, county, state and federal bodies, regarding any legislation; and any ordinances, rules and legislative affairs of the city, measures relating to elections or petitions for legislation, and to which, all violations of rules and all questions of conduct of members and

employees of the city council shall be referred. Said committee shall consider and have authority to report to the city council any recommendations regarding any infringement of the rules and all questions of conduct of members, officers and employees referred to it.

If after investigation, the committee determines that there has been a violation of the rules, or other misconduct, the committee shall file a recommendation for disciplinary action, including but not limited to in the case of a member: reprimand, censure, or removal from committee chairmanship or other position of authority; in the case of an employee: reprimand, suspension or removal. Said report shall not prevent the city council from taking any other action as it shall deem advisable and appropriate. Nothing in this rule shall be construed to require the disclosure of any allegation that the committee deems frivolous or without merit.

If the committee receives a sworn written complaint, evidence or order from the city council involving a member of the committee, such member shall remove themselves from the committee's deliberations on that measure.

At least three members shall sign all recommendations and reports of the committee. The committee may at any time recommend changes in the rules of conduct for the city council or ordinances relating thereto.

RULE 38: Special committees.
A. A special committee of the city council to address a specific task may be created on an as-needed basis. Such special committees shall be established by a majority vote of the city council.

B. A special committee of the city council shall consist of three (3) members unless otherwise ordered by the city council. The members of all such special committee; shall be appointed by the president.

C. Upon the successful completion of the specific task for which a special committee was created, the chairman of the special committee shall so state the same to the city council, and upon their agreement, the special committee shall cease to exist.

RULE 39: Committee appointments; vacancies.
A. Members shall be appointed to the committees of the city council in accordance with Rule 30(B) of these Rules.

B. All vacancies on committees shall be filled in the manner of the original appointment prior to the next meeting of the committee. Committee members so appointed to fill a committee vacancy shall take rank according to the date of their appointment, unless otherwise designated by the president.

RULE 40: Committee chairman.
A. The first named member of a committee shall serve as chairman, unless otherwise provided for by these rules.

B. In the absence of the chairman, the next named member of the committee present shall serve as chairman.

C. The president shall be notified by the members of a committee of any requests for the permanent change of the chairman of such committee.

RULE 41: Scheduling of committee meetings, notifications.
A. The chairman of a committee shall schedule the meetings of their committee, in accordance with all applicable rules and regulations, either at their discretion or upon the written demand of a majority of their committee members.

B. Committee meetings shall not be scheduled at times reserved for regular meetings of the city council.

C. No committee meeting shall be scheduled prior to 6:00 P.M., except with the approval of the president.

D. The scheduling and notification of all committee meetings of the city council shall be in accordance with the applicable provisions of the Massachusetts open meeting law, including the posting of the business agendas of all such meetings. Committee meetings shall not be called together in less than forty-eight (48) hours from the time the meeting notices are mailed or dispatched by special messenger to the city council members.

E. All members of the city council shall be notified of the dates and times of every committee meeting of the city council by the city council office.

F. All members of the city council shall receive a copy of the business agenda of each committee meeting and a copy of all related materials, with the exception of the materials to be reviewed for the approval of bills and accounts.

G. An electronic copy of the business agenda of all such meetings shall be made available to be posted on the city's web site.

H. On failure of the chairman to convene a committee meeting after the written demand thereof, a majority of the members of the committee may call a meeting with due notice to the members of the city council. The committee is then in legal session and, if a quorum is present, it can transact business.

RULE 42: Quorum; absences of members.
A. A quorum for a committee meeting shall consist of a majority of the entire membership of that committee. If necessary, the president's attendance at a committee meeting, as an ex-officio member, can be utilized to establish and/or maintain a quorum.

B. The absence of a committee member from two successive, duly called meetings of a committee, except for reasons of illness or other unavoidable circumstances proved to the satisfaction of the president of the city council, may be deemed a resignation from that committee on the part of said member.

C. The clerk of committees shall report at each meeting of the city council all resignations due to the preceding clause.

RULE 43: Attendance of sponsor and invited guests; seating.

A. Attendance of sponsor

1. The sponsor of any measure referred to a committee may, but shall not be required to unless requested to by such committee, attend such committee meeting if they are not a member of such committee.

2. If, in the opinion of the committee, a measure has been submitted to it without sufficient information for the committee to properly act on said measure, the committee may recommend further time be granted on said measure and the committee shall invite the sponsor to appear at the next meeting of such committee.

3. If the sponsor does not appear at a committee meeting after having been requested to do so, the committee chairman shall instruct the clerk of committees to return the subject matter back to sponsor unless the committee has received prior notification from the sponsor that they will be unable to attend such meeting and that they would like to reschedule the measure for a subsequent meeting.

B. Attendance of invited guests

1. If an invited guest does not appear at a committee meeting after having been requested to do so, the committee chairman may instruct the clerk of committees to return the subject matter back to sponsor unless the committee has received prior notification from the invited guest that they will be unable to attend such meeting and that they would like to reschedule the measure for a subsequent meeting.

2. A committee may allow an invited guest to send their designee to represent them at such committee meetings. However, all committees shall reserve the right to request that a specific individual appear before them.

C. No person except a member of the committee in session shall be permitted inside the rail of the council chamber during such session without an invitation from the committee to participate in the debate of a particular measure.

RULE 44: Voting.

In all such meetings of a committee, at the request of any committee member, any vote of the committee shall be taken by roll call vote and recorded accordingly.

RULE 45: Committee reports.
A. All reports, minutes and other papers to be submitted by a committee to the city council shall be in writing.

B. No recommendation of any committee of the city council shall be submitted to the city council unless approved by a majority vote at a duly notified meeting of such committee. However, this shall not debar a dissenting minority from also submitting a recommendation to the city council. When submitted to the city council, such minority report shall take its place along with the majority report.

C. Any report containing any recommendation other than “leave to withdraw”, “inexpedient to take further action” or reference to another board or committee, shall be accompanied by ordinance, order or resolve embodying such recommendation and such measure shall be acted upon separately by the city council.

RULE 46: Limit on time for committees to issue reports.
A. A measure referred to a committee by the city council shall remain in that committee until the committee issues a final report on said measure or until the expiration of six (6) weeks from the date of such referral, whichever is sooner.

B. If at the end of six (6) weeks, a committee will be unable to issue a final report on any measure, the committee shall refer the measure back to the city council with a request to grant further time.

C. If any measure remains in committee for more than six (6) weeks without a request to grant further time, the clerk of committees shall notify the clerk of the city council of such. The clerk of the city council shall then report on the business agenda of the next regularly scheduled formal session all such measures and give the name(s) of the committee(s) to which such measures were referred.

RULE 47: Committee records.
A record of all committee proceedings shall be created and organized by the clerk of committees, and be kept on file in the office of the city council.

RULE 48: End of year/carryover.
A. All matters in committee at the end of the year in the years ending in even numbers shall automatically remain in committee and be referred to the same committee in the following year.

B. All matters in committee at the end of the year ending in odd numbers shall expire.

COMMITTEE OF THE WHOLE

RULE 49: Assignment of the chair.
When the city council shall determine to go into a committee of the whole, the president shall preside over the same.

RULE 50: Rules of proceedings.
The rules of proceedings of the city council shall be observed in a committee of the whole, so far as they are applicable.

LICENSE RULES & REGULATIONS

RULE 51: License/permit fees and requirements.
The city council requires that any person, corporation, partnership, trust or other entity requesting a permit or license for any of the following operations to file an application with the city clerk annually on an application form approved by the city council:

A. The following schedule names the various licenses and permit classifications, together with the non-refundable application/investigation fees that must be paid with each application.

1st Class Motor Dealer	$150.00
2nd Class Motor Dealer	$150.00
3rd Class Motor Dealer	$150.00
Amusement Device	$ 25.00
Antique/Second Hand Dealer License	$ 25.00
Auctioneer License	$ 25.00
Auto Body Shop	$150.00
Auto Repair Shop	$150.00
Billiards/Pool Table and Bowling Alley License	$ 25.00
Constable License	$ 25.00
Fortune Teller	$ 50.00
Garage License	$ 25.00
Junk Dealer	$150.00
Lodging Houses	$150.00
Non-Ferrous Metals Processor	$150.00
Open Air Parking	$ 25.00
Precious Metals	$ 50.00
Precious Metals Processor	$150.00
Storage of Flammable Products	$150.00
Taxi Cab/Livery License	$150.00

B. Each license/permit applied for shall require a separate application/investigation form.

C. Each original application/investigation form shall be accompanied with payment of its non-refundable application/investigation fee to cover the costs of processing the application and investigating the applicant's request for a license or permit.

D. Upon receipt of an application/investigation form and payment of its associated fee, the city clerk will submit requests for inspection and investigation to the departments deemed necessary by the city council. These departments include, but are not necessarily limited to the police, fire, building, engineering, wire and board of health. On occasion, other departments or regulatory agencies may be requested to submit recommendations to the city council for their consideration regarding matters of license. The city departments so requested shall submit, in writing, to the city clerk their signed report or investigation results within thirty (30) calendar days from date of request.

E. The city clerk, upon receipt of reports and investigation results shall instruct the applicant to notify their abutters of the date, time and location for any scheduled public hearing, at least seven (7) days prior to the public hearing by Certified - Return Receipt Requested U.S. Mail. The applicant shall also place advertisements as required in the local newspapers informing the public of the date, time and location of any public hearing at least seven (7) days prior to the scheduled public hearing. The expense of all notifications shall be the responsibility of the applicant. The city clerk shall submit the application/investigation form together with all required papers and reports to the city council at their next available meeting.

F. Prior to the issuance of a license or permit by the city clerk, the applicant must pay the required license fee and shall sign and date a notarized affidavit of agreement to any and all restrictions of business activity listed on the license to be issued.

G. In the case of an applicant not owning the real estate or land from which the licensed business is to be conducted, the owner(s) of record shall also sign the notarized affidavit of agreement listing restrictions of business activity.

H. In the case of a corporation, trust or any other entity, a duly authorized officer shall also sign such statement.

I. In the case of a partnership, all partners must sign such statement where indicated.

J. All applicants and others that are required to sign shall sign and date the application/investigation form under the pains and penalty of perjury.

K. If the license or permit is denied by the city council, the city clerk shall notify the applicant within ten (10) calendar days of the date of the denial and shall deliver a produced facsimile of the last page of the application/investigation form which shall indicate the reasons for denial. The city clerk shall deliver the material by Certified-Return U.S. Mail.

L. In case of denial, copies of the application/investigation form and all papers attached, and the denial reasons shall be delivered to the city solicitor to be placed on file.

M. The city clerk shall keep on file the original application/investigation form and all papers pertaining to the application/investigation form ad infinitum.

N. Transfers of licenses or permits shall not be allowed unless expressly provided by law.

O. All new owner(s) or proposed new owners of businesses presently licensed by the city council shall proceed in the same manner as a new applicant with the exception that the present owner or former owner of said business must submit a notarized letter to the city clerk indicating that, upon the granting of the license or permit to a new or proposed new owner, any and all permits or licenses held by the current or former owner shall be terminated immediately.

RULE 52: 1st and 2nd class motor dealer petitions.

The city council in accordance with MGL, Chapter 140, Sections.57, 58 & 59 and 12, Sections 12-1, 12-2, 12-2.5 & 12-30 and Section 3A, Appendix A-Zoning of the Revised Ordinances requires, pursuant to these rules, the following information to be attached to the application and assign the following conditions for first and second class motor dealer petitions. The city council also requires that the following questions, specifically, but not limited to, may be the subject of inquiry during the licensing process by members of the committee on community & business development for all first and second class motor dealers:

A. Required information

1. Certified plot plan approved by the city engineer.

2. A plan showing the specific location and total number of motor vehicles on the premises, which is to be preliminarily approved by the city engineer, with final approval of the number of vehicles allowed by the license to be on the premises determined by the city council.

3. The city council shall take into consideration in determining the number of dealer class licensed vehicles to be on the premises, the following factors; vehicles of employees, customers, and other persons doing business with the license holder and travel lanes for fire safety.

4. Confirmation that no federal, state, or city taxes are due and that no other bills are due to the city.

B. Conditions

1. Each business shall have an office building on the premises to conduct their business.

2. Hours of operation will be approved and/or controlled by the city council.

3. Proper fencing as required by the building department or as agreed upon with the city council.

4. Lighting as requested by the city council.

5. Security as requested by the city council.

6. The prohibition of banners, flags, etc. as required by the city council to prevent a carnival atmosphere.

7. Signage as requested by the city council and the city engineer.

8. The city council shall approve and may designate the location of customer the location of customer parking, employee parking and vehicles for sale and/or repairs.

9. Each vehicle for sale shall be so identified and identification shall be approved by the city council.

10. Each parking area will be so designated by painted lanes or other approved identification by the city council.

11. All vehicles for sale shall be stored on the designated property.

12. All vehicles sold on any licensed auto dealer lot in the city must be owned by the license holder.

13. Any auto license holder whose license has been denied or revoked may not apply for another license.

14. That all car dealership owners provide a price sticker to be shown on the auto to be sold, with sale price and items included in said sale, along with Lemon Law, to be shown in clear view to the consumer.

C. Inquiries of the committee on community& business development

1. What kind of business or enterprise will you be operating? (That is, partnership, corporation, etc.) Circle one.

2. Will/or is the business or organization registered? Yes___ No___

3. Is there any agreement or document evidencing the business? Yes No

4. Who are the partners/owners/associates?

5. If a partnership, is it a 50/50 basis? Yes___ No___

6. Who will instruct or in any way set the sale prices of the vehicles for sale?

7. Who will instruct or in any way establish what vehicles should be purchased for resale?

8. Who will instruct or in any way set the amount on how much to pay for vehicle resale?

9. Who will determine the hours of operation besides those established by the city council, - i.e. early closing, not opening, late opening?

10. Who will determine the hours of operation for any partner or for any other employee? Are their partners? Yes___ No___Who?

11. Who will establish any vacation, sick time, retirement, and policy in relation to the employees?

12. Who will determine who shall act for the business when you are not present?

Does the business have a bank account? Yes___ No___

Will one be established? Yes___ No___

Who will be on the account?

Will there be blank checks available? Yes___ No___

Who will be given access to the account?

13. How will people be paid?

14. Will paychecks be issued on a regular basis? Yes___ No___

How?

When?

15. From whom and/or where do you intend to purchase the motor vehicles from?

16. What experience do you have in the used car sales business?

17. Are you registered with the state? Yes___ No___

18. Will monthly reports be produced? Yes___ No___

19. Who will produce them?

20. Will all the vehicles on the lot be in your name? Yes___ No___

21. How many vehicles will be on the lot at any time?

22. Will there be any vehicles on the lot in a name other than your own? Yes___ No___

23. If so, whose name will they be in?

24. Have you understood the questions asked of you? Yes___ No___

25. Have you answered fully, completely and truthfully all questions asked of you? Yes___ No___

26. Is there any other pertinent information you have not supplied which you feel is relevant to your application for this license? Yes___ No___

RULE 53: 3rd class motor dealer petitions.
Pursuant to MGL, Chapter.140, Section.58 & 59 and 12, Sections 12-1, 12-2, 12-2.5 & 12-30 of the Revised Ordinances.

RULE 54: Amusement device petitions.
Pursuant to MGL, Chapter 140, Section 177A and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 55: Antique/second hand dealer petitions.
Pursuant to MGL, Chapter 140, Sections 54-56, 202, 203 & 205 and 12, Sections 12-1, 12-30 and 12-61 to 12-71 of the Revised Ordinances.

RULE 56: Auctioneer petitions.
Pursuant to MGL, Chapter 100, Sections 1 & 10 and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 57: Auto body and auto repair shop petitions.
The city council, in accordance with 12, Sections 12-1, 12-9 & 12-30 and, Sections 3B & 3C, Appendix A-Zoning of the Revised Ordinances, requires that, pursuant to these rules, no original license shall be granted unless the petitioner has conformed to the following rules and regulations pertaining to the granting of such license.

A. The petitioner shall obtain from the city building inspector a statement that the building or structure to be used is in a business or industrial district or is an existing non-conforming use in a dwelling or apartment district, and that such building conforms to local and state building codes.

B. The petitioner shall obtain from the city's bureau of fire prevention a statement that the building or structure conforms to the requirements of public safety and fire prevention.

C. The petitioner shall accept each license on condition that they will conform to such conditions as may be imposed, as to the hours of operation, elimination of noise, and nuisance within the area where the business is being conducted, in each case, for the public's safety and welfare.

D. A public hearing shall be held on each petition and the petitioner shall publish notice of said

hearing in a local paper and shall notify all abutters by registered mail of the time of said hearing.

E. The petitioner shall furnish a statement under pains and penalties of perjury that they are the owner and operator of the business and a duly authorized agent of the corporation and that no other person, corporation, trust or business entity is interested in said business, in whole or in part.

RULE 58: Billiard/pool table and bowling alley petitions.
Pursuant to MGL, Chapter 140, Section 177 and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 59: Constable petitions.
Pursuant to MGL, Chapter 41, Section 91A & 91B and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 60: Electric poles & guy wire petitions.
Pursuant to MGL and Chapter 4, Section 4-21 and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 61: Flower & plant petitions.
Pursuant to 12, Sections 12-1, 12-29 & 12-30 of the Revised Ordinances.

RULE 62: Fortune teller petitions.
Pursuant to MGL, Chapter 140, Section 185I and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 63: Garage petitions.
Pursuant to 12, Sections 12-1, 12-8 & 12-30 of the Revised Ordinances.

RULE 64: Junk dealer petitions.
Pursuant to MGL, Chapter 140, Sections 54-56, 202, 203 & 205 and 12, Sections 12-1, 12-30 & 12-61 to 12-71 of the Revised Ordinances.

A. Conditions

Any junk or second hand dealer in receipt of any military plaques or memorabilia who fails to notify law enforcement will be fined with permanent revocation of license.

RULE 65: Lodging house petitions.
The city council pursuant to MGL, Chapter 140, Sections 22-32 and 12, Section 12-1 & 12-30 of the Revised Ordinances authorizes the city clerk to withhold action on all applications for lodging house licenses until a police report is made on said applicant and a letter of clearance from the city's inspector of wires, fire prevention bureau and board of health; stating that the law governing lodging houses and such law being within their respective jurisdiction, has been complied with. The city council requires that a public hearing be held for all new lodging house applications. The applicant

shall be responsible for providing to the city clerk return receipt from the U.S. Postal Service indicating that all abutters have been notified of the date that such application will be heard by the city council.

RULE 66: Moving of buildings in public way petitions.
The city council pursuant to MGL, Chapter 85, Section 18 and 12, Sections 12-1 & 12-30 and 17, Section 17-16 of the Revised Ordinances requires that no petition for a license to move a building through any public street, square or place in the city, shall be acted upon until the petitioner shall have filed with the city clerk, a certificate in writing, signed by the executive director of city services, giving the dimensions of the building, the names of the streets, squares or places through which it is proposed to be moved, and the option of the said executive director of city services to sign such certificate when requested by the owner of such building.

RULE 67: Non-ferrous metals processor petitions.
Pursuant to MGL, Chapter 140, Sections 54-56, 202, 203 & 205 and 12, Sections 12-1, 12-30 and 12-61 to 12-71 of the Revised Ordinances.

RULE 68: Open air parking petitions.
Pursuant to MGL Chapter 148, Section 56 and 12, Section 12-1 & 12-30 of the Revised Ordinances. The city council also requires that the following questions, specifically, but not limited to, may be the subject of inquiry during the licensing process by members of the committee on community & business development for all open air parking petitions:

A. Required information

1. Certified plot plan approved by the city engineer.

2. A plan showing the specific location and total number of motor vehicles on the premises, which is to be preliminarily approved by the city engineer, with final approval of the number of vehicles allowed by the license to be on the premises determined by the city council.

3. The city council shall take into consideration in determining the number of vehicles to be on the premises, the following factors: vehicles of employees, customers, and other persons doing business with the license holder and travel lanes for fire safety.

4. Confirmation that no taxes are due to federal, state or city and that no other bills are due to the city.

B. Conditions for open air lots

1. Each business shall have an office building on the premises to conduct their business with toilet facility.

2. Hours of operation will be approved and/or controlled by the city council.

3. Proper fencing as required by the building department or as agreed upon with the city council.

4. Lighting as requested by the city council.

5. Security as requested by the city council.

6. The prohibition of banners, flags, etc., as required by the city council to prevent a carnival atmosphere.

7. Signage as requested by the city council and the city engineer.

8. The city council shall approve and may designate the location of customer parking and employee parking.

9. Each parking area will be so designated by painted lanes or other approved identification by the city council.

10. No abandoned or unregistered vehicles with fuel will be allowed on premises.

RULE 69: Openings to cellars, basements, etc., in public ways petitions.
Pursuant to 12, Sections 12-1 & 12-30 and 17, Section 17-10 of the Revised Ordinances.

RULE 70: Precious metals petitions.
Pursuant to MGL, Chapter 266, Section 142A and 12, Sections 12-1, 12-30 & 12-91 to 12-97 of the Revised Ordinances.

RULE 71: Precious metals processor petitions.
Pursuant to MGL, Chapter 140, Sections 54-56, 202, 203 & 205 and 12, Sections 12-1, 12-30 and 12-61 to 12-71 of the Revised Ordinances.

RULE 72: Protective barrier and grates petitions.
Pursuant to 12, Sections 12-1 & 12-30 and 17, Section 17-15.5 of the Revised Ordinances.

RULE 73: Self service gasoline station petitions.
Pursuant to Chapter 8, Section 8-14 and 12, Sections 12-1 & 12-30 of the Revised Ordinances.

RULE 74: Signs, awnings, banners and canopy petitions.
Pursuant to 12, Sections 12-1 & 12-30 and 17, Section 17-15 of the Revised Ordinances.

A. Purpose and intent

1. To protect and enhance the character, property values and stability of new and existing awnings in residential and commercial neighborhoods.

2. To establish a regulatory framework for the use of awnings, banners and canopies as an adjunct to economic and social activities of the residents, institutions, and business of the community.

3. To conserve the taxable value of land and buildings.

4. To reduce awing clutter and to eliminate the potential for distraction of motorists and the degradation of the appearance of the community.

5. To protect aesthetic values and to establish and maintain standards of community appearance with respect to signs; awnings; banners and canopies.

6. To provide standards and procedures for the removal, elimination or relocation of signs, awnings, banners and canopies which fail to conform to those standards as established herein.

7. To establish an administrative framework for the enforcement of the standards and regulations established herein.

8. To promote and protect the health, safety, morals, comfort, convenience and general welfare of the people of the city.

B. Awnings

1. Any sign which is attached to or made a part of an awning shall be a measured sign for the purpose of this rule. Awning scale and proportions are to be appropriate for the building on which they are mounted as well as the adjacent structures. Awnings must be uniform in size, shape and color in order to unify multiple storefronts within a single building. The length of the awning is to be restricted to the length of the storefront opening. The vertical and horizontal dimension should be proportional to the overall projection of the awning. Interior lighting of awnings shall be permitted if the lighting system is encased or screened from view underneath. Warm color lighting systems are encouraged.

2. Projection: Awnings may project a maximum of 36 inches. Projection depth should match the existing adjacent awnings provided they comply with the acceptable minimum projection. Awnings should be placed at a minimum height of 8 feet above the sidewalk.

3. Forms: Awning forms are to conform to the general shape of the opening. Arched openings are to receive ½ round domed awnings, whereas rectangular openings are to receive rectangular, gently sloping planar forms with closed ends. Valances may be fixed or loose.

4. Mounting: Awnings may be fixed or retractable. Retractable awnings must be kept either in a fully projected position or fully retractable position. Fixed awnings are to have a concealed rigid metal frames. Retractable awnings should have a canopy cover and automatic

retractable rollers mounted to the building. Under panels are not desired. Frames should be painted to match or complement the color of the awning cover material or its underside or left natural. Awning shall not cover distinctive architectural features of the building face, nor shall the installation of the awning damage the structure.

5. Materials: Awnings shall be of a solid through color. Awnings shall not be made of shiny, high gloss, or translucent materials. The awning material should be a taut not relaxed. Awning materials may include matte finish vinyl coated cotton, acrylic. All awnings shall be restricted to cutout lettering heat color-transfer, pressure sensitive vinyl films or sewn applique signs on apron only. All awnings located on the same building must be the same material and lettering.

6. Signage and graphics: Signage and graphics applied to the awning shall be reviewed for color, scale and overall design compatibility. Large letter sizes and messages shall not be permitted on awnings. Lettering will only be allowed on the valance of the awning and all lettering and logos shall not exceed 8 inches in height. Lettering colors shall be black, white, gold and silver. No advertising shall be allowed on the slope portion of the awning.

7. Colors: All awnings located on the same building must be the same color.

All awnings shall be crimson red in color, unless otherwise approved by the city council.

8. Banners: Banners are temporary signs and may be location, event, holiday or sponsor specific. Banners are to be secured to building walls or mounted on existing poles by fixed brackets and hardware.

9. Compliance: All new or replacement signs, awnings, banners and canopies must comply with all applicable rules and city ordinances.

10. Any recovering or repainting of an awning shall comply with items B4 and B5 listed above.

11. The city council shall be the licensing authority.

C. Maintenance of awnings

All awnings shall be maintained in a safe, legible and in good condition.

1. Safety: All awnings shall be maintained to the same structural standards by which they were approved. All metal parts which are subjected to rust or corrosion shall be painted at all times, all anchors and other fastenings shall be maintained in a secure and functioning condition capable of sustaining the loads for which they were designed.

2. Legibility: All awnings shall be maintained in a legible condition.

3. Condition: All electrical components, switches, lamps, relays, fuses and similar devices

shall be maintained in good working order.

D. Removal of Abandoned and Un-maintained Awnings

It shall be the responsibility of the owner of the property upon which an abandoned awning is located to remove such awning either immediately or within the time period otherwise established by the city council. Removal of an abandoned or un-maintained awning shall include removal of the entire awning including the cover, framework and any structural trim.

E. Permits

Prior to submitting the application for an awning license, the applicant shall procure all permits from the city building department and shall pay all expenses, charges and fees in connection therewith. The applicant shall submit a certification that all taxes, fees and fines are paid.

F. Violations

Where the owner of the property on which an abandoned or un-maintained awning is located fails to remove such awning in a timely manner, the building inspector may remove such awning. Any expense directly incurred in the removal of such awning shall be charged to the owner of the property. Where the owner fails to pay, the city may file a lien upon the property for the purpose of recovering all reasonable costs associated with the removal of the awning. Any person who violates any provision under this rule will be subject to suspension or revocation of the license upon a hearing by the city council.

RULE 75: Storage of flammable products petitions.
Pursuant to MGL, Chapter 148, Section 9 & 13, CMR 527 and Chapter 8, Section 8-3, 12, Section 12-1 & 12-30 of the Revised Ordinances.

RULE 76: Taxi cab/livery petitions.
The city council in accordance with MGL, Chapter 40, Section 22 and 12, Sections 12-1 & 12-30 and 18, Section 18-64 of the Revised Ordinances as well as all other applicable general and special laws of the commonwealth require the following rules and orders governing the licensing, use and control of motor vehicles for hire for the transportation of people for a fixed amount of money and within the city:

A. No person shall operate a motor vehicle for hire for the transportation of people for a sum of money in the city without first obtaining a license from the city council who shall set aside an area on the public way to be known as a public cab stand and to which said person's motor vehicle shall so be assigned to operate from.

B. The city council shall not issue more than a total of eighteen (18) licenses for the combined operation of taxi, livery or other motor vehicles for hire for the transportation of people per two

thousand recorded persons living in the city as of its last municipal census.

C. All persons owning or operating taxi cabs and livery vehicles licensed under these rules and regulations shall have their trade name and phone number displayed on their vehicles in letters not less than four inches high and one half inch wide.

D. No person shall drive a carriage or other vehicle for the purpose of transporting persons for hire within the limits of the city without first obtaining a special license from the city clerk, said license must however be approved by the police chief, before same is issued by the city clerk. For every such special license there shall be paid to the city clerk a sum to be determine by the city council which shall be on file in the city clerk's office. Application for such license must be filed with the city clerk accompanied by two unretouched photographs, passport size of the applicant. But in no case shall an application be received or license granted to a person less than nineteen (19) years of age.

E. No person, firm, or corporation to whom a license has been granted under section 1 shall suffer or allow any person other than a driver licensed by the city clerk to drive such carriage or vehicle.

F. All license granted under this rule shall be valid from date of issue until the first day of April following unless sooner revoked.

G. All persons, firms, or corporations in whose name a license has been granted shall be considered as the owner of the same and liable to all the penalties prescribed by these rules and MGL.

H. The city council may designate stands on the public streets of the city which shall be accessible to all vehicles for hire licensed by them and/or they may designate such stands for the use of particular licensees.

I. Where stands have been designated by the city council, no driver, or other person having charge of any vehicle for hire for the conveyance of passengers shall stand for employment with such vehicle in any street, or public way except at a stand designated for vehicles for hire licensed by the city council or at a stand designated for the particular licensee as the case may be, except while actually engaged and while awaiting the person, or persons, by whom the vehicle was hired.

J. No license granted under the provisions of these rules shall be sold, assigned, or transferred without the consent of the city council in writing and any licensee who shall cease to engage in the business of transporting persons for hire shall at once surrender their license to the city clerk.

K. Every owner, driver, or other person having charge of any vehicle licensed for the purpose of transporting persons for hire within the limits of the city shall at all times when driving or waiting for employment wear a badge to be furnished by the city clerk, upon the payment of cost of same. Therefore, said badge to be worn on the left breast of their outer garment with the number of their

special license and their picture thereon and so exposed that it may be distinctly seen and read.

L. The city council may establish the rates of fare for the conveyance of persons for hire within the limits of the city and may revise the same from time to time.

M. Every owner, driver, or person having charge of a vehicle licensed as provided by this rule shall place upon the back of the front seat a card having plainly marked thereon the established rates of fare and no driver shall demand or receive a higher fare than the established rate.

N. All vehicles licensed hereunder shall be kept in good condition and mechanically fit for the safety of passengers. The interior and exterior shall be clean and sanitary at all times.

O. No license shall be issued until each vehicle intended to be used there under shall be inspected by the police chief or their duly authorized representative. If the vehicle so inspected to be found safe and suitable for the transportation of persons for hire, the police chief shall issue a certificate of approval which shall be filed with the application for a license. Such certificate shall identify the vehicle as to make, model and manufacturer's number.

P. No person having charge of a vehicle licensed hereunder shall unreasonably refuse to carry any passenger lawfully entitled to be carried in such vehicle.

Q. Whenever there shall be a dispute over the fare charged by the driver, he shall upon request give the passenger a receipt, said receipt shall be upon a form approved by the city council, the full name and license number of the driver, the date and time of giving the receipt and the amount received. Every driver shall have such receipts in their possession at all times.

R. Anyone who is found in violation of these rules and orders shall be subject to a fine in accordance with Section 1-8 of the Revised Ordinances.

GENERAL

RULE 77: Public hearings.

A. At all public hearings, if the petitioner or their representative fails to be present:

1. That part of the hearing shall be immediately closed and postponed to the next regular meeting without further public notice.

2. The petitioner, prior to the next regular meeting, may file a request for “leave to withdraw without prejudice”.

B. Any petitioner given leave to withdraw without prejudice may re-apply after the expiration of six (6) months from the granting of the withdrawal without prejudice.

C. Any petitioner denied a petition or license may not re-apply for the same petition or license until the expiration of two (2) years from the date of the denial.

D. A public hearing shall be videotaped by ECTV and such recordings shall kept in the custody of ECTV in accordance with applicable laws.

RULE 78: Electronic devices; prohibitions.

A. During any formal meeting of the city council or any committee thereof, the use of electronic devices by members shall be limited to activities that are pertinent to such meeting.

B. All members and guests entering the meeting location of any formal session of the city council or any committee thereof shall set all of their electronic devices which emit audible sounds to the off or “silent” position. Such electronic devices include, but are not limited to, cellular phones, pagers, PDA’s and two-way radios. Anyone not in compliance with this rule may be asked to leave the meeting location.

RULE 79: Filling of councilor vacancies; nomination; election.

If a vacancy occurs in the office of city councilor, the nomination and election procedure in Rule 2.A shall be used in the filling of such vacancy with respect to the applicable provisions of the Charter.

Charter reference –

Section 2-11: Filling of vacancies

RULE 80: Expenses for members; reimbursement.

A. Generally

1. Subject to appropriation and approval by the president, each member shall be entitled to the reimbursement of actual and necessary expenses incurred in the performance of their official duties.

2. Members shall not be entitled to excluded expenses as defined by this rule.

B. Definitions

1. Actual and necessary expenses – shall include but not be limited to the following expenses:

a. Travel – vehicle use to and from official, government sponsored events and activities that take place outside of the city; parking; airline or rail tickets; hotel accommodations; and automobile rental if associated with out-of-state travel.

i. Accommodations for out-of-state travel under this section must receive prior approval from the president.

ii. Vehicle use under this section will be reimbursed in accordance with mileage use values established by the United States Internal Revenue Service.

b. Conference fees – fees associated with the member's attendance at a conference or summit relating to the member's official government duties.

c. Meals – reasonable food costs for member, excluding guests, incurred during travel as defined in subsection (a). Amount to be reimbursed under this subsection shall not exceed the per diem amounts as established by the United Stated General Services Administration (GSA).

d. Phone – each member shall be entitled to a fifty dollar ($50.00) monthly reimbursement for the use of personal phones and phone lines in the course of their official duties.

e. Internet – each member shall be entitled to a twenty-five dollar ($25.00) monthly reimbursement for the use of home internet in the course of their official duties.

2. Excluded expenses – shall include, but not be limited to the following expenses: alcohol; tobacco; any expenses outside of the member's official duties or in furtherance of a political purpose; contributions or donations to charitable organizations; donations to political candidates or committees; office supplies that cannot be obtained from the city council office; gifts; meals for non-members of the city council; advertisements containing the name and/or likeness of members of the city council outside of those required by law or used for a clear, articulated public purpose; and those expenses determined by the president to be extravagant, excessive or not incurred in the performance of the member's official duties.

C. Procedure

1. Once appropriated, the amount established by the city council to be expended for expenses under this rule shall be equally divided by the number of members; no member shall be entitled to an amount in excess of the amount determined by this subsection or an amount in

excess of any other member.

2. Unused funds at the end of the fiscal year shall be returned by the city council in accordance with municipal finance laws.

3. Members shall account for all actual and necessary expenses on an individual basis and submit for approval by the president on a monthly basis. All expenses sought for reimbursement must be accompanied with appropriate documentation substantiating the expense to the member.

4. No member shall submit more than one report of expenses to the president each month.

5. Once approved by the president, a check will be issued to the member in accordance with applicable laws.

RULES 81 thru 98: Reserved.

GENERAL

RULE 77: Public hearings.

A. At all public hearings, if the petitioner or their representative fails to be present:

1. That part of the hearing shall be immediately closed and postponed to the next regular meeting without further public notice.

2. The petitioner, prior to the next regular meeting, may file a request for “leave to withdraw without prejudice”.

B. Any petitioner given leave to withdraw without prejudice may re-apply after the expiration of six (6) months from the granting of the withdrawal without prejudice.

C. Any petitioner denied a petition or license may not re-apply for the same petition or license until the expiration of two (2) years from the date of the denial.

D. A public hearing shall be videotaped by ECTV and such recordings shall kept in the custody of ECTV in accordance with applicable laws.

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B. All members and guests entering the meeting location of any formal session of the city council or any committee thereof shall set all of their electronic devices which emit audible sounds to the off or “silent” position. Such electronic devices include, but are not limited to, cellular phones, pagers, PDA’s and two-way radios. Anyone not in compliance with this rule may be asked to leave the meeting location.

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2. Members shall not be entitled to excluded expenses as defined by this rule.

B. Definitions

1. Actual and necessary expenses – shall include but not be limited to the following expenses:

a. Travel – vehicle use to and from official, government sponsored events and activities that take place outside of the city; parking; airline or rail tickets; hotel accommodations; and automobile rental if associated with out-of-state travel.

i. Accommodations for out-of-state travel under this section must receive prior approval from the president.

ii. Vehicle use under this section will be reimbursed in accordance with mileage use values established by the United States Internal Revenue Service.

b. Conference fees – fees associated with the member's attendance at a conference or summit relating to the member's official government duties.

c. Meals – reasonable food costs for member, excluding guests, incurred during travel as defined in subsection (a). Amount to be reimbursed under this subsection shall not exceed the per diem amounts as established by the United Stated General Services Administration (GSA).

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C. Procedure

1. Once appropriated, the amount established by the city council to be expended for expenses under this rule shall be equally divided by the number of members; no member shall be entitled to an amount in excess of the amount determined by this subsection or an amount in

excess of any other member.

2. Unused funds at the end of the fiscal year shall be returned by the city council in accordance with municipal finance laws.

3. Members shall account for all actual and necessary expenses on an individual basis and submit for approval by the president on a monthly basis. All expenses sought for reimbursement must be accompanied with appropriate documentation substantiating the expense to the member.

4. No member shall submit more than one report of expenses to the president each month.

5. Once approved by the president, a check will be issued to the member in accordance with applicable laws.

RULES 81 thru 98: Reserved.

RULE 99: Robert's Rules of Order.
A. In all matters of parliamentary procedure not covered in the preceding rules, Robert's Rule of Order shall be the standard for the guidance of the city council.

B. No part of this rule shall be suspended.

RULE 100: Amendment, repeal or suspension of these rules.
A. All orders and motions to amend, repeal or suspend any rule of the city council shall include the specific rule number to be amended, repealed or suspended.

B. All orders and motions to suspend any rule of the city council shall include an indication of how long said suspension shall last.

C. Any rule or any portion of a rule of the city council specifying that it cannot be suspended shall not be suspended. In order to remove such restriction, the rule would have to be amended to remove such restriction.

D. Orders

1. To amend or repeal any rule of the city council or to suspend any rule of the city council outside of the current meeting, an order shall be placed on the business agenda.

2. At the first reading of an order to amend, repeal or suspend any rule of the city council, such order shall be referred to either the committee on legislative affairs & elections or the next regular meeting of the city council.

3. An order to amend, repeal or suspend any rule of the city council shall require a two-thirds vote of the full city council.

E. Motions

1. A motion to suspend any rule of the city council for a period of time no longer than the adjournment of the current formal session shall be in order at any time during such formal session.

2. Once made and duly seconded, such motion to suspend any rule of the city council shall require a two-thirds vote of the members present and voting thereon.

F. No part of this rule shall be suspended.

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REVISION HISTORY

01/14 – Initial adoption of rules for the new city council.

02/14 – Amend Rule 17 so that maintenance requests do not have to be reported to the mayor's office before they can appear on the agenda and the worksheet items are referred to their respective departments. (C0004-14)

02/14 – Amend Rule 7.5 so that it does not imply that the approval of the city solicitor's office is required before an executive session may be entered into; however, the advice of the city solicitor's office shall be sought if any member questions the validity of the reason for entering into such executive session. (C0003-14)

04/14 – Added Rule 80 - Expenses for members; reimbursement. (C0030-14)

05/14 – Added Rule 11A – Require paper copies of presentations to the city council to be distributed to each member prior to the meeting at which such presentation shall be made. (C0153-12)

Amend Rule 23 – Update the reconsideration rule so that it more accurately describes the process and, specifically, as the rule now applies to enrolled ordinances. (C0166-14)

Add Rule 26A - Add new rule which specifies requirements to be met when considering the approval of all orders and ordinances. (C0167-14)

Amend Rule 27 – Delete the requirement that all orders and ordinances require a roll call vote as that requirement was moved to the new Rule 26A. (C0167-14)

Amend Rule 30 – Update the president's responsibilities to include reviewing of the business agenda to determine which newly added measures are to be considered routine matters. (C0154-14)

Amend Rule 46 – Update the committee process so that measures can remain in committee for up to six weeks without further city council approval. (C0155-14)

10/14 – Amend Rule 4 – Prohibit the scheduling of formal sessions of the city council prior to 6:00 P.M. except with the approval of the president. Prohibit the scheduling of special formal sessions at the same time as previously scheduled committee meetings.(C0254-14)

Amend Rule 41 – Prohibit the scheduling of committee meetings of the city council prior to 6:00 P.M., except with the approval of the president. (C0254-14)

01/15 – Amend Rule 37 – Reduce the membership of committees from five to four members to limit the possibility of being in conflict with the open meeting law due to the number of city council members participating in the committee meeting at any one time. (C0023-15)

02/15 – Amend Rule 42 – Allow the president's attendance at a committee meeting as an ex-officio member to be utilized to establish and/or maintain a quorum (C0026-15)

PART V
CITY OF EVERETT ADMINISTRATIVE CODE

Section I. REGULATORY AUTHORITY; INTRODUCTION OF CODE; AMENDMENTS.

A. The City of Everett Administrative Code, hereinafter the "Code", is hereby promulgated pursuant to the City of Everett Charter as passed in November 2011 and in full effect as of January 6, 2014.See City of Everett Home Rule Charter, Section 5-1.

B. The Code shall be introduced by His Honor the Mayor no later than the second regular meeting of the City Council term beginning in even-numbered years.

C. The Code may, at any time, be amended at the request His Honor the Mayor and with the approval of the City Council through the submission of an Order to the City Council pursuant to applicable rules. See City of Everett Home Rule Charter, Section 5-1.

Section II. GENERAL PROVISIONS.

A. Multiple-Member Bodies

I. The Mayor shall serve an ex-officio member of all multiple-member bodies, with the exception of those created by state statute, and have the authority to attend all meetings, make motions and exercise all other powers of the body's membership, but will not have the right to vote on any matters before the body. See City of Everett Home Rule Charter, Section 3-2.

II. Procedures; Powers; Creation

a. See City of Everett Home Rule Charter, Section 9-7.

b. Notwithstanding any local or state law to the contrary, all powers and responsibilities of multiple- member bodies of the City of Everett are established by the Code.

c. Standing multiple-member bodies are enumerated in Section III herein; the Mayor shall have the authority to create temporary ad hoc multiple-member bodies at his discretion to address specific needs, conduct research and advise the Mayor on pertinent issues. The creation of ad hoc multiple- member bodies shall not be subject to the advice or consent of the City Council.

III. Method of Appointment; Eligibility of Service, Generally; Oaths of Office

a. Unless specified by local or state law to the contrary, all appointments of members to multiple- member bodies of the City of Everett are made by the Mayor, with approval of the City Council.

b. Unless specified by local or state law to the contrary or specifically required by the Code, allresidents of the City of Everett, over the age of eighteen (18), are eligible to serve on multiple-member bodies; this section shall not apply to current members of multiple-member boards whose terms have not expired.

c. All appointments to multiple-member bodies shall be for a term to be determined by the Mayor, not to exceed three (3) years.

d. All appointees shall take an oath of office, administered by the City Clerk, within seven (7) days of their final appointment.

IV. Method of Removal

a. Members of multiple-member bodies shall be relieved of their appointment and removed from office in the event one or more of the following takes place:

1. Failure to attend three (3) consecutive regularly scheduled meetings without approval of the Chairperson;

2. Failure to attend six (6) regularly scheduled meetings in a one year period notwithstanding approval of the Chairperson. One year period shall begin on the date of the first regularly scheduled meeting following the member's appointment;

3. Final conviction of a felony by the member; or

4. Upon petition of the Mayor with approval of the City Council for the member's removal.

V. Terms of Office; Staggered Terms

a. All terms of office for all multiple member bodies shall be established by the Code, unless specified by local or state law to the contrary.

b. Notwithstanding any ordinance to the contrary and to the greatest extent possible, all members appointed to multiple-member bodies shall be appointed to staggered terms.

VI. Open Meeting Law

a. Without exception, all meetings of multiple-members boards shall be posted, take place, and be memorialized in full accordance with the Massachusetts Open Meeting Law.

VII. Appointment of Chairperson

a. Unless otherwise specified by local or state law to the contrary, the Mayor shall appoint a chairperson of each multiple-member body.

VIII. Appointment of Officers

a. Each multiple-member body, as necessary, may appoint officers to perform specific duties as determined by a majority vote of the voting members of each respective board or commission.

IX. General Duties of Chairperson

a. Chairs of multiple member bodies shall have the following duties and responsibilities incumbent upon them:

1. Timely scheduling and calling of all meetings of the board or commission under their charge in accordance with the Massachusetts Open Meeting Law;

2. Maintaining order during all regular and special meetings of their board or

commission;

3. Ensuring that all required reports, minutes, agendas and other documents are created and filed with appropriate offices and authorities; and

4. Representation of the board or commission under their charge before the City Council and other multiple-member bodies.

X. Promulgation of Regulations

a. Unless otherwise specified by local or state law to the contrary, each board or commission shall promulgate regulation for matters under their jurisdiction. All regulations shall be kept on file with Office of the City Clerk and made available to the public through all reasonable methods.

XI. Annual Reports

a. All multiple member bodies shall submit an annual report, prepared by the Chairperson and subject to the affirmation of the multiple-member body under their charge to the Mayor no later than June 30 of each calendar year. Each annual report shall contain the following information and be placed on file for public inspection by the City Clerk:

1. Outline of actions taken by the multiple member body in the year preceding the report;

2. Addition or removal of members;

3. Current membership of body with dates of appointment, term and date of term expiration;

4. Copy of any and all rule or regulations adopted by the body in the year preceding the report; and

5. Any other information the Chairperson deems prudent or appropriate. B. Executive Administration

I. Jurisdiction

a. Executive Authority

1. Executive authority over all City of Everett operations and administration is vested in the office of Mayor. See Everett Home Rule Charter, Section 3-2.

2. Management of City Departments and Personnel

a. Subject to applicable state and local law, the Mayor shall exercise executive control and authority over all offices, departments and divisions of the City of Everett; all personnel of the City of Everett shall be employed and/or discharged under the direction of the Mayor or his duly appointed designee.

3. Supervision of City Facilities, Buildings and Equipment

a. The Mayor or his designee shall exercise jurisdiction over the use, access, maintenance and operation of all City of Everett owned facilities, buildings and equipment.

4. Execution of Deeds and Leases; Discharge of Mortgages

a. All deeds, conveyances, leases and other instruments given by the city which must be signed, sealed, and acknowledged; shall be signed, acknowledged and delivered on behalf of the city by the Mayor, who shall cause the city seal to be affixed thereto;

b. The Mayor shall have power, on payment to the treasurer of the city of the amount due on the mortgage, to discharge, to release or assign the same without liability or recourse to the city, the assent of the city council thereto being had and obtained, and to execute in behalf of the city any and all legal instruments that may be necessary for the purpose.

5. Execution of Contracts

a. The Mayor shall sign all contracts, memoranda of understanding, agreements, grant applications and other documents as appropriate on behalf of the City of Everett.

b. Appointments of City Officers and Department Heads

1. See City of Everett Home Rule Charter, Section 3-3

2. In the event that a temporary vacancy exists in the office of any appointed city officer, the Mayor may, at his discretion, appoint an individual to serve in the required capacity for a period not to exceed one-hundred and eighty (180) days. See City of Everett Home Rule Charter, Section 3-4

3. Unless expressly stated, each officer named by title herein shall be considered a "department head" for the purposes of the residency requirement outlined in the Revised Ordinances of the City of Everett.

c. Communications to the City Council; Special Meetings

1. See City of Everett Home Rule Charter, Section 3-5

d. Veto

1. Procedure; See City of Everett Home Rule Charter, Section 3-6

II. Financial Administration

a. Accounting, Auditing and Financial Planning

1. All accounting, auditing and financial planning for the City of Everett shall be the responsibility of the Office of Financial Services and under the supervision of the Chief Financial Officer of the City of Everett. See City of Everett Administrative Code, Section IV (H).

b. Capital Improvement Plan

1. The Mayor, in consultation with city department heads, shall develop a five-year capital improvement program for the purpose of identifying, selecting, scheduling, and financing capital improvement projects and equipment purchases during the period. The five-year capital budget shall each year be submitted to the city council at least 120 days before the start of each fiscal year. See City of Everett Home Rule Charter, Section 6-5

c. Procurement of Goods and Services

1. All procurement of goods and services shall be conducted in accordance with applicable Massachusetts General Law and under the supervision of the Office of Financial Services;

2. Requisitions for the purchase of supplies, materials, equipment or contractual services for a department, board or commission shall be received by the purchasing department prior to the issuance of a purchase order or contract and shall be signed by the head of the using department, or his authorized agent; The purchasing agent shall examine each requisition and shall have the authority, only after consultation with the department head, to revise it as to quantity, quality or estimated cost.

3. No officer, department head, board or commission authorized to expend money shall make requisition on the purchasing agent for the purchase of equipment, supplies, materials, or contractual services until funds are available therefore.

III. General Policies and Procedures

a. Hiring Principles

1. See City of Everett Home Rule Charter, Section 5-2.

b. Salaries

1. Notwithstanding any ordinance to the contrary the setting of salaries for all city employees, subject to bargained-for labor contracts and civil service requirements, shall be determined at the sole discretion of the Mayor or his designee.

c. All city employees, subject to the availability of funds and with prior approval by the Mayor, shall be allowed reasonable traveling and other expenses whenever it may be necessary for the employee to travel outside the city to attend matters in connection with the discharge of the employee's official duties.

Section III. MULTIPLE-MEMBER BODIES.

A. Generally

I. All boards created by this section of the Code are subject to all provisions of Section II(a) as contained herein.

B. Council on Aging

I. Powers and Duties

a. It shall be the duty of the council to carry out programs designed to meet the problems of the aging in accordance with the provisions of M.G.L. c. 40 s. 8B or acts in amendment thereof or in addition thereto.

II. Appointment; Composition; Term of Office

a. There shall be a Council on Aging, to consist of the Director of Elder Affairs, or a representative of the Executive Office of Health and Human Services ex officio, and ten (10) members appointed by the mayor, subject to the confirmation by the City Council.

b. All appointees shall hold office, until their respective successors are appointed and qualified, and shall serve without compensation. The council shall be under the administrative supervision of Executive Director of Health and Human and Services.

c. The Council on Aging, with approval of the mayor, may appoint such clerks as required.

C. Board of Assessors

I. Powers and Duties

a. The board of assessors shall cause all property and excise taxes to be committed for collection that are required by the city to meet the annual expenditures, and shall perform all other duties as required under General Laws, chapters 59, 60A and 60B.

II. Appointment; Composition; Term of Office

a. The mayor shall appoint a board of assessors consisting of three (3) persons, subject to confirmation of the City Council. Each member shall hold office for a three (3) year term.

b. The board of assessors shall organize as provided for in the General Laws, chapter 41, section 24;

III. Chairperson

a. The board of assessors shall elect a chairperson as soon as practicable after the beginning of each municipal year in accordance with General Laws, chapter 41, section 24.

D. Public Works Commission/Glenwood Cemetery Commission

I. Powers and Duties

a. To exercise all the powers of the board of sewer commissioners and board of water commissioners.

b. To have the sole care and management of Glenwood Cemetery; may lay out any land acquired to set apart for such cemetery in lots or other suitable subdivisions, with proper paths and avenues; may plant, embellish, ornament and fence same; and erect therein such suitable edifices and conveniences and make such improvements as they deem necessary; and subject to the approval of the Mayor and City Council, may make such regulations, consistent with law, as they deem necessary relative to the cemetery.

II. Appointment; Composition; Term of Office

a. The Public Works Commission shall consist of seven (7) members, each of whom shall be appointed by the Mayor, subject to confirmation by the City Council

E. Conservation Commission

I. Powers and Duties

a. The conservation commission shall have and exercise all the rights, powers and authority given to such commission under General laws, chapter 40, section 8C, and Chapter 131, section 40.

II. Appointment; Composition; Term of Office

a. There shall be a Conservation Commission of the city in compliance with General Laws, chapter 40, section 8C, consisting of five (5) citizens residing in the city, appointed by the mayor, and subject to confirmation by the City Council all of whom shall be appointed for a three (3) year term.

F. Disability Commission

I. Powers and Duties

a. To ensure the equal status of a handicapped person in education, employment, economic, political, health, legal, and social spheres;

b. To design programs that promote equality for all handicapped persons in the city;

c. To review recommendations and policies of all departments, divisions, and agencies of the city including, but not limited to, the mayor, the purchasing agent and the city council;

d. To initiate, coordinate and monitor the enactment of legislation which promotes equal status of the handicapped persons in the city, state, and federal levels, and to ensure that appropriate regulations are adopted and enforced pursuant to such legislation including, but not limited to, implementation of the 114th Amendment to the Massachusetts Constitution;

e. To participate in an advisory capacity in the hearing of complaints brought alleging discrimination against the handicapped person including, but not limited to, the office of the Massachusetts Commission Against Discrimination;

f. To obtain from city departments, divisions, and agencies any and all information necessary to carry out the functions, purposes, programs and activities of the commission that does not infringe upon the right of privacy of a n individual;

g. To assist in public awareness of the handicapped through participation in public and media events sponsored by the administrative and/or legislative bodies of the city including, but not limited to city- sponsored recreational, educational, and development activities;

h. To be an active and participating member of appropriate organizations dealing with issues affecting the handicapped person;

i. To recruit and recommend prospective members to the commission prior to appointment by the mayor;

j. To serve on the commission without compensation, with a reasonable expense budget;

k. To acquire, analyze, use and store handicapped related statistics and related materials in conjunction with the Parlin Memorial Library and Shute Library for program planning and evaluation purposes;

l. To hold at least ten (10) regular meetings throughout the year and to conduct additional meetings as necessary;

m. Such other powers and duties as may be agreed on by the mayor and the commission.

n. To recommend or give an advisory opinion to the City Council on all matters referred to the commission by either branch of the City Council.

o. To act as a centralizing force in the city and the community which will deal with al handicapped issues; providing information, referral, guidance, coordination, offering and providing technical assistance to other public agencies and private persons, organizations and institutions engaged in activities and programs intended to eliminate prejudice and discrimination against person(s) with handicap(s) because of their status as a person with a handicap.

p. To take such action as the commission considers appropriate to ensure that equal status of person(s) with a handicap(s) of every race, creed, color, natural origin, age and sexual preference.

q. To assure that no otherwise qualified individual with a handicap in the city shall, solely by reason of his or her handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity within the city.

II. Appointment; Composition; Term of Office

a. There shall be a disability commission consisting of seven (7) members, appointed by the mayor subject to confirmation by the City Council all of whom shall be appointed for a three (3) year term.

b. A majority of the members shall be persons with a handicap, as defined below:

1. Has a physical or mental impairment which substantially limits one (1) or more major life activities;

2. Has a record of such an impairment; or

3. Is regarded as having such impairments and represent as many cross-disabilities from the handicapped community as possible.

c. One (1) of these members may be a member of the immediate family of a disabled person.

d. One (1) of the members shall be an elected or appointed official of the city.

G. Board of Health

I. Powers and Duties

a. In accordance with M.G.L. c. 111 s. 31, the Board of Health shall adopt and enforce all reasonable health regulations for the City of Everett.

II. Appointment; Composition; Term of Office

a. There shall be a board of health consisting of three (3) persons, one of whom shall be a physician. The members shall be appointed by the mayor subject to confirmation of the City Council, with the appointments to be made in accordance with the provisions of General Laws, chapter 111, section 26.

b. The board of health shall organize annually in accordance with the provisions of General Laws, chapter 111, section 27, and name the necessary officers, agents and assistants to execute the health laws and its regulations.

c. The board of health shall appoint and assign school physicians and nurses to carry out the duties and responsibilities of General Laws, chapter 71, section 53.

H. Historical Commission

I. Powers and Duties

a. Provide for the preservation, protection and development of the historical or archeological assets of the City of Everett.

b. Conduct research for places of historic or archeological value, shall cooperate with the state archeologist in conducting such researches or other surveys, and shall seek to coordinate the activities of unofficial bodies organized for similar purpose.

c. Report to the state archeologist the existence of any archeological, paleontological, or historical site or object discovered in accordance with the Massachusetts General Laws.

d. The commission may:

1. Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets that it deems necessary for its work.

2. For the purpose of protecting and preserving such places, make such recommendations, as it deems necessary, to the City Council, to the Massachusetts Historical Commission, that any such place be certified as a historical or archeological landmark.

3. Hold hearings, enter into contracts with individuals, organizations and institutions for services; enter into contracts with local or regional associations for cooperative endeavors; accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state or other governmental bodies; make and sign any agreements; do and perform any and all acts which may be necessary or desirable in furthering the objectives of the commission's program.

4. Acquire in the name of the City by gift, purchase, grant, bequest, devise, lease or

otherwise the fee or lesser interest in real or personal property of significant historical value and may manage the same.

II. Appointment; Composition; Term of Office

a. There shall be a Historical Commission consisting of not less than three (3), not more than seven (7) members, appointed by the Mayor subject to confirmation by the City Council all of whom shall be appointed for a three (3) year term.

b. Any vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

III. Chairperson

a. the Chairperson may appoint, subject to approval of the Mayor, such clerks and other employees as it may from time to time require.

I. Board of Library Trustees

I. Powers and Duties

a. The board of trustees of the Frederick E. Parlin Memorial Library shall have charge and control of the main branch of the Frederick E. Parlin Memorial Library, the Shute Memorial Library Branch and any other branches which may be opened, and the contents thereof.

b. The board of trustees of the Frederick E. Parlin Memorial Library shall allow the inhabitants of the city free use of its facilities, under any necessary and proper restrictions and regulations. An adequate and up-to-date collection of materials, together with proper facilities for the use and circulation of the same, shall be provided by the board of trustees.

II. Appointment; Composition; Term of Office

a. There shall be a board of trustees of the Frederick E. Parlin Memorial Library consisting of thirteen (13) persons, to be appointed by the Mayor, subject to confirmation by the City Council.

J. Registrars of Voters

I. Powers and Duties

a. The Registrars of Voters are responsible for procedures relating to the registration of voters, develop and maintain annual list of voters, and conduct the annual census of residents of the City. We process and ensure accuracy and proper certification of all

nomination papers and petitions. We process absentee voter applications, administer election recounts and hold hearings.

II. Appointment; Composition; Term of Office

a. In accordance with M.G.L. c. 51 s. 15, the Board of Registrar shall consist of the City Clerk and three other persons, appointed by the Mayor and confirmed by the City Council.

b. In accordance with applicable law, the terms for all members, excluding the City Clerk shall be for a term of three years.

K. Planning Board

I. Powers and Duties

a. The board shall have all the powers conferred and be subject to all duties imposed upon planning boards by the general laws, especially M.G.L., c. 41, sections 81A to 81J, inclusive.

b. The board shall not create or authorize any expenditure without a previous appropriation therefor by the City Council.

II. Appointment; Composition; Term of Office

a. There shall be a Planning Board consisting of five (5) members who shall be appointed by the mayor, subject to confirmation by the City Council.

III. Chairperson

a. The Planning Board shall elect annually a chairperson and a clerk and may employ experts and clerical and other assistants, with approval from the mayor. It may appoint a custodian of its plans and records, who may be the city engineer.

L. Traffic Commission

I. Powers and Duties

a. The commission shall hold regular meetings as may be necessary or expedient.

b. A majority of the Commission shall constitute a quorum for the purpose of transacting the business of the Commission.

c. The Commission shall regulate all matters pertaining to traffic, safety and parking of motor vehicles generally; but not limited to:

1. The parking of motor vehicles on public streets and in public lots and areas;

2. The establishment of metered zones;

3. The monitoring of the condition and maintenance of free or metered parking spaces;

4. The setting of rates per hour per space to be paid for the metered parking spaces, and the permissible time for parking in any parking space;

5. The rental of off-street spaces;

6. The review of the design and improvement of any public street or parking lot, including lighting and traffic flow and landscaping;

7. The authorizing of posting of signs giving notice of parking regulations;

8. The recommending of the purchase and monitoring of the installation of parking meters.

9. To designate disabled and or veteran's parking spaces on public ways in accordance with Section 18¬¦ 145 of the Everett Revised Ordinances only upon a favorable recommendation of the Everett Disability Commission.

d. The Traffic Safety and Parking Commission may when public convenience or necessity requires, test under actual conditions and for a period not to exceed thirty (30) days, temporary traffic regulations on ways within this City.

II. Appointment; Composition; Term of Office

a. There is hereby established a fully empowered Traffic Safety and Parking Commission. The membership to consist of the Chief of Police, Chief of the Fire department, Director of Public Works, and the City Engineer, or their designees, and six (6) community representatives, one (1) qualified elector from each of the wards of the city, said representatives to be appointed by the Mayor, subject to confirmation by the City Council.

b. All members shall serve without compensation. III. Chairperson

a. The Commission shall elect a chairperson and a secretary, who shall serve at the pleasure of the Commission.

1. The secretary of the Commission shall keep a record of all proceedings, resolutions, findings, determinations and transactions of the Commission, which records shall be a public record, and a copy of which record shall be filed with the City Clerk and the Office of the City Council.

M. Youth Commission

I. Powers and Duties

a. Encourage and support an atmosphere of artistic, intellectual and athletic activity to improve the quality for all children in the City;

b. Carry out programs which may be designed or established to meet the opportunities, challenges, and problems of youth in the City and also in conjunction with any similar or related programs of any agency of the Commonwealth of Massachusetts or any agency of the Federal Government;

c. Keep accurate records of its meetings and actions and shall file an annual report with the City Clerk.

d. Receive gifts of property, both real and personal, in the name of the City, subject to the approval of the City Council, such gifts to be managed and controlled by the Commission for the purpose of this section;

e. Develop programs and activities which will create an atmosphere of intellectual, athletic, and artistic activity for all children, and will meet the needs, challenges and problems of our children;

f. Appoint, subject to the approval of the Mayor, such clerks and other employees as it may from time to time require.

II. Appointment; Composition; Term of Office

a. There shall be a Youth Commission consisting of not less than three (3), not more than seven (7) members, appointed by the Mayor subject to confirmation by the City Council.

b. Any vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment.

N. Cultural Commission

I. Powers and Duties

a. In accordance with 962 CMR 2.0, the purpose of Everett Cultural Council is to support public programs that promote access, education, diversity, and excellence in the arts, humanities, and interpretive sciences in communities across the Commonwealth.

II. Appointment; Composition; Term of Office

a. In accordance with 962 CMR 2.10, local councils must consist of at least five but no

more than 22 members appointed by the Mayor for a three year term with a maximum of 6 years served.

O. Licensing Commission

I. Powers and Duties

a. The License Commission is charged with the responsibility of issuing licenses and enforcing rules, regulations, local ordinances, and state laws pertaining to the sale of alcoholic beverages; the Licensing Commission shall promulgate all regulations necessary for the application local ordinance and state

law.

II. Appointment; Composition; Term of Office

a. In accordance with M.G.L. c. 138 s. 4, the Mayor, subject to confirmation by the City Council, must appoint three members, who have been residents of Everett for two years.

b. Each member shall be appointed to a term of six years. III. Chairperson

a. In accordance with M.G.L. c. 138 s. 6, the Mayor shall designate one member as Chairperson, who shall also act as secretary.

P. School Finance Review Commission

I. Powers and Duties

a. It shall be the duty of the commission to meet on a monthly basis to discuss, review, and address the ongoing financial status of the Everett Public School System. This shall include, but not be limited to, the school budget, enrollment activity, and other school related expenditures. During annual budgetary appropriations processes, the Mayor shall have the power to call for additional meetings throughout the month(s), as deemed necessary. The commission will shall serve only as an advisory commission and cannot make binding decisions.

b. The commission shall undertake, on a continuing basis, the study of all possibilities for cooperation between the city and the school district in the development, maintenance and use of facilities authorized to each of them, and to make recommendations for carrying out such joint ventures as may be feasible.

c. The commission shall act as a centralizing force in the city and the community, which will deal with all city-school related finance issues; providing information, coordination, and providing technical assistance to other public agencies, organizations, and

institutions engaged in activities and programs intended to provide and ensure financial stability amongst the public school district.

II. Appointment; Composition; Term of Office

a. The School Finance Review Commission shall consist of eleven (11) total members. The commission shall be composed of the Mayor of Everett or his/her designee, City Auditor, School Superintendent, School Business Agent, City Solicitor, Chief Procurement Officer, two (2) members of the City Council, two (2) members of the Board of Alderman, and the Chairperson of the School Committee.

III. Chairperson

a. The Mayor shall serve as the Chairperson of the Commission and will appoint a Vice Chairperson, who will serve as Chairperson in the Mayor's absence, on an annual basis.

Q. Zoning Board of Appeals

I. Powers and Duties

a. In accordance with Section 11 of the Revised Ordinances of the City of Everett, the Board shall:

1. Hear and decide appeals in accordance with M.G.L., c. 40A, s. 8;

2. Hear and decide applications for Special Permits upon which the board is empowered to act under the Revised ordinances of the City of Everett;

3. Hear and decided petitions for Variances as set forth in M.G.L., c. 40A, s. 10, including variances for uses not permitted by this Ordinance;

4. Hear and decide appeals from decisions of a Zoning Administrator, if any, in accordance with M.G.L., c. 40A, s. 13; and

5. Take other actions in which they are authorized to undertake under applicable loal and state law. II. Appointment; Composition; Term of Office

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. Associate members may be selected in the same manner.

III. Chairperson

a. The Board of Appeals shall annually elect a Chairperson from within its own membership, and a clerk who is not required to be among the membership of the Board of Appeals.

Section IV. EXECUTIVE ADMINISTRATION.

A. Executive Office of the Mayor

I. Generally; Duties

a. It shall be the duty of the Executive Office of the Mayor to administer and oversee the application and implementation of the Code, the Revised Ordinances of the City of Everett and all applicable provisions of the Everett Home Rule Charter;

b. It shall be the duty of the Executive Office of the Mayor to provide timely and efficient constituent service to the residents of the City of Everett;

c. It shall be the duty of the Executive Office of the Mayor to take any and all actions necessary and available under the law to maintain and improve the quality of life for the residents of the City of Everett.

2. Composition; Compensation

a. Composition and duties of and compensation to employees of the Executive Office of the Mayor shall be determined at the sole discretion of the Mayor, subject to appropriation.

B. Everett Police Department

I. Organization; Duties Generally

a. The Everett Police Department shall consist of a chief and such subordinate officers as the Mayor shall authorize; the police chief and other subordinate officers shall be appointed by the Mayor with the approval of the City Council; the police chief and all subordinate officers shall be sworn to the faithful discharge of their respective duties and rank.

b. It shall be the duty of all police officers to enforce the laws of the Commonwealth, the laws and ordinances of the city, and do or perform such other acts as may be connected with their office or incidental thereto.

II. Office of the Chief of Police

a. The Mayor shall appoint a Chief of Police to a term not to exceed three (3) years.

b. The Chief of Police shall:

1. Be the head of the Everett Police Department subject to the general supervision and control of the Mayor and responsible for the discipline and efficiency thereof. All

police officers and members of the department shall be under the control of the chief of police. He shall enforce the special laws relating to the city, the ordinances of the city council, the orders of the mayor, and the rules and regulations of the board of health;

2. Make proper rules and regulations, subject to the approval of the mayor, for the administration of the department;

3. Make a written report to the mayor of the doings of the department, and of any misconduct, neglect of duty or want of efficiency on the part of any member;

4. Have charge of all complaints made to the police department by citizens or by any police officer thereof for any breach of the criminal law and the ordinances of the city, and he or his designee shall appear in court and prosecute all violations thereof;

5. Keep a record, with a suitable index, of all persons arrested, with the name of the arresting officers, and the place of birth, age, height, complexion, residence and offense of the person arrested, with such other description or data as may be useful for identification;

6. Have general charge of the police headquarters, which shall be open day and night, and of all the property of the police department and be responsible for the good order and condition thereof;

7. Keep a record of all duties performed by each police officer, and all absences from duty with causes thereof;

8. Investigate or cause the same to be investigated immediately by a police officer any injury or accident to persons or property on any street or way, and ascertain and examine the exact place of the accident, its condition and the cause thereof, and the names and evidence of all persons who may have seen the same, keeping full record of such investigations.

III. Office of Emergency Communications

a. The Mayor shall appoint a Director of Emergency Communications to a term not to exceed three (3)

years.

b. The Director of Emergency Communications, under the direction of the Mayor and Chief of the Everett Police Department, shall:

1. Plan, direct and organize the work of the Emergency 911 Communications Center;

oversee the maintenance and operation of public safety communications and emergency 911 computer systems; maintain Federal Communications Commission licenses for all police and fire radios and all other necessary communications equipment used by public safety personnel; participates in emergency situation exercises and activities; ensure all applicable personnel are trained in accordance with relevant Massachusetts and Federal guidelines and certification requirements; oversee the maintenance of all required records, equipment and reports; ensure that all plans, operating procedures and protocols are developed and implemented in accordance with the requirements of state and federal agencies; and perform other related duties as assigned.

IV. Office of the Parking Clerk

a. The Mayor shall appoint a Parking Clerk to a term not to exceed three (3) years.

b. The Parking Clerk, under the direction of the Chief of the Everett Police Department shall:

1. Be responsible for the efficient and economic administration of the Office of the Parking Clerk; supervise all duly appointed Parking Enforcement Officers (PEOs); act as City of Everett liaison to the Massachusetts Registry of Motor Vehicles; investigate any and all locations where an ordinance or sign relating to the parking of motor vehicles is in dispute; interpret and apply all City of Everett parking rules and regulations; track all record of parking infractions issued by Parking Enforcement Officers; track all parking infraction appeals; prepare and forward weekly departmental reports to the Chief of Police; assist, as required, with the administration of traffic safety grant; and perform other related duties as assigned.

V. Animal Control Officer

a. The Mayor shall appoint an Animal Control Officer to a term not to exceed three (3) years in accordance with M.G.L. c. 140 s. 151(a). The Animal Control Officer shall not be considered a department head for the purposes of this Code or any other applicable law.

b. The Animal Control Officer, under the supervision of the Chief of Police, shall:

1. Enforce all local and state law relating to the treatment, housing, behavior, handling and leashing of animals within the City of Everett; respond to all calls made by the Everett Police Department for assistance in dealing with animals; enforce all state and local laws enacted for purpose of protecting animals from cruelty, neglect or abuse; enforce all state and local laws relative to the handling and clean-up of all waste created by animals within City limits.

VI. Chaplain

a. The mayor may appoint clergymen to serve without pay as chaplains of the police department for a period of three (3) years from date of appointment. The Chaplin of the Everett Police Department shall not be considered a department head for the purposes of this Code or any other applicable law.

VII. School Traffic Supervisors

a. The Chief of Police or his designee shall appoint at his discretion School Traffic Supervisors. School Traffic Supervisors shall not be considered department heads for the purposes of this Code or any other applicable law.

b. School Traffic Supervisors shall observe all the rules and regulations of the police department not inconsistent with their authority and duties. Such traffic supervisors shall be under the charge and direction of the Chief of Police.

VIII. Auxiliary Police

a. The Mayor may appoint, subject to confirmation by the City Council, such special police officers to serve with or without pay, as he may designate, for special duty, and may limit their sphere of duty and their time of service. Members of the Everett Auxiliary Police shall not be considered department heads for the purposes of this Code or any other applicable law.

b. The persons so appointed shall be subject to the provisions of the city ordinances and laws of the Commonwealth, so far as the same are applicable, and to all rules and regulations prescribed for the administration of the police department, if and when they receive compensation as such officers from the city.

c. Duly appointed officers of the Auxiliary Police shall not, at any time, be authorized to carry a firearm in the performance of their duties as sworn or assigned.

d. The Mayor may appoint such superior officers of the Auxiliary Police as he sees fit and appropriate, subject to confirmation by the City Council.

e. Once appointed, the Auxiliary Police shall act under the direction and supervision of the Chief of Police.

C. Everett Fire Department

I. Organization; Duties Generally

a. The Everett Fire Department shall consist of a chief of department and such

subordinate officers and firefighters as the Mayor shall authorize; the chief of department and other subordinate officers and firefighters shall be appointed by the Mayor with the approval of the City Council; the chief of department and all subordinate officers and firefighters shall be sworn to the faithful discharge of their respective duties and rank.

b. It shall be the duty of the persons employed in the fire department to keep the apparatus, and the several buildings, and all things entrusted to their care, clean and in order for immediate use. They shall do and perform all things in connection with their duties as fire fighters under the direction of their officers.

II. Office of Chief of Department

a. The Mayor shall appoint, subject to applicable state, local, or civil service law, regulation or rule, a Chief of Department to a term not to exceed three (3) years.

b. The Chief of Department shall:

1. Have sole and absolute command of all members of the Everett Fire Department and of all persons present at incidents within the City of Everett in which the Everett Fire Department in command.

III. Bureau of Fire Prevention

a. There shall be a Bureau of Fire Prevention within the Everett Fire Department which shall be operated under the supervision and direction of the Chief of Department; the head of the Bureau of Fire Prevention shall be determined at the discretion of the Chief of Department.

b. The Bureau of Fire Prevention shall:

1. Enforce all laws of the Commonwealth and ordinances of the city covering the prevention of fires; the storage and use of flammables; the installation and maintenance of automatic fire extinguishing equipment, sprinklers, standpipes and all fire appliances; the maintenance and regulations of fire escapes; the means and adequacy of exits in case of fire, from factories schools, hotels, lodging houses, asylums, hospitals, churches, halls, theatres, amphitheaters and all other places in which numbers of persons work, live or congregate from time to time for any purpose; and the investigation of the cause, origin and circumstance of all fires.

2. Inspect as often as may be necessary all structures, used for any and all purposes located within the jurisdictional boundaries of the City of Everett for the purposes of fire prevention.

3. Other duties as assigned and deemed prudent by the Chief of Department. IV.

Office of Emergency Management

a. There shall be an Office of Emergency Management to be under the direction of a Director of Emergency Management; the Mayor shall appoint a Director of Emergency Management to an indefinite term and may replace at his discretion. The Director may serve concurrently as the Chief of Police or as Chief of Department of the Everett Fire Department.

b. It shall be the function of the Office of Emergency Management to carry out the duties prescribed by Acts of 1950, chapter 639 and any acts in amendment or in addition to such chapter 639 and such other functions and duties as may be set forth in this chapter or established by ordinance from time to time not inconsistent with the laws of the Commonwealth.

c. The Office of Emergency Management, through the Director of Emergency Management shall:

1. Prepare for and carry out all emergency functions, other than functions for which military forces other than the National Guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes. Such functions shall include specifically, but without limiting the generality of the foregoing, fire-fighting and police services, medical and health services, rescue, engineering and air raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions.

d. The Director of Emergency Management shall:

1. Have the direct responsibility for the organization, administration and operation of Office of Emergency Management and coordinate all efforts of the City of Everett in response to a present or declared state of emergency.

2. Upon the promulgation of executive orders or of general regulations by the governor of the Commonwealth, or upon a directive by the governor to the mayor, other municipal department officer, or employee of the city to carry out the provisions of any such executive order, regulation or directive, the director of civil defense is hereby authorized and directed to take all necessary steps to carry out such executive order, regulation or directive in spite of any municipal ordinance or procedure which may in whole or in part conflict with such executive order,

regulation or directive.

V. Chaplain

a. The mayor may appoint clergymen to serve without pay as chaplains of the Fire Department to a term not to exceed three (3) years from date of appointment. The Chaplin of the Everett Fire Department shall not be considered a department head for the purposes of this Code or any other applicable law.

D. Department of Human Resources

I. Director of Human Resources; Appointmenta. The Director of Human Resources shall be appointed by the Mayor to up to a term not to exceed three (3) years; the Director of Human resources shall oversee and administer all aspects of the Department of Human Resources and take all measures necessary and prudent to ensure the prompt delivery of services.

II. Duties and Responsibilities

a. The Department of Human Resources shall:

1. Provide employee benefits administration; provide advice and support regarding employee and labor relations; develop recruitment and retention strategies; monitor City activities for compliance with the Equal Opportunity Act (EEO), Americans With Disabilities Act (ADA), Fair Labor Standards Act (FLSA), Family and Medical Leave Act (FMLA) and all other pertinent federal, state and local laws; work with City's legal counsel and other relevant staff to coordinate City's response to all reports and/or complaints of discrimination; serve as City's ADA coordinator; serve as Mayor's liaison/appointing authority to the Massachusetts Human Resources Division for all matter pertaining to civil service hiring, promotion and discipline; provide efficient administration of all other pertinent human resource matters, including but not limited to the hiring, discipline, support and termination of all City of Everett employees, as necessary.

E. Office of the City Solicitor

I. Appointment; Qualifications; Compensation

a. The City Solicitor shall be appointed by the Mayor to a term not to exceed three (3) years; the City Solicitor shall be a member of the bar of the Commonwealth, in good standing, with residency in the City as a preferred qualification, but not a prerequisite for appointment.

b. Compensation to the City Solicitor shall be determined at the sole discretion of the Mayor, subject to appropriation.

II. Duties; Responsibilities

a. The City Solicitor shall exercise the following duties and responsibilities:

1. The City Solicitor shall act as advisor to the city government and representative of the city in all matters of law, except as hereinafter provided.

2. The City Solicitor shall examine all titles to property, draft all deeds, obligations, contracts, leases, conveyances, agreements and other legal instruments of whatever nature to which the city or its agents may be a party, as may be required by any ordinance or by any order of the mayor, the city council, by any committee of the city council or by any administrative board, commission or officer, and which by law, usage or agreement the city is to furnish.

3. He shall commence and prosecute all actions and other legal proceedings and suits begun by the city or by any officer thereof, and defend all actions and suits brought against the city in any court or other tribunal of the Commonwealth or of the United States.

4. He may commence and prosecute all actions and other legal proceedings as, in his judgment, the interests of the city require for the collection of all bills, accounts or other moneys due the city.

5. He shall defend any of the officers of the city in such suits or prosecutions as may be brought against them for any act or omission in the discharge of an official duty when any estate, right, privilege, ordinance, act or direction of the city government may be brought in question.

6. He shall appear as counsel in any action, suit or prosecution, or in any matter before the legislature of the Commonwealth, or any committee thereof, in which the interest and welfare of the city may be directly or indirectly affected.

7. When requested, he shall furnish the mayor, the city council, any committee of the city council or any administrative board, commission or officer with his legal opinion upon any subject involving their respective offices.

8. It shall be his duty to attend all regular meetings of the city council and upon request all such other meetings of the city council or committees thereof.

9. He shall, subject to availability of funds, have authority, with the approval of the mayor, to settle and compromise any and all claims against the city.

10. He may, subject to availability of funds and approval of the Mayor, be authorized

secure the advice or services of additional or substitute counsel in any pending or contemplated legal matter.

11. Aid in the prosecution of persons who refuse to comply with the orders of the chief of the fire department and bureau of fire prevention, where such refusal constitutes a violation of any provision of these Revised Ordinances or the state law.

F. Department of Planning and Development

I. Executive Director of Planning and Development; Appointment; Duties Generally

a. The Mayor shall appointment an Executive Director of Planning and Development to a term not to exceed three (3) years; the Executive Director of Planning and Development shall supervise and serve as chief administrative contact for all activities and personnel of the Department of Planning and Development.

II. Under the direction of the Executive Director of Planning and Community Development, the Department of Planning and Development shall:

a. Administer and assist the Planning Board, the Conservation Commission, and other commissions and committees as directed by the Mayor;

b. Maintain the City's Geographic Information Services (GIS);

c. Maintain records and maps of the City, and keep such maps in updated order

d. Manage planning initiatives;

e. Facilitate commercial and residential development;

f. Assist in developing policy for planning purposes;

g. Provide long term planning for multi-modal transportation needs;

h. Ensure new developments adhere to adopted plans and in conformance with applicable environmental law and regulations;

i. Review and inspect new construction to assure compliance with building codes and other mandated standards for protecting safety, public health and environmental quality; and

j. Enforce land use codes to protect public assets.

G. Department of Inspectional Services

I. Organization

a. The Department of Inspectional Services, pursuant to Chapter 332 of the Acts of 2010, shall be organized into the following offices and divisions:

1. Division of Building Inspection and Maintenance

2. Division of Plumbing

3. Division of Gas Fittings and Gas Appliances

4. Division of Electrical Inspections and Maintenance

5. Division of Health and Sanitation

6. Division of Code Enforcement

7. Division of Weights and Measures

8. Code Enforcement Task Force

9. Board of Appeals

b. The Department of Inspectional Services shall:

1. Coordinate of all inspection functions carried out by the Department;

2. Maintain, in a central place, all records relating to inspections;

3. Coordinate all enforcement actions for violations of the General Laws, state building code, city ordinance including, but not limited to M.G.L c. 13A and rules or regulations which are subject to enforcement by an officer or employee of the city;

4. Render advice, assistance and guidance to all city offices and agencies in any matter relating to city inspection services; and

5. Render advice, assistance and guidance to all members of the public relating to city inspection services and the development of user friendly systems for the convenience of the public.

II. Director of Inspectional Services; Generally; Appointment

a. The Director of Inspectional Services shall be appointed by the Mayor to a three (3) year term; such term shall not be extended without reappointment beyond the stated term; the Mayor may, at his discretion, remove the Director of Inspectional Services prior to the expiration of the Director's stated term.

b. The Director shall possess, without exception, all the necessary qualifications,

experience and certifications required for an Inspector of Buildings or Building Commissioner under M.G.L. c. 143 s. 3; the appointment of a Director of Inspectional Services shall satisfy the requirements of M.G.L. c. 143 s. 3 as to the appointment of an Inspector of Buildings.

c. The Director of Inspectional Services shall:

1. Serve as the executive and administrative head of the Department; and establish a full and complete inventory of all inspection services performed by any officer of the city that falls within the scope of this act; establish common files, by property address, which shall be accessible to all persons performing inspection services for the city, containing recordings of all inspections performed by any city officer or employee; provide common services for all inspection related personnel and a centralized location for consumers of city inspection services; expedite the issuance or denial of all permits; establish, within ninety (90) days of appointment, a departmental service manual; perform other relevant duties as assigned or required.

III. Division of Building Inspection and Maintenance

a. The Division of Building Inspection and Maintenance shall:

1. Be responsible for the enforcement of the state building code pertaining to buildings and other structures and for enforcement of related ordinances in the Revised Ordinances of the city of Everett, including, but not limited to the local zoning ordinance and Massachusetts State Building Code.

b. Inspector of Buildings; Generally; Appointment

1. The Inspector of Buildings shall perform all the duties incumbent upon him under the M.G.L. c.143 and of all amendments and additions thereto, insofar as the same may be applicable; the Inspector of Buildings shall not be considered a department head for the purposes of this Code or any other applicable law.

c. The Inspector of Buildings shall supervise the activity and performance of all local inspectors employed by the City of Everett.

IV. Division of Plumbing

a. The Division of Plumbing shall:

1. Be responsible for the enforcement of the state building code applicable to plumbing and for enforcement of related ordinances in the Revised Ordinances of the city of Everett.

b. Inspector of Plumbing

1. The Mayor shall appoint an Inspector of Plumbing to a term not to exceed three (3) years; the Inspector of Plumbing shall not be considered a department head for the purposes of this Code or any other applicable law.

2. The Inspector of Plumbing shall be the Inspector of Gas Fittings under the supervision of the Director of Code Enforcement and concurrently enforce all responsibilities of the Division of Gas Fittings and Gas Appliances.

V. Division of Gas Fittings and Gas Appliances

a. The Division of Gas Fittings and Gas Appliances shall:

1. Be responsible for the enforcement of the state building code applicable to gas fittings and gas appliances and for enforcement of related ordinances in the Revised Ordinances of the city of Everett.

VI. Division of Electrical Inspections and Maintenance

a. The Division of Electrical Inspections and Maintenance shall:

1. Be responsible for the enforcement of the state building code applicable to electrical wires and electrical fixtures and shall be responsible for the ordinary maintenance of electrical wires and fixtures in city buildings and other structures including all city recreational facilities; the operation and maintenance of the electrical components of the traffic regulatory signals and devices and fire alarm signals and devices; and the enforcement of related ordinances in the Revised Ordinances of the city of Everett.

b. The Mayor shall appoint an Inspector of Wires, as required by M.G.L. c. 166, s. 32, to a term not to exceed three (3) years; the Inspector of Wires shall not be considered department head for the purposes of this Code or any other applicable law.

c. The Inspector of Wires shall:

1. Be an electrician licensed under the laws of the Commonwealth; have authority to execute any state or local law under his charge; perform other duties as assigned by the Director of Inspectional Services.

VII. Division of Health and Sanitation

a. The Division of Health and Sanitation shall:

1. Be responsible for enforcement of all provisions of the state sanitary code

promulgated by the Massachusetts Department of Public Health which are subject to enforcement by cities and towns; adoption from time to time of additional regulations as are necessary or desirable to protect the public health of the residents of Everett; and enforcement of all regulations so promulgated by the Board of Health.

VIII. Division of Code Enforcement

a. The Division of Code Enforcement shall:

1. Be responsible for the enforcement of chapter 13A of the Revised Ordinances of the City of Everett; enforce all relevant ordinances; maintain a high quality of life for all Everett residents; working in conjunction with the Office of the City Solicitor, prosecute all infractions and violations of city ordinance; perform other relevant duties as assigned.

b. Director of Code Enforcement

1. The Mayor shall appoint a Director of Code Enforcement to a term not to exceed three (3) years. The Director, under the supervision of the Director of Inspectional Services, shall:

a. Coordinate the activities of the Division of Code Enforcement and all inspectors employed to enforce City of Everett ordinances; coordinate administrative functions as related to the execution of the Division's duties; and perform other relevant duties as assigned by the Director of Code Enforcement.

IX. Division of Weights and Measures

a. The Mayor shall appoint an Inspector of Weights and Measures, as required by M.G.L. c. 98 s. 34 to a term not to exceed three (3) years; the Inspector of Weights and Measures shall not be considered a department head for the purposes of this Code or any other applicable law.

b. The Inspector of Weights and Measures shall:

1. Have general charge and supervision of all the public scales of the City of Everett;

2. Have the care and custody of the standards and property of the Office of the Inspector of Weights and Measures;

3. Submit to the Mayor and Executive Director of Inspectional Services a report of all matters pertaining to the Office of the Inspector of Weights and Measures, together with an inventory of all property of the City in his charge.

X. Code Enforcement Task Force

a. There shall be in the City of Everett a Code Enforcement Task Force (CETF).It shall be the responsibility of the Task Force to coordinate the enforcement of the City ordinances pursuant to this chapter in order to combat blight, reduce nuisances, discourage criminal activity and ensure a higher quality of life for the residents of the City.

b. The Task Force shall consist of the following:

1. Chairperson to be appointed by His Honor the Mayor and who will serve as the supervisor of the CETF members or designees;

2. Chief of Police or his designee,

3. Fire Chief or his designee;

4. City Clerk or his designee;

5. City Solicitor or his designee;

6. Building Inspector or his designee;

7. Director of the Office of Public Health or his designee;

8. Chairperson of the Licensing Board or his designee; and

9. Director of Public Works or his designee.

XI. Board of Appeals

a. See City of Everett Administrative Code Section III(Q).

H. Department of Financial Services

I. Authority; Responsibilities

a. The Office of Financial Services of the City of Everett shall, under the direction and supervision of the Mayor or his designee, coordinate and administrate the city's financial services and activities including: development of city's financial planning and budgetary policy and annual operating budget; investment of city's funds; maintenance of city accounting records and financial statements; payment of all city's obligations, subject to applicable approvals; monitoring of all expenditures of city funds; timely reporting to the Mayor and to other appropriate boards and officers of actual or foreseeable incurring of obligation of expenditures of funds in excess of budgeted appropriations; maintenance of payroll and other financial records relating to all city personnel; supervision of city purchasing and inventory control procedures; administration of disposal of city property;

ensuring that financial and internal support is provided to all departments; providing the general public with departmental information; and development and enforcement of internal controls.

II. Chief Financial Officer; Generally; Appointment

a. Supervision of the Office of Financial Services and all offices and departments under its control shall be vested in the Chief Financial Officer (CFO) of the City of Everett.

b. The CFO of the City of Everett shall be appointed by the Mayor with the approval of the City Council for a term not to exceed three (3) from the date of appointment; the CFO may serve as either the City Auditor or Treasurer/Collector, but not both.

III. Office of the City Auditor

a. The City Auditor shall be appointed by the Mayor to a term not to exceed three (3) years.

b. The City Auditor shall, in addition to responsibilities established and imposed by state law:

1. Cause a complete set of books to be kept, consistent with the Uniform Municipal Accounting System prescribed by General Laws, chapter 44, section 38. Such records shall also include a detailed record of the city debt, showing the purpose for which it was incurred, maturity date and the rate of interest;

2. Countersign all bonds, notes and certificates of indebtedness issued by the city treasurer, as authorized by the mayor and city council;

3. Prepare an annual report which complies with the requirements of the Uniform Municipal Accounting System, as prescribed by the Director of the Bureau of Accounts and shall provide a copy of this report, together with copies of the audited General Purpose Financial Statements of the City to the Mayor and the City Council.

IV. Office of the Treasurer/Collector

a. The Treasurer/Collector shall be appointed by the Mayor to a term not to exceed three (3) years.

b. The Treasurer/Collector shall, in addition to responsibilities established and imposed by state law:

1. Give a bond annually for the faithful performance of his duties as required by General Laws, chapter 41, section 35. The premium for such bond shall be paid by

the city;

2. Exercise the powers, duties and responsibilities of a collector of taxes and a city collector under the title of City Collector;

3. Cause an accurate and true account to be kept of all receipts and disbursements on behalf of the city, and such records shall conform as far as practicable with the accounts of the city auditor;

4. Cause all books, papers, vouchers and documents under his care, together with all money not deposited in banks, and belonging to the city, when not in use, to be kept in a proper safe or vault;

5. Make payment, based on departmental payrolls and warrants issued by the City Auditor and approved by the mayor and the city auditor, to each employee or official, or his authorized agent or attorney, or his assignee, and shall take therefore the receipt of no person other than such employee or official, his authorized agent or attorney, or assignee.

6. Furnish to the city auditor, not later than the twenty-first day of each month, a detailed statement of all cash receipts, including trust and investment funds, during the preceding month; and

7. Collect all taxes, accounts and other sums payable to the city, not otherwise specifically provided for, together with interest, costs and charges thereon.

V. Office of Purchasing and Procurement; Purchasing Agent

a. A Purchasing Agent/Chief Procurement Officer (CPO) shall be appointed by the Mayor in accordance with Chapter 432 of the Acts of 1962 to a term not to exceed three (3) years. The CPO shall have, or obtain in a timely manner, all certifications incumbent upon that designation by the Commonwealth of Massachusetts.

b. The Chief Procurement Officer, or their designee, shall:

1. Have the power to transfer all supplies, materials, and equipment between City departments as necessary and prudent;

2. Have the power to sell, exchange or trade any supplies, material and equipment which have become unsuitable for public use if the item has a value less than five hundred dollars ($500.00). If the item has a value greater than or equal to five hundred dollars ($500.00) the sale, exchange or trade of the item shall be subject to the approval of the city council.

3. Create, manage and serve as custodian for all contracts entered into by the City for goods and services; serve as custodian of all other contracts entered into by the City of Everett;

4. Keep a public record of all sales, exchanges and trades;

5. Manage and supervise all assets in the possession or legal custody of the City; and

6. Require that each using agency shall make an inventory during the month of May in each year of all personal property under its charge.

VI. Office of Budgeting

a. The Mayor shall appoint a Budget Director to a term not to exceed three (3) years.

b. The Budget Director, as supervisor of the Office of Budgeting shall:

1. Assemble budget estimates and provide analysis and advice to the Mayor and Chief Financial Officer as to budgetary matters and procedures;

2. Conduct studies relative to improvements to administrative organization and procedure;

3. Develop, along with the City Auditor, departmental work measurement studies and standards for analysis by the Mayor, Chief Financial Officer and Department of Financial Services;

4. Provide analysis and recommendations regarding departmental user fees to relevant personnel; analyze federal, state and local legislative and executive proposals for impact on budgetary operations; perform other relevant duties as assigned.

VII. Office of Assessing

a. The Mayor shall appoint a Chief Assessor to a term not to exceed three (3) years.

b. The Office of Assessing shall:

1. Be responsible for accurately determining the value of all real and personal property located within the for the purpose of taxation;

2. Assess all property at its full and fair market value as of January 1 of each year, or within a time frame accepted by local option;

3. Be responsible for the administration of all property tax data records and

maintains accurate parcel ownership data based upon recorded property transactions at the Registry of Deeds.

4. Administer the tax billing for the motor vehicle excise and boat excise tax.

I. Department of Public Works

I. Organization

a. The Department of Public Works shall be organized into the following divisions and offices:

1. Office of the Executive Director

a. Executive Director

b. Operations Manager

1. Fleet Management

c. Business Manager

2. Division of Water and Sewer

a. Office of Water and Sewer

b. Office of Stormwater Management

3. Division of Municipal Infrastructure

a. Office of Highways and Parks

b. Office of Facilities Maintenance

4. Division of City Engineering

a. Office of the City Engineer

II. Office of the Executive Director of Public Works

a. Executive Director of Public Works; Appointment; Duties and Responsibilities

1. The Executive Director of Public Works shall be appointed by the Mayor to a term not to exceed three (3) years.

2. The Executive Director of Public Works shall:

a. Supervise and oversee all activities, offices and divisions of the Department of Public Works;

b. Plan and implement a comprehensive public services program involving streets, equipment services, sewer, water, drains, solid waste, engineering, surveying and building, parks and cemetery maintenance, snow and ice control and all other related Public Works activities;

c. Serve as street commissioner and surveyor of highways;

d. Exercise supervision and control of the streets, sidewalks, sanitary sewers, storm drains, refuse disposal and the water distribution system of the City of Everett;

e. Serve as a member of the Traffic, Safety and Parking Commission.

b. Operations Manager; Duties and Responsibilities

1. The Operations Manager of Public Works shall be appointed by the Mayor to a term not to exceed three (3) years.

2. Under the supervision of the Executive Director of Public Works, the Operations Manager shall:

a. Work closely with the Executive Director and direct, supervise and oversee all activities, offices and divisions of the Department of Public Works;

b. Supervises the acquisition, maintenance, and disposal of all vehicles owned by the City of Everett; accounts for all parts and fuel used in the operation thereof;

c. Work with the Executive Director in planning and implementing a comprehensive public services program that involving streets, equipment services, sewer, water, drains, solid waste, engineering, surveying and building, parks and cemetery maintenance, snow and ice control and all other related public works activities;

d. Work closely with the Executive Director and the Business Manager as it pertains to payroll, procurement of goods and services, performance measures, streamlining accounting practices, identifying and establishing outside funding sources that are beneficial for a variety of infrastructure and capital improvements.

e. Develop, with the Executive Director and the Business Manager, planning and management strategies of city assets, reconciling the program with a sound cost benefit analysis that would be reviewed, adjusted and modified as the needs of the City and the Division change.

f. Assist the Executive Director and the Business Manager with the annual budget, establishing reconciliation measures that would be reviewed, adjusted and controlled to ensure all spending of city funds matched budgeted items.

g. Serves as second-in-command of the Department of Public Works and is in charge in the absence of the Executive Director.

c. Business Manager; Duties and Responsibilities

1. The Business Manager of Public Works shall be appointed by the Mayor to a term not to exceed three (3) years.

2. Under the supervision of the Executive Director of Public Works, the Business Manager shall:

a. Coordinate the preparation and administration of the annual operating and capital budget; reviews department payroll, funding needs, formulation of budget guidelines, and control department service delivery within budgetary limits or policies; oversee administration of grants; develop and coordinate bid and RFP preparation; work in collaboration with the Executive Director in establishing, implementing and managing department goals and specific objectives for the delivery of services and the internal management of the department.

b. Manage the operations of City solid waste and recycling functions.

c. Ensure that all required state reports are compiled and timely filed in order to maintain regulatory compliance; monitor waste management facility performance for regulatory compliance; meet with regulatory agencies as required.

d. Manage rental of all municipal facilities and open-space available for rent by the public at-large, including all fields and parks, the Edward G. Connolly Center, and the Samuel Gentile Recreation Center; such management shall consist of scheduling, compliance with city policy and coordination of city personnel for appropriate staffing.

e. Perform other tasks as assigned by the Executive Director.

III. Division of Municipal Infrastructure

a. Superintendent of Municipal Infrastructure; Duties and Responsibilities

1. The Superintendent of Municipal Infrastructure shall be appointed by the Mayor to a term not to exceed three (3) years.

2. The Superintendent of Municipal Infrastructure shall, under the supervision of the

Office of the Executive Director of Public Works:

a. Oversee and direct all activities of the Division of Municipal Infrastructure and take all measures necessary and prudent to ensure the prompt delivery of services and maintenance.

b. Office of Highways, Parks and Cemeteries

1. The Office of Highways, Parks and Cemeteries shall:

a. Supervise the maintenance of all public rights of way, streets, sidewalks, easements, including drainage outflow, catch basins and all other infrastructure that relates to municipally owned streets and property; they shall further supervise the posting and maintenance of all street signs in the City of Everett in conformance with applicable law and maintain all street signals on all municipally owned streets.

b. Supervise the construction, maintenance, up-keep and improvements to all municipally owned open-space and ensure that all open-space is available and maintained for the benefit of tall Everett residents.

c. Maintain all aspects of Glenwood Cemetery and provide all services necessary ensure the efficient and respectful internment of the deceased.

c. Office of Facilities Maintenance

1. The Office of Facilities Maintenance shall:

a. Maintain and organize up-keep and improvements to all municipally owned buildings and facilities, including cleaning and renovation; makes recommendations for capital improvements to municipally owned buildings; ensures that all buildings, externally and internally are safe for employees and the public at-large.

IV. Division of Water and Sewer

a. The Superintendent of the Division of Water and Sewer shall be appointed by the Mayor to a term not to exceed three (3) years.

b. Superintendent of Water and Sewer; Duties and Responsibilities

1. The Superintendent of Water and Sewer shall oversee and direct all activities of the Division of Water and Sewer and take all measures necessary and prudent to ensure the prompt delivery of services and maintenance.

c. The Office of Water and Sewer shall:

1. Direct, schedule and maintain all water and sewer operations up to and including maintenance, repairs, construction, emergency scenarios and other tasks as required;

2. Maintain accurate records and billing systems for the use of water and sewer resources by residents and coordinates with appropriate city personnel to ensure the fair and accurate payment for services.

d. Office of Stormwater Management

1. The Office of Stormwater Management shall:

a. Oversee and implement all stormwater, rules, regulations, statutes and polices adopted by the City of Everett, the Commonwealth of Massachusetts and the United States governments.

V. Division of City Engineering

a. City Engineer; Appointment; Duties and Responsibilities

1. The Mayor shall appoint a City Engineer to a term not to exceed three (3) years.

2. The Division of City Engineering, under the supervision of the City Engineer, shall exercise a general supervision of all matters within such office; notwithstanding any state or local law to the contrary, the City Engineer shall be a licensed professional engineer with all certifications incumbent upon that designation.

b. The City Engineer or his designee shall:

1. Be consulted in relation to public improvements of every kind where his advice may be necessary or advisable;

2. When necessary, he shall draw the specifications for all construction work, make all surveys, measurements, levels, designs, estimates and plans pertaining to the streets, drains sewers, waterworks, bridges and lands of the city, and shall supervise all construction in accordance with such plans or designs; he shall furnish such specifications and make such surveys, measurements, designs, levels, estimates and plans when required so to do by the mayor, the city council, by any committee thereof, or by any administrative board or officer having the same in charge.

3. Have charge of all plans of every kind not especially belonging to other departments, and shall keep the same properly classified and indexed, and he may make such rules and regulations concerning the taking of plans from his office as he

may deem necessary to ensure their safety;

4. Furnish the city solicitor, at his request, with descriptions of lands, and with the details concerning any proposed taking of lands, or the location, widening alteration or discontinuance of streets;

5. When requested to do so by the mayor, the city council, any committee thereof, or any administrative board or officer of the city having the same in charge, he shall measure, or cause to be measured, all work done by contract for the city, and shall report thereon to the board or officer making such request;

6. Furnish to all applicants, so far as the files and records of his office will permit, any information they may desire as to lines and grades of streets on which their estates are situated, or upon which they intend to build; and all information of this character furnished to owners of estates or persons representing them or to those intending to build shall be without charge; and

7. Examine carefully all the bridges within the city limits, annually, or oftener if required to do so by the mayor, and shall make a report to the mayor respecting their condition as to safety, need of renewal or repairs;

8. Perform all other duties as are incident to this office.

J. Department of Health and Human Services

I. Organization

a. The Department of Health and Human Services shall be organized into the following postionand offices:

1. Executive Director of Health and Human Services

2. Office of Human Services

3. Office of Elder Affairs

4. Office of Veterans Services

5. Office of Health and Wellness

6. Office of Public Health

II. Executive Director of Health and Human Services; Appointment; Duties

a. The Mayor shall appoint an Executive Director of Health and Human Services to a term not to exceed three (3) years. The Executive Director of Health and Human Services may

serve concurrently as the Director of Human Services, the Director of Elder Affairs, the Commissioner of Veterans' Services, Director of Health and Wellness or the Director of Public Health, but may not serve as more than two.

b. Executive Director of Health and Human Services shall

1. Oversee and supervise all activities, programs and initiatives of the Department of Health and Human Services, as well as serve as chief administrative contact for all such offices;

2. Prepare all budget estimates, payroll and personnel strategies for all offices in the Department;

3. Provide advice to all necessary personnel in the event of a present or stated emergency;

4. Perform all duties as assigned or that are necessary and prudent for the prompt delivery of services.

III. Office of Human Services

a. Director of Human Services; Appointment; Duties Generally

1. The Director of Human Services shall be appointed by the Mayor to a term not to exceed three (3) years. The Director of Human Services shall shall oversee and direct all activities of the Office of Human Services and take all measures necessary and prudent to ensure the prompt delivery of services.

b. The Office of Human Services shall:

1. Enhance the quality of life for Everett residents through the coordination of available resources designed to provide support and guidance; initiate programs and agencies for the City's elderly, low income, disabled and high-risk populations; coordinate with other City and state departments for the delivery of vital services in times of need and emergency; provide other services and take other actions as prudent and assigned.

IV. Office of Elder Affairs

a. Director of Elder Affairs; Appointment; Duties Generally

1. The Director of the Office of Elder Affairs shall be appointed by the Mayor to a term not to exceed three (3) years. The Director of Elder Affairs shall oversee and direct all activities of the Office of Elder Affairs and take all measures necessary and

prudent to ensure the prompt delivery of services.

b. The Office of Elder Affairs shall:

1. Work to promote and safeguard the health and wellbeing of the senior population of the City of Everett through specialized programming, evaluation of existing services and activities intended to enhance or improve the quality of life for older residents and be the primary public advocate for elderly Everett residents.

V. Office of Veterans Services

a. Commissioner of Veterans Services; Appointment; Duties Generally

1. The Mayor shall appoint a Commissioner of Veterans Services in accordance with M.G.L. c. 115 s. 10. The Commissioner of Veterans Services shall perform all the duties incumbent upon him under the provisions of all applicable state and local law and any duties that are assigned and/or prudent in the execution of his office.

b. The Office of Veterans Services, under the supervision of the Commissioner of Veterans' Services shall:

1. Provide services to Veterans, Veteran's spouses and their dependents;

2. Assist Veterans in the matters of pension, financial need, filing claims with state or federal departments of Veterans Affairs or Social Security, education benefits, home loans, hospitalization and medical care, as well as funeral arrangements and ceremony;

3. Maintain a list of all squares, dedications and memorials of veterans throughout the City of Everett.

VI. Office of Health and Wellness

a. Director of Health and Wellness; Appointment; Duties Generally

1. The Director of the Office of Health and Wellness shall be appointed by the Mayor to a term not to exceed three (3) years. The Director of Health and Wellness shall oversee and direct all activities of the Office of Health and Wellness and take all measures necessary and prudent to ensure the prompt delivery of services.

b. The Office of Health and Wellness shall:

1. Enhance the quality of life for Everett residents by the development of effective programming and services designed to increase overall personal health and wellness;

2. Provide residents with opportunities and programs that emphasize the role of nutrition in healthy living, healthy eating options, and strategies to instill long-term commitment to wellness;

3. Oversee the operation of the Everett Community Health and Wellness Center;

4. Develop innovative fitness programming and opportunities for the benefit of all residents regardless of age or physical or athletic ability;

5. Provide residents with diverse, community recreational programming opportunities for all age groups and capacities ;

6. Include as many Everett residents as possible by keeping programming fresh and affordable;

7. Create a safe and caring environment that encourages a passion for health and wellness.

VII. Office of Public Health

a. Director of Public Health; Appointment; Duties Generally

1. The Director of Public Health shall be appointed by the Mayor to a term not to exceed three (3) years. The Director of Public Health shall oversee and direct all activities of the Office of Public Health and take all measures necessary and prudent to ensure the prompt delivery of services.

b. The Office of Public Health shall:

1. Enhance the quality of life for Everett residents through regulatory enforcement, policy development and coalition building to prevent disease and injury, promote wellness, and protect the personal, community, and environmental health of all Everett residents;

2. Improve the quality of life of residents and workers by reducing sickness and injury; fostering safe and healthy environments in homes, schools, and workplaces;

3. Monitor health status to identify community health problems;

4. Diagnose and investigate health problems and health hazards in the community;

5. Inform, educate, and empower people about public health issues and advisories;

6. Mobilize community partnerships to identify and solve public health problems;

7. Develop policies and plans that support individual and community health efforts;

8. Enforce laws and regulations that protect health and ensure safety and regulations as promulgated by the Everett Board of Health;

9. Link people to needed personal health services and assure the provision of health care when otherwise unavailable;

10. Assure a competent public health and personal healthcare workforce;

11. Evaluate effectiveness, accessibility, and quality of personal and population-based health services; and

12. Employ and supervise all school nurses and other medical professionals as deemed necessary for adequate delivery of services for residents and employees;

13. Work in collaboration with the Department of Inspectional Services and other departments as needed to enforce the Massachusetts Sanitary Code;

14. Provide other services and take other actions as prudent and assigned to ensure the prompt delivery of services and improve the quality of life for Everett residents.

K. Department of Information Technology

I. Director of Information Technology; Appointment; Duties Generally

a. The Director of Information Technology shall be appointed by the Mayor to a term not to exceed three (3) years; the Director of Information Technology shall oversee and administer all aspects of the Department of Information Technology and take all measures necessary and prudent to ensure the prompt delivery of services.

II. The Department of Information Technology shall:

a. Manage storage, security and integrity of all electronic data in the custody of the City of Everett;

b. Develop, enhance and manage the City's networks to provide high-speed, transparent and highly functional connectivity among all information and communication resources;

c. Assist all Department and Division heads in the selection and setup of all software, equipment and applications; and

d. Develop new solutions and applications to address current and future needs for all departments and employees; and

e. Provide other services and take other actions as prudent and assigned to ensure the

prompt delivery of services.

L. Department of Communications

I. Director of Communications; Appointment; Duties Generally

a. The Director of Communications shall be appointed by the Mayor to a term not to exceed three (3) years. The Director shall be responsible for all media relations and for communications with the public including social media, press releases and all important notices and shall oversee and administer all aspects of the Department of Communications and take all measures necessary and prudent to ensure the prompt delivery of services.

II. Everett Community Television:

a. Under the supervision of the Communications Director, Everett Community television shall:

1. Serve as a community media center that operates the public and government cable access television channels in the City of Everett.

2. The station shall produce programs of community interest, cover City Council meetings and other important events in the community, offer training and support to residents who wish to produce their own TV programs, and also allow residents to sponsor and submit programming.

M. Department of Libraries

I. Director of Libraries; Appointment; Duties Generally

a. The Director of Libraries shall be appointed in accordance with applicable Massachusetts law.

II. Department of Libraries

a. Under the supervision of the Director of Libraries, the Everett Public Library shall:

1. Preserve and provide access to historical records of our society, and to serve the cultural, educational, and informational needs of the people of the City and the Commonwealth;

2. Understand the research, teaching, and learning needs of its users;

3. Build literary and research collections and create tools to support research, teaching, and learning;

4. Provide access to and promote the discovery and use of local and external information resources;

5. Ensure the preservation and long-lasting availability of Library collections and resources;

6. Create hospitable physical and virtual environments for study, teaching, and research;

7. Collaborate with other members of the community to enrich the research and learning community;

8. Advance local, national, and international library and information initiatives; and

9. Develop, encourage, and sustain expertise, skill, commitment and an innovative spirit in its staff.

N. Office of Gaming Accountability and Development

I. Executive Director of Gaming Accountability and Development; Appointment; Duties Generally

a. The Executive Director of Gaming Accountability and Development shall be appointed by the Mayor to a term not to exceed three (3) years; the Executive Director of Gaming Accountability and Development shall oversee and administer all aspects of the Office of Gaming Accountability and Development.

II. The Office of Gaming Accountability and Development shall:

a. Act as key point of contact to gaming developer regarding proposed integrated gaming resort and other associated developments;

b. Will coordinate City activities and responses to efficiently and effectively move project forward in established guidelines;

c. Provide advice and guidance to all departments and divisions regarding statutory and regulatory requirements related to Host Community status and under the Massachusetts Gaming Act and related regulations;

d. Serve as liaison to Massachusetts Gaming Commission;

e. Oversee implementation and execution of provisions of the Host Community Agreement, including but not limited to: workforce (construction and permanent job) development and local vendor preferences, fee payments, and others;

f. Ensure that the Wynn Everett project is completed responsibly and transparently with the full support and oversight of the City of Everett;

g. Provide timely updates on progress, the addressing of concerns and issues and completion of necessary planning for the project, and to provide updates to all interested stakeholders.

h. Provide other services and take other actions as prudent and assigned to ensure the prompt delivery of services.

PART IV
GENERAL LAWS ACCEPTED BY THE CITY*

Chapter	Section	Remarks
31	51	Providing civil service for the office of chief of police, ballot vote, November 7, 1911.
32		Early retirement program and creditable service June 28, 2002 (Ch 116 of 2002)
32		Early retirement program and creditable service July 1, 2002
32	4, 102, 103	Granting cost of living adjustments to noncontributory retirees (Ch 411 of 2000) June 25, 2001
32	4, 102, 103	Granting cost of living adjustments to noncontributory retirees (Ch 456 of 1998) April 26, 1999
32	20	$3,000 stipend for retirement members. Council vote January 29, 1998
32	20-4	Compensation to treasurer as custodian of retirement funds. Council vote Jan. 29, 1998
32	28	Authorizing city to establish a contributory retirement system. Council vote, May 1, 1946.
32	44	Authorizing pension for school janitors. Council vote, November 23, 1927.
32	52-54	Providing pensions for certain veterans formerly employed by the city, if incapacitated. Council vote November 18, 1940.
32	56/60	Authorizing pensions for certain veterans formerly employed by the city. Council vote, October 24, 1927.
32	58B	Allows pension allowance adjustment for those non-contributory retirees who retired under MGL 32§58B before January 12, 1998 and who's beneficiary predeceased them. (Ch 411 of 2000) June 25, 2001

32	58C	Providing pensions for police officers and fire-fighters who are veterans. Council, vote, July 1, 1968.
32	77	Providing pensions for laborers. Council vote, November 5, 1912.
32	77(c)	Broadening the definition of " Laborer " for pension purposes. Council vote, December 13, 1940.
32	77A	Providing for laborers pensions and payments to widows. Council vote, July 7 1959.
32	77B	Increasing amounts of laborers pensions. Council vote, November 13, 1962.
32	80	Providing pensions for fire-fighters. Council vote, December 12, 1899 and January 4, 1916.
32	81A-81B	Providing alternative pension benefits for fire-fighters. Council vote, April 7 1947.
32	83	Providing for police officer pensions. Council vote June 16, 1910.
32	83A	Providing alternative pension benefits for police officers. Council vote, April 7, 1947.
32	85J	providing pensions for police officers and fire-fighters and their widows. Council vote, July 7, 1959.
32	89A	Providing alternative benefits to dependents of all city employees in case of accidental death. Council vote, October 18, 1948.
32	89B	Providing alternative benefits to dependents of police officers and fire-fighters in case of accidental death. Council vote, October 10, 1967.
32	90G1/2	Authorizing deductions from the compensation of members of the contributory retirement system over
32	95A	the age of seventy years. Council vote, May 29, 1991. Providing annuities for widows and children of retired employees. Council vote,

		December 26, 1961.
32	99	Authorizing advance payment of retirement allowances. Council vote, May 13, 1963.
32	102	Relative to the annual cost of living adjustment for retirees (Ch. 17 of 1997)
32B	7A	Authorizing subsidiary or additional rates for group insurance. Council vote, November 5, 1986.
32B	9A	Authorizing group insurance contributions for retired employees, Council vote, August 1, 1960.
32B	9C	Authorizing continuation of group insurance and contributions for spouses of fire-fighters dying in the line of duty. Council vote, June 12, 1967.
32B	9D	Authorizing group insurance contributions for spouses of employees and retired employees. Council vote, January 22, 1968.
32B	9F	Authorizing additional life insurance for retired employees. Council vote, May 9, 1988.
32B	10	Authorizing group insurance benefits for employees. Council vote, May 9, 1960
32B	11A	Authorizing additional life insurance for employees at no cost to the city. Council vote, August 18, 1969.
32B	11B	Authorizing group insurance for elderly governmental employees. Council vote, November 26, 1962.
32B	11D	Authorizing group accidental death insurance for police officers and fire-fighters. Council vote, August 18, 1969.
32B	11E	Authorizing group insurance for retired teachers receiving a retirement allowance from the teachers retirement system. Council vote, April 3, 1972.
32B	16	Authorizing active and retired employees, and

		their spouses, to participate in health maintenance organizations. Council vote, November 9, 1973.
32B	18	Medicare eligible retirees shall receive coverage through the medicare supplement plan provided by the city's group health insurance carriers. Council vote, April 16, 1996.
33	59	Effect of military reserve service on salary or vacation of employee. Council vote, June 16, 1947.
40	6B	Authority to make appropriations to provide uniforms for police officers and fire-fighters. Council vote June 11, 1952.
40	6K	Authorizes purchase of uniforms for public nurses. Council vote, January 19, 1970.
40	8B	Authority to adopt ordinance establishing a council on aging. Acceptance is not required. Council vote May 10, 1965.
40	8C	Establishment of a conservation commission; powers, duties, etc. Council vote September 4, 1973.
40	8D	Establishment of a historic district commission; powers, duties, etc. Council vote April 20, 1976.
40	8G	Mutual aid police program agreement. Council vote June 27, 2007
40	8H	Recycling Commission (Ch 416 of 1976) October 10, 1990
40	13	Authorizes establishment of municipal buildings insurance fund. Council vote, April 25, 1988.
40	13A	Workmen’s Compensation Council vote June 27, 1994
40	22D	Authorizes adoption of procedures providing for towing of vehicles parked in violation of

		law. Council votes, June 18, 1968 and April 21, 1987.
40	22G	Allow city to use funds collected from fines for hp violations. Council vote April 11, 2002
40	32A	Authority to waive publication in newspaper of ordinances which exceed in length eight octavo pages of ordinary book print, and to publish instead in a municipal bulletin or pamphlet. Council vote September 30, 1949.
40	42A--42F	Unpaid water bill to constitute a lien against real estate. Council vote October 23, 1923 and
40	57	December 31,1954. Delinquent Taxpayers. Council vote June 30, 1992.
40A	20	Prohibit petitioner to re-apply before Board of Appeals for 2 years. Council vote February 23, 1973
41	12	Three-year term for city clerk. Ballot vote December 10, 1901.
41	19F	Additional compensation for City Clerk for serving as clerk of city council. Council vote June 13, 2008
41	41B	Payment of public employees by direct bank deposit. Council vote, December 20, 1993.
41	48	Three-year term for city auditor. Ballot vote December 12, 1905.
41	73	Establishing a board of survey. Council vote, January 27, 1919.
41	91	Allows for the appointment of constables by the Mayor for a term of three years January 22, 1999.
41	100B	Indemnification of retired police and fire-fighters. Council vote May 7, 1973.
41	100G	Payment of funeral expenses of police and fire-fighters killed in line of duty. Council vote April 2, 1973.
41	100G1/4	Increasing the amount the city can pay for

		funeral and burial expenses of police officers and fire-fighters killed in performance of their duty. Council vote, June 27, 1988.
41	108E	Minimum salary of police officers. Council vote November 28, 1960.
41	108L	Police career incentive pay program. Council vote July 17, 1975.
41	111	Vacations of certain employees. Ballot vote November 3, 1914.
41	111A	Vacations for police and fire-fighters. Council vote June 22, 1936.
41	111B	Accumulation of sick leave. Council vote December 31, 1948.
41	111D	Vacations for police and fire-fighters. Council vote December 29, 1949.
41	111G	Additional vacation based on longevity. Council vote October 24, 1955.
41	112A	Procedures regarding separation of veterans from city service. Council vote October 23, 1947.
44	8A	Requires referendum to be held before certain bonds may be issued if certain requirements are met. Ballot vote November 7, 1939.
44	53D	Authorizing recreation and park self supporting revolving funds. Council vote, August 28, 1989.
44	53E	Authorizing annual operating cost of departments to be offset by estimated receipts of user fees. Council vote, August 28, 1989.
44	53F ½ Authorizes Establishment of a Water and Sewer Enterprise Fund	

44	64	Authorizes the city to appropriate money to pay certain bills. Council vote August 18, 1986.
44	65	Advances of vacation pay to employees Council vote August 24, 1998
45	15	Requires one public playground for every twenty thousand (20,000) inhabitants. Ballot vote December 8, 1908.
48	36	Call men may be promoted to permanent force without civil service exam. Council vote December 9, 1913.
48	57	Fire-fighters to receive one (1) day off out of every five (5). Council vote December 10, 1912.
48	57A	Fire-fighters to receive an additional day off or additional day's pay if required to work on enumerated holidays. Council vote December 12, 1916.
48	58	Fire chief to serve continuously during good behavior. Ballot vote December 12, 1916.
48	58A	Fire-fighters not to work in excess of seventy (70) hours per week. Council vote May 23, 1942.
48	58B	Fire-fighters not to work in excess of forty-eight (48) hours. Ballot vote November 4, 1947.
48	58C	Fire-fighters to receive overtime pay, or compensatory time off, if required to work extra hours. Council vote April 9, 1962.
48	58D	Fire-fighters not to work in excess of forty-two (42) hours. Council vote January 30, 1967.
48	59	Fire force to be divided into two (2) platoons, day and night forces. Ballot vote November 4, 1919.
48	59B-E Reserve fire force to be	

		established. Council vote April 8, 1949.
51	17	Provides for a board of registrars of voters appointed by mayor, without approval of aldermen, city clerk not to be a member. Council vote December 29, 1947.
51	29B	Allowing voter registration in City Hall Council vote August 3, 1987
54	25A	Requiring display of national flag at each polling place during voting hours. Council vote, February 11, 1937.
55	3	Allowing increase in accidental death benefit for surviving children. (Ch 64 of 2006) Council vote July 25, 2006
57	17	Place Registrar of Voters under purview of City Clerk Council vote May 3, 2006
59	5K	Seniors to reduce tax bill by volunteer work Council vote May 16, 2000
59	2A((a)third	Establishing July 1 as the valuation date sentence) for property taxes. Council vote, April 23, 1990.
59	5, (17C)	Provides for a real estate tax exemption. Council vote April 8, 1985.
59	5, (17D)	Changes requirements for a real estate tax exemption. Council vote, September 7, 1988.
59	5,(37A)	Provides for a tax exemption for the blind. Council vote April 8, 1985.
59	5(41B)	Provides for a tax exemption for the elderly. Council vote April 8, 1985.
59	5(41C)	Changes requirements for an elderly real estate tax exemption. Council vote, September 7, 1988.
59	5(41C)	Changes requirements for an elderly real estate tax exemption. Council vote, October 30, 2002

59	5(50)	Provides for a property tax exemption for alterations and improvements to residential property made to provide housing for persons sixty years of age. Council vote, December 8, 1986.
59	5(54)	To establish a minimum cash value required for personal property. Council vote Nov. 27, 2000
59	38	Authorizing the exclusion of certain property from valuation of property. Council vote, December 13, 1978.
59	57C	To establish a system of a quarterly tax payments Council vote March 17, 2006
59	59A	To abate taxes on environmentally damaged property Council vote Nov. 14, 2000
60	3C	City or town scholarship Council vote July 11, 1995
60A	1, 33	Provides for the issuance without a fee for plates for former prisoners of war. Council vote November 28, 1983.
71	21--26	Provides for continuation schools for children under age sixteen (16) who are working. Ballot vote November 4, 1919.
71	71F	Tuition payments of Non-Resident students, revolving account. Council vote, October 25, 1982.
82	37	Authorizes the establishment of a building line, not more than forty feet back from a way, within which no building may be erected. Council vote May 1, 1915.
83	16A/F Unpaid sewer rates and charges to constitute lien against real estate. Council vote,	

	April 23, 1990.	
85	11A	Provides for the registration of bicycles. Council vote March 2, 1942.
90	20A 1/2	Regarding parking of motor vehicles. Council vote December 14, 1981.
138	12B	Prohibits nudity in establishments serving alcoholic beverages. Council vote February 22, 1982.
140	136A-174D	Relative to dogs and funds Council vote April 15, 1999
147	10F	Authorizes the appointment of parking control officers. Council vote May 26, 1987.
147	11	Authorization for the establishment of a reserve police force. Council vote April 28, 1899.
147	16	Provides for one (1) day off out of seven for police officers. Council vote, June 19, 1933.
147	16A	Provides for one (1) day off out of every seven (7) for police officers. Council vote March 29, 1937.
147	16B	Provides for one (1) day off out of every six (6) for police officers. Council vote April 17, 1941.
147	16C	Provides for two (2) days off out of every seven (7) for police officers. Ballot vote November 3, 1953.
147	17A	Provides for an additional day off, or an additional day's pay to police officers who are required to work on certain enumerated holidays. Council vote June 2, 1958.
147	17B	Provides for a five-day week of not more than forty (40) hours for police officers. Council vote November 16, 1953.
148	26C	Smoke detectors, Council vote June 30, 1982
148	26G	Fire sprinklers in certain buildings. Council vote April 25, 1986

148	26H	Requires automatic sprinkler systems in lodging or boarding houses. Council vote, September 16, 1987.
148	26I	Requires automatic sprinkler systems in multiple dwelling units. Council vote, March 19, 1990.
148	56	Requires the issuance of a license by the licensing authority and the approval of the fire chief, for the operation of an open air parking facility. Council vote November 24, 1944.
148	26G	Requires sprinklers in certain buildings. Council vote September 16, 1987.
149	31	Provides for a workday of not more than eight (8) hours for city laborers, workmen and mechanics. Ballot vote December 12, 1899.
149	33B	Provides for a five-day week for city employees of forty (40) hours. Council vote March 15, 1955.
149	44D	Requires contractors to have not more than 125% of workers comp rating bureau. Council vote Jan. 30, 2002
149	178L	Provisions relating to Agency fees of collective bargaining units now found in G.L. c. 150E. Council vote August 13, 1970.
152		Workers' compensation. Originally accepted by ballot vote December 9, 1913, see also council votes December 6, 1954.
152	69	Provides for compensation and benefits for certain city employees. Council vote May 6, 1985.
180	17A	Authorizes payroll deductions from employees for purpose of paying union dues. Council vote April 17, 1967.
258	13	Authorizing the indemnification of municipal officials. Council vote, May 29, 1984.
262	53c	Permits the granting of compensation time off,

or additional pay, to a police officer who is required to be in court when not otherwise on duty. Council vote November 21, 1955.

Updated: Wednesday, March 21, 2012

PART III
SPECIAL ACTS*

Acts of Chapter/Title

1892 Chapter 355, an act to incorporate the City of Everett.

1896 Chapter 366, an act to amend the Charter of the City of Everett.

1898 Chapter 215, an act to provide an additional outlet for the sewage of the City of Everett.

1898 Chapter 495, an act to authorize the Cities of Everett and Malden to make certain contracts relative to sewage disposal and water supply.

1902 Chapter 149, an act to authorize the Cities of Everett and Malden to make certain sewer assessments.

1902 Chapter 152, an act to amend the Charter of the City of Everett.

1910 Chapter 547, an act to provide for an outlet for the sewage of the Cities of Malden and Everett into the north metropolitan sewerage system.

1915 Chapter 253, an act relative to wires and electrical appliances in the City of Everett.

1917 Chapter 260, an act relative to primary elections in the City of Everett.

1918 Chapter 183, an act relative to the filling of vacancies in the board of aldermen and common council in the City of Everett.

1919 Chapter 237, an act to authorize the Cities of Malden, Medford and Everett to incur indebtedness in connection with the development of the Port of Boston.

1920 Chapter 518, an act to provide for placing the inspector of building in the City of Everett under the civil service laws.

1924 Chapter 456, an act to provide for surface and ground water drainage in the northeasterly part of Everett and the adjacent portions of Malden and Revere.

1926 Chapter 8, an act relative to the tenure of office of the city clerk and assistant city clerk of the City of Everett.

1927 Chapter 136, an act subjecting the office of city engineer of the

City of Everett to the civil service laws.

1928 Chapter 349, an act providing for a two-year term of office for the mayor of the City of Everett.

1929 Chapter 255, an act authorizing the City of Everett to establish and maintain a public hospital and to aquire land therefore by purchase or otherwise.

1930 Chapter 361, an act providing for biennial municipal elections in the City of Everett.

1932 Chapter 92, an act subjecting the office of commissioner of soldiers' relief and state and military aid of the City of Everett to the civil service laws.

1933 Chapter 57, an act relative to the time for filing and contents of statements of candidates for nomination at city primary elections in the City of Everett.

1933 Chapter 86, an act placing the office of chief of the fire department of the City of Everett under the civil service laws.

1933 Chapter 135, an act relative to the date of inaugural of the city government of the City of Everett.

1934 Chapter 161, an act increasing the number of signatures required to nominate candidates for certain offices at city primary elections in the City of Everett.

1935 Chapter 64, an act relative to the time of inaugural of the city government of the City of Everett.

1935 Chapter 171, an act modifying certain building restrictions on certain land adjacent to the Revere Beach Parkway in the City of Everett.

1939 Chapter 60, an act relative to laying out, altering and discontinuing ways in the City of Everett.

1946 Chapter 441, an act providing for the preparation of plans and the construction of a dam on the Mystic River in the Cities of Somerville and Everett.

1947 Chapter 166, an act relative to the tenure of office of the city treasurer of the City of Everett. (Repealed by an Ordinance of 9-28-92)

1948 Chapter 547, an act relative to Woodlawn Cemetery.

1949 Chapter 259, an act relative to the holding of other offices or positions by members of the city council in the City of Everett.

1949 Chapter 715, an act authorizing the conveyance of certain park land by the City of Everett to the Everett Housing Authority for veterans housing purposes.

1951 Chapter 487, an act providing for the acquisition by the trustees of the soldiers home in Massachusetts of additional land for grave purposes at Woodlawn Cemetery in the City of Everett.

1956 Chapter 62, an act authorizing The City of Everett to use for highway and other municipal purposes certain land now held for park purposes.

1957 Chapter 317, an act authorizing the City of Everett to lease a certain parcel of land to the Everett Cottage Hospital.

1957 Chapter 321, an act providing that members of the regular police or fire force of the City of Everett may include any prior service in said city, in computing their vacations.

1957 Chapter 326, an act restricting the rights of certain cities and towns to accept certain provisions of law relative to the construction of certain incinerators by the Metropolitan District Commission.

1958 Chapter 187, an act authorizing the City of Everett to use certain park land for public building purposes.

1958 Chapter 493, an act authorizing the City of Everett to convey all or a portion of Marine Corps League Park together with another parcel of land with the building thereon in said city to the Metropolitan District Commission for recreational purposes.

1961 Chapter 490, an act relative to the retirement of certain war veterans in the public service.

1962 Chapter 152, an act authorizing the City of Everett to use certain park land in said city for highway and other municipal purposes.

1962 Chapter 432, an act establishing a purchasing department in the City of Everett.

1969 Chapter 715, an act authorizing the City of Everett to enter into certain leases with the Everett Cottage Hospital.

1971 Chapter 310, Payment of funeral expense for police & fire in the line of duty.

1976 Chapter 108 an act authorizing the City of Everett to borrow money for the purpose of constructing and equipping off street parking to be used in connection with Whidden Memorial Hospital.

1976 Chapter 416, s2, An act authorizing cities and towns to establish recycling commission.

1977 Chapter 308, an act amending the charter of the City of Everett to allow the City of Everett to use the initiative petition.

1978 Chapter 281, an act increasing the amount of money the City of Everett may borrow for the construction of an off street parking facility.

1978 Chapter 576, Tax abated home improvements

1981 Chapter 606, An act further regulating the operation of certain premises licensed to sell alcoholic beverages.

1982 Chapter 73, an act establishing the Everett Development and Financial Corporation.

1982 Chapter 597, An act providing for the issuance without payment of a fee of distinctive license plates to former prisoners of war.

1982 Chapter 653, An act providing relief from the impact of revaluation.

1983 Chapter 324, An act further regulating the rights of certain firefighters or police officers who were laid off in 1981 and 1982.

1984 Chapter 473, An act to improve retirement regulations for teachers.

1985 Chapter 13, an act authorizing the sale of a certain parcel of park land in the City of Everett.

1985 Chapter 188, An act improving the public schools of the Commonwealth.

1986 Chapter 284, An act further regulating the installation of automatic sprinkler systems.

1986 Chapter 73, An act providing relief from the impact of revaluation.

1986 Chapter 265, An act requiring automatic sprinklers in Boarding Houses.

1986 Chapter 705, An act further regulating group life insurance.

1988 Chapter 308, an act relative to the licensing of certain pool tables in the City of Everett.

1988 Chapter 318, an act establishing a general liability fund in the City

of Everett.

1989 Chapter 33, an act exempting the position of City Auditor in the City of Everett from the provisions of the Civil Service Law.

1989 Chapter 642, An act relative to installation of automatic sprinkler systems.

1990 Chapter 65, an act relative to the payment of a certain court judgment by the City of Everett.

1990 Chapter 133,an act establishing the Everett Economic Development and Industrial Corporation.

1990 Chapter 146, an act relative to the reduction of the term of office of members of the School Committee in the City of Everett.

1990 Chapter 254, An act further regulating service beyond the age of 70 by public employees in the Commonwealth.

1990 Chapter 291, an act permitting a charge for directory assistance and improving telecommunications within the Commonwealth.

1990 Chapter 453, an act relative to the Board of Park Commissioners of the City of Everett.

1991 Chapter 494, an act which requires a person, who is receiving compensation from the City for services performed and is not a member of the Contributory Retirement System under Chapter 32, to participate in a deferred compensation program.

1993 Chapter 481, an act relative to holders of Common Victualler Licenses that sell wines and malt beverages may, upon written approval of the License Authority, also sell liquors and cordials.

1994 Chapter 235, An act further regulating the rights of certain firefighters and police officers.

1996 Chapter 71, an act relative to authorizing certain public employees creditable retirement service for active service in the Armed Forces.

1997 Chapter 17, An act relative to the annual cost of living adjustments for retirees.

1998 Chapter 455, an act authorizing the City of Everett to issue certain pension obligation bonds.

1998 Chapter 456, An act relative to granting cost of living adjustments to noncontributory retirees.

1999 Chapter 127, use a certain parcel of playground land for the construction, maintenance and use of schools.

2000 Chapter 96, authorizing the MDC to dispose of a certain easement located in the city of Everett

2001 Chapter 115, Act providing for an executive director of city services in the city of Everett

2001 Chapter 211, An Act designating the conference room in the Allied Veterans Memorial Rink in Everett as the Michael V. Fonzi Memorial Room

2002 An Act relative to Certain School Construction Projects in the towns of Milton and Winchester and the Cities of Brockton, Everett, Revere and Waltham

2002 Chapter 116, s1 & s2, An act providing for local government workforce reduction through an early retirement incentive program for certain employees.

2002 Chapter 288, An Act establishing a 4 year term for the office of mayor in the city of Everett, ballot question.

2002 Chapter 309, An Act relative to the issuance of certain bonds by the city of Everett.

2002 Chapter 423, An Act relative to the health insurance of certain employees of the city of Everett.

2003 Chapter 137, An act relative to public employees serving in the armed forces of the United States.

2005 Chapter 157, An act relative to disability retirement benefits for veterans.

2006 Chapter 205, s11, An act relative to streamlining and expediting the permitting in the commonwealth.

2006 Chapter 260, s12, An act for Nat'l Guardsmen & Serservists that are deployed outside U.S. or their dependents up to 180 days after that service to pay their property taxes without interest or penalities.

2008 Chapter 24, An act authorizing the appointment of special police officers in the City of Everett.

2008 Chapter 155, An individual running for elective office shall have his name on the ballot only for 1 office that is 1 seat at any 1 election.

2008 Chapter 191, An act designating a certain traffic rotary in the City of Everett as the Edward G. Connolly Memorial Rotary.

2008 Chapter 486, An act relative to putting a question on the 2009 ballot "Shall the city of Everett nominate and elect a charter commission in accordance with the provisions of chapter 43B of the General Laws of Massachusetts?".

2010 Chapter 26, An act relative to the collection of unpaid municipal fines.

2010 Chapter 131, s27&28, Increase widow allowance from $6,000 to $9,000.

2010 Chapter 157, An act validating the election of a charter commission in the City of Everett.

2010 Chapter 188, s66, An act relative to municipal relief, early retirement.

2010 Chapter 188, s19, An act relative to increasing COLA base from $360 to $390.

2010 Chapter 332, An act authorizing the City of Everett to create an inspectional services department.

*Updated: Wednesday, November 16, 2011

PART II
REVISED ORDINANCES

Chapter 1.
GENERAL PROVISIONS

Section 1-1 Citation, effect of Revised Ordinances.

The ordinances contained in this and the following chapters shall constitute and be designated as "The Revised Ordinances of the City of Everett, Massachusetts, 2007, as amended," and may be so cited. So far as their provisions are the same in effect as those of previously existing ordinances, they shall be construed as a continuation of such ordinances; but, subject to such limitations and the provisions of the following section, all ordinances of the city of a general and permanent nature in force on June 1, 2007, and not included in this Revision are repealed; but this repeal shall not apply to nor affect any order heretofore adopted accepting or adopting the provisions of any statute of the Commonwealth nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligation assumed by the city; nor shall the repeal affect the administrative orders or resolutions of the city council not in conflict or inconsistent with the provisions of this Revision; nor shall it affect any ordinance or resolution fixing or establishing salaries of city officers or employees; nor shall it affect any right or franchise conferred by any ordinance or resolution of the city council to any person; nor shall such repeal affect the zoning ordinance or any ordinance making changes in the zoning map. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 1)

Section 1-2 Prospective effect of Revised Ordinances; continuation of offices; repealed ordinances not revived.

The Revised Ordinances of the City of Everett, 2007, as amended , and the repeal in section 1-1, or the repeal of any ordinance, shall not affect any act done, or any right accruing or accrued or established, or any suit or proceeding had or commenced in any civil case before the time when such repeal shall take effect, nor any offense committed, nor any penalty or forfeiture incurred, nor any suit or prosecution pending at the time of such repeal for any offense committed, or for the recovery of any penalty or forfeiture incurred under any of the provisions so repealed; and all persons who, at the time when the repeal shall take effect, shall hold any office under any of the ordinances so repealed, shall continue to hold the same according to the tenure thereof, except those offices which may have been abolished, and those as to which a different provision shall have been made by the following ordinances; and no ordinances or part of any ordinance, which has been heretofore repealed, shall be revived by the repeal in the preceding section of any of the ordinances or parts of ordinances therein mentioned, and when any ordinance, repealing a former ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former ordinance, clause, or provision, unless it shall be so expressly provided therein. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 2)

Section 1-3 Rules of construction.

The following rules of construction shall be observed for this revision and every other ordinance, unless inconsistent with the manifest intention of the city council or the context of the ordinance or this Revision:

(a) Charter. The word "Charter" shall mean the Charter of the City of Everett, Massachusetts, as

printed in Part I of this volume.

(b) City. The word “city” shall mean the City of Everett, Massachusetts.

(c) Commonwealth. The word “Commonwealth” shall mean the Commonwealth of Massachusetts.

(d) Gender. Words importing the masculine gender may include females and boards.

(e) Joint authority. Words purporting to give a joint authority to three (3) or more officers or other persons shall be construed as giving such authority to a majority of such officers or persons.

(f) Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

(g) Officer. The word “officer” shall include officers and boards in charge of departments and the members of such boards.

(h) Owner. The word “owner” with reference to a building or land shall include any part owner, joint owner, tenant in common or joint tenant, of the whole or of a part of such building or land.

(i) Person. The word “person” shall include firms and corporations.

(j) Preceding, following. The words “preceding” and “following” mean next before and next after, respectively.

(k) Public grounds. The words “public grounds” shall include Glendale Park, the public lands under the charge of the park department, and those parts of public squares and places, which do not form, traveled parts of highways.

(l) Revision. The words “Revision,” “the Revision” or “this Revision” shall mean the “Revised Ordinances of the City of Everett, Massachusetts, 1991.”

(m) Sidewalk. The word “sidewalk” shall mean a strip within the public way in front or on the side of a house or lot of land lying between the property line and the street.

(n) Signature. If the written signature of a person is required, it shall always be his own handwriting or if he is unable to write, his mark.

(o) Statute references. Whenever reference is made to the General Laws or M.G.L. this shall mean and refer to the Massachusetts General Laws as amended.

(p) Street. The word “street” shall include all public ways, avenues, alleys, lanes, courts and sidewalks, and those parts of public squares and places which form traveled parts of highways.

(q) Tenant, occupant. The words “tenant” or “occupant” with reference to a building or land shall include any person who occupies the whole or a part of such building or land, either alone or with others.

(r) Words of prohibition. Words prohibiting anything from being done, except in accordance with a

license or permit or authority from a board or officer, shall be construed as giving such board or officer power to license or permit or authorize such thing to be done. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 3)

Section 1-4 Ordinances.
(A0173-12)

An ordinance may only be proposed by a member of the city council.

(a) Form of ordinances

A proposed ordinance may add, amend or repeal any number of sections, divisions, articles or chapters of this Revision as long as all of the proposed modifications embrace a single subject matter.

A proposed ordinance shall be submitted in writing and shall include all of the following:

(1) The name(s) of the city council member(s) who sponsored the proposed ordinance.

(2) A title briefly and clearly describing the contents of the proposed ordinance.

(3) A preamble of an explanatory nature stating the reasons and intent for the proposed ordinance or reciting the facts leading to the proposed ordinance. (C0106-15)

(4) An enacting clause. The enacting clause for all proposed ordinances shall be: “Be it ordained by the City Council of the City of Everett, Massachusetts as follows:”

(5) Appropriate amendatory language for each modification of this Revision in accordance with the provisions of Section 1-12 of these Revised Ordinances.

(6) The corresponding provisions for each modification of this Revision.

(7) The effective date of the proposed ordinance if it shall take effect at any time other than at the expiration of thirty (30) days after its adoption.

(b) Passage of ordinances

A proposed ordinance shall be deemed to be introduced when it first appears on the agenda for a meeting of the city council and its title is read.

Full reading of the text of a proposed ordinance may be required on the demand of at least four (4) members of the city council.

At the meeting of the city council where a proposed ordinance has been introduced, the city council shall determine whether the proposed ordinance shall be enrolled, rejected or further considered at a subsequent meeting of the city council or at a meeting of any of its subcommittees.

With the exception of proposed ordinances introduced with an emergency preamble as described in Section 2-9 of the Charter, every other proposed ordinance shall be passed only after the favorable

votes of the city council for enrollment and ordainment. These votes shall occur at separate meetings of the city council held not less than seven (7) calendar days apart. A favorable vote on a proposed ordinance shall require a majority vote of the full city council.

No proposed ordinance shall be so amended as to change its original intent.

With the exception of proposed ordinances introduced with an emergency preamble as described in Section 2-9 of the Charter, every other proposed ordinance shall be published in a local newspaper in accordance with the provisions of Section 1-4.5 of these Revised Ordinances.

A proposed ordinance may be amended during a meeting of the city council at which a vote for the ordainment of such ordinance is scheduled. However, every proposed ordinance shall be available in writing, in its final form, for city council members to review before a vote is held for its ordainment.

If a proposed ordinance has been amended during a meeting of the city council at which a vote for the ordainment of such ordinance is scheduled, on the demand of at least four (4) members of the city council, the vote for ordainment of such ordinance shall be laid over until the next regularly scheduled meeting of the city council and the proposed ordinance, as amended, shall be published in a local newspaper in accordance with the provisions of Section 1-4.5 of these Revised Ordinances.

The vote on ordainment of a proposed ordinance shall be taken by the call of the roll and the ayes and nays of such vote shall be entered in the record of the city council.

Upon ordainment, the city clerk shall present the proposed ordinance to the mayor, entering upon the records of the city clerk, the date and hour of such presentation.

Providing the proposed ordinance is approved by the mayor, or it otherwise becomes in force by law:

(1) The ordinance shall take effect in accordance with Section 2-9 of the Charter.

(2) The city clerk shall cause the ordinance to be bound in a book for that purpose, with proper margins and index, and to be lettered “Record of Ordinances of the City of Everett”. Such book shall be preserved in the office of the city clerk and subject to public inspection.

(3) The city clerk, working in conjunction with the city solicitor, shall be authorized, in accordance with Section 1-11 of these Revised Ordinances, to make technical changes or corrections to codify the ordinance for inclusion in this Revision.

Section 1-4.5 Publication of proposed ordinances.
(A0173-12)

(a) In accordance with the provisions of the General Laws, Chapter 43, Section 23, a proposed ordinance shall be published in one (1) or more local newspapers at least ten days before a vote on such ordinance’s ordainment is scheduled.

(b) When the publication of a proposed ordinance would exceed more than ten (10) column inches of ordinary newspaper notice print in length, then, in lieu of publication in a local newspaper, the same may be published in booklet or pamphlet form and made available at the office of the city clerk. However, when this alternative method of the publication is used, a general summary of the booklet or pamphlet, prepared by the city solicitor, with a notice stating the times and places at which copies of the booklet or pamphlet may be obtained by the public, shall be published in one (1) or more local newspapers at least ten days before a vote on its ordainment is scheduled.

(c) The mayor shall designate the local newspaper(s) used for the publication of each proposed ordinance and proposed ordinance summary.

(d) The city clerk shall be responsible for the timely publication of each proposed ordinance and proposed ordinance summary. (A0278-13)

Section 1-5 Custody of Ordinances.
A copy of these ordinances together with the zoning ordinances of the city shall be kept on file in the office of the city clerk, preserved in loose-leaf form, or in such other form as the city clerk may consider most expedient. It shall be the express duty of the city clerk, or someone authorized by him, to insert in their designated places all amendments or ordinances which indicate the intention of the city council to make the same a part of the ordinances when the same have been printed or reprinted in page form, and to extract from these ordinances all provisions which may be from time to time repealed by the city council. The copy of these ordinances shall be available for all persons desiring to examine the same and shall be considered the official City Ordinances of Everett.

Section 1-6 Limitation on resubmission of certain petitions.
(a) Every petition, permit, license or application for a permit or license which has been denied by the city council after due hearing shall not be heard again by the city council until the expiration of one (1) year from the date of such denial and except wherein the General Laws or special laws of the Commonwealth provide otherwise. (A0173-12)

(b) Every petition, permit, license or application for permit or license in which the petitioner or applicant has been given leave to withdraw shall not be heard again by the city council until the expiration of three (3) months from the date of being given leave to withdraw and except wherein the General Laws or special laws of the Commonwealth provide otherwise. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 5A) (A0173-12)

Cross reference(s)--Licenses and business regulations, Ch. 12.

Section 1-7 Catchlines, history notes and references.
(a) The catchlines of the several sections of the Revised Ordinances printed in boldface type are intended as mere catchwords to indicate the contents of the sections, and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

(b) Similarly the references and editor's notes appearing throughout the Revision are not intended

to have any legal effect but are merely intended to assist the users of the Revision. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 7)

Section 1-8 General penalty.

(a) Whoever violates a provision of this Revision or any other ordinance or by-law of the city, whereby an act or thing is enjoined or prohibited, shall, unless other provisions are expressly made, be liable to a penalty for the first offense a twenty-five dollar ($25.00) fine, second offense a fifty dollar ($50.00) fine, third offense a one hundred dollar ($100.00) fine, and fourth and subsequent offenses a three hundred dollar ($300.00) fine.

(b) If any violation continues, each day's violations shall be deemed a separate violation.

(c) Such violation shall be noticed in the form of a ticket written by an enforcement agent under the authority of the Non Criminal Disposition Ordinance under Article II of these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 8; Ord. of 03-18-2004)

State law reference(s)--Penalty authorized, M.G.L.A. c. 40, § 21.

Section 1-9 Disposition of fines, etc.

All fines and penalties for the violation of any ordinance or any order of the city council shall, when recovered, enure to the use of the city, and be paid into the city treasury, unless otherwise directed by the laws of the Commonwealth or the ordinances of the city. (Rev. Ords. 1976, Pt. 2, Ch. 1, § 9)

Section 1-10 Severability.

It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of these Revised Ordinances are severable, and if any phrase, clause, sentence, paragraph or section of these Revised Ordinances shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of these Revised Ordinances, since the same would have been enacted by the city council without the incorporation in these ordinances of any unconstitutional phrase, clause, sentence, paragraph or section.

Section 1-11 Supplementation of Revision.

(a) By contract or by city personnel, supplements to this Revision shall be prepared and printed every six (6) months. A supplement to the Revision shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Revision, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Revision and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Revision will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Revision, any portions of the Revision that have been repealed shall be excluded from the Revision by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Revision, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified revision. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Revision printed in the supplement, and make changes in such catchlines, headings and titles;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Revision and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words “this ordinance” or words of the same meaning to “this chapter,” “this article,” “this division,” etc., as the case may be, or to “sections _____ to _____” (inserting section numbers to indicate the sections of the Revision which embody the substantive sections of the ordinance incorporated into the Revision); and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Revision; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Revision.

Section 1-12 Amendments to Revision; amendatory language.

(a) All ordinances passed subsequent to the adoption of this Revision that may amend, repeal or in any way affect the same may be numbered in accordance with the numbering system of this Revision and printed for inclusion herein. In the case of repealed chapters, articles, divisions, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Revision by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Revision and subsequent ordinances numbered or omitted are readopted as a new Revision by the city council. (A0173-12)

(b) Amendments to any of the provisions of this Revision shall be made by amending such provisions by specific reference to the section number(s) of this Revision using the following language:

“That the Revised Ordinances of the City of Everett, Massachusetts, are hereby amended by modifying section number(s) _____, to read as follows:”.

The modifications to the section(s) to be amended shall then be set out in full as desired. (A0173-12)

(c) If a new chapter, division, article or section not heretofore existing in the Revision is to be

added, the following language, inserting the appropriate type of addition, shall be used:

> "That the Revised Ordinances of the City of Everett, Massachusetts, are hereby amended by adding a(n) (chapter/article/division/section) to be numbered _____, which said (chapter/article/division/section) reads as follows:"

The new chapter, article, division or section, as the case may be, shall then be set out in full as desired. (A0173-12)

(d) All subsections, sections, divisions, articles or chapters desired to be repealed should be specifically repealed by subsection, section, division, article or chapter number, as the case may be. (A0173-12)

Section 1-13 City seal.

(a) Description. The seal of the city shall consist of a heraldic device, being circular and an inch and a half (11/2) in diameter. Encircled over the top "Everett"; below, "Settled 1630; a Town 1870; Incorporated a City 1892." On a shield argent, in base, a spring of pure water in the center, and on either side foliage. On chief gules, a mural coronet proper. Crest, and arm vested holding a sword proper. Below the shield, on either side, two (2) branches of laurel fruited proper.

(b) Custodian. The city clerk shall be the custodian of the city seal. (Rev. Ords. 1976, Pt. 2, Ch. 1, §§ 10, 11)

State law reference(s)--City seals generally, M.G.L.A. c. 40, § 47; unlawful use of city seal, M.G.L.A. c. 268, § 35.

Section 1-14 Ward boundaries.

The wards and precincts of the city are as follows:

(1) Ward I, Precinct 1

Beginning at a point being the center of the intersection of Broadway and High Street; then turning and running southeasterly along the center line of High Street to a point; then turning and running southwesterly along the center line of Orchard Street and continuing southerly along the center line of Orchard Street to a point; then turning and running easterly along the center line of Summer Street to a point being the intersection of Summer Street and High Street; then turning and running easterly along the center line of High Street to a point being the intersection of High Street and Ferry Street; then turning and running southerly along the center line of Ferry Street to a point being the intersection of Ferry Street and Union Street; then turning and running easterly along the center line of Union Street to a point being the intersection of Union Street and Florence Street; then turning and running southerly along the center line of Florence Street to a point being the intersection of Florence Street and Chelsea Street; then turning and running westerly along the center line of Chelsea Street to a point being the intersection of Chelsea Street, Ferry Street and South Ferry Street; then turning and running westerly along the center line of Chelsea Street to a point being the intersection of Chelsea Street and Broadway; then turning and running northerly along the center line of Broadway to a point being the intersection of Broadway and High Street,

being the point of beginning.

(2) Ward I, Precinct 2

Beginning at a point being the center of the intersection of Broadway and Chelsea Street; then turning and running southwesterly along the center line of Broadway to a point being the boundary line between the City of Everett and the City of Boston which lies in the Mystic River and continues easterly along the thread of stream of the Mystic River which is the boundary between the City of Everett and the City of Boston to a point being the intersection of the boundaries of the City of Everett, the City of Boston and the City of Chelsea also being the intersection of the Mystic River and the Island End River; then turning and running northeasterly along the boundary of the City of Everett and City of Chelsea being along the line that is now or formerly the thread or stream of the Island End River to a point being the southeasterly corner of the boundary between the City of Everett and the City of Chelsea; then turning and running northeasterly along the boundary of the City of Everett and the City of Chelsea to a point being the center of Revere Beach Parkway; then turning and running northerly along the boundary line of the City of Everett and the City of Chelsea to a point on the boundary line between the City of Everett and the City of Chelsea that is the center line of Reynolds Avenue; then turning and running westerly along the center line of Reynolds Avenue to a point being the intersection of Reynolds Avenue and Malden Street; then turning and running northerly along the center line of Malden Street to a point being the intersection Malden Street and Union Street; then turning and running westerly along the center line of Union Street to a point being the intersection of Union Street and Florence Street; then turning and running southerly along the center line of Florence Street to a point being the intersection of Florence Street and Chelsea Street; then turning and running westerly along the center line of Chelsea Street to a point being the intersection of Chelsea Street and Broadway, being the point of beginning.

(3) Ward II, Precinct 1

Beginning at a point being the intersection of Dartmouth Street and the boundary line between the City of Everett and the City of Chelsea; then turning and running southerly along the boundary line of the City of Everett and the City of Chelsea to a point being the intersection of Reynolds Avenue and the boundary line between the City of Everett and the City of Chelsea; then turning and running westerly along the center line of Reynolds Avenue to a point being the intersection of Reynolds Avenue and Malden Street; then turning and running northerly along the center line of Malden Street to a point being the intersection of Malden Street and Union Street; then turning and running westerly along the center line of Union Street to a point being the intersection of Union Street and Florence Street; then turning and running northerly along the center line of Florence Street to a point being the intersection of Florence Street and Nichols Street; then turning and running westerly along the center line of Nichols Street to a point being the intersection of Nichols Street and Woodlawn Street; then turning and running northerly along the center line of Woodlawn Street and continuing in a northwesterly direction along the center line of Woodlawn Street to a point being the intersection of Woodlawn Street and Elsie Street; then turning and running northeasterly along the center line of Elsie Street to a point being the intersection of Elsie Street and Dartmouth Street; then turning and running southeasterly along the center line of Dartmouth Street to a point being the intersection of the boundary of the City of Everett and the City of Chelsea, being the point of beginning.

(4) Ward II, Precinct 2

Beginning at a point being the center of the intersection of Broadway and High Street; then turning and running southeasterly along the center line of High Street to a point being the intersection of High Street and Orchard Street; then turning and running southwesterly along the center line of Orchard Street and continuing in a southerly direction to a point being the intersection of Orchard Street and Summer Street; then turning and running easterly along the center line of Summer Street to a point being the intersection of Summer Street and High Street; then turning and running easterly along the center line of High Street to a point being the intersection of High Street and Ferry Street; then turning and running southerly along the center line of Ferry Street to a point being the intersection of Ferry Street and Union Street; then turning and running southeasterly along the center line of Union Street to a point being the intersection of Union Street and Florence Street; then turning and running northerly along the center line of Florence Street to a point being the intersection of Florence Street and Nichols Street; then turning and running westerly along the center line of Nichols Street to a point being the intersection of Nichols Street and Woodlawn Street; then turning and running northerly along the center line of Woodlawn Street and continuing in a northwesterly direction along the center line of Woodlawn Street to a point being the intersection of Woodlawn Street and Shirley Street; then turning and running southwesterly along the center line of Shirley Street to a point being the intersection of Shirley Street and Ferry Street; then turning and running southerly along the center line of Ferry Street to a point being the intersection of Ferry Street and Reed Avenue; then turning and running northwesterly along the center line of Reed Avenue to a point being the intersection of Reed Avenue and Broadway; then turning and running southwesterly along the center line of Broadway to a point being the intersection of Broadway and High Street, being the point of beginning.

(5) Ward III, Precinct 1

Beginning at a point being the intersection of Elm Street and the boundary line between the City of Everett and the City of Revere; then turning and running northerly on the boundary line between the City of Everett and the City of Revere to a point being the intersection of the boundary of the City of Everett, the City of Revere and the City of Malden; then turning and running westerly along the boundary line between the City of Everett and the City of Malden to a point being the intersection of the boundary of the City of Everett and the City of Malden being Lynn Street; then turning and running southwesterly along the center line of Lynn Street to a point being the intersection of Lynn Street and Broadway and continuing southwesterly along the center line of Broadway to a point being the intersection Broadway and Gledhill Avenue; then turning and running southeasterly along the center line of Gledhill Avenue to a point being the intersection of Gledhill Avenue, Harding Avenue and Russell Street; then turning and running easterly along the center line of Harding Avenue to a point being the intersection of Harding Avenue and Elm Street; then turning and running northerly along the center line of Elm Street to a point being the intersection of Elm Street and the boundary line between the City of Everett and the City of Revere, being the point of the beginning.

(6) Ward III, Precinct 2

Beginning a point being the intersection of Elm Street and the boundary line between the City of Everett and the City of Revere; then turning and running southerly along the boundary line between the City of Everett and the City of Revere to a point being the intersection of the boundary of City of Everett, the City of Revere and the City of Chelsea being Dartmouth Street; then turning and running northwesterly along the center line of Dartmouth Street to a point being the intersection of Dartmouth Street and Elsie Street; then turning and running westerly along the center line of Elsie Street to a point being the intersection of Elsie Street and Woodlawn Street; then turning and running northerly along the center line of Woodlawn Street to a point being the intersection of Woodlawn Street and Shirley Street; then turning and running westerly along the center line of Shirley Street to a point being the intersection of Shirley Street and Ferry Street; then turning and running southerly along the center line of Ferry Street to a point being the intersection of Ferry Street and Reed Avenue; then turning and running northwesterly along the center line of Reed Avenue to a point being the intersection of Reed Avenue and Broadway; then turning and running northwesterly along the center line of Broadway to a point being the intersection of Broadway and Gledhill Avenue; then turning and running southeasterly along the center line of Gledhill Avenue to a point being the intersection of Gledhill Avenue, Russell Street and Harding Avenue; then turning and running easterly along the center line of Harding Avenue and continuing southeasterly along the center line of Harding Avenue to a point being the intersection of Harding Avenue and Elm Street; then turning and running northeasterly along the center line of Elm Street to a point being the intersection of Elm Street and the boundary line between the City of Everett and the City of Revere, being the point of beginning.

(7) Ward IV, Precinct 1

Beginning at a point being the intersection of the boundary line between the City of Everett and the City of Malden and Lynn Street; then turning and running southwesterly along the center line of Lynn Street to a point being the intersection of Lynn Street and Broadway and continuing southwesterly along the center line of Broadway to a point being the intersection of Broadway and Marie Avenue; then turning and running northwesterly along the center line of Marie Avenue to a point being the intersection of Marie Avenue and Shute Street; then turning and running southwesterly along the center line of Shute Street to a point being the intersection of Shute Street and Ferry Street; then turning and running northwesterly along the center line of Ferry Street to a point being the intersection of Ferry Street and Rich Street, which is the boundary line between the City of Everett and the City of Malden; then turning and running northerly then northeasterly along the boundary line between the City of Everett and the City of Malden to a point being the intersection of the boundary line between the City of Everett and the City of Malden and Lynn Street, being the beginning.

(8) Ward IV, Precinct 2

Beginning at a point being the intersection of Broadway and Marie Avenue then turning and running northwesterly along the center line of Marie Avenue to a point being the intersection of Marie Avenue and Shute Street then turning and running southwesterly along the center line of Shute Street to a point being the intersection of Shute Street and Ferry Street; then turning and running northwesterly along the center line of Ferry Street to a point being the intersection of Ferry Street

and Belmont Street, which is the boundary line between the City of Everett and the City of Malden; then turning and running southwesterly along the southeasterly side of Belmont Street to a point being the intersection of Belmont Street and Washington Street; then turning and running southeasterly along the center line of Washington Street to a point being the intersection of Washington Street and Bradford Street; then turning and running southeasterly along the center line of Bradford Street to a point being the intersection of Bradford Street and Myrtle Street; then turning and running southeasterly along the center line of Myrtle Street to a point being the intersection of Myrtle Street and Highland Avenue; then turning and running southwesterly along the center line of Highland Avenue to a point being the intersection of Highland Avenue and Herbert Street; then turning and running southeasterly along the center line of Herbert Street to a point being the intersection of Herbert Street and Central Avenue; then turning and running southwesterly along the center line of Central Avenue to a point being the intersection of Central Avenue and Woodland Street; then turning and running southeasterly along the center line of Woodland Street to a point being the intersection of Woodland Street and Vernal Street; then turning and running northeasterly along the center line of Vernal Street to a point being the intersection of Vernal Street and Morris Street; then turning and running southeasterly along the center line of Morris Street to a point being the intersection of Morris Street and Walnut Street; then turning and running southwesterly along the center line of Walnut Street to a point being the intersection of Walnut Street and Hosmer Street; then turning and running southeasterly along the center line of Hosmer Street to a point being the intersection of Hosmer Street and Broadway; then turning and running northeasterly along the center line of Broadway to a point being the intersection of Broadway and Marie Avenue, being the point of beginning.

(9) Ward V, Precinct 1

Beginning at a point being the intersection of Belmont Street and Washington Street which is the boundary of the City of Everett and the City of Malden; then turning and running southwesterly side of Belmont Street and continuing in a westerly direction to a point being the intersection of Belmont Street and Main Street; then turning and running southerly along the center line of Main Street to a point being the intersection of Main Street and Baldwin Avenue; then turning and running easterly along the center line of Baldwin Avenue to a point being the intersection of Baldwin Avenue and Bucknam Street; then turning and running northerly along the center line of Bucknam Street to a point being the intersection of Bucknam Street and Swan Street; then turning and running northeasterly along the center line of Swan Street to a point being the intersection of Swan Street and Hancock Street; then turning and running northwesterly along the center line of Hancock Street to a point being the intersection of Hancock Street and Central Avenue; then turning and running northeasterly along the center line of Central Avenue to a point being the intersection of Central Avenue and Herbert Street; then turning and running northwesterly along the center line of Herbert Street to a point being the intersection of Herbert Street and Highland Avenue; then turning and running northeasterly along the center line of Highland Avenue to a point being the intersection of Highland Avenue and Myrtle Street; then turning and running northwesterly along the center line to a point being the intersection of Myrtle Street and Bradford Street; then turning and running northeasterly along the center line of Bradford Street to a point being the intersection of Bradford Street and Washington Street; then turning and running northwesterly along the center line of

Washington Street to a point being the intersection of Washington Street and Belmont Street which is the boundary between the City of Everett and the City of Malden, being the point of the beginning.

(10) Ward V, Precinct 2

Beginning at a point being the intersection of Central Avenue and Woodland Street; then turning and running southeasterly along the center line of Woodland Street to a point being the intersection of Woodland Street and Vernal Street; then turning and running northeasterly along the center line of Vernal Street to a point being the intersection of Vernal Street and Morris Street; then turning and running southeasterly along the center line of Morris Street to a point being the intersection of Morris Street and Walnut Street; then turning and running southwesterly along the center line of Walnut Street to a point being the intersection of Walnut Street and Hosmer Street; then turning and running southeasterly along the center line of Hosmer Street to a point being the intersection of Hosmer Street and Broadway; then turning and running southwesterly along the center line of Broadway to a point being the intersection of Broadway and Norwood Street; then turning and running northwesterly along the center line of Norwood Street to a point being the intersection of Norwood Street and Union Avenue; then turning and running northerly along the center line of Union Avenue to a point being the intersection of Union Avenue and Liberty Street; then turning and running westerly along the center line of Liberty Street to a point being the intersection of Liberty Street and Bucknam Street; then turning and running northerly along the center line of Bucknam Street to a point being the intersection of Bucknam Street and Swan Street; then turning and running northeasterly along the center line of Swan Street to a point being the intersection of Swan Street and Hancock Street; then turning and running northwesterly along the center line of Hancock Street to a point being the intersection of Hancock Street and Central Avenue; then turning and running northeasterly along the center line of Central Avenue to a point being the intersection of Central Avenue and Woodland Street, being the point of beginning.

(11) Ward VI, Precinct 1

Beginning at a point being the intersection of Wyllis Avenue and Main Street being the boundary between the City of Everett and the City of Malden; then turning and running southerly along the center line of Main Street to a point being the intersection of Main Street and Baldwin Avenue; then turning and running easterly along the center line of Baldwin Avenue to a point being the intersection of Baldwin Avenue and Bucknam Street; then turning and running southeasterly along the center line of Bucknam Street to a point being the intersection of Bucknam Street and Forest Avenue; then turning and running westerly along the center line of Forest Avenue to a point being the intersection of Forest Avenue and Main Street; then turning and running southerly along the center line of Main Street to a point being the intersection of Main Street and Parlin Street; then turning and running westerly along the center line of Parlin Street to a point being the intersection of Parlin Street and the Boston and Maine Railroad – Saugus Branch – right of way; then turning and running southeasterly along the center line of such railroad right of way to a point being the railroad right of way and Norman Street; then turning and running westerly along the center line of Norman Street and continuing along the center line of Santilli Highway to a point being the intersection of Santilli Highway and Revere Beach Parkway; then turning and running westerly along the center

line of Revere Beach Parkway to a point being the intersection of Revere Beach Parkway and the center of the Malden River which is also the boundary between the City of Everett and the City of Medford, said line now or formerly the thread of the stream of the Malden River, to a point being the intersection of the boundary between the City of Everett, the City of Medford and the City of Malden and continuing northerly to a point being the intersection of the City of Everett and the City of Malden and an extended line of the northerly side of Wyllis Avenue; then turning and running easterly along the extended line of Wyllis Avenue and continuing easterly along the northerly side of Wyllis Avenue to a point being the intersection of Wyllis Avenue and Main Street, being the point of beginning.

(12) Ward VI, Precinct 2

Beginning at a point being the boundary line between the City of Everett and the City of Medford at the intersection of the Malden River and Revere Beach Parkway; then turning and running easterly along the center line of Revere Beach Parkway to a point being the intersection of Revere Beach Parkway and Santilli Highway; then turning and running northerly and continuing easterly along the center line of Santilli Highway and continuing along the center line of Norman Street to a point being the intersection of Norman Street and the Boston and Maine Railroad – Saugus Branch- right of way to a point being the intersection of such right of way and Parlin Street; then turning and running easterly along the center line of Parlin Street to a point being the intersection of Parlin Street and Main Street; then turning and running northerly along the center line of Main Street to a point being the intersection of Main Street and Forest Avenue; then turning and running northeasterly along the center line of Forest Avenue to a point being the intersection of Forest Avenue, Bucknam Street and Liberty Street; then turning and running easterly along the center line of Liberty Street to a point being the intersection of Liberty Street and Union Avenue; then turning and running southerly along the center line of Union Avenue to a point being the intersection of Union Avenue and Norwood Street; then turning and running southerly along the center line of Norwood Street to a point being the intersection of Norwood Street and Broadway; then turning and running southwesterly along the center line of Broadway to a point being the intersection of Broadway and Horizon Way; then turning and running northwesterly along the southwesterly side of Horizon Way to a point being the boundary between the City of Everett and the City of Boston; then turning and running southwesterly along the boundary line between the City of Everett and the City of Boston to a point formerly being the center line of stream exiting into the Mystic River and continuing to the center of the Mystic River, still being the boundary line between the City of Everett and the City of Boston; then turning and running northwesterly to a point being the boundary line between the City of Everett, City of Boston and the City of Somerville and continuing in a northwesterly direction along the boundary line between the City of Everett and the City of Somerville, said line being now or formerly the thread of stream of the Mystic and Malden Rivers to a point being the boundary of the City of Everett, the City of Medford and the City of Somerville; then turning and running northwesterly along the boundary line between the City of Everett and the City of Medford to a point being the boundary line between the City of Everett, the City of Medford and Revere Beach Parkway, being the point of beginning. (Ord. of 7-24-2001, C0109-11)

State law reference(s)--Wards and voting precincts, M.G.L. c. 54, § 1 et seq.

ARTICLE II. NON-CRIMINAL DISPOSITIONS

Section 1-15 Definitions.
When used in this Ordinance, unless the context otherwise requires, the following terms shall have the following meanings:

(a) “Board” means a governmental body of the City of Everett.

(b) “Commission” means a governmental body of the City of Everett.

(c) “Department Head” means the person in charge of the operation of a department o the City of Everett.

(d) “Enforcing Officer” means any municipal officer of the City of Everett who takes cognizance of a violation of a specific rule or regulation of the city who is empowered to enforce the provisions of their respective codes in accordance with the provisions of M.G.L. c. 40 Section 21D.

(e) “Municipal Officer” means any official of the City of Everett with the responsibility for taking cognizance of a violation of specific rules or regulations of the city in accordance with the provisions of this chapter and M.G.L. c. 40 Section 21D

(f) “Offender” means any person found to be in violation of the rules and regulations of any municipal officer, board, commission or department of the City of Everett.

(g) “Rules and Regulations” means the duly promulgated standards or requirements, adopted in accordance with this ordinance, of any municipal officer, board, commission or department of the City of Everett.

Section 1-16 Applicable Penalties.
(a) Any person, firm or corporation violating any of the provisions of this ordinance or the duly promulgated rules or regulations of any municipal officer, board, commission or department shall be subject to the general penalty provided for by Section 1-22 of the Revised Ordinances of the City of Everett or by specific penalties provided for by the rules and regulations of any municipal officer, board, commission or department.

Section 1-17 Issuance of Notice to Appear.
(a) Any municipal officer of the City of Everett taking cognizance of a violation of a specific ordinance, regulation or code of the city which he or she is empowered to enforce, hereinafter referred to as the enforcing person, as an alternative to initiating criminal proceedings may give to the offender a written notice to appear before the Clerk of the Malden District Court at any time during the court’s office hours, but not later than twenty-one days after the date of such notice.

(b) Such notice shall be triplicate and shall contain the name and address, if known, of the offender, the specific offense charged, and the time and place for his or her required appearance. Such notice shall be signed by the offender, whenever practicable, in acknowledgement that such notice had been received.

Section 1-18 Delivery or Mailing of Notice.

(a) The enforcing person shall, if possible, deliver to the offender a copy of the notice, as described in Section 1-17, at the time and place of the violation. If it is not possible to deliver a copy of the notice to the offender at the time and place of the violation, the copy shall be mailed or delivered by the enforcing person, or by the head of his or her department or by any person authorized by such department head to the offender's last known address, within fifteen days after the violation.

(b) Such notice as so mailed shall be deemed a sufficient notice, and a certificate of the person so mailing notice that it has been mailed in accordance with this section shall be prima facie evidence thereof.

(c) At or before the completion of each workday, or at the beginning of the first subsequent workday, the enforcing person shall give to his or her department head those copies of each notice of such violation he or she has taken cognizance of during the workday which have not already been delivered or mailed by him or her as aforesaid.

(d) The department head shall retain and safely preserve one copy and shall, at a time not later than the next court day after such delivery or mailing, deliver the other copy to the Clerk of the Malden District Court, before which the offender has been notified to appear.

Section 1-19 Payment of Fine.

(a) Any person notified to appear before the Clerk of the Malden District Court as provided in this article, may so appear and confess the offense charged, either personally or through a duly authorized agent or by mailing to the treasurer/collector's office with the notice described in this article, with the specific sum of money not exceeding the penalty set forth in Section 1-22 of the Revised Ordinances of the City of Everett, for each offense or as the city, any municipal officer, board, commission or department shall fix as penalty for violation of the ordinance or rule or regulation.

(b) Such payment shall, if mailed, be made only by postal note, money order or check. The payment to the treasurer/collector's office of such sum shall operate as a final disposition of the case.

(c) As provided for by Section 21D of Chapter 40, General Laws, an appearance under this article shall not be deemed a criminal proceeding. No person notified to appear before the Clerk of Malden District Court shall be required to report to any probation officer and no record of the case shall be entered in any probation records.

Section 1-20 Hearing – Failure to Appear or Pay Fine.

(a) If any person so notified to appear desires to contest the violation alleged in the notice to appear and also to avail himself or herself of the procedures established pursuant to this article, he or she may, within twenty-one days after the date of the notice, request a hearing in writing. Such hearing shall be held before a judge, clerk or assistant clerk, as the court directs, and if the judge, clerk or assistant clerk, after a hearing, finds that the violation occurred and that it was committed by the person so notified to appear, the person so notified shall be permitted to dispose of the case

as aforesaid, or such lesser amount as the judge, clerk or assistant clerk orders, which payment shall operate as a final disposition of the case.

(b) If the judge, clerk or assistant clerk, after a hearing, finds that the violation alleged did not occur or was not committed by the person notified to appear, that the finding shall be entered in the docket, which shall operate as a final disposition of the case. Proceedings held pursuant to this article shall not be deemed to be criminal proceedings. No person disposing of a case by payment of such a penalty shall be required to report to any probation office as a result of such violation, nor shall any record of the case be entered in the probation records.

(c) If any person so notified to appear before the clerk of the Malden District Court fails to pay the fine provided under this article within the time specified or, having appeared, does not confess the offense before the clerk or pay the sum of money fixed as a penalty after a hearing and finding as provided in subsection (b) of this section, the clerk shall notify the enforcing person who issued the original notice, who shall determine whether to apply for the issuance of a complaint for the violation of the appropriate ordinance rule or regulation.

Section 1-21 Enforcing Officers.

(a) Without intending to limit the generality of the foregoing, it is the intention of this provision that the following titles and sections of the Revised Ordinances of the City of Everett are to be included within the scope of this chapter on non-criminal disposition, and that the municipal personnel listed below for each title shall also be enforcing persons:

(1) Chapter 3 Animals

Enforcing officers: Animal control officers or other duly authorized officer.

(2) Chapter 4 Buildings

Enforcing officers: Building inspector and local inspectors or other duly authorized officer

(3) Chapter 10 Health and Safety

Enforcing officers: Health inspector or other duly authorized officer

(4) Chapter 17 Street and Sidewalks

Enforcing officers: Director of City Services or other duly authorized officer

(5) Zoning

Enforcing officers: Building inspector or other duly authorized officer.

(6) Fire

Enforcing officers: Fire Prevention Officer

Section 1-22 Penalties.

(a) Notwithstanding the language in this Section, and unless otherwise provided by specific law or

ordinance, the penalty to apply in the event of a violation of any ordinance enforced by the non-criminal disposition procedure in this chapter shall be as follows: not less than twenty-five dollars and not more than three hundred dollars per offense. Each day on which a violation exists shall be deemed to be a separate offense.

(b) Any person or entity who both fails to provide payment to the collector's office or issuing department as provided by Section 1-19 and fails to make written request for a hearing within twenty-one days to the issuing department and the clerk magistrate of the Malden District Court shall be assessed a late fee of fifty dollars. Written notice of this late fee shall be forwarded to such person or entity by regular mail by the treasurer/collector or issuing department within 60 days of the end of the period provided for a request for a hearing. (Ord of 08-25-2005) (C0112-08)

(c) If the original penalty and the late fee are not paid in full within thirty days from the written notice described in subsection (b) above, the amount due to the city shall be three hundred dollars.

Section 1-23 Violations.

(a) Whoever violates a provision of any ordinance whether of these Revised ordinances of the City of Everett or any other ordinance enacted after the adoption of this revision shall, unless otherwise provided by law or ordinance, be liable to a penalty of not more than three hundred dollars for each offense.

(b) Except where otherwise specifically provided, each day any violation of any provision of these Revised Ordinances of the City of Everett or any other such ordinance shall constitute a separate offense. (Ord. of 12-5-2003)

Editors Note 1-24 Cease and Desist Orders moved to Chapter 13A. Article V

Section 1-24 City Census Regulations.

(a) Purpose

(1) Due to the increasing numbers in population in the City of Everett and the fact that local aid and grant money is often based on census numbers, the City of Everett must increase efforts to ensure that all residents of the City have been counted.

(b) Regulation

(1) All persons who own, lease or rent property as a domicile or within 30 days of residing within the City of Everett in such property, house, apartment, condo, or any other domicile provided under Section 10A of Chapter 51 of the Massachusetts General Laws shall file an Annual Street Listing form with the Everett City Clerk's Office.

(2) This Ordinance shall require all city departments, boards, commissions and committees to verify with the City Clerk that a current census form is on file prior to the issuance of any license, resident parking sticker, permit, abatement, refund, compensation, contract, appointment or appeal. (A0082-10)

Section 1-25 Residency requirement.

(C0066-12)

(a) Any permanent full-time employee where the mayor is the appointing authority with the exception of department heads, hired on or after July 1, 2012, shall establish such employee's residency within the city within one hundred eighty (180) days of such employee's date of hire, and at a minimum, shall remain a resident of the city through such employee's seventh anniversary date of hire, at which time at such employee's sole discretion such employee may establish residency either within or outside of the city.

(b) Each permanent full-time employee where the mayor is the appointing authority with the exception of department heads hired on or after July 1, 2012, on each and every anniversary date of hire, through and including such employee's seventh anniversary date, shall submit to the city's human resources department proof of residency within the city satisfactory to the human resources department.

(c) Any permanent full-time employee where the mayor is the appointing authority, and is employed by the city prior to July 1, 2012, shall be exempt from this residency requirement.

(d) In the event that the appointing authority, with the approval of the city council, determines it to be in the best interest of the public, the provisions of this article may be waived with respect to a particular person or position, and such waiver shall not act to defeat the application of this section to every other person or position. The appointing authority shall submit in writing to the city council reasons why such waiver is in the best interests of the public. The city council may grant such waiver by majority vote of the city council. (A0174-12)

Chapter 1A.
LEGISLATURE

(A0173-12)

ARTICLE I. IN GENERAL

Section 1A-1 Meetings of the city council.

(a) Whenever possible, all regular meetings, special meetings and public hearings of the city council shall be held in the Peter J. McCarron Memorial City Council Chambers at Everett City Hall, 484 Broadway and such sessions shall be broadcast live on Everett Cable Television (ECTV). If it ever becomes necessary to move such sessions to another suitable location within the city, such sessions, whenever possible, shall be recorded by ECTV and shall be made available for subsequent viewing by the general public.

(b) A special organizational meeting of the city council shall be held on the first Monday of January of every year. When said Monday falls on a legal holiday, such meeting shall instead be held on the Tuesday following.

(1) In even numbered years, such meeting shall follow, as soon as practical, the qualification of the city council-elect; in odd numbered years, such meeting will be held at 7:00 p.m.

(2) The only items that shall appear on the business agenda for this special organizational meeting shall be as follows:

a. An order to adopt city council rules for the current legislative year;

b. An order to elect a president of the city council for the current legislative year;

c. In even numbered years, an order to elect a clerk of committee of the city council for a period of two (2) years; and

d. An order that the newly elected city council president appoint three city councilors to notify the mayor of the city council's organization. (A0278-13)

(3) The city council member most senior in years of continuous service on the city council shall preside at this meeting until a new president of the city council has been elected. If two (2) or more members are equally senior in continuous years of service on the city council, the member senior both in continuous years of service and age shall preside.

Charter reference(s)--Section 9-11: Oath of Office of Mayor, City Council, and School Committee.

(c) Regular meetings of the city council shall be held at 7 p.m. on the second and fourth Mondays of each month with the following exceptions:

(1) When said Monday falls on a legal holiday, a regular meeting of the city council shall instead be held at 7:00 p.m. on the Tuesday following such holiday.

(2) When an election is to be held on a Tuesday following the date of a regularly scheduled meeting of the city council, such meeting shall instead be held at 7:00 p.m. on the Wednesday following such election.

(3) When December 24th falls on fourth Monday of the month, a regular meeting of the city council shall instead be held at 7:00 p.m. on Wednesday December 26th. (A0278-13)

(4) Any regular meeting(s) of the city council scheduled for the months of July and August of a given year may be cancelled by a majority vote of the full city council taken prior to July 1st of that year.

(d) Special meetings of the city council may be held in accordance with either Section 2-6(c)(iii) or Section 3-5(b) of the Charter, and in accordance with the General Laws.

(e) Meetings of the various committees of the city council shall be scheduled on an as needed basis, as determined by the chairman of such body, with the concurrence of the president of the city council. The date, time and location of these committee meetings will be set by the chairman of each committee and the clerk of committees. However, except in the case of an emergency, no such committee meeting shall be scheduled to begin such that it would overlap with a regularly scheduled meeting of the school committee.

(f) Any scheduled session of the city council or any committee thereof shall be cancelled in the event that City Hall is closed due to inclement weather or other emergency. Such session shall be rescheduled when and if practical, of which the president of the city council shall be the sole judge, and in accordance with the General Laws.

Chapter 2.
ADMINISTRATION

ARTICLE I. IN GENERAL

Section 2-1 Annual reports of boards, officers, etc.
All committees, boards, commissioners, trustees and officials having charge of city property, or of the expenditure of appropriations, shall report to the mayor and the city council annually within thirty (30) days immediately following the end of the city's fiscal year unless otherwise provided in these Revised Ordinances. The reports shall contain a statement of the receipts and expenditures for the year preceding. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 8; Ord. of 2-2-76)

Section 2-2 Appearance before city council required.
In accordance with Section 2-7 of the Charter, every administrative board, through its chairman, every officer having charge of a department shall, at request, appear before the city council when the business calendar of the city council appears to contain any matter, act, or thing connected with the discharge of the duties of such board of office. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 8A) (A0173-12)

Section 2-3 Reports to be filed with city clerk.
Every business firm, commission, board, trustees or committee, appointed or retained, paid or unpaid, who are required to file reports, both interim or final, file such reports, or a copy thereof, with the city clerk for public inspection, unless prohibited to do so under law. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 8B)

Section 2-4 Execution of deeds, leases, etc.
All deeds, conveyances, leases and other instruments given by the city which must be signed, sealed, and acknowledged; shall be signed, acknowledged and delivered on behalf of the city by the mayor, who shall cause the city seal to be affixed thereto. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 13)

Section 2-5 Discharge, etc., of mortgages.
Whenever a person having lawful authority to redeem any estate mortgaged to the city shall make application to the mayor for such purpose, the mayor shall have power, on payment to the treasurer of the city of the amount due on the mortgage, to discharge, to release or assign the same without liability or recourse to the city, the assent of the city council thereto being had and obtained, and to execute in behalf of the city any and all legal instruments that may be necessary for the purpose. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 14) (A0173-12)

Section 2-6 Office hours.
(a) Unless otherwise ordered by the mayor, all municipal offices shall be kept open to the public daily, except Saturdays, Sundays, legal holidays and June seventeenth, from 8:00 a.m. to 4:00 p.m., and on Monday evenings from 7:00 p.m. to 9:00 p.m., but when a legal holiday falls on Monday, all municipal offices shall be open on Tuesday evenings from 7:00 p.m. to 9:00 p.m. The provisions of General Laws, chapter 4, section 9, shall apply with reference to the closing of all municipal offices on Saturday.

(b) When January 1, June 17, July 4, November 11, or December 25, fall on a Saturday all

municipal employees, excepting uniformed personnel of the police and fire departments and employees of the school department, shall be granted compensatory time off on the Friday immediately preceding the holiday or, in the alternative, on the Monday immediately following the holiday. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 15; Ord. of 6-4-90)

Section 2-7 Personnel manager to establish rules for reporting accidents.
It shall be the responsibility of the personnel manager to establish rules and regulations for the reporting of any accident without delay. (Ord. of 6-3-85)

Section 2-8 Inventory of contents of city buildings required in certain situations.
All city buildings to be abandoned, transferred or demolished shall be inventoried as to the contents by the last occupants department; such inventory shall be given to mayor's office and city council. The mayor's office shall assign a department head to be responsible for the contents and who shall dispose of its contents to the best advantage of the city and a report shall be made to the mayor's office and city council as to the disposition of such contents. (Ord. of 11-24-80)

Cross reference(s)--Buildings and building regulations, Ch. 4.

Section 2-9 City-owned vehicles.
(a) Identification generally. Every motor vehicle owned by the city shall have marked on a part of the vehicle not readily removable and in a conspicuous place, except automobiles of the police department, with the words "City of Everett"; also adding thereto the designation of the particular officer, department, board, commission or institution of the city operating any such vehicle.

(b) Type of lettering. Except as herein provided, wherever practicable the lettering required by the preceding section shall be three-inch letters and same shall not be covered or the reading obstructed in any way. All fire apparatus, including the chief's car, deputy chief's and fire prevention bureau cars, shall be painted red; all other vehicles shall be painted colors agreeable to the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 1, §§ 14--17)

Section 2-10 Purchases of gas, oil and grease by city-owned vehicles.
All city-owned vehicles, except those vehicles using and necessitating premium and/or high-test gasoline, shall obtain their gas, oil, and grease from city-owned pumps. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 51)

Section 2-11--2-30 Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES*

DIVISION 1. GENERALLY

Section 2-31 Appointment of officers, boards, etc.
(a) Generally. The mayor shall appoint, subject to confirmation by the city council, for the terms hereinafter specified, and unless sooner removed, until their respective successors are appointed and qualified, the following named officers: (A0173-12)

(1) For the term of three (3) years, beginning with the first Monday in February, in the year

of appointment:

a. A member of the board of health.

b. Two (2) members, or three (3) members when required of the disability commission.

c. The Executive Director of City Services.

(2) For the term of two (2) years, beginning with the first Monday in March, in the year of appointment:

a. The city solicitor.

(3) For a term of three (3) years, beginning with the first Monday in March, in the year of appointment:

a. A member of the board of assessors.

b. The city auditor.

c. The city treasurer.

(4) For the term of five (5) years, beginning with the first Monday in March, in the year of appointment:

a. A member of the city services commission. (A0173-12)

b. Two (2) members of the council of aging.

c. A member of the recreation commission.

(5) For the term of three (3) years, beginning with the first day of April, in the year of appointment:

a. One (1) member, or two (2) members, when required of the conservation commission.

b. One (1) member, or two (2) members or three (3) members, when required of the Youth Commission.

c. One (1) member, or two (2) members, or three (3) members when required of the Historical Commission.

(6) For the term of four (4) years, beginning with the first day of April, in the year of appointment:

a. A member of the board of registrar of voters.

(7) For the term of three (3) years, beginning with the first Monday in June, in the year of appointment:

a. Four (4) members, or five (5) members when required of the board of trustees of the Frederick E. Parlin Memorial Library.

(b) The failure to properly take and file with the City Clerk an oath of office within 30 days after the commencement of the term of office to which the an individual is appointed under this section shall cause the office to become vacant and said appointment to be void. (Rev. Ords. 1976, Pt. 2, Ch. 2, §§ 1--3; Ord. of 6-26-89(1); Ord. of 12-7-92; Ord. of 3-15-93(1)) (Ord. of 8-24-98) (Ord of 03-08-2006)

Section 2-32 Appointment of other officers.

(a) Unless the time of appointment is otherwise fixed, the mayor shall appoint annually, subject to confirmation by the city council, unless otherwise specially provided by law, all city and public officers other than those enumerated in section 2-31 which are required or permitted to be appointed in cities; and all such officers shall hold office, if not sooner removed, for one (1) year, or as is indicated in the law providing for their appointment. (A0173-12)

(b) The failure to properly take and file with the City Clerk an oath of office within 30 days after the commencement of the term of office to which the an individual is appointed under this section shall cause the office to become vacant and said appointment to be void. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 4) (Ord of 03-08-2006; A0173-12)

Section 2-33 Political preference of officers and employees.

No person shall be employed, or refused employment or be discharged from employment by reason of having voted for or against any particular candidate or political party or faction, nor shall any inquiry be made as to the political preference of any employee or applicant for employment. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 5)

Section 2-34 Officers to pay over money to treasurer.

All officers shall pay to the city treasurer forthwith all amounts received by them on behalf of the city, and make a true return to the auditor, stating the account upon which the same is received. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 6)

Section 2-35 Duty of officers to enforce the law.

All officers of the city shall enforce obedience to such laws of the commonwealth, ordinances of the city, and orders of the city council, as it may be the duty of such officers respectively to enforce, and shall notice all complaints, and institute such proceedings as may be necessary.

Rev. Ords. 1976, Pt. 2, Ch. 2, § 7)

Section 2-36 Unused sick leave.

Persons regularly employed by the city shall accumulate unused sick leave in accordance with the applicable personnel policy. (Ord. of 6-4-90 (Ch. 2, § 75))

Section 2-37 Vacation time credit, elected services.

In computing years of service required for entitlement to a vacation by the statute, or by personnel policy, there shall be included any service rendered to the city in an elected office. (Ord. of 6-4-90

(Ch. 2, § 76)

Section 2-38 Military compensation.

(a) In the event an employee of the City of Everett is called for military active duty, except training, in the Massachusetts National Guard or Army, Navy, Air Force or Marine Reserves, the employee will be paid the difference between his/her salary received by the City of Everett and his/her base military pay, where the salary received by the City of Everett is higher.

(b) The salary received by the City of Everett shall be defined as the gross annual salary, including holiday pay, stipends received under his/her respective collective bargaining agreement and the average of overtime accrued for the employees over the three years preceding the orders for active duty.

(c) The military base pay as defined as pay excluding all allowances, such as housing, uniform, combat pay, spousal allowance, overtime pay, shift differential pay, hazardous duty pay or any other additional compensation received for military service.

(d) An employee eligible for payment under this section includes all permanent part time and full time employees. Seasonal and contract employees are not eligible for pay under this section.

(e) This ordinance shall take effect upon its passage. All other ordinances in conflict with the language herein are void. (A0087-11)

Section 2-39--2-45 Reserved.

DIVISION 2. CITY SOLICITOR*

Section 2-46 Appointment; term.

In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the mayor shall, biennially, on or before the first Monday in February in even-numbered years, appoint a city solicitor, subject to confirmation or rejection by the city council. He shall hold office for a term of two (2) years, from the first Monday in March in the year of his appointment. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 22) (A0173-12)

State law reference(s)--Authority of city to appropriate money for employment of counsel, M.G.L. c. 40, § 5(16A).

Section 2-47 Qualifications.

The city solicitor shall be a member of the bar of the Commonwealth, in good standing, with residency in the City as a preferred qualification, but not a prerequisite for appointment. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 23; Ord. A0031-08)

Section 2-48 Powers and duties generally.

(a) The city solicitor shall act as advisor to the city government and representative of the city in all matters of law, except as hereinafter provided.

(b) The city solicitor shall examine all titles to property, draft all deeds, obligations, contracts,

leases, conveyances, agreements and other legal instruments of whatever nature to which the city or its agents may be a party, as may be required by any ordinance or by any order of the mayor, the city council, by any committee of the city council or by any administrative board, commission or officer, and which by law, usage or agreement the city is to furnish. He shall commence and prosecute all actions and other legal proceedings and suits begun by the city or by any officer thereof, and defend all actions and suits brought against the city in any court or other tribunal of the Commonwealth or of the United States. (A0173-12)

(c) He may commence and prosecute all actions and other legal proceedings as, in his judgment, the interests of the city require for the collection of all bills, accounts or other moneys due the city.

(d) He shall defend any of the officers of the city in such suits or prosecutions as may be brought against them for any act or omission in the discharge of an official duty when any estate, right, privilege, ordinance, act or direction of the city government may be brought in question.

(e) He shall appear as counsel in any action, suit or prosecution, or in any matter before the legislature of the Commonwealth, or any committee thereof, in which the interest and welfare of the city may be directly or indirectly affected.

(f) When requested, he shall furnish the mayor, the city council, any committee of the city council or any administrative board, commission or officer with his legal opinion upon any subject involving their respective offices. (A0173-12)

(1) Whenever the opinion is requested to be in writing, the question for his consideration shall be submitted in writing.

(g) It shall be his duty to attend all regular meetings of the city council and upon request all such other meetings of the city council or committees thereof. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 24) (A0173-12)

Section 2-49 Settlement of claims.
The city solicitor shall, subject to availability of funds, have authority, with the approval of the mayor, to settle and compromise any and all claims against the city. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 9; Ord. of 11-14-88)

Cross reference(s)--Bills, accounts and claims against the city generally, § 7-1.

Section 2-50 Additional counsel.
The mayor, with the approval of the city council, may authorize the city solicitor to secure the advice or services of additional or substitute counsel in any pending or contemplated legal matter. No money shall be paid from the city treasury for any additional or substitute legal advice or services, except as herein authorized. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 25)

Section 2-51 Travel expenses.
(a) The city solicitor shall be allowed reasonable traveling and other expenses whenever it may be necessary for him to go out from the city to attend to matters in connection with the discharge of his official duties.

(b) Any city solicitor who is budgeted for separate accounts of car hire and dues and meetings shall be reimbursed from the dues and meetings account for all mileage in excess of thirty (30) miles of total of departure and return from the city. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 26; Ord. of 11-5-86(2))

Section 2-52--2-60 Reserved.

DIVISION 3. CITY CLERK*

Section 2-61 Election and term of office, vacancy.
Whenever a vacancy shall occur for the position of city clerk, the city council shall post, for a period of two weeks, notice of such vacancy in a local newspaper and on the local cable access channel seeking qualified residents of the City of Everett to fill such vacancy. The city council's committee on legislative affairs & elections shall interview each candidate and report back its recommendation to the city council for filling such vacancy and, as required by Section 2-8(a) of the Charter, the city council shall elect a city clerk, who shall also serve as clerk for the city council. His term of office shall be in accordance with the provisions of Sections 2-8(a) and 10-5(c) of the Charter. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 27; Ord. of 05-02-01; A0173-12; C0032-14)

Section 2-62 Bond.
The city clerk shall give bond in accordance with the provisions of General Laws, chapter 41, section 13A. The premium for such bond shall be paid by the city. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 28)

Section 2-63 Powers and duties generally.
In addition to the powers, duties and responsibilities imposed upon the city clerk by the Charter, General Laws and other provisions of general and special statutes, he shall have such additional powers, duties and responsibilities as are established by ordinance. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 29)

Section 2-64 Duty to notify officers, boards, etc., regarding expenditure, etc., of money.
(a) The city clerk shall notify the city auditor, the city treasurer and the board of assessors, in writing, of all orders authorizing assessments, apportionments, abatements or awards of damages, after such orders are approved.

(b) He shall also notify administrative boards, commissions and officers having charge of a department of any orders affecting appropriations under their control. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 30)

Section 2-65 Duty to notify mayor, auditor, etc., when other officers, etc., are sworn into office.
(a) The city clerk shall notify the mayor, the city auditor and the city treasurer when executive, legislative and administrative officials have been sworn into their respective offices.

(b) He shall also notify administrative boards and commissions when appointees to their respective boards and commissions have been sworn into their respective offices, and shall notify

the mayor, the city auditor, the city treasurer and the chief of police when members of the police department are sworn into their respective positions. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 31)

Section 2-66 Fee schedule for services.
The fee schedule of the city clerk determined in accordance with chapter 262, section 34 of the General Laws is on file in the office of the city clerk. (Ord. of 11-14-88) (A0560-06)

Section 2-67 Monthly statement to treasurer and auditor.
The city clerk shall turn over to the city treasurer, at least monthly, all moneys and fees received by him in behalf of the city, unless otherwise provided by statute and, except witness fees to attend court, accompanied by a statement of the purposes for which they were received. A copy of this statement shall be filed with the city auditor. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 32)

Section 2-68 Assistant.
(a) Election and term of office, vacancy. Whenever a vacancy shall occur for the position of assistant city clerk, the city council shall post, for a period of two weeks, notice of such vacancy in a local newspaper and on the local cable access channel seeking qualified residents of the City of Everett to fill such vacancy. The city council's committee on legislative affairs & elections shall interview each candidate and report back its recommendation to the city council for filling such vacancy and, as required by Section 2-8(a) of the Charter, the city council shall elect an assistant city clerk, who shall hold office in accordance with the provisions of Sections 2-8(a) and 10-5(c) of the Charter. (A0173-12; C0032-14)

(b) Bond. The assistant city clerk shall give bond to the city, with a surety company authorized to transact business in the Commonwealth, as surety, which shall be approved by the city council, conditioned faithfully to account for all moneys and fees received by him for which he is required by law to account and pay over to the city treasurer. The premium for such bond shall be paid by the city. (A0173-12)

(c) Duties. The assistant city clerk shall perform such duties as the city clerk may prescribe in the conduct of his office and shall discharge the duties of the city clerk when such officer is absent or when there is a vacancy in the office of the city clerk. He shall be sworn to the faithful discharge of his duties by the city clerk or a justice of the peace. (Rev. Ords. 1976, Pt. 2, Ch. 2, §§ 33—35; Ord. of 5-2-2001)

Section 2-69 City messenger.
(a) Designation. The assistant city clerk shall act as city messenger.

(b) Duties. The city messenger shall perform such services as are requested of him by the mayor, the city council, and committees of the city council. (A0173-12)

Section 2-70--2-80 Reserved.

DIVISION 4. CITY ENGINEER*

Section 2-81 Appointment; term of office.

The mayor shall appoint a city engineer in accordance with Section 10-5(c) of the Charter. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 40) (A0173-12)

Section 2-82 Powers and duties generally.

(a) The city engineer shall be the head of the department of city engineering and shall exercise a general supervision of all matters within such department.

(b) He shall be consulted in relation to public improvements of every kind where his advice may be necessary or advisable.

(c) He shall draw the specifications for all construction work make all surveys, measurements, levels, designs, estimates and plans pertaining to the streets, drains, sewers, waterworks, bridges and lands of the city, and shall supervise all construction in accordance with such plans or designs.

(1) He shall furnish such specifications and make such surveys, measurements, designs, levels, estimates and plans when required so to do by the mayor, the city council, by any committee thereof, or by any administrative board or officer having the same in charge.

(2) All work done shall be in accordance with such plans and specifications and under the supervision of the city engineer.

(d) He shall have charge, under the direction and control of the city council, of all plans of every kind not especially belonging to other departments, and shall keep the same properly classified and indexed, and he may make such rules and regulations concerning the taking of plans from his office as he may deem necessary to ensure their safety.

(e) He shall furnish the city solicitor, at his request, with descriptions of lands, and with the details concerning any proposed taking of lands, or the location, widening alteration or discontinuance of streets.

(f) When requested to do so by the mayor, the city council, any committee thereof, or any administrative board or officer of the city having the same in charge, he shall measure, or cause to be measured, all work done by contract for the city, and shall report thereon to the board or officer making such request.

(g) He shall perform all other duties as are incident to this office. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 41)

Section 2-83 Applicants to be furnished lines and grades of streets.

The city engineer shall give to all applicants, so far as the files and records of his office will permit, any information they may desire as to lines and grades of streets on which their estates are situated, or upon which they intend to build; and all information of this character furnished to owners of estates or persons representing them or to those intending to build shall be without charge. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 42)

Section 2-84 Report on condition of bridges.

The city engineer shall examine carefully all the bridges within the city limits, annually, or oftener if

required to do so by the mayor, and shall make a report to the mayor respecting their condition as to safety, need of renewal or repairs. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 43)

Section 2-85 Annual report.
The city engineer shall present to the mayor annually, if requested, a report in relation to his department, showing the number of persons employed, the detailed expenses of the department, the general nature of the work, the property under his charge, the condition of all structures under supervision that may be in process of construction, or that have been completed during the previous year, and such other general information in relation to the same as he may deem expedient. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 44)

Section 2-86--2-100 Reserved.

DIVISION 5. CLERK OF COMMITTEES

Section 2-101 Election, term of office, etc.
The city council shall elect biennially in January of the year following a municipal election, by a majority vote of the full city council, a clerk of committees, who shall hold office for two (2) years, from the first day of March in the year of his election, and until another shall be chosen and qualified, unless sooner removed. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 45) (A0173-12)

Section 2-102 Compensation.
The clerk of committees shall receive such compensation as the city council may from time to time determine. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 46)

Section 2-103 Duties.
The clerk of committees shall keep full and accurate records of the doings of the several committees of the city council and shall perform such other duties as may be required of clerk by such committees or the city council. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 47) (Ord. of 5-10-93; Ord. of 7-26-93; Ord. of 8-16-93(1); A0173-12)

Section 2-104--2-115 Reserved.

DIVISION 6. INSPECTOR OF BUILDINGS*

Section 2-116 Appointment.
The mayor shall appoint an inspector of buildings in accordance with the provisions of General Laws, chapter 31. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 80)

Section 2-117 Duties.
The inspector of buildings shall perform all the duties incumbent upon him under the provisions of General Laws, chapter 143, and of all amendments and additions thereto, insofar as the same may be applicable to his department. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 81)

Section 2-118--2-125 Reserved.

DIVISION 7. INSPECTOR OF PLUMBING*

Section 2-126 Appointment.
The inspector of buildings shall appoint an inspector of plumbing in accordance with the provisions of General Laws, chapter 31. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 82)

Section 2-127 To act as inspector of gas fitting.
The inspector of plumbing shall be the inspector of gas fitting under the supervision of the inspector of buildings. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 83)

Section 2-128--2-150 Reserved.

ARTICLE III. BOARDS, COMMISSIONS AND COMMITTEES*

DIVISION 1. GENERALLY

Section 2-151 Approved minutes and audio taped recordings to be filed with city clerk.
Every board, commission and boards of trustees shall file with the city clerk approved minutes and audio taped recordings of their meetings within seven (7) days of the date of approval of the minutes of such meeting. (Ord. of 3-15-76) (Ord. of 10-09-01)

Section 2-152--2-160 Reserved.

DIVISION 2. EXECUTIVE DIRECTOR of CITY SERVICES

Section 2-161 Executive Director of City Services.
In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the Mayor shall appoint an Executive Director of City Services, subject to confirmation or rejection by the city council. He shall hold office for a period of three years from the first Monday in February in the year of his appointment. (A0173-12)

Section 2-162 Powers and duties generally.
(a) The executive director of city services shall, under the general supervisory control of the Mayor, plan and implement a comprehensive public services program involving streets, equipment services, sewer, water, drains, solid waste, engineering, surveying and building, parks and cemetery maintenance, snow and ice control and other related city services activities. (A0173-12)

(b) He shall prepare and monitor departmental budgets and expenditures.

(c) He shall serve as street commissioner and surveyor of highways.

(d) He shall exercise supervision and control of the streets, sidewalks, sanitary sewers, storm drains, refuse disposal and the water distribution system of the City of Everett.

(e) The executive director of city services shall serve as a member of the Traffic, Safety and Parking Commission.

Section 2-163 Disposition of Fees.
The executive director of city services shall cause all moneys and fees received by the Parks and Cemeteries Division to be turned over to the city treasurer at least weekly, accompanied by a

statement of the purposes for which they were received. A copy of this statement shall be filed with the city auditor.

Chapter 115 of the Acts of 2001 (Ord. of 06-25-2001)

Section 2-164--2-175 Reserved.

DIVISION 3. CITY SERVICES COMMISSION

Section 2-176 Composition, appointment, term, etc.
The city services commission shall consist of seven (7) members, one of whom shall be appointed by the Mayor annually, subject to confirmation by the city council to hold office for five years from the first Monday in March of the year of appointment, unless sooner removed. (A0173-12)

Section 2-177 Powers and duties.
The city services commission shall have and exercise all the powers of the board of sewer commissioners and board of water commissioners. The city services commission shall have charge of all public reservations owned or controlled by the city, and which are or may be used or known as parks, playgrounds, cemeteries, commons and the Everett Memorial Stadium. (A0173-12)

Section 2-178 Care and management of the cemetery.
The city services commission shall have the sole care and management of Glenwood Cemetery; may lay out any land acquired and set apart for such cemetery in lots or other suitable subdivisions, with proper paths and avenues; may plant, embellish, ornament and fence same; and erect therein such suitable edifices and conveniences and make such improvements as they deem necessary; and subject to the approval of the Mayor and City Council, may make such regulations, consistent with law, as they deem necessary relative to the cemetery. (A0173-12)

Section 2-179 Deeds.
The city services commission may by deed, made and executed in such manner and form as they may prescribe, convey to any person the sole and exclusive right of burials in any lot of the cemetery, and of erecting tombs and other monuments or structures thereon, upon such terms and conditions as their regulations prescribe. Such deeds and all subsequent deeds of such lots made by the owners thereof shall be recorded by the city service commission in their records and in the office of the city clerk in books kept for that purpose, with filing fee as required by General Laws, Chapter 262, section 34, clause (78). (A0173-12)

Section 2-180 Perpetual care fund.
The city services commission shall cause to be set aside from moneys obtained from the sale of lots in such cemetery an amount equal to seventy-five (75) percent thereof, which sum shall be known as the Glenwood Cemetery Perpetual Care Fund. The city treasurer shall invest such moneys in accordance with the provisions of the General Laws, chapter 44, section 54. The income of this fund shall be used for the perpetual care of the cemetery, under the direction of the city services commission. (Ord. of 5-23-88; Ord. of 06-25-2001; A0173-12)

Section 2-181--2-190 Reserved.

DIVISION 4. PLANNING BOARD*

Section 2-191 Composition, appointment and terms of office.
There shall be a planning board consisting of five (5) members who shall be appointed by the mayor, subject to confirmation by the city council. The members first appointed to such board shall be appointed for terms of such length and so arranged that the term of one (1) member will expire each year, and their successors shall be appointed for terms of five (5) years each. After the original appointments, one (1) member shall be appointed annually on or before the first Monday in February and shall serve for five (5) years, beginning with the first Monday in March, unless sooner removed. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 56)

Section 2-192 Removal of members; filling vacancies.
Any member of the planning board may be removed for cause, after a public hearing, by the mayor, with the approval of the city council. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as in the case of an original appointment. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 57)

Section 2-193 Chairman, etc.; custodian of plans and records.
The planning board shall elect annually a chairman and a clerk from its own number, and may employ experts and clerical and other assistants. It may appoint a custodian of its plans and records, who may be the city engineer. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 58)

Section 2-194 Powers and duties.
The board shall have all the powers conferred and be subject to all duties imposed upon planning boards by the general laws, especially General Laws, chapter 41, sections 81A to 81J. The board shall not create or authorize any expenditure without a previous appropriation therefor by the city council. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 59)

Section 2-195--2-205 Reserved.

DIVISION 5. WHIDDEN MEMORIAL HOSPITAL COMMISSION

Section 2-206 Established; composition.
There shall be a Whidden Memorial Hospital Commission consisting of two (2) persons, the City Solicitor and the City Treasurer, ex-officio. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 63)

Section 2-207 Powers.
The Whidden Memorial Hospital Commission shall have charge and control of the Whidden Memorial Hospital and of all matters relating to the estate given to the city by Georgia M. Whidden, in accordance with the deed of gift of such estate and the laws of the Commonwealth. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 65)

Section 2-208--2-220 Reserved.

DIVISION 6. COUNCIL ON AGING*

Section 2-221 Establishment, composition, membership.
There shall be a council on aging, to consist of the director, or a representative, of the mayor's office of human services, ex-officio, and ten (10) members appointed for five (5) year terms, by the mayor, subject to the confirmation by the city council. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 84) (Ord. of 11-5-86; A0173-12)

Section 2-222 Chairman, terms of office.
The chairman of the council on aging shall be designated by the mayor. All appointees shall hold office, until their respective successors are appointed and qualified, and shall serve without compensation. The council shall be under the administrative supervision of the mayor and may, with his approval, appoint such clerks and other employees as it may require and establish their salaries. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 85)

Section 2-223 Powers and duties.
It shall be the duty of the council to carry out programs designed to meet the problems of the aging in accordance with the provisions of Mass. General Laws Chapter 40 Section 8B or acts in amendment thereof or in addition thereto. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 86)

Section 2-224--2-250 Reserved.

DIVISION 7. CONSERVATION COMMISSION

Section 2-251 Establishment, membership, terms of members, vacancies.
There shall be a conservation commission of the city in compliance with General Laws, chapter 40, section 8C, consisting of five (5) citizens residing in the city, appointed by the mayor, and subject to confirmation by the city council. Two (2) members of the conservation commission shall be appointed for three (3) years, two (2) members for two (2) years, and one (1) member for one (1) year. After the original appointment, the term of each member shall expire on the last day in March of the term. And thereafter appointment shall be made for the term of three (3) years on or before the first day of April in the year of appointment. Any vacancy occurring shall be filled for the remainder of the term in the same manner as the original appointment. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 99) (Ord. of 7-21-86; A0173-12)

Section 2-252 Powers and duties.
The conservation commission shall have and exercise all the rights, powers and authority given to such commission under General Laws, chapter 40, section 8C, and Chapter 131, section 40. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 100)

Section 2-253--2-260 Reserved.

DIVISION 8. RECREATION COMMISSION

Section 2-261 Composition, appointment, term of office.
The recreation commission shall consist of five (5) citizens of the city, appointed by the mayor, subject to confirmation by the city council. The commission shall elect annually a chairman from its own number. The members first appointed to such board shall be appointed for terms of such length

and so arranged that the term of one (1) member will expire each year, and their successors shall be appointed for terms of five (5) years each. After the original appointments, one (1) member shall be appointed annually on or before the first Monday in February and shall serve for five (5) years, beginning with the first Monday in March, unless sooner removed. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 101) (A0173-12)

Section 2-262 Powers and duties.

(a) The recreation commission shall have control of all recreational activities paid for, sponsored, or supervised by the city, excepting only such recreational activities as may be specifically under the control of the school department.

(b) The commission's responsibilities shall include, but not be limited to, the planning, coordination and supervision of all the city's recreational activities and general supervision of the director of recreation, who shall be responsible for the administration of the ongoing activities of the commission.

(c) The commission shall also be responsible for the preparation of a comprehensive annual budget for the activities of the commission and for a comprehensive annual report of its doings, including a detailed statement of receipts and expenditures of the preceding year, together with such other reports as the mayor may require; such budget and reports to be submitted to the mayor and city council, as requested. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 102) State law reference(s)--M.G.L. c. 45, § 14.

Section 2-263--2-270 Reserved.

DIVISION 9. DISABILITY COMMISSION*

Section 2-271 Composition, Appointment, Term of Office.

There shall be a disability commission consisting of seven (7) members, appointed by the mayor subject to confirmation by the city council. A majority of the members shall be persons with a handicap, as defined in section 2-273, and represent as many cross-disabilities from the handicapped community as possible. One (1) of these members may be a member of the immediate family of a disabled person. One (1) of the members shall be an elected or appointed official of the city.

The initial appointments shall be made as follows: three (3) members for three years, two (2) members for two years, and two (2) member for one year. Thereafter two (2) members shall be appointed annually on or before the first Monday in February for a term of three years. (Ord. of 5-27-86, § 1; A0173-12)

Section 2-272 Function and purpose.

The commission shall:

(a) Act as a centralizing force in the city and the community which will deal with all handicapped issues; providing information, referral, guidance, coordination, offering and providing technical assistance to other public agencies and private persons, organizations and institutions engaged in

activities and programs intended to eliminate prejudice and discrimination against person(s) with handicap(s) because of their status as a person with a handicap.

(b) Take such action as the commission considers appropriate to ensure that equal status of person(s) with a handicap(s) of every race, creed, color, natural origin, age and sexual preference.

(c) Assure that no otherwise qualified individual with a handicap in the city shall, solely by reason of his or her handicap, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any program or activity within the city. (Ord. of 5-27-86, § 2)

Section 2-273 Definition of person with handicap.
For purpose of this division, a person with a handicap shall be defined as any person who:

(a) Has a physical or mental impairment which substantially limits one (1) or more major life activities;

(b) Has a record of such an impairment; or

(c) Is regarded as having such impairments. (Ord. of 5-27-86, § 3) Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Section 2-274 Powers and duties.
The powers and duties of the commission shall include the following:

(a) To ensure the equal status of a handicapped person in education, employment, economic, political, health, legal and social spheres;

(b) To design programs that promote equality for all handicapped persons in the city;

(c) To review recommendations and policies of all departments, divisions, and agencies of the city including, but not limited to, the mayor, the purchasing agent and the city council;

(d) To initiate, coordinate and monitor the enactment of legislation which promotes equal status of the handicapped persons in the city, state, and federal levels, and to ensure that appropriate regulations are adopted and enforced pursuant to such legislation including, but not limited to, implementation of the 114th Amendment to the Massachusetts Constitution;

(e) To participate in an advisory capacity in the hearing of complaints brought alleging discrimination against the handicapped person including, but not limited to, the office of the Massachusetts Commission Against Discrimination;

(f) To obtain from city departments, divisions, and agencies any and all information necessary to carry out the functions, purposes, programs and activities of the commission that does not infringe upon the right of privacy of an individual;

(g) To assist in public awareness of the handicapped through participation in public and media events sponsored by the administrative and/or legislative bodies of the city including, but not limited to city-sponsored recreational, educational, and development activities;

(h) To be an active and participating member of appropriate organizations dealing with issues affecting the handicapped person;

(i) To recruit and recommend prospective members to the commission prior to appointment by the mayor;

(j) To serve on the commission without compensation, with a reasonable expense budget;

(k) To acquire, analyze, use and store handicapped related statistics and related materials in conjunction with the Parlin Memorial Library and Shute Library for program planning and evaluation purposes;

(l) To hold at least ten (10) regular meetings throughout the year and to conduct additional meetings as necessary;

(m) Such other powers and duties as may be agreed on by the mayor and the commission.

(n) To recommend or give an advisory opinion to the City Council on all matters referred to the commission by the city council (Ord. of 5-27-86, § 4; Ord. of 6-3-91; A0173-12)

Section 2-275 Reserved.

DIVISION 10. BUILDING COMMISSION*

Section 2-276 Appointment of building commission; responsibilities.

(a) Unless otherwise specified by statute, if in the judgment of the mayor, the construction, reconstruction, alteration or remodeling of a public building requires the appointment of a building commission, the mayor shall, by executive order, establish such commission to consist of three (3), five (5), or seven (7) persons, appointed by him subject to confirmation by the city council. The mayor shall designate the chairman of the commission. (A0173-12)

(b) The commission shall be responsible for all aspects of project administration including but not limited to design, preparation of plans and specifications, awarding of contracts for professional and construction services, the purchase of equipment and furnishings, and the general supervision of the project until such time that the mayor notifies the building commissioners in writing that the project has been accepted by the operating agency; and that the building commission is dissolved. (Ord. of 12-18-89 (Ch. 2, § 78))

Section 2-277--2-278 Reserved.

DIVISION 11. YOUTH COMMISSION

Section 2-279 Composition, Appointment, Term of Office.

There Shall be a Youth Commission consisting of not less than three (3), not more than seven (7) members, appointed by the Mayor subject to confirmation by the city council.

The initial appointments shall be for one (1), two (2) or three years and shall be so arranged that the terms of approximately one-third of the members will expire each year, and their successors shall

be appointed for a term of three years each. Any vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment. (A0173-12)

Section 2-280 Function and Purpose.
The Commission shall:

(a) Encourage and support an atmosphere of artistic, intellectual and athletic activity to improve the quality for all children in the City;

(b) Carry out programs which may be designed or established to meet the opportunities, challenges and problems of youth in the City and also in conjunction with any similar or related programs of any agency of the Commonwealth of Massachusetts or any agency of the Federal Government;

(c) Keep accurate records of its meetings and actions and shall file an annual report with the City Clerk.

The Commission May:

(a) Receive gifts of property, both real and personal, in the name of the City, subject to the approval of the City Council, such gifts to be managed and controlled by the Commission for the purpose of this section;

(b) Develop programs and activities which will create an atmosphere of intellectual, athletic, and artistic activity for all children, and will meet the needs, challenges and problems of our children;

(c) Appoint, subject to the approval of the Mayor, such clerks and other employees as it may from time to time require. (Ord. of 02-17-1998)

DIVISION 12. HISTORICAL COMMISSION

Section 2-281 Composition.
There shall be a Historical Commission consisting of not less than three (3), not more than seven (7) members, appointed by the Mayor subject to confirmation by the city council.

The initial appointments shall be for one (1), two (2) or three years and shall be so arranged that the terms of approximately one-third of the members will expire each year, and their successors shall be appointed for a term of three years each. Any vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as the original appointment. (A0173-12)

Section 2-282 Function and Purpose.
The Commission shall:

(a) Provide for the preservation, protection and development of the historical or archeological assets of the City of Everett.

(b) Conduct researches for places of historic or archeological value, shall cooperate with the state archeologist in conducting such researches or other surveys, and shall seek to coordinate the activities of unofficial bodies organized for similar purpose.

(c) Report to the state archeologist the existence of any archeological, paleontological, or historical site or object discovered in accordance with the Massachusetts General Laws.

(d) Keep accurate records of its meetings and actions and shall file an annual report with the City Clerk.

The Commission may:

(a) Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets that it deems necessary for its work.

(b) For the purpose of protecting and preserving such places, make such recommendations, as it deems necessary, to the City Council, to the Massachusetts Historical Commission, that any such place be certified as a historical or archeological landmark.

(c) Hold hearings, enter into contracts with individuals, organizations and institutions for services; enter into contracts with local or regional associations for cooperative endeavors; accept gifts, contributions and bequests of funds from individuals, foundations and from federal, state or other governmental bodies; make and sign any agreements; do and perform any and all acts which may be necessary or desirable in furthering the objectives of the commission's program.

(d) Appoint, subject to approval of the Mayor, such clerks and other employees as it may from time to time require.

(e) Acquire in the name of the City by gift, purchase, grant, bequest, devise, lease or otherwise the fee or lesser interest in real or personal property of significant historical value and may manage the same. (Ord of 08-24-98)

DIVISION 13. SCHOOL FINANCE REVIEW COMMISSION

(A0151-12)

Section 2-283 Establishment, composition, membership.
The school finance review commission shall consist of thirteen (13) total members. The commission shall be composed of the mayor or his/her designee, city auditor, school superintendent, school business agent, city solicitor, chief procurement officer, four (4) members of the city council, and three members of the school committee. The mayor shall serve as the chairman of the commission and will appoint a vice chairman on an annual basis. All members shall hold their positions until their respective successors are appointed and qualified, and shall serve without additional compensation. Individuals who replace existing members in their official positions shall also replace the existing member on the commission. The city solicitor shall serve as the clerk of the commission, recording commission minutes and any other pertinent information. (A0278-13)

Section 2-284 Powers and duties.

(a) It shall be the duty of the commission to meet on a monthly basis to discuss, review, and address the ongoing financial status of the Everett public school system. This shall include, but not be limited to, the school budget, enrollment activity, and other school related expenditures. During annual budgetary appropriations processes, the mayor shall have the power to call for additional meetings throughout the month(s), as deemed necessary. The commission shall serve only as an advisory commission and cannot make binding decisions.

(b) The commission shall undertake, on a continuing basis, the study of all possibilities for cooperation between the city and the school district in the development, maintenance and use of facilities authorized to each of them, and to make recommendations for carrying out such joint ventures as may be feasible.

(c) The commission shall act as a centralizing force in the city and the community, which will deal with all city-school related finance issues; providing information, coordination, and providing technical assistance to other public agencies, organizations, and institutions engaged in activities and programs intended to provide and ensure financial stability amongst the public school district.

Section 2-285 Reserved.

ARTICLE IV. PURCHASING*

Section 2-286 Purchasing agent.

(a) The mayor shall appoint a purchasing agent subject to confirmation by the city council as provided in chapter 432 of the Acts of 1962 which was retained in Section 10-5(b) of the Charter. (A0173-12)

(b) The appointee confirmed shall serve a term of two (2) years coterminous with that of the term served by the mayor.

(c) The Purchasing Agent shall be the Chief Procurement Officer of the City of Everett in accordance with the provisions of MGL, 30B and shall follow the requirements and procedures set forth in MGL, Chapter 30B and its updates. (A0257-06)

(d) The purchasing agent shall have the power to transfer all supplies, materials, and equipment from one (1) department to another as may be deemed advisable. The purchasing agent shall have the power to sell, exchange or trade any supplies, material and equipment which have become unsuitable for public use if the item has a value less than five hundred dollars ($500.00). If the item has a value greater than or equal to five hundred dollars ($500.00) the sale, exchange or trade of the item shall be subject to the approval of the city council. The purchasing agent shall keep a public record of all sales, exchanges and trades.

(e) The purchasing agent shall require that each using agency shall make an inventory during the month of May in each year of all personal property under its charge, and a copy of such inventory shall be forwarded to the purchasing agent.

(f) The purchasing agent shall control and supervise any and all storerooms and warehouses and any which may be hereafter established. The city council, upon estimates prepared by the purchasing agent and submitted, from time to time, by the mayor, shall provide a revolving stores fund of sufficient amount to finance the purchase and storage of standard supplies, materials, and equipment for use by all departments and agencies which equipment may be purchased and stored advantageously and such fund shall be under the control of the purchasing agent who shall also be responsible and accountable for all supplies, materials, and equipment under his control and shall maintain a perpetual inventory record thereof.

(g) The purchasing agent may consult with the heads of the departments to determine their precise requirements and shall endeavor to prescribe those standards that best meet the needs of the majority of departments.

(h) The purchasing agent may require any office or department head to furnish information essential to the operation of the purchasing department for the enforcement of this article or any regulations adopted hereunder. (Ord. of 5-9-77, §§ 103, 103A, 104; Ord. of 2-6-89)

Section 2-287 Requisitions.

(a) Requisitions for the purchase of supplies, materials, equipment or contractual services for a department, board or commission shall be received by the purchasing department prior to the issuance of a purchase order or contract and shall be signed by the head of the using department, or his authorized agent.

(b) The purchasing agent shall examine each requisition and shall have the authority, only after consultation with the department head, to revise it as to quantity, quality or estimated cost. (Ord. of 5-9-77, § 105)

Section 2-288 Requisitions and purchase orders.

(a) No requisition, order or contract shall be subdivided to avoid any of the requirements of this article.

(b) The head of each using agency shall file with the purchasing agent the names of individuals authorized to originate requisitions.

(c) All purchase orders shall be issued by the purchasing agent.

(d) All requisitions shall be made on forms approved and furnished by the purchasing agent. (Ord. of 5-9-77, § 106)

Section 2-289 Procedure for contract purchases, limitation on amounts.

All purchases of, and contracts for supplies, materials, equipment and contractual services, and all sales of personal property which have become obsolete and unusable shall be governed by the procedures set forth in MGL, Chapter 30B and its updates. (Ord. of 5-9-77, § 107; Ord. of 5-23-88; Ord. of 7-15-91; Ord. of 12-02-2003; A0256-06)

Section 2-290 Requisition Limitation.

No officer, department head, board or commission authorized to expend money shall make

requisition on the purchasing agent for the purchase of equipment, supplies, materials, or contractual services until funds are available therefor.(Ord. of 5-9-77, § 111)

ARTICLE V. DESIGNER SELECTION PROCEDURES

Section 2-291 Application of Procedures.
These procedures are to apply to the selection of designers on building construction, renovation, alteration, remodeling, and repair projects undertaken by the City of Everett or any agency, board, commission or school department. These procedures do not apply to the selection of designers for modular buildings or projects of the Everett Housing Authority. See the definition of "building project" if there is a question whether a particular project is a building project subject to these guidelines. Projects that are funded in part by a State agency or by a Federal agency may be subject to additional programmatic requirements established by the funding agency.

Section 2-292 Defining Scope of work.
(a) The awarding authority that will award and administer the design contract will determine the nature and extend of the design services required for the project and will develop the project criteria required under Section 2-293 below.

(b) Design services such as the preparation of programs and feasibility studies, construction management, and construction scheduling may be performed by any person or firm experienced in providing such services. Other design services generally require the participation of registered architects, landscape architects, or engineers. In such cases, if the designer is an individual, he or she must be registered in the appropriate discipline. If the designer is a partnership, a majority of the partners must be so registered. If the designer is a corporation, the chief executive officer (when stock ownership), the person in charge of the project, and either a majority of directors or a majority of the ownership interest must all be registered.

(c) The awarding authority will decide whether to set a fee for the proposed design service, which will be binding on the applicants, or whether to negotiate the fee. If the fee is to be negotiated, the awarding authority must establish a "not to exceed" limit before the applications are received and evaluated.

(d) Contracts for energy management services that may include improvements to a building are not subject to the designer selection law and may be procured using a request for proposals process in accordance with the provisions of M. G. L. c 25A & 11C. Information on energy management services contracting may be obtained from the State's Division of Energy Resources.

Section 2-293 Advertising.
(a) A request for proposals (RFP) for each contract for designer services shall be published in the Central Register, established under M. G. L. c. 7, Section 38D at least two weeks before the deadline for filing applications. In addition design services for projects whose estimated construction cost exceeds $10,000 (or as might further be amended by the City Council) must also be publicly advertised in the local newspaper once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals.

The RFP will provide the following detailed information:

(1) A description of the project, the specific designer services sought, the estimated construction cost, and the time allotted for completion, if known. Requirements of the designer to attend local meetings or to be present at the construction site should also be included.

(2) When and where the program prepared for the project will be available for inspection by applicants, or a statement that there is no program beyond the information in (1) above.

(3) The qualifications required of applicants for the project (State law requires a registered architect for the preparation of plans and specifications involving any building whose size exceeds 35,000 cubic feet').

(4) The categories of designers' consultants, if any of which applicants must list consultants they intend to use.

(5) Whether the fee has been set or will be negotiated. If the fee has been set, its amount must be stated in the RFP as a total dollar amount, not a percentage. If the fee is to be negotiated, the awarding authority shall establish a not to exceed amount prior to negotiations, but need not publish it in the RFP's.

(6) The deadline for submission of proposals.

(7) The person and address to which proposals should be sent.

(8) A statement that the City shall reserve the right to reject any or all of such proposals.

(9) Any other pertinent information.

Section 2-294 Receiving Applications.

(a) If fewer than three (3) applications are received, the Designer Selection Committee assigned by the Mayor for any particular project can decide to re advertise. If again, fewer than three (3) responses are received, the responding firm or firms will be evaluated.

(1) No proposals shall be accepted from or for any person who has broken a contract with the City during the three (3) years preceding.

Section 2-295 Evaluation Process.

The selection of finalists will be based on the following criteria:

(a) Minimum Evaluation Criteria:

(1) The Consultant/Firm must have and provide evidence of the following minimum qualifications and experience or other information requested in "Proposal Requirements" section of the RFP in the order to be eligible for consideration as a finalist:

a. Description of Consultant/Firm

b. Statement of Project understanding

c. The Proposal

d. Examples of Similar Work

e. References

f. Timetable

g. Fee Schedule

h. Other Information

i. Certificate of Non-Collusion

(b) Comparative Evaluation Criteria:

Each Selection Committee member will independently evaluate the proposals based on the following criteria:

(1) Professional Competence of Consultant Firm and Experience in Performing Similar Work.

a. Consideration will be given to the Consultant/Firm who demonstrates the technical capability of personnel in the required disciplines; ability to interface with City Staff and with the public in particular, property owners impacted by the projects(s); good writing and reporting skills; experience in similar types of work activities and products.

(2) Technical Approach and Methodology Demonstrating Understanding of the Scope of Services

a. Consideration will be given to the Consultant/Firm who demonstrates with conciseness and clarity their understanding of the projects and their plan to complete the projects.

(3) Capacity to Perform Work Within Schedule and Budget

a. Consideration will be given to the Consultant/Firm who demonstrates the ability to manage all aspects of the project(s) while meeting all time and cost expectations or requirements.

(c) Applicants may be required to:

(1) Appear for an interview before the Designer Selection Committee (DSC)

(2) Present a written proposal to the DSC or

(3) Participate in a design competition held by the DSC.

a. No architect or design consultant shall be engaged by the City for any purpose

unless the name of the firm or individual to be engaged, shall first be submitted to the DSC and approved by a majority vote of its members.

(d) The DSC will select at least three finalists from among all applicants and transmit the list to the awarding authority.

(1) The list will rank the finalists in order of qualification, provide a record of the final vote of the DSC on the selection, and include a written statement explaining the committee's reasons for its choice and its ranking of the finalists.

(2) The list will be a public record. No person or firm debarred pursuant to Chapter 149, section 44C or disqualified pursuant to Chapter 7, section 38F© or 38H(g) shall be so included as a finalist.

(3) The DSC shall transmit to the awarding authority all material made or received relating to such recommendation.

Section 2-296 Selecting a firm for Final Negotiation.
If the fee for design services has been set by the awarding authority prior to the selection process, the awarding authority will select the designer to be awarded the contract from the list submitted by the DSC. If a designer other than the one ranked first is selected, the awarding authority shall file a written justification with the DSC.

Section 2-297 Negotiate the Fee.
(a) If the fee is to be negotiated, the awarding authority shall review the list transmitted by the DSC, and may exclude any designer from the list with a written explanation of the exclusion.

(b) The awarding authority shall then appoint a designer based on successful fee negotiation among the remaining finalists in order of rank.

(1) In no event may a fee be negotiated which is higher than a maximum fee set by the awarding authority prior to selection of finalists.

(2) Should the awarding authority be unable to negotiate a satisfactory fee with any designer initially selected as a finalist by the DSC, the DSC shall recommend additional finalists in accordance with the statutes.

Section 2-298 Negotiating and Awarding the Contract.
(a) All contracts made by any department, board or commission where the amount involved is $5,000.00 dollars or more (or as might further be amended by City Council) shall be in writing.

(b) The design contract shall state the fee as a total dollar amount. In no case may the designer's fee be determined as a percentage of construction cost.

(c) No officer or board shall make any contract on behalf of the City, the execution of which will necessarily extend beyond three (3) years from the date thereof unless special permission to do has been given by vote of the City Council or by the statues of the Commonwealth.

(d) Officials and employees are prohibited from making or sharing in municipal contracts.

(e) The name of the designer awarded the contract must be published in the Central Register.

(f) The awarding authority may request a copy of the Division of Capital Asset Management (DCAM) or American Institute of Architects' standard design contracts to use as guidance. Every contract awarded for design services shall include:

(1) Certification that the designer or construction manager has not given, offered, or agreed to give any gift, contribution or offer of employment as an inducement for, or in connection with, the award of a contract for design services.

(2) Certification that no consultant to, or subcontractor for the designer or construction manager has given, offered or agreed to give any gift, contribution or offer of employment to the designer or construction manager, or to any other person, corporation, or entity as an inducement for, or in connection with the award to the consultant or subcontractor of a contract by the designer or construction manager.

(3) Certification that no person, corporation or other entity, other than bona fide full time employee of the designer or construction manager, has been retained or hired to solicit for or in any way assist the designer or construction manager in obtaining the contract for design services upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of contract to the designer.

(4) Certification with respect to contracts which exceed ten thousand dollars or that are for the design of a building for which the budgeted or estimated construction costs exceed one hundred thousand dollars, that the designer has internal accounting controls as required by Chapter 30, section 39R, and that the designer will:

a. Maintain accurate and detailed accounts for a six year period after the final payment.

b. File regular statements of management concerning internal auditing controls.

c. File an annual audited financial statement, and

d. Submit a Statement from an independent certified public accountant that such CPA (or certified public accountant) has examined management's internal auditing controls and expresses an opinion as to their consistency with management's statements in (b) above and whether such statements are reasonable with respect to transactions and assets that are substantial in relation to designer's financial statements, Chapter 7, section 38H(e).

(5) A requirement that the designer at his/her own expense obtain and maintain a professional liability insurance policy covering negligent errors, omissions and acts of the designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of such contracts for design services.

a. The awarding authority may require a consultant employed by a designer subject to

this subparagraph to obtain and maintain a similar liability insurance policy.

b. The total amount of such insurance shall at a minimum equal the lesser of one million dollars or ten percent of the project's estimated cost of construction, or such larger amounts as the public agency may require, and shall cover the applicable period of limitations.

c. A designer required by the public agency to obtain all or a portion of such insurance coverage at his own expense shall furnish a certificate or certificates of insurance coverage to the public agency prior to the award of the contract.

d. For the purpose of this paragraph only, "public agency" shall have the meaning set forth in section thirty nine A.

e. Liability insurance is not required for the preparation of studies, surveys, soil testing, cost estimates, programs or for construction management or scheduling.

(6) Contracts for design services shall include a provision that the designer or his consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been reasonably anticipated by the designer in the preparation of the bid documents, is reasonably determined by the executive head of the public agency responsible for administering the design contract.

a. The contract shall specify who will bear the cost of redesigns if the plans are unsatisfactory or if the construction bids exceed the estimated cost or the, available appropriation. (G. L. C.7, s 38H(j)).

b. For the purpose of this paragraph, "public agency" shall have the meaning as set forth in section thirty nine A.

(7) Any person contracting with a municipality must certify in writing that he or she has complied with State tax laws. (G. L. c. 62C, s49A).

(8) Contracts for design services may include a requirement that the designer be responsible for overseeing the construction phase of the project.

(9) The contract shall specifically list the names and time commitments of the key personnel included in the designer's proposal.

(10) The contract shall require that the designer satisfy State law certifications and requirements relating to non collusion in the submission of proposals and financial reports that the designer must file. (G. L. C.7 s38H(e))

(11) The contract shall have a provision giving ownership of any completed or partially completed design documents to the awarding authority even if the contract is terminated.

Section 2-299 Emergency Situations.

When an emergency situation exists, the City of Everett may utilize "Regulation 811 C2MR 3.00

Expedited Procedure for Selection of Designers When an Emergency Situation Exists", as adapted to local requirements including the substitution of the terms "Designer Selection Board" and "Deputy Commissioner of "DCAM" with "Designer Selection Committee" and "Local Awarding Authority" respectively.

Section 2-300 Other.

(a) When the RFP has required that the applicants list consultants which they intend to use, any changes in, addition to, consultants named in the application must be approved by the awarding authority and reported to the DSC with a written statement by the designer or construction manager of the reasons for the change.

(b) A designer or programmer appointed to do a feasibility study, master plan or program for a project shall be ineligible for appointment to perform the design services for that project. This paragraph shall not apply to designers performing studies for repair work provided, first, that such work is limited to identifying and correcting existing deficiencies in a portion of a building or its equipment and second, that the designer's fee for the combined study and design of repairs is not greater than twenty five thousand dollars.

(c) The awarding authority may allow a designer who conducted a feasibility study to continue with the design of a project, if the authority commissions an independent review, by a knowledgeable and competent individual or business doing such work, of the feasibility designer's work to insure its reasonableness and its adequacy prior to allowing the designer to continue on said project. The review of a State agency with oversight or approval of a project may be sufficient for purposes of this paragraph.

(d) The cost of an independent review should first be estimated by consulting with knowledgeable staff or soliciting estimates from at least three potential reviewers. To consider using the independent review option, it must be stated in the initial advertisement for design services that the feasibility designer may, subject to an independent review, go on to per form the final design. Separate fees for the feasibility phase and the final design phase must be set.

(e) In the selection of applicants to perform design services, the following records will be kept by the awarding authority:

(1) Copies of public notices, evaluations, rankings, and reasons for rankings;

(2) All information supplied by or obtained about each applicant;

(3) All actions taken by the DSC relating to any project and recorded votes of the DSC; and

(4) All actions taken by the awarding authority relating to any project.

These records will be available for inspection by the State Designer Selection Board and other authorized agencies.

(f) All meetings of a government body shall be open to the public and any person shall be permitted to attend any meeting as otherwise provided by G. L. 30H, section 11A1/2/.

(g) No member of the DSC shall participate in the selection of a designer for any project if the member of his or her immediate family:

(1) Has a direct or indirect financial interest in the award of the design contract to any applicant;

(2) Is currently employed by, or is a consultant to or under contract to any applicant;

(3) Is negotiating or has an arrangement concerning future employment or contracting with any applicant; or

(4) Has ownership interest in, or is an officer or director of, any applicant.

(h) Using full time municipal employees to perform design services which fall within the scope of their normal duties is perfectly legal and appropriate, provided the employees are qualified. The review and evaluation of employee qualifications for a particular project should be completed using the same criteria as would be applied to outside firms. This review and evaluation shall be conducted by the person or persons so designated by the awarding authority. Where the employee is found to be qualified, an open competition need not be conducted.

(i) These procedures have been adopted to satisfy the purpose and intent of M.G.L. Chapter 7, section 38 A to 38 0. Where interpretive questions or ambiguities arise, refer to the recommendations “Designing and Constructing Municipal Facilities, Legal Requirements, Recommended Practices, Sources of Assistance”, dated October 1989, issued by the Office of the Inspector General and Massachusetts General Laws c. 7 s38K with additional requirements set forth in s 38A1/2 through s38N. The Attorney General is the chief law officer and his opinion takes precedence over previous interpretations by State agencies. (Ord. of 06-25-2001)

Chapter 3.
ANIMAL CONTROL

ARTICLE I. REGULATION OF CONDUCT – DOGS

Section 3-1 Authority and purpose/definitions.
This article is adopted pursuant to the authority of M.G.L. c. 140, §§ 136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this article is to establish regulations for the keeping of dogs and the control of animals in the City of Everett. The definitions of all words and terms used herein shall be as set forth in M.G.L. c. 140, §§ 136A to 137A, unless the context requires otherwise:

"Adoption" means the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

"Animal control officer" means an appointed officer authorized to enforce M.G.L. c. 140, §§ 136A to 174E, inclusive.

"Attack" means aggressive physical contact initiated by an animal.

"Commercial boarding or training kennel" means an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under M.G.L. c. 129, § 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

"Commercial breeder kennel" means an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

"Commissioner" means the Commissioner of Agricultural Resources.

"Dangerous dog" means a dog that either: (1) without justification, attacks a person or domestic animal causing physical injury or death; or (2) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

"Department" means the Department of Agricultural Resources.

"Domestic animal" means an animal designated as domestic by regulations promulgated by the Department of Fish and Game.

"Domestic charitable corporation kennel" means a facility operated, owned or maintained by a domestic charitable corporation registered with the Department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare,

protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

“Euthanize” means to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

“Hearing Authority” means the Chief of Police or the Chief’s designee.

“Keeper” means a person, business, corporation, entity or society, other than the owner, having possession of a dog.

“Kennel” means a pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

“License period” means the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

“Licensing authority” means the City Clerk.

“Livestock” or “fowl” means a fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the Department in proper houses or suitable enclosed yards; provided, however, that “livestock” or “fowl” shall not include a dog, cat or other pet.

“Nuisance dog” means a dog that: (1) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (2) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (3) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

“Personal kennel” means a pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department, may be sold, traded, bartered or distributed if the transfer is not for profit.

"Research institution" means an institution operated by the United States, the commonwealth or a political subdivision thereof, a school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory, a biomedical corporation, or biological laboratory or a hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school which, in connection with any of the activities thereof, investigates or provides instruction relative to the structure or function of living organisms or to the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

"Shelter" means a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

"Veterinary kennel" means a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that "veterinary kennel" shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care. (C0220-14)

Section 3-2 Restraint of dogs (leash law).
The owner, keeper, or person otherwise in control of a dog shall not suffer or allow it to run at large in any of the streets or public places in the City, or upon the premises of any person other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be on private property of another, unless specific permission has been granted. No dog shall be permitted in any public street or place within the City unless it is effectively restrained by a chain or leash not exceeding eight feet in length. (C0220-14)

Section 3-3 Impoundment.
Included within his/her authority to impound a dog, the Animal Control Officer has the authority to impound a dog found running at large in violation of Section 3-2. The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner, if known. If the owner of an impounded dog is known, such owner shall be given notice of the impounding. Such owner may reclaim the dog upon payment of a $25.00 administrative fee, together with any unpaid license fees, late fees, and fines, as well as the reasonable costs incurred by the City for impounding and maintaining the dog. (C0220-14)

Section 3-4 Removal and proper disposal of dog feces.
The owner, keeper or person otherwise in control of a dog shall immediately pick up and properly dispose of any feces left by such dog on any street, sidewalk, or other public area, or on any private property that is not owned or occupied by such person. Any person who takes a dog onto a street, sidewalk, or other public place shall carry a container, tool, implement or other device to be used for picking up and containing dog feces and the person shall dispose of said dog feces in a designated receptacle or otherwise properly. The provisions of this section shall not apply to a person who employs a "service dog" as defined by the Americans with Disabilities Act or regulations promulgated thereunder. (C0220-14)

Section 3-5 Prohibited behavior.
The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

(a) To be unrestrained as required by Section 3-2;

(b) To be unlicensed when a license is required by law.

(c) To be without current license and rabies vaccination tags when off the owner's property.

(d) To bite, physically injure, assault or threaten any person, without legally recognized justification or provocation.

(e) To bite or physically injure any domestic animal, without legally recognized justification or provocation.

(f) To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.

(g) To be off the property where the dog resides, if subject to a confinement order.

(h) To be off the property where the dog resides, unmuzzled, if subject to a muzzle order.

(i) To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.

(j) To be present on school or cemetery property. (C0220-14)

Section 3-6 Confinement or muzzling.
The Chief of Police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing, that the dog has:

(a) Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.

(b) Bitten or physically injured any domestic animal, without legally recognized justification or provocation.

(c) Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by Section 3-7. Nothing in this section shall preclude the Chief of Police from utilizing the procedure contained in M.G.L. c. 140, § 57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute. (C0220-14)

Section 3-7 Penalties and enforcement.
The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each

violation of this title as follows:

(a) For a violation of Section 3-5(d) or (e):

(1) First offense: $100.00.

(2) Second offense: $200.00.

(3) Third and subsequent offense: $500.00.

(b) For all other violations of Section 3-5:

(1) First offense: $50.00.

(2) Second offense: $100.00.

(3) Third and subsequent offense: $150.00.

(c) For a violation of Section 3-4:

(1) First offense in any calendar year: $50.00.

(2) Second offense in any calendar year: $100.00.

(3) Third and subsequent offense in a a calendar year: $150.00.

In the case of a continuing offense, each day shall constitute a separate violation. (C0220-14)

Section 3-8 Unpaid tickets – Municipal charges lien.
The ACO shall maintain a record of all tickets issued which remain unpaid, and submit a quarterly report thereof to the Treasurer/Collector for inclusion in the list of municipal charges liens in the event the liable party owns real property in the City of Everett. (C0220-14)

Section 3-9 Nonwaiver of statutory remedies.
The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c. 140, § 136A, et seq., as amended by Chapter 193 of the Legislative Acts of 2012; nothing contained in this title shall deprive the City from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in M.G.L. c. 140, § 157, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c. 140, as provided in §§ 173 and 173A, as amended. (C0220-14)

Section 3-10 License period.
Any person owning, harboring or having custody (keeper) or control of a dog shall license said dog annually for the period beginning January 1st of each year. Renewal of licenses must be obtained by March 15th of the following year. If a dog remains unlicensed after March 15th, the owner shall be fined the sum of $5.00 in addition to the original license fee. (C0220-14)

Section 3-11 License required – Rabies vaccination.
The owner or keeper of a dog six months old or over shall cause it to be registered, numbered, described and licensed with the City Clerk. Proof of rabies vaccination shall be shown at the time of issuing the license. (C0220-14)

Section 3-12 License fees.
Fees for licenses shall, except as otherwise provided, be as follows:

(a) The fee for every dog license shall be:

(1) Ten dollars for every spayed or neutered dog.

(2) Fifteen dollars for every intact (unspayed or unneutered) dog.

There shall be no licensing fee for "service dogs" as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Proof of spaying or neutering shall be shown at the time of licensing. (C0220-14)

Section 3-13 Identification tag required.
(a) Every owner issued a license in accordance with the provisions of M.G.L. c. 140, § 137, for a dog owned or kept within the City will also receive an identification tag from the City Clerk's office.

(b) The identification tag shall be a durable tag stamped with an identifying number and of a particular color to signify the specific year of issuance.

(c) Tags will be so designed that they may conveniently be fastened to the dog's collar or harness.

(d) Dogs must wear identification tags at all times when the animal is off the premises of the owner.

(e) The City Clerk shall maintain a record of the identifying numbers and shall make this record available to the public.

(f) The charge for replacing lost dog tags shall be $10.00. (C0220-14)

Section 3-14 Kennel licenses – Fees.
The fee for each kennel license shall be as follows:

(a) Fifty dollars for kennels with four dogs or less;

(b) One hundred dollars for kennels with five to 10 dogs;

(c) Two hundred dollars for kennels with 11 dogs or more, but not more than 25 dogs;

(d) Three hundred fifty dollars for kennels with 26 dogs or more. (C0220-14)

Section 3-15 Kennel inspections.
Regular kennel inspections shall be conducted no less than twice each year by the Animal Control

Officer. All such inspection records shall be kept on file at the Everett Police Department. (C0220-14)

Section 3-16 Collection and disposition of fees.
The City Clerk shall issue dog licenses and tags and the appropriate fees shall be deposited accordingly. (C0220-14)

Section 3-17 Adoption requirements and conditions/disposition.
(a) A dog which has been kept by the Animal Control Officer or its agent or designee for 10 days and remains unclaimed shall become available for adoption. A dog adopted from a pound or shelter may be sold for not less than $25.00. Monies so received shall be paid forthwith to the Treasurer/Collector. A condition of sale, before delivery of any dog so sold, shall require the purchaser to license the dog and certify in writing the intention to spay or neuter the animal within 90 days.

(b) Dogs not claimed by their owners within 10 days, or adopted, shall be turned over to the shelter to provide services as they see fit. If the shelter determines that the dog must be disposed of, it shall do so in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

(c) No animal impounded by the City of Everett shall be sold or given away for the purpose of experimentation or vivisection. (C0220-14)

Section 3-18 Penalty and enforcement.
The Police Chief and his designee, including the Animal Control Officer, and any Everett Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this chapter may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with Section 1-8. (C0220-14)

Section 3-19 Animal care standards.
(a) Owners shall provide each of their animals with sufficient good and wholesome food and water, proper and sanitary shelter, protection from the weather, veterinary care when needed to prevent suffering, and otherwise humane care and treatment.

(b) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.

(c) No person shall keep or place an animal in a location that would cause an unreasonable risk of injury or death to the animal.

(1) Leaving an animal unattended in a stationary or parked car without proper ventilation shall be prima facie evidence of keeping an animal in a location that causes an unreasonable risk of injury or death. The Animal Control Officer, and any Everett police officer, may use reasonable force to remove the animal from the vehicle, including, but not limited to, breaking the windows of the vehicle.

(d) No person shall cause, instigate, or permit any animal to fight, combat, or otherwise cause violence with another animal or a human.

(e) Where, in the opinion of an Animal Control Officer, any violation of any portion of this chapter regarding the safety or health of an animal places said animal at imminent risk of harm, the Animal Control Officer may immediately remove and impound the animal for its own protection.

(f) Violations.

(1) Any person who violates this section shall:

a. For a first violation: be issued a written warning, or punished by a fine of not more than $50.00;

b. For a second violation: be punished by a fine of not more than $100.00;

c. For a third or subsequent violation: be punished by a fine of not more than $300.00, and the affected animal shall be impounded. (C0468-16)

Sections 3-20 – 3-29

Reserved.

ARTICLE II. MISCELLANEOUS ANIMAL REGULATIONS

Chapter 3.
ANIMAL CONTROL

ARTICLE I. REGULATION OF CONDUCT – DOGS

Section 3-1 Authority and purpose/definitions.
This article is adopted pursuant to the authority of M.G.L. c. 140, §§ 136A to 137A, inclusive, and any other relevant statutes and regulations promulgated pursuant thereto. The purpose of this article is to establish regulations for the keeping of dogs and the control of animals in the City of Everett. The definitions of all words and terms used herein shall be as set forth in M.G.L. c. 140, §§ 136A to 137A, unless the context requires otherwise:

"Adoption" means the delivery of a cat or dog to a person 18 years of age or older for the purpose of taking care of the dog or cat as a pet.

"Animal control officer" means an appointed officer authorized to enforce M.G.L. c. 140, §§ 136A to 174E, inclusive.

"Attack" means aggressive physical contact initiated by an animal.

"Commercial boarding or training kennel" means an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under M.G.L. c. 129, § 39A, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others.

"Commercial breeder kennel" means an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

"Commissioner" means the Commissioner of Agricultural Resources.

"Dangerous dog" means a dog that either: (1) without justification, attacks a person or domestic animal causing physical injury or death; or (2) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

"Department" means the Department of Agricultural Resources.

"Domestic animal" means an animal designated as domestic by regulations promulgated by the Department of Fish and Game.

"Domestic charitable corporation kennel" means a facility operated, owned or maintained by a domestic charitable corporation registered with the Department or an animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare,

protection and humane treatment of animals, including a veterinary hospital or clinic operated by a licensed veterinarian, which operates consistent with such purposes while providing veterinary treatment and care.

“Euthanize” means to take the life of an animal by the administration of barbiturates in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

“Hearing Authority” means the Chief of Police or the Chief’s designee.

“Keeper” means a person, business, corporation, entity or society, other than the owner, having possession of a dog.

“Kennel” means a pack or collection of dogs on a single premises, including a commercial boarding or training kennel, commercial breeder kennel, domestic charitable corporation kennel, personal kennel or veterinary kennel.

“License period” means the period of time for which a municipal licensing authority prescribes the validity of a dog license, including the date of issuance of the license through the date on which the license expires, inclusive.

“Licensing authority” means the City Clerk.

“Livestock” or “fowl” means a fowl or other animal kept or propagated by the owner for food or as a means of livelihood, deer, elk, cottontail rabbit, northern hare, pheasant, quail, partridge and other birds and quadrupeds determined by the Department of Fisheries, wildlife and environmental law enforcement to be wild and kept by, or under a permit from, the Department in proper houses or suitable enclosed yards; provided, however, that “livestock” or “fowl” shall not include a dog, cat or other pet.

“Nuisance dog” means a dog that: (1) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (2) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one’s quiet and peaceful enjoyment; or (3) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

“Personal kennel” means a pack or collection of more than four dogs, three months old or older, owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the Department, may be sold, traded, bartered or distributed if the transfer is not for profit.

“Research institution” means an institution operated by the United States, the commonwealth or a political subdivision thereof, a school or college of medicine, public health, dentistry, pharmacy, veterinary medicine or agriculture, a medical diagnostic laboratory, a biomedical corporation, or biological laboratory or a hospital or other educational or scientific establishment within the commonwealth above the rank of secondary school which, in connection with any of the activities thereof, investigates or provides instruction relative to the structure or function of living organisms or to the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

“Shelter” means a public animal control facility or other facility which is operated by an organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

“Veterinary kennel” means a veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provided, however, that “veterinary kennel” shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care. (C0220-14)

Section 3-2 Restraint of dogs (leash law).
The owner, keeper, or person otherwise in control of a dog shall not suffer or allow it to run at large in any of the streets or public places in the City, or upon the premises of any person other than the owner or keeper, unless the owner or occupant of such premises grants permission. Under no circumstances shall a dog, even on a leash, be on private property of another, unless specific permission has been granted. No dog shall be permitted in any public street or place within the City unless it is effectively restrained by a chain or leash not exceeding eight feet in length. (C0220-14)

Section 3-3 Impoundment.
Included within his/her authority to impound a dog, the Animal Control Officer has the authority to impound a dog found running at large in violation of Section 3-2. The Animal Control Officer, upon apprehending any dog, shall make a complete registry, entering the breed, color and sex of such dog, its license number, and the name and address of the owner, if known. If the owner of an impounded dog is known, such owner shall be given notice of the impounding. Such owner may reclaim the dog upon payment of a $25.00 administrative fee, together with any unpaid license fees, late fees, and fines, as well as the reasonable costs incurred by the City for impounding and maintaining the dog. (C0220-14)

Section 3-4 Removal and proper disposal of dog feces.
The owner, keeper or person otherwise in control of a dog shall immediately pick up and properly dispose of any feces left by such dog on any street, sidewalk, or other public area, or on any private property that is not owned or occupied by such person. Any person who takes a dog onto a street, sidewalk, or other public place shall carry a container, tool, implement or other device to be used for picking up and containing dog feces and the person shall dispose of said dog feces in a designated receptacle or otherwise properly. The provisions of this section shall not apply to a person who employs a “service dog” as defined by the Americans with Disabilities Act or regulations promulgated thereunder. (C0220-14)

Section 3-5 Prohibited behavior.
The owner, keeper, or person otherwise in control of a dog shall not cause or permit a dog:

(a) To be unrestrained as required by Section 3-2;

(b) To be unlicensed when a license is required by law.

(c) To be without current license and rabies vaccination tags when off the owner's property.

(d) To bite, physically injure, assault or threaten any person, without legally recognized justification or provocation.

(e) To bite or physically injure any domestic animal, without legally recognized justification or provocation.

(f) To chase any motorist, bicyclist, or pedestrian on any public way, street, or sidewalk or in any public place.

(g) To be off the property where the dog resides, if subject to a confinement order.

(h) To be off the property where the dog resides, unmuzzled, if subject to a muzzle order.

(i) To disturb the peace and quiet enjoyment of any residential neighborhood by continuous or repeated barking, yelping, howling, or whining, without legal justification.

(j) To be present on school or cemetery property. (C0220-14)

Section 3-6 Confinement or muzzling.
The Chief of Police or his designee may order a dog confined to the premises where it resides or to other premises or to be muzzled when off said premises if he finds, after a hearing, that the dog has:

(a) Bitten, physically injured or assaulted any person, without legally recognized justification or provocation.

(b) Bitten or physically injured any domestic animal, without legally recognized justification or provocation.

(c) Chased any motorist, bicyclist or pedestrian on any public way, street, or sidewalk or in any public place on at least two occasions.

Said order may be in addition to or in lieu of any fine authorized by Section 3-7. Nothing in this section shall preclude the Chief of Police from utilizing the procedure contained in M.G.L. c. 140, § 57, as amended by Chapter 193 of the Legislative Acts of 2012, to determine that a dog is a nuisance dog or a dangerous dog and from employing one or another of the remedies specified in that statute. (C0220-14)

Section 3-7 Penalties and enforcement.
The owner, keeper and/or person otherwise in control of a dog shall be subject to a fine for each

violation of this title as follows:

(a) For a violation of Section 3-5(d) or (e):

(1) First offense: $100.00.

(2) Second offense: $200.00.

(3) Third and subsequent offense: $500.00.

(b) For all other violations of Section 3-5:

(1) First offense: $50.00.

(2) Second offense: $100.00.

(3) Third and subsequent offense: $150.00.

(c) For a violation of Section 3-4:

(1) First offense in any calendar year: $50.00.

(2) Second offense in any calendar year: $100.00.

(3) Third and subsequent offense in a a calendar year: $150.00.

In the case of a continuing offense, each day shall constitute a separate violation. (C0220-14)

Section 3-8 Unpaid tickets – Municipal charges lien.
The ACO shall maintain a record of all tickets issued which remain unpaid, and submit a quarterly report thereof to the Treasurer/Collector for inclusion in the list of municipal charges liens in the event the liable party owns real property in the City of Everett. (C0220-14)

Section 3-9 Nonwaiver of statutory remedies.
The provisions of this title are intended to be in addition to and not in lieu of those contained in M.G.L. c. 140, § 136A, et seq., as amended by Chapter 193 of the Legislative Acts of 2012; nothing contained in this title shall deprive the City from employing the remedies provided in those sections, including but not limited to disposition of a dog found to be a dangerous dog or nuisance dog, as provided in M.G.L. c. 140, § 157, as amended.

To the maximum extent possible, the provisions of this title shall be deemed to be consistent with and/or supplemental to those contained in M.G.L. c. 140, as provided in §§ 173 and 173A, as amended. (C0220-14)

Section 3-10 License period.
Any person owning, harboring or having custody (keeper) or control of a dog shall license said dog annually for the period beginning January 1st of each year. Renewal of licenses must be obtained by March 15th of the following year. If a dog remains unlicensed after March 15th, the owner shall be fined the sum of $5.00 in addition to the original license fee. (C0220-14)

Section 3-11 License required – Rabies vaccination.
The owner or keeper of a dog six months old or over shall cause it to be registered, numbered, described and licensed with the City Clerk. Proof of rabies vaccination shall be shown at the time of issuing the license. (C0220-14)

Section 3-12 License fees.
Fees for licenses shall, except as otherwise provided, be as follows:

(a) The fee for every dog license shall be:

(1) Ten dollars for every spayed or neutered dog.

(2) Fifteen dollars for every intact (unspayed or unneutered) dog.

There shall be no licensing fee for "service dogs" as defined by the Americans with Disabilities Act or regulations promulgated thereunder. Proof of spaying or neutering shall be shown at the time of licensing. (C0220-14)

Section 3-13 Identification tag required.
(a) Every owner issued a license in accordance with the provisions of M.G.L. c. 140, § 137, for a dog owned or kept within the City will also receive an identification tag from the City Clerk's office.

(b) The identification tag shall be a durable tag stamped with an identifying number and of a particular color to signify the specific year of issuance.

(c) Tags will be so designed that they may conveniently be fastened to the dog's collar or harness.

(d) Dogs must wear identification tags at all times when the animal is off the premises of the owner.

(e) The City Clerk shall maintain a record of the identifying numbers and shall make this record available to the public.

(f) The charge for replacing lost dog tags shall be $10.00. (C0220-14)

Section 3-14 Kennel licenses – Fees.
The fee for each kennel license shall be as follows:

(a) Fifty dollars for kennels with four dogs or less;

(b) One hundred dollars for kennels with five to 10 dogs;

(c) Two hundred dollars for kennels with 11 dogs or more, but not more than 25 dogs;

(d) Three hundred fifty dollars for kennels with 26 dogs or more. (C0220-14)

Section 3-15 Kennel inspections.
Regular kennel inspections shall be conducted no less than twice each year by the Animal Control

Officer. All such inspection records shall be kept on file at the Everett Police Department. (C0220-14)

Section 3-16 Collection and disposition of fees.
The City Clerk shall issue dog licenses and tags and the appropriate fees shall be deposited accordingly. (C0220-14)

Section 3-17 Adoption requirements and conditions/disposition.
(a) A dog which has been kept by the Animal Control Officer or its agent or designee for 10 days and remains unclaimed shall become available for adoption. A dog adopted from a pound or shelter may be sold for not less than $25.00. Monies so received shall be paid forthwith to the Treasurer/Collector. A condition of sale, before delivery of any dog so sold, shall require the purchaser to license the dog and certify in writing the intention to spay or neuter the animal within 90 days.

(b) Dogs not claimed by their owners within 10 days, or adopted, shall be turned over to the shelter to provide services as they see fit. If the shelter determines that the dog must be disposed of, it shall do so in a manner deemed acceptable by the American Veterinary Medical Association Guidelines on Euthanasia.

(c) No animal impounded by the City of Everett shall be sold or given away for the purpose of experimentation or vivisection. (C0220-14)

Section 3-18 Penalty and enforcement.
The Police Chief and his designee, including the Animal Control Officer, and any Everett Police Officer shall have authority to enforce the provisions of this title. Any alleged violation of this chapter may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with Section 1-8. (C0220-14)

Section 3-19 Animal care standards.
(a) Owners shall provide each of their animals with sufficient good and wholesome food and water, proper and sanitary shelter, protection from the weather, veterinary care when needed to prevent suffering, and otherwise humane care and treatment.

(b) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.

(c) No person shall keep or place an animal in a location that would cause an unreasonable risk of injury or death to the animal.

(1) Leaving an animal unattended in a stationary or parked car without proper ventilation shall be prima facie evidence of keeping an animal in a location that causes an unreasonable risk of injury or death. The Animal Control Officer, and any Everett police officer, may use reasonable force to remove the animal from the vehicle, including, but not limited to, breaking the windows of the vehicle.

(d) No person shall cause, instigate, or permit any animal to fight, combat, or otherwise cause violence with another animal or a human.

(e) Where, in the opinion of an Animal Control Officer, any violation of any portion of this chapter regarding the safety or health of an animal places said animal at imminent risk of harm, the Animal Control Officer may immediately remove and impound the animal for its own protection.

(f) Violations.

(1) Any person who violates this section shall:

a. For a first violation: be issued a written warning, or punished by a fine of not more than $50.00;

b. For a second violation: be punished by a fine of not more than $100.00;

c. For a third or subsequent violation: be punished by a fine of not more than $300.00, and the affected animal shall be impounded. (C0468-16)

Sections 3-20 – 3-29

Reserved.

ARTICLE II. MISCELLANEOUS ANIMAL REGULATIONS

Section 3-30 Feeding or baiting of migratory waterfowl.

(a) No person, except the Director of the Division of Fisheries and Wildlife, or his agent or designee, as authorized pursuant to M.G.L. c. 131, shall feed or bait any waterfowl or of the family of Anatidae (including, but not restricted to, ducks, geese and swans) at any place within the City of Everett. As used in this subsection, “feeding” and “baiting” shall mean placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

(b) Nothing in this chapter shall be construed to limit the feeding of domesticated waterfowl, as defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in M.G.L. c. 128, § 1A, on property owned or leased by him, or the feeding of waterfowl or other birds by propagators licensed under M.G.L. c. 131, § 23, when such waterfowl or other birds are confined in such a manner as may be required pursuant to said § 23 and any rules and regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licenses of waterfowl lawfully kept as a pet by that person.

(c) Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife, or his agent or designee, may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by

such means as he deems necessary and expedient, but such means shall include the immediate notification of the City Council thereof by first class mail. (C0220-14)

Section 3-31 Penalty and enforcement.

(a) Unless otherwise stated, any person who violates any provision of this chapter shall be subject to a fine of $300.00 in accordance with Section 1-8.

(b) The Police Chief and his designee, including the Animal Control Officer, or any Everett Police Officer shall have authority to enforce the provisions of this article. Any alleged violation of this chapter may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c. 40, § 21D. (C0220-14)

Section 3-32 Live fowl, farm animals.

No person shall keep any live fowl or other farm animals, except in accordance with this chapter. (C0220-14)

Section 3-33 Keeping of hens/poultry.

(a) Purpose. The purpose of this section is to regulate the keeping of hens for the purposes of pets, home egg production, gardening, or similar purposes. This section details the obligations of the hen keeper so as to prevent a nuisance to surrounding lots or any public health concerns, as well as the permit issuing process.

(b) Definitions.

(1) “Hen” means a female chicken. “Chicken” may also be used to refer to hens.

(2) “Henhouse” or “coop” means a structure designed to house chickens.

(3) “Pen” or “run” means a completely enclosed outdoor area designed to allow chickens access to the outdoors while providing protection from predators.

(4) “Predator” means any creature that would seek to harm or consume chickens.

(5) “Pests” means any unwanted animal that would seek access to chicken feed, such as mice or rats.

(c) Nuisance Control.

(1) Noise.

a. No roosters (male chickens) are permitted.

b. The number of hens shall be limited to six.

c. Perceptible noise from chickens at the property boundary must conform to all existing noise ordinances.

(2) Odor.

a. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

b. If possible, waste must be composted with carbonaceous material such as hay, bedding, or leaves. If the weather is too cold, or composting is otherwise not possible, waste must be stored in a sealed container until disposal.

c. Weekly cleaning of henhouses is required, more frequent cleanings may be required as needed to prevent odor.

d. The henhouse and attached pen must conform to all relevant property setbacks for accessory structures as specified in Appendix A, Zoning.

(3) Other. All chickens shall be confined to the permit holder's property at all times to prevent wandering and straying onto other properties.

(d) Predator and Pest Control.

(1) Chicken feed must be stored securely in a rodent-proof container.

(2) Chicken feed left over from feeding may not remain past dusk in an area accessible to rodents or other pests.

(3) Henhouse construction.

a. Henhouse and attached pen must be constructed securely so as to exclude predators.

b. The pen must be completely enclosed, including aviary netting or other predator-proof material across the top of the pen.

c. Henhouse and food sources must be constructed and stored so as to exclude pests.

d. Necessary measures must be taken to prevent a buildup of pest or rodent populations due to the presence of hens on the property.

(e) Health and Disease Concerns.

(1) Hens must be enclosed and segregated from wild migratory fowl. They may only be allowed out of the enclosure into a securely fenced area when supervised.

(2) All henhouses shall be located not less than 200 feet from the high water mark of any known source of drinking water supply or any tributary thereof, and not less than 50 feet from any well.

(3) The Board of Health or its agent may order the removal of the chickens upon a determination that the chickens pose a health risk.

(4) Chickens may not be slaughtered on a residential property within the border of the City of Everett.

(5) If a chicken dies, it must be disposed of promptly in a sanitary manner.

(f) Humane Treatment.

(1) Chickens must be treated in a humane manner at all times, including access to fresh food, water and protection from the elements as needed.

(2) Chickens shall not be subject to debeaking or forced moulting.

(3) The henhouse must have a minimum interior floor surface of at least two square feet per bird.

(4) A pen area is required and must have a minimum ground surface of at least five square feet per bird.

(g) Regulation and Permit Process.

(1) No person shall keep hens within the limits of the City of Everett, in any building, or on any premises of which he is the owner, lessee, tenant or occupant, without first obtaining an annual permit from the Board of Health.

(2) In order to receive a permit the following must be completed:

a. A completed application form provided by the Board of Health;

b. A submitted plan drawn to scale which includes the following information: size of entire lot with existing structures as well as the henhouse and pen, including fences; distance of henhouse and pen from all abutters;

c. A submitted written maintenance plan describing cleaning schedule, pest and predator control measures, and nuisance prevention measures;

d. Verification that all abutters have been notified, not more than 30 but no less than 14 days in advance of the hearing before the Board or its agent, of the applicant's intent. Such verification shall be in the form of a signed letter or receipt from the U.S. Post Office that a certified letter has been received by each abutter;

e. If the property where the hens are to be located is owned by multiple owners, written statements signed by all property owners granting permission.

(3) Action by Health Department on Initial Permit.

a. Upon receipt of a completed application as defined above, the Board or its agent shall inspect the property;

b. The Board or its agent shall provide a hearing for the applicant to speak regarding

their application, and for abutters to express any concerns, questions, support or opposition to the application. The Board or its agent may require the applicant to furnish additional information needed to make a determination whether to grant the permit;

c. The Board or its agent(s) shall act on the completed application. Notice of the Board's or its agent(s)' decision shall be mailed to the applicant within seven working days of the decision and will include any conditions imposed by the Board or its agent(s);

d. If the permit is issued, it shall be issued to the owner of the property or the tenant of the property with the written permission of the property owners. If permission from the property owners is rescinded, the permit shall be valid until the end of its annual renewal period; and

e. The issuance of such permit does not in any way relieve the permitee of the necessity to comply with other laws and regulations concerning zoning and construction. A henhouse and attached pen is considered an accessory structure similar to a greenhouse for zoning purposes.

(4) An initial inspection fee or an annual renewal fee for a permit shall be set by the Board of Health. The appropriate fee shall be paid at the time the application is submitted for review. The fee shall not exceed the expected cost of processing the application.

(5) Fines may be charged for reinspection or violations of this section, to cover the cost of any personnel time or expense. The amount of any fines may be set by the Board of Health; the amount of such fines shall be publicly known in a manner that is customary and consistent with other Board of Health processes.

(6) Any violation of the provisions of this section or of the permit shall be grounds for an order from a Code Enforcement Officer to revoke the permit, and remove the chickens and the chicken-related structures.

(h) Severability. The provisions of this section are severable; and if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (C0220-14)

Section 3-30 Feeding or baiting of migratory waterfowl.

(a) No person, except the Director of the Division of Fisheries and Wildlife, or his agent or designee, as authorized pursuant to M.G.L. c. 131, shall feed or bait any waterfowl or of the family of Anatidae (including, but not restricted to, ducks, geese and swans) at any place within the City of Everett. As used in this subsection, "feeding" and "baiting" shall mean placing, exposing, depositing, distributing, or scattering, directly or indirectly, of shelled, shucked, or unshucked corn, wheat, or other grain, bread, salt, or any other feed or nutritive substances, in any manner or form, so as to constitute for such birds a lure, attraction, or enticement to, on, or over any such areas where such feed items have been placed, exposed, deposited, distributed, or scattered.

(b) Nothing in this chapter shall be construed to limit the feeding of domesticated waterfowl, as

defined by the Division of Marine Fisheries and Wildlife, by a farmer as defined in M.G.L. c. 128, § 1A, on property owned or leased by him, or the feeding of waterfowl or other birds by propagators licensed under M.G.L. c. 131, § 23, when such waterfowl or other birds are confined in such a manner as may be required pursuant to said § 23 and any rules and regulations issued under authority thereof; or the feeding by any person or his agents, invitees or licenses of waterfowl lawfully kept as a pet by that person.

(c) Notwithstanding any of the above, the Director of the Division of Fisheries and Wildlife, or his agent or designee, may authorize the emergency feeding of waterfowl and other birds when, in his opinion, such action is necessary in order to alleviate undue losses and suffering of such birds due to unusual weather conditions and other circumstances. The Director may authorize such action by such means as he deems necessary and expedient, but such means shall include the immediate notification of the City Council thereof by first class mail. (C0220-14)

Section 3-31 Penalty and enforcement.

(a) Unless otherwise stated, any person who violates any provision of this chapter shall be subject to a fine of $300.00 in accordance with Section 1-8.

(b) The Police Chief and his designee, including the Animal Control Officer, or any Everett Police Officer shall have authority to enforce the provisions of this article. Any alleged violation of this chapter may, in the sole discretion of the enforcing agent, be made the subject matter of noncriminal disposition proceedings commenced by such agent in accordance with M.G.L. c. 40, § 21D. (C0220-14)

Section 3-32 Live fowl, farm animals.

No person shall keep any live fowl or other farm animals, except in accordance with this chapter. (C0220-14)

Section 3-33 Keeping of hens/poultry.

(a) Purpose. The purpose of this section is to regulate the keeping of hens for the purposes of pets, home egg production, gardening, or similar purposes. This section details the obligations of the hen keeper so as to prevent a nuisance to surrounding lots or any public health concerns, as well as the permit issuing process.

(b) Definitions.

(1) “Hen” means a female chicken. “Chicken” may also be used to refer to hens.

(2) “Henhouse” or “coop” means a structure designed to house chickens.

(3) “Pen” or “run” means a completely enclosed outdoor area designed to allow chickens access to the outdoors while providing protection from predators.

(4) “Predator” means any creature that would seek to harm or consume chickens.

(5) “Pests” means any unwanted animal that would seek access to chicken feed, such as mice or rats.

(c) Nuisance Control.

(1) Noise.

a. No roosters (male chickens) are permitted.

b. The number of hens shall be limited to six.

c. Perceptible noise from chickens at the property boundary must conform to all existing noise ordinances.

(2) Odor.

a. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.

b. If possible, waste must be composted with carbonaceous material such as hay, bedding, or leaves. If the weather is too cold, or composting is otherwise not possible, waste must be stored in a sealed container until disposal.

c. Weekly cleaning of henhouses is required, more frequent cleanings may be required as needed to prevent odor.

d. The henhouse and attached pen must conform to all relevant property setbacks for accessory structures as specified in Appendix A, Zoning.

(3) Other. All chickens shall be confined to the permit holder's property at all times to prevent wandering and straying onto other properties.

(d) Predator and Pest Control.

(1) Chicken feed must be stored securely in a rodent-proof container.

(2) Chicken feed left over from feeding may not remain past dusk in an area accessible to rodents or other pests.

(3) Henhouse construction.

a. Henhouse and attached pen must be constructed securely so as to exclude predators.

b. The pen must be completely enclosed, including aviary netting or other predator-proof material across the top of the pen.

c. Henhouse and food sources must be constructed and stored so as to exclude pests.

d. Necessary measures must be taken to prevent a buildup of pest or rodent populations due to the presence of hens on the property.

(e) Health and Disease Concerns.

(1) Hens must be enclosed and segregated from wild migratory fowl. They may only be allowed out of the enclosure into a securely fenced area when supervised.

(2) All henhouses shall be located not less than 200 feet from the high water mark of any known source of drinking water supply or any tributary thereof, and not less than 50 feet from any well.

(3) The Board of Health or its agent may order the removal of the chickens upon a determination that the chickens pose a health risk.

(4) Chickens may not be slaughtered on a residential property within the border of the City of Everett.

(5) If a chicken dies, it must be disposed of promptly in a sanitary manner.

(f) Humane Treatment.

(1) Chickens must be treated in a humane manner at all times, including access to fresh food, water and protection from the elements as needed.

(2) Chickens shall not be subject to debeaking or forced moulting.

(3) The henhouse must have a minimum interior floor surface of at least two square feet per bird.

(4) A pen area is required and must have a minimum ground surface of at least five square feet per bird.

(g) Regulation and Permit Process.

(1) No person shall keep hens within the limits of the City of Everett, in any building, or on any premises of which he is the owner, lessee, tenant or occupant, without first obtaining an annual permit from the Board of Health.

(2) In order to receive a permit the following must be completed:

a. A completed application form provided by the Board of Health;

b. A submitted plan drawn to scale which includes the following information: size of entire lot with existing structures as well as the henhouse and pen, including fences; distance of henhouse and pen from all abutters;

c. A submitted written maintenance plan describing cleaning schedule, pest and predator control measures, and nuisance prevention measures;

d. Verification that all abutters have been notified, not more than 30 but no less than 14 days in advance of the hearing before the Board or its agent, of the applicant's intent.

Such verification shall be in the form of a signed letter or receipt from the U.S. Post Office that a certified letter has been received by each abutter;

e. If the property where the hens are to be located is owned by multiple owners, written statements signed by all property owners granting permission.

(3) Action by Health Department on Initial Permit.

a. Upon receipt of a completed application as defined above, the Board or its agent shall inspect the property;

b. The Board or its agent shall provide a hearing for the applicant to speak regarding their application, and for abutters to express any concerns, questions, support or opposition to the application. The Board or its agent may require the applicant to furnish additional information needed to make a determination whether to grant the permit;

c. The Board or its agent(s) shall act on the completed application. Notice of the Board's or its agent(s)' decision shall be mailed to the applicant within seven working days of the decision and will include any conditions imposed by the Board or its agent(s);

d. If the permit is issued, it shall be issued to the owner of the property or the tenant of the property with the written permission of the property owners. If permission from the property owners is rescinded, the permit shall be valid until the end of its annual renewal period; and

e. The issuance of such permit does not in any way relieve the permitee of the necessity to comply with other laws and regulations concerning zoning and construction. A henhouse and attached pen is considered an accessory structure similar to a greenhouse for zoning purposes.

(4) An initial inspection fee or an annual renewal fee for a permit shall be set by the Board of Health. The appropriate fee shall be paid at the time the application is submitted for review. The fee shall not exceed the expected cost of processing the application.

(5) Fines may be charged for reinspection or violations of this section, to cover the cost of any personnel time or expense. The amount of any fines may be set by the Board of Health; the amount of such fines shall be publicly known in a manner that is customary and consistent with other Board of Health processes.

(6) Any violation of the provisions of this section or of the permit shall be grounds for an order from a Code Enforcement Officer to revoke the permit, and remove the chickens and the chicken-related structures.

(h) Severability. The provisions of this section are severable; and if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions. (C0220-14)

Chapter 4.
BUILDINGS AND BUILDING REGULATIONS*

ARTICLE I. IN GENERAL

Section 4-1 Building permit fee schedules.

(a) In accordance with the provisions of the ordinances of the city and the State Building Code, no permit shall be issued by the inspector of buildings or the inspector of plumbing until the required fee has been paid to the city collector or building department or other authorized city agency in accordance with the fee schedules, which schedules are on file in the city clerk's office.

(b) At his sole discretion, the inspector of buildings may require that cost computations verified by a registered architect or registered professional engineer (or other person satisfactory to the inspector of buildings) be submitted to substantiate disputed estimates. (Ord. of 4-21-81; Ord. of 8-17-87; Ord. of 12-21-87)

Section 4-2 Enclosures for private swimming pools.

(a) Every private swimming pool, as defined in the Massachusetts State Building Code, shall be completely surrounded at all times, whether or not the same be filled with water, by a fence or wall not less than five (5) feet in height, except that fences or walls in existence at the time of the effective date of the ordinance from which this section derives shall be deemed to satisfy this requirement if they are not less than four (4) feet in height. Every such fence or wall shall be so constructed as not to have any openings, holes, gaps larger than four (4) inches except for doors and gates and except for picket fences in which case, the gap between pickets shall not exceed four (4) inches. Every such fence, wall, gate or door having gaps or holes shall be covered on the inside with canvas or other similar substance so as to make the pool impervious to view from outside the fence. A building may be used as part of such enclosure. Elevated platforms around above-ground constructed pools equipped with steps and railings shall not be deemed a satisfactory fence enclosure as required by this section.

(b) All gates or doors opening through such enclosure shall be not less than the same height as the fence or wall and shall be equipped with a self-closing, self-latching device located at least four (4) feet above the underlying ground and inaccessible from the outside to small children. Every gate or door shall be kept locked at all times when pool is unoccupied and/or not in use. All such gates or doors shall reach to the ground level leaving only sufficient space for the opening and closing of same. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 18)

Section 4-3 Everett Residents Construction Employment Ordinance.

(a) Purpose. Everett residents should be part of and benefit from improvements in the City of Everett, private and specifically those public projects including but not limited to residential, institutional and commercial construction, which are funded by public funds. Therefore, it is appropriate for the City of Everett to make certain that each development constructed with public funds as defined herein, includes employment opportunities for Everett residents through compliance with this Ordinance entitled the Everett Resident Construction Employment Ordinance.

(b) Definitions

(1) Bona fide Everett resident: Any person for whom the principal place of residence is within the City of Everett for at least six (6) months immediately prior to the award, contracting and or permitting of a public construction project.

(2) The principal place of residence shall mean that place where a person normally eats and sleeps and maintains his or her personal effects. Proof of such residence shall be a valid Massachusetts driver's license indicating an Everett address.

(3) Public construction: A project or a contract for construction of a project taking place within the City of Everett which is funded in whole or in part by City, State, County, or Federal or other public funds, or by grant funds administered by the City or which in accordance with a Federal, State or other grant. The City expends or administers or a contract to which the City is a signatory.

(4) Contractor: Shall mean all persons, corporations, agencies, forms businesses, developers, subcontractors, for projects defined herein as "Public Construction".

(5) Bidding Authority: City department or agency assigned or directly responsible for the bidding and or project management of public construction.

(6) Everett Residents Employment Certification Form: The contractor with and all bids for public construction must submit this form. Such form may be from time to time amended by Monitoring Committee to suit the purpose and intent of this ordinance.

(7) Everett Residents Employee Reporting form: The form submitted by the contractor within twenty-one days of acceptance of the contractor as lowest bidder. Such list shall contain Everett Residents that have been contacted and confirmed to be employed by the contractor. Such form may be from time to time amended by Monitoring Committee to suit the purpose and intent of this ordinance.

(8) Monitoring Committee Decision on Compliance with this Ordinance: The form used by the Monitoring Committee to render decisions on submittals of the Everett Resident Employee Reporting form submitted by the bidding authority. Such form may be from time to time amended by Monitoring Committee to suit the purpose and intent of this ordinance.

(9) DLI List: Shall mean the most recent Commonwealth of Massachusetts Department of Labor and Industries for minimum wage rates under the prevailing wage laws as determined by MGL Chapter 149, sections 26 to 27D.

(10) Everett Residents Employment Monitoring Committee: Herein known as Monitoring Committee. The Everett Residents Construction Employment Ordinance, its enforcement, and compliance with its requirements shall be monitored by the Everett Residents Employment Monitoring Committee.

a. Such committee shall be comprised of five (5) individuals including the following and each shall serve at the discretion of his or her appointing authority:

1. Two (2) designees of the city council president;

2. Two (2) designees of the mayor;

3. One (1) designee of the local building trades council. (A0173-12)

(c) Policy. On any public construction project, as defined herein, the worker hours on a craft by craft basis shall be performed as follows:

(1) At least thirty-five percent (35%) of the total employee man hours per trade shall be performed by bona fide Everett residents, five percent (5%) of which shall be performed by apprentices indentured to a bona fide apprenticeship program approved by the Commonwealth of Massachusetts.

(2) At least ten percent (10%) of the total employee man hours shall be performed by minorities qualified by craft.

(3) At least five percent (5%) of the total employee man hours worked shall be performed by women qualified by craft.

(d) Monitoring Committee Responsibility

(1) Such committee shall meet on a bi-weekly basis, or as needed and shall review and monitor all information and documentation provided by developers to establish compliance with said ordinance.

(2) Upon request, all developers shall submit weekly workforce reports listing the following:

a. name of each employee,

b. residential address of each employee and length of residence,

c. craft of each employee,

d. job category of each employee,

e. hours worked of each employee,

f. hourly wage of each employee, and

g. company for which each employee is employed.

(3) If through such monitoring, it is determined that one or more developers are not complying with said ordinance, the committee shall immediately request the Building Inspector and the bidding authority, shall take one or more of the following actions:

a. Assessment of a fine of $300.00 per day of violation, or the maximum amount allowed by law whichever is less, against the developer who violates this ordinances, to be paid within thirty (30) days of such assessment.

b. Withholding of payment due under the contract or subcontract until compliance is obtained.

c. Liquidated damages payable to the city in the amount of 5% of the value of the contract.

d. Revocation of all building permits pertaining to such development until violations have been eliminated. The sole exception to the implementation of such enforcement procedures is the determination and approval of the Monitoring Committee, as defined in section (e) that compliance cannot be obtained because of high local construction employment levels of Everett and Everett residents being technically unavailable persons and that therefore, a waiver from compliance should be allowed.

(e) Compliance Waiver. In the event of high local construction employment levels of qualified Everett residents and documented inability of developers, contractors and subcontractors to hire local employees because of such high local construction employment levels, compliance with the provisions of this ordinance may be waived in whole or in part, on a case by case basis, through a determination made by the Monitoring Committee, as defined in Section (d) that high local employment levels prohibit the developer, contractors and subcontractors from hiring local area employees as required. Such documentation shall include evidence of effort conducted by the developer, contractor and subcontractors, which show a high level of effort in attempting to obtain local employees. Such effort shall include local advertising to seek local employees, and solicitation of local companies for contracting purposes.

(f) Monitoring Committee Review

(1) The Monitoring Committee shall review the Everett resident employee reporting form(s) as submitted by the Contractor and Bidding Authority. The Monitoring Committee shall further be responsible for carrying out the review provisions of this ordinance.

(2) The Monitoring Committee shall make decisions as cited below within the following criteria:

a. Ensure that the Contractor has completed the Everett Employee Reporting Form.

b. The information provided must show compliance with the thirty-five percent (35%) requirement cited in Section (c).

c. The Contractor shall have received commitments from Everett residents in accordance with the Everett Resident Employee Reporting Form.

(3) The Monitoring Committee shall file a final decision with the city clerk within fourteen (14) days of receipt of the information as cited above.

a. Such decision shall also be forwarded to the bidding authority and sent registered mail to the Contractors who have been reviewed for compliance.

b. Such decision shall be in the manner of the form titled "Everett Residents Employment Monitoring Committee Decision on Compliance on Compliance with the Everett Residents Construction Ordinance."

(g) Bidding Authority Responsibility

(1) Fourteen days prior to the date of public bidding (including any and all subcontractor bidding) it shall be the responsibility of the bidding authority to serve public notice to the City of Everett that a public construction project is being bid.

a. Such notice shall be for the purpose of informing the Everett residents of employment opportunities in accordance with job classifications (the DLI list) applicable to the project being bid.

(2) Such notice shall be placed in the newspaper of regular circulation fourteen days prior to the bid notice and shall include all project information as required and require the inclusion of the following language at the beginning of such notice:

CITY OF EVERETT

EVERETT RESDIENTS CONSTRUCTION ORDINANCE REGISTRATION OF EVERETT RESIDENTS FOR EMPLOYMENT

In accordance with the Everett Residents Construction Ordinance this is a public notice to request Everett Residents skilled in trades as listed in MGL Chapter 149, Section 26 to 27D amended as applicable to the below project to register their names for consideration of employment for such project. Registration must be made on the appropriate form titled "Everett Resident Public Construction List" at the Everett City Clerk's Office at 484 Broadway, Room 10, Everett.

(3) The Bidding Authority shall include a copy of this ordinance and any and all forms in all copies of the bid specifications for public construction projects as defined herein.

a. It shall be the responsibility of the bidding authority to submit to the City Clerk a copy of the DLI listing, Everett Resident Construction list with the appropriate items completed and the Everett Resident Employee Reporting Form for the lowest bidder.

(h) Administration

(1) It shall be the responsibility of the City Clerk to maintain the Everett Resident Public Construction List on a project by project basis and provide copies of such list to all prospective contractors bidding on public construction.

(2) The City for contacting Everett Residents shall also maintain a running list of all registrants in a database for use.

(3) Upon receipt of such forms from the bidding authority, the City Clerk shall transmit copies to the Monitoring Committee.

(i) Contractor Responsibility

(1) In accordance with this ordinance, the contractor shall be responsible to document that not less than thirty-five percent (35%) of the total employee man hours by craft shall be performed by bona fide Everett residents.

(2) The contractor shall be responsible to document that not less than ten percent (10%) of the total employee man hours shall be performed by minorities qualified by craft.

(3) The contractor shall be responsible to document that not less than five percent (5%) of the total employee man hours shall be performed by women qualified by craft.

(4) The contractor shall be required to submit with all bids for public construction the form titled “Everett Residents Employment Certification” form, which is attached hereto and incorporated herein by reference. It is the responsibility of the contractor to complete such form. Forms will be made available in the bid specifications.

(5) The lowest responsible bidder as determined by the bidding authority shall within 21 days of such determination complete the Everett Resident Employee Reporting Form and submit the form to the bidding authority.

(6) The contractor may submit with the Everett Resident Employee Reporting Form a request for waiver from Section (c) herein. Such waiver shall be based on the fact that after review of sufficient data, a pool of labor does not exist.

(7) Failure of the contractor to submit such forms completed with the bid or after determination of lowest bidder shall be sufficient reason for the bidding authority, upon the recommendation of the Monitoring Committee, to not accept such bid.

(j) Severability

(1) Where this law and any selection of employees thereto conflicts with other laws relating to affirmative action hiring requirements as set forth by Federal, State or Local Laws, those laws shall supersede this chapter.

(2) In the event that any section of this ordinance is deemed illegal, unenforceable or unconstitutional, then the remaining sections shall remain in full force and effect.

Section 4-4 Stretch Energy Code.
(C0205-14)

(a) Definitions

(1) International Energy Conservation Code (IECC): The International Energy Conservation Code (IECC) is a building energy code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency, and is

updated on a three-year cycle. The baseline energy conservation requirements of the Massachusetts Building Code are the IECC with Massachusetts amendments, as approved by the Board of Building Regulations and Standards.

(2) Stretch Energy Code: The Stretch Energy Code is a Massachusetts building code based on further amendments to the International Energy Conservation Code (IECC) to improve the energy efficiency of buildings built to this code. The Stretch Energy Code was codified by the Board of Building Regulations and Standards as an appendix, 780 CMR Appendix 115.AA, to the 8th edition Massachusetts Building Code. For the purposes of this definition, the Stretch Energy Code shall include any future editions of, amendments to or modifications of said appendix.

(b) Purpose. The purpose of the Stretch Energy Code is to provide a more energy efficient alternative to the Base Energy Code applicable to the relevant sections of the building code for both new construction and existing buildings.

(c) Applicability. The Stretch Energy Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 51, as applicable.

(d) Stretch Energy Code

(1) The Stretch Energy Code is incorporated, by reference, into this chapter of these Revised Ordinances.

(2) The Stretch Energy Code shall be enforceable by the inspector of buildings.

Section 4-5--4-20 Reserved.

ARTICLE II. POLES AND WIRES*

DIVISION 1. GENERALLY

Section 4-21 Petitions for location of poles.
Any petition to the city council for locations for poles, guywires, or other apparatus for the transmission of electricity, shall be accompanied by a written report from the inspector of wires, including therein such recommendations as he may deem necessary. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 5) (Ord. of 11-27-95(1), A0173-12)

Section 4-22 Removal of poles.
Whenever a utility company abandons a pole, it shall remove such pole within sixty (60) days from the installation of a new pole. Whoever willfully neglects or refuses to remove such pole shall be subject to a fine of twenty dollars ($20.00) a day for each day beyond the sixty-day period. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 5A)

Section 4-23 Bonds.
Any person doing any work coming under the provisions of this article or constructing, maintaining or operating a telegraph, shall provide the city with a surety satisfactory to the city council in a

penal sum not less than fifty thousand dollars ($50,000.00). Such bond shall be conditioned to indemnify and save harmless the city against all damage, cost, expense and loss whatsoever to which it may be subjected in consequence of the acts and neglect of such persons, their agents, officers and servants in any manner arising from or growing out of the use and transmission of electricity, the privileges permitted by the city, and the construction, maintenance, operation and the use of lines, wires, cables, conduits, posts, poles, structures, constructions, fixtures and apparatus. The bond shall be also conditioned to fulfill all agreements with the city, all the orders, conditions and obligations imposed by the city council or by chapter 253 of the Acts of 1915, and all obligations and duties required by law, and by this article and every other ordinance, and all additions and amendments relating thereto. A new bond of like import and with new surety may at any time be required by the city, which new bond shall be a strengthening bond, unless the surety on former bonds is expressly released from further liability by vote of the city council. Bonds required by this section shall be filed with the city clerk. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 8) (A0173-12)

Section 4-24 Annual report of overhead and underground wiring systems.
Every person owning, leasing or operating any wires within the city, either overhead or underground, shall annually furnish to the inspector of wires plans or other suitable information providing an accurate record of all additions or alterations to or removals from their overhead or underground wiring systems. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 11)

Section 4-25 Reserved space in all conduits for use of city.
In all conduits constructed under the provisions of chapter 253 of the Special Acts of 1915, and any other general or special law, ordinance or authority, such sufficient and necessary space as shall be determined by the inspector of wires shall be reserved free of expense for the use of the city exclusively for municipal purposes. The city, by its --inspector of wires or his agent, shall be allowed access to such conduits at all times. The city shall be allowed equal facilities and privileges with others using the same conduits in installing, removing and maintaining wires. The extent and location of such space shall be subject to the approval of the inspector of wires. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 13)

Section 4-26 Reports to be filed after installations made.
Whenever installations shall be made under the provisions of chapter 253 of the Special Acts of 1915, any other general or special statute or ordinance or authority to erect and maintain poles, or to construct conduits or other fixtures in the public ways, bridges or grounds, to support or carry lines or wires for the transmission of electricity, the person to whom such permission is granted shall file with the inspector of wires within thirty (30) days from the date of such installations a detailed report of the installations that have been made. Failure to file such report in detail satisfactory to the inspector of wires shall cause such authorization to be null and void. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 14)

Section 4-27 Relocation of conduits where sewers to be enlarged or other public works to be constructed.
In case the city finds it necessary to construct or enlarge sewers or other public works in streets where conduits are laid, which shall require changing the locations of such conduits, such

changing, when required by the city council, shall be at the expense of the company owning the conduits, who shall forthwith carry out the same, but the city council before ordering a given change shall give the company notice and an opportunity to be heard. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 15) (A0173-12)

Section 4-28 Notice prior to making excavations.
Any department of the city, person, or private contractor excavating in any public way, shall before making any excavations notify, in writing, the inspector of wires. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 16)

Section 4-29--4-50 Reserved.

DIVISION 2. INSPECTOR OF WIRES*

Section 4-51 Appointment.
As required by General Laws, chapter 166, section 32, there shall be a wire inspector who shall be appointed by the building inspector. This appointment shall be in accordance with the provisions of General Laws, chapter 31. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 1; Ord. of 11-7-88)

Section 4-52 Qualifications; powers and duties generally.
(a) The wire inspector shall be an electrician licensed under the laws of the Commonwealth. The wire inspector shall be in charge of the wire division within the building department, and in addition to the powers, duties and responsibilities imposed upon the wire inspector by General Laws, chapters 143 and 166, and other general and special statutes, and all rules and regulations made and promulgated pursuant to the provisions of any such statutes, he shall have such additional powers, duties and responsibilities as are established by ordinance.

(b) In accordance with the provisions of chapter 253 of the special Acts of 1915, the wire inspector is hereby designated as the officer who shall have the powers, duties and responsibilities provided by such chapter. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 2; Ord. of 11-7-88)

Section 4-53 Responsibility as to electric wires and wire systems owned by city.
The inspector of wires shall have the responsibility for the construction, maintenance and operation of the fire and police signal systems, and all other electric wires and wire systems owned or under the control of the city. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 3)

Section 4-54 Control of location of street lights; access to buildings.
The location of street lights shall be under the control of the inspector of wires. The inspector of wires shall have access to buildings and places necessary for the purposes set forth in this and section 4-53. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 4)

Section 4-55 Electrical work permit--Required.
All persons doing electrical work in the city shall obtain a permit from the inspector of wires before commencing any work. (Rev. Ords. 1976, Pt. 2, Ch. 12, § 6)

Section 4-56 Same--Fees.

(a) The fee schedule of the Wire Division, determined in accordance with ordinance, shall be paid and is on file in the office of the City Clerk.

(b) Churches and schools below college grade level will be exempt from payment of the fee provided for under this section. (Ord. of 4-4-88(1))

Section 4-57 Same--Validity.
Permits issued under this division are valid for a period of thirty (30) days only from date of issuance. If work is not in progress at expiration date, permits will be voided. A new application and fee will be required. The inspector of wire must be notified by the permittee upon completion of all work. In the case of new homes, notification must be given when fixtures and devices are installed. (Ord. of 4-4-88(1)

ARTICLE III. Responsible General Bidders, Filed Sub-bidders, General Contractors and Filed Subcontractors on Public Construction Projects.

Section 4-58 Purposes.
The city expends substantial municipal funds for public construction projects, a large portion of said money being derived from taxes paid by Everett residents, that accordingly it is in the public interest, health, welfare and safety to ensure that the employees on such projects are paid at the lawfully required wage rates, have been trained in bona fide apprenticeship training programs, have hospitalization and medical coverage, and industrial accident insurance coverage, and are classified according to the law; and further that in light of unemployment in the City of Everett, and its deleterious effects upon the neighborhoods of the City of Everett, and the economic loss to the City of Everett when general bidders, filed sub-bidders, general contractors and filed subcontractors who perform work in connection with the aforesaid public construction projects are not from the Everett area and/or hire workers not from the Everett area, it is in the public interest to require those general bidders, filed sub-bidders, general contractors and filed subcontractors who perform work in connection with the aforesaid public construction projects to comply with the Everett Residents Construction Employment Ordinance (Section 3.5A); and it is found and determined that the requirements of this chapter will serve the public interest, health, welfare and safety as described hereinabove.

Section 4-59 Contractor Qualifications and Sanctions.
(a) Requirement. All bidders and all subcontractors under the bidder for projects subject to M.G.L. C. 149§ 44A(2) shall, as a condition for bidding, agree in writing that they shall comply with the following obligations:

(1) The bidder and all subcontractors under the bidder shall comply with the Everett Residents Construction Employment Ordinance.

(2) The bidder and all subcontractors under the bidder must comply with the obligations established under M.G.L. C. 149 to pay the appropriate lawful prevailing wage rates to their employees.

(3) The bidder and all subcontractors under the bidder must maintain or participate in a

bonafide apprentice training program as defined by C. 23 subsection 11H and 11I for each apprenticeable trade or occupation represented in their workforce that is approved by the Division of Apprentice Training of the Department of Labor and Industries and must abide by the apprentice to journeymen ratio for each trade prescribed therein in the performance of the contract.

(4) The bidder and all subcontractors under the bidder must furnish at their expense, hospitalization and medical benefits for all their employees employed on the project and/or coverage at least comparable in value to the hospitalization and medical benefits provided by the health and welfare plans in the applicable craft recognized by M.G.L., C. 149§ 26 in establishing minimum wage rates.

(5) The bidder and all subcontractors under the bidder must maintain appropriate industrial accident insurance coverage for all the employees employed on the project in accordance with MGL, C. 152.

(6) The bidder and all subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income taxes withholding, M.G.L., C. 149§ 148B.

(b) Weekly Certification. All bidders and all subcontractors under the bidder who are awarded or otherwise obtain contracts on projects subject to M.G.L., C. 149§ 44A(2) shall comply with the obligations in numbered (1) through (6) as set forth in subsection (a) above for the entire duration of their work on the project, and an officer of each such bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

(c) Sanctions

(1) Any bidder or subcontractor under the bidder who fails to comply with any one of obligations 1 through 6 as set forth in subsection (a) above for any period of time shall be, at the sole discretion of the Chief Procurement Officer, subject to one or more of the following sanctions:

a. cessation of work on the project until compliance is obtained;

b. withholding of payment due under any contract or subcontract until compliance is obtained;

c. permanent removal from any further work on the project;

d. liquidated damages payable to the City of Everett in the amount of five percent (5%) of the dollar value of the contract.

(2) In addition to the sanctions outlined above, a general bidder or contractor shall be equally liable for the violations of its contractors with the exception of violations arising from

work performed pursuant to subcontracts that are subject to M.G.L., C. 149, § 44F. Any contractor or subcontractor who had been determined to have violated any of the obligations set forth in Section (a) above shall be barred from performing any work on any future projects for six months for a first violation, for three years for a second violation, and permanently for a third violation.

(d) Exemptions. The provisions of this section shall not apply to construction projects for which the low bid was less than one hundred thousand dollars ($100,000), or to work performed pursuant to subcontracts that are subject to MGL, C. 149, § 44F and that were bid for less than twenty-five thousand dollars ($25,000), or to re-bid for construction projects for which the City of Everett receives fewer than three (3) qualified contract bidders in the original bid.

(e) Savings Clause. If any of the provisions of this ordinance, or the application of such provision to any person or circumstances, shall be enjoined or held to be invalid, the remaining provisions of this ordinance, or the application of such provisions to persons or circumstances, other than that which is enjoined or held invalid shall not be effected thereby. (Ord. of 03-10-03)

Chapter 5.
CEMETERIES AND BURIALS*

Section 5-1 Licensing of undertakers.

(a) The board of health, on or before the first day of May in each year, shall license a suitable number of undertakers, who can read and write the English language, to take charge of the funeral rites preliminary to the interment, removal or cremation of a human body.

(b) Such licenses shall be issued under such terms and upon such conditions as the board of health may prescribe, and may be revoked at any time by the board of health when such terms or conditions or any requirements of law relative thereto have been violated by the undertaker.

(c) An undertaker licensed under this section shall have the right to act thereunder in any city or town in the Commonwealth. (Rev. Ords. 1976, Pt. 2, Ch. 4, § 1)

Cross reference(s)--Board of health, § 10-21 et seq.; licenses and business regulations, Ch. 12.

Section 5-2 Burial permit.

No person shall bury or inter the body of a deceased person without having obtained a permit to do so from the board of health, who shall not grant the same unless it shall have obtained a certificate of the cause of death, signed or approved as required by law. It is hereby made the duty of the board of health to grant such permit unless cause shall appear for refusal. (Rev. Ords. 1976, Pt. 2, Ch. 4, § 2)

State law reference(s)--Burial permits, M.G.L. c. 114, § 45.

Section 5-3 Hours for burial.

No person shall bury or inter any dead body at any time other than between sunrise and sunset, except when ordered by the board of health. (Rev. Ords. 1976, Pt. 2, Ch. 4, § 3)

Section 5-4 Disinterments.

No grave shall be reopened for the burial or disinterment of any dead body unless a removal permit shall have been obtained from the board of health. (Rev. Ords. 1976, Pt. 2, Ch. 4, § 4)

Section 5-5 Notice of death to undertaker.

Upon the death of any person within the city, it shall be the duty of the nearest relative, or of the person in whose house the death may have occurred or any other person who may have first become informed of the event, to cause the same to be made known to an undertaker. (Rev. Ords. 1976, Pt. 2, Ch. 4, § 5)

Chapter 6.
CIVIL DEFENSE*

Section 6-1 Department of civil defense.

(a) There shall be a department of civil defense to be under the direction of a director of civil defense. The department may also be referred to as the civil defense agency.

(b) It shall be the function of the department of civil defense to carry out the duties prescribed by Acts of 1950, chapter 639 and any acts in amendment or in addition to such chapter 639 and such other functions and duties as may be set forth in this chapter or established by ordinance from time to time not inconsistent with the laws of the Commonwealth, namely, to prepare for and carry out all emergency functions, other than functions for which military forces other than the National Guard are primarily responsible, for the purpose of minimizing and repairing injury and damage resulting from disasters caused by attack, sabotage or other hostile action or by fire, flood, earthquake or other natural causes. Such functions shall include specifically, but without limiting the generality of the foregoing, fire-fighting and police services, medical and health services, rescue, engineering and air raid warning services, evacuation of persons from stricken areas, emergency welfare services, communications, radiological, chemical and other special weapons of defense, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions.

(c) The department of civil defense shall be provided with suitable office space, equipment and supplies. (Rev. Ords. 1976, Pt. 2, Ch. 5, §§ 1--3)

Section 6-2 Director.

(a) The director of civil defense shall be appointed by and shall serve at the pleasure of the mayor.

(b) Subject to general control of the mayor, the director of civil defense shall have the direct responsibility for the organization, administration and operation of the civil defense agency.

(c) The director of civil defense shall receive such salary as shall be, from time to time, established by ordinance. (Rev. Ords. 1976, Pt. 2, Ch. 5, §§ 4--6)

Cross reference(s)--Officers and employees, § 2-31 et seq.

Section 6-3 Contracts, obligations authorized.

In the event of a disaster as defined in section 1 of Acts of 1950, chapter 639, the city, acting through the director of civil defense, shall have power to enter into contracts and incur obligations necessary to combat such disaster to protect the health and safety of persons and property, and to provide emergency assistance to the victims of such disaster. Further in the event of such disaster, the director of civil defense is authorized to exercise all the powers set forth in Acts of 1950, chapter 639, pertaining to the performance of public work, making of contracts, incurring obligations, employment of temporary workers, rental of equipment and purchasing of supplies. Such action taken in time of disaster shall be subject to the approval of the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 7)

Cross reference(s)--Contracts generally, § 7-51 et seq.

Section 6-4 Staff authorized.
For the purpose of carrying out the provisions of this chapter, the mayor, or if so delegated by him the director of civil defense, may within the limits of amounts appropriated therefor, appoint and employ such experts, clerks and other employees as the work of the department of civil defense may require and may remove them and in general may make such expenditures within the limits of appropriations and as may be necessary to execute effectively the purposes of Acts of 1950, chapter 639, and of this chapter, and any acts in amendment to or in addition to such law or this chapter. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 9)

Section 6-5 Intergovernmental assistance.
The chief of police, with the approval of the director of civil defense and of the mayor, is authorized to send to the aid of any other city or town in the event of disaster such equipment and personnel of his department as in the judgment of the chief of police shall be advisable for the suppression of riot or other form of violence in such other city or town in the event of a request therefor from the mayor or city manager of such city or selectmen of such town. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 10)

Section 6-6 Acceptance of gifts, grants, loans, etc.
(a) In accordance with the authority referred to in section 15 of Acts of 1950, chapter 639, the city may accept gifts, grants or loans of services, equipment, supplies, materials or funds for the purposes of civil defense from the federal government or any agency or officer thereof or from any person.

(b) The acceptance of such gifts, grants or loans shall be subject to the terms of the offer and the rules and regulations, if any, of the agency or person making such offer. Acceptance of such gifts, grants or loans on behalf of the city shall be made through its city council subject to the approval of the mayor.

(c) Appropriate records shall be kept by the director of civil defense of all matters relating to such gifts, grants or loans. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 11)

Section 6-7 Implementation of governor's actions.
(a) Upon the promulgation of executive orders or of general regulations by the governor of the Commonwealth, or upon a directive by the governor to the mayor or to the director of civil defense or other municipal department officer or employee of the city to carry out the provisions of any such executive order, regulation or directive, the director of civil defense is hereby authorized and directed to take all necessary steps to carry out such executive order, regulation or directive in spite of any municipal ordinance or procedure which may in whole or in part conflict with such executive order, regulation or directive.

(b) All such actions shall be taken and such executive orders or regulations shall be carried out for the purpose of meeting conditions arising from emergency or disasters, without the delay, caused by observance of ordinances or procedures customary in periods of normal life. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 12)

Section 6-8 Filing of orders, regulations.

Upon the receipt of any executive order, general regulation or directive from the governor, as referred to in section 6-8 under the powers conferred upon him by Acts of 1950, chapter 639, the director of civil defense or the officer or employee of the city receiving such order, regulation or directive shall cause copies thereof with all due diligence to be filed with the city clerk, the mayor, the city auditor, the city solicitor, the director of civil defense and the department affected thereby. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 13)

Section 6-9 Utilization of services of other governmental bodies.

In carrying out the purposes of civil defense, the city shall use the services, equipment, supplies and facilities of the departments, officers and agents of the Commonwealth and of the political subdivisions of the Commonwealth to the maximum extent practicable, and all officers, departments, agents and employees of the city shall, to the fullest extent practicable, cooperate and extend their services to the Commonwealth and other civil defense organizations of the Commonwealth upon request to the end that so far as municipal action by the city is concerned the spirit and purposes of Acts 1950, chapter 639, shall be carried out to the fullest extent. (Rev. Ords. 1976, Pt. 2, Ch. 5, § 14)

Chapter 7.
FINANCE AND TAXATION

ARTICLE I. IN GENERAL

Section 7-1 Bills and Accounts.

(a) All bills and accounts of any nature for moneys payable to persons having demands against the city shall first be presented to the administrative board, commission or officer having charge of the department to which the bills and accounts pertain.

(b) Each month the administrative boards, commissions and officers shall examine all bills and accounts pertaining to their department, and have approved bills and accounts recorded in detail on forms prescribed by the city auditor.

(c) Schedules of approved bills and accounts of persons having demands against the city shall be certified by individual officers having charge of the department, by a majority of the full membership of administrative boards and commissions, except that schedules of the school committee and of the trustees of the public libraries need be certified only by the chairman and secretary of the respective boards; schedules of the city council certified by the president of the city council; and schedules of the police department by the chief of police. (A0173-12)

(1) No bills or accounts shall be approved by any administrative board or commission except at a meeting of which all of the members have been notified, and at which a majority of the board or commission are present.

(2) All bills and accounts so approved, together with the certified schedules, shall be filed with the city auditor not later than the eighth day of each month.

(d) The city auditor shall cause a careful examination and verification of all bills and accounts submitted to him by administrative boards, commissions, officers or the city council, and shall present them, subject to his approval, after such examination and verification, to the city council's committee on ways & means. The committee on ways & means shall meet at least once each month for the purpose of examination of bills and accounts submitted to it by the city auditor. If the city auditor, after examination and verification of all bills and accounts submitted to him, shall determine that any bill or account, if further delayed, would cost the city interest charges, he shall immediately, upon verification of their authenticity, approve such bills for payment without the necessity of examination by the committee on ways & means. The city auditor, at a later date, shall submit such bills and accounts to the committee on ways & means for their examination. (C0032-14)

(e) Following examination of bills and accounts, submitted to the committee on ways & means as provided for in (d) above, by a majority of the members of the committee on ways & means, the city auditor shall have a warrant prepared, in prescribed form, authorizing the city treasurer to make payments thereon, subject to the approval of the mayor. (C0032-14)

(f) If the committee on ways & means has doubt concerning any bill or account, it may request an administrative official to appear before the committee, for an explanation of the bill or account. The

bills and accounts examined by the committee on ways & means shall be retained by the city auditor. (C0032-14) (Rev. Ords. 1976, Pt. 2, Ch. 6, §§ 1--6; Ord. of 4-10-89)

Cross reference(s)--Settlement of claims by city solicitor, § 2-49.

Section 7-2 Departmental, pension, and veterans' benefit payrolls.
(a) Departmental, pension, and veterans' benefits payrolls shall be prepared under the direction of and certified by individual officers having charge of the department, and a majority of the full membership of administrative boards and commissions, except that payrolls of the school committee and of the trustees of public libraries need be certified only by the chairman and secretary of the respective boards, payrolls of the city council shall be certified by the president of the city council, and payrolls of the police department shall be prepared under the direction of and be certified by the chief of police. All departmental payrolls certified in accordance with this section shall be prepared in accordance with the provisions of General Laws, chapter 41, section 42. (A0173-12)

(b) The city auditor shall cause a careful examination and verification of all departmental, pension, and veterans' benefit payrolls submitted to him by administrative boards, commissions, officers, or the City Council, and after his approval he shall cause a warrant to be prepared, in prescribed form, authorizing the city treasurer to make payments thereon, subject to the approval of the mayor. The approved warrants for departmental, pension, and veterans' benefit payrolls shall be retained by the city treasurer. (Rev. Ords. 1976, Pt. 2, Ch. 6, §§ 7, 8)

Cross reference(s)--Veterans' services, Ch. 19. State law reference(s)--M.G.L. c.41 § 4l.

Section 7-3 Manner of funding debt; payment of interest.
The funded debt of the city shall be in coupon or registered bonds, notes or certificates of indebtedness, with interest payable semi-annually, and the city treasurer is authorized to issue registered bonds in exchange for coupon bonds and to register the transfer of registered bonds in accordance with chapter 107 of the General Laws, as amended. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 10)

Section 7-4 Loans authorized by city council.
(a) Whenever a loan shall be authorized by the city council, bonds, notes or certificates of indebtedness of the city shall be issued therefor by the city treasurer subject to the approval of the mayor.

(b) All such bonds, notes or certificates of indebtedness shall be signed in the name of and in behalf of the city by the city treasurer and countersigned by the mayor and the city auditor, and shall bear the seal of the city. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 11)

Section 7-5 Operating budgets; annual appropriation order.
(A0300-12)

(a) Definitions. When used in this chapter, the following words, terms and phrases shall have the meanings ascribed by them in this section, except where the context clearly indicates a different

meaning:

(1) Annual appropriation order: An order, recommended by the mayor, that includes all of the appropriations for a fiscal year necessary to adequately fund all of the proposed expenditures for the city departments included in a proposed operating budget.

(2) Fiscal year: As defined in Section 6-1 of the City Charter.

(3) Operating budget: The practical implementation of an annual appropriation order.

(b) An annual appropriation order shall be submitted to the city council as a part of each proposed operating budget package required pursuant to Section 6-3 of the City Charter.

(c) A copy of each proposed operating budget package shall be made available to the general public on the city's web site as soon as it is practical but only after such package has been first made available to the city council.

(d) The city council shall act on an operating budget pursuant to Section 6-4 of the City Charter.

(e) During a fiscal year, no city department shall incur liabilities in excess of the annual appropriations approved for such department. As a result, transfers of appropriations may be required.

Section 7-6 Transfers of funds.
(A0086-14)

(a) Whenever it is deemed necessary by any department of the city to request a transfer of funds, such requests shall be made in writing and addressed to the mayor.

(b) Upon approval of the mayor, all such transfer requests shall be forwarded to the city council for their consideration.

(c) A copy of all such transfer requests shall be delivered to each member of the city council at least seventy-two (72) hours prior to the first formal session of the city council at which such requests will be considered.

(d) When all such transfer requests are received by the city council, they shall additionally include:

(1) The correct designation of the actual accounts from and to which each such transfer is being proposed, including their account numbers.

(2) The current balances of the accounts involved in each such transfer as certified by the city auditor.

(e) The city council shall consider each such transfer request in accordance with the rules of the city council.

Section 7-7 Additional requirements for transfers of appropriated funds.

(A0086-14)

(a) Definitions. When used in this section, the following words, terms and phrases shall have the meanings ascribed by them in this section, except where the context clearly indicates a different meaning:

(1) Interdepartmental transfer: The transfer of an amount in an operating budget approved for a specific department and use in such budget to another department in the same operating budget.

(b) Reasons for the transfer of appropriated funds. The reasons for the transfer of budgeted funds include, but are not limited to:

(1) Avoiding a situation where a department shall incur liabilities in excess of an annual appropriation approved for such department.

(2) Increasing an appropriation included in the annual appropriation order.

(3) Properly allocating funds approved in the annual appropriation order to other funds.

(c) When all such transfer requests are received by the city council, they shall additionally include:

(1) A written statement of approval from the department having control of the appropriation from which each such transfer is proposed to be made that the current appropriation is sufficient to support such transfer of funds and all other expenditures anticipated from that appropriation for the remainder of the fiscal year.

(2) When such transfer is requested from a school department's appropriation to a city department appropriation, a copy of the vote of the school committee approving the amount of such transfer.

(d) Within the last two (2) months of any fiscal year, or during the first fifteen (15) days of the new fiscal year to apply to the previous fiscal year, the city council may only approve interdepartmental transfers that do not exceed, in the aggregate, three percent (3%) of the annual appropriation of the department from which the transfer is being requested.

State law reference -- Transfer of appropriations, MGL c. 44, § 33B.

Section 7-8 Reserve funds.
(A0302-12)

(a) To provide for extraordinary or unforeseen expenditures for a fiscal year and upon recommendation of the mayor, an appropriation for a reserve fund may be submitted for city council approval to be included in the appropriations for such fiscal year.

(b) Such appropriations must not exceed three per cent (3%) of the tax levy for the fiscal year immediately prior to such fiscal year.

(c) Such appropriations must be approved prior to the date when the tax rate is fixed for such fiscal year.

(d) No expenditure shall be made from a reserve fund except by a transfer to some other appropriation or to a new appropriation to be established.

State law reference – Reserve funds for extraordinary expenses, MGL c. 40, § 5A.

Section 7-9 Acceptance of gifts and grants.
(A0303-12)

(a) Any officer or department of the city may accept grants or gifts of funds from the federal government, a charitable foundation, a private corporation, or an individual, or from the commonwealth, a county or municipality or an agency thereof.

(b) Any monetary amounts so received by an officer or department of the city shall be deposited with the city treasurer and held in an appropriate account. Each grant, except for funds received as reimbursements for expenditures previously incurred by the city, must be held in a separate account.

(c) In the case of any grant or gift given for educational purposes, the acceptance of such grant or gift shall require the approval of the school committee.

(d) If the case of any grant or gift given for any other purposes other than educational, the acceptance of such shall require the approval of the mayor and city council.

(e) When a request for the approval of any grant or gifts is submitted to the city council, such requests shall include the following information:

a. A designation of the city officer or city department that shall be responsible for the administration of such gift or city grant.

b. For monetary gifts or grants, the correct designation of the account in which the amount was deposited, including account number.

c. In the case of a grant, a written statement by the city officer or city department that will be responsible for the administration of the grant explaining the terms of the grant and an explanation of how the funds are intended to be expended.

(f) Any gift or grant funds not approved by the appropriate body must be returned to the appropriate party.

(g) Once approved by the appropriate body, such grant or gift may be expended by the officer or department designated to administer such gift or grant without any further appropriation.

State law reference -- Grants and gifts; acceptance and expenditure, MGL c. 44, § 53A.

Section 7-10--7-20 Reserved.

ARTICLE II. BOARD OF ASSESSORS

Section 7-21 Appointment; composition; term of office.
In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the mayor shall appoint a board of assessors consisting of three (3) persons, subject to confirmation or rejection by the city council. One (1) member shall be appointed annually, on or before the first Monday in February, and shall hold office for three (3) years from the first Monday in March of the year of his appointment. A vacancy may be filled for the unexpired term in the same manner as the original appointment. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 12) (Ord. of 6-19-89(1); A0173-12)

Section 7-22 Reserved.

Section 7-23 Organization.
The board of assessors shall organize as provided for in the General Laws, chapter 41, section 24.

(a) The board of assessors shall elect a chairman as soon as practicable after the beginning of each municipal year. A majority of the board of assessors shall constitute a quorum for the transaction of business. They shall appoint a clerk who shall perform such duties as may be required. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 14; Ord. of 11-13-95)

Section 7-24 Duties generally.
The board of assessors shall cause all property and excise taxes to be committed for collection that are required by the city to meet the annual expenditures, and shall perform all other duties as required under General Laws, chapters 59, 60A and 60B. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 15)

Section 7-25 Annual report.
The board of assessors shall render an annual report to the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 16) (A0173-12)

Section 7-26--7-85 Reserved.

ARTICLE III. CITY AUDITOR

Section 7-86 Appointment, term of office, vacancy.
(a) In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the mayor shall, on or before the first Monday in February in every third year, appoint a city auditor, subject to confirmation or rejection by the city council. (A0173-12)

(b) The city auditor shall hold office for three (3) years from the first Monday in March of the year of appointment.

(c) A vacancy shall be filled for the unexpired term in the same manner of the original appointment. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 40; Ord.of 6-26-89(3))

Section 7-87 Powers, duties and responsibilities generally.
In addition to the powers, duties and responsibilities imposed upon the city auditor by the General Laws, chapter 41, sections 48 through 54A; and general and special statutes; the city auditor shall

have such additional powers, duties and responsibilities as are established by ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 41) (A0173-12)

Section 7-88 Books, records to be kept.
The city auditor shall cause a complete set of books to be kept, consistent with the Uniform Municipal Accounting System prescribed by General Laws, chapter 44, section 38. Such records shall also include a detailed record of the city debt, showing the purpose for which it was incurred, maturity date and the rate of interest. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 42)

Section 7-89 Filing of records, reports, etc., of boards, commissions, etc.
(a) All administrative boards, commissions and officers shall keep such records and reports of bills, payrolls and accounts as may be prescribed by the city auditor and in such form as he may determine, consistent with the Uniform Municipal Accounting System prescribed by General Laws, chapter 44, section 38.

(b) The administrative boards, commissions and officers shall furnish to the city auditor such records and reports as may be required by him. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 43)

Section 7-90 Filing of schedule of bills for collection.
All administrative boards, commissions and officers shall file with the city auditor a schedule of bills which are to be committed to the city collector for collection by him. The city collector shall report to the city auditor, in prescribed detail, collections to be credited thereto. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 44)

Section 7-91 Filing of reports of fees, etc., paid to city treasurer by boards, officers, etc.
All boards, officers and departments receiving fees, costs, charges, commissions or other moneys allowed by law for and in behalf of the city shall, upon paying the same to the city treasurer, file with the city auditor an itemized statement of the sources from which such fees or moneys were received, together with the amount thereof. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 45)

Section 7-92 Countersigning bonds, notes and certificates of indebtedness; record to be kept.
The city auditor shall countersign all bonds, notes and certificates of indebtedness issued by the city treasurer, as authorized by the mayor and city council. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 46)

Section 7-93 Custodian of bonds, contracts, and agreements.
The bonds of the city treasurer, city collector, city clerk, assistant city clerk and other administrative officials and subordinate employees and all contracts, or, agreements to which the city may be a party shall be in the custody of the city auditor, unless otherwise specifically provided for by general or special laws, or these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 47) (A0173-12)

Section 7-94 Annual report.
The city auditor shall prepare an annual report which complies with the requirements of the Uniform Municipal Accounting System, as prescribed by the Director of the Bureau of Accounts and shall provide a copy of this report, together with copies of the audited General Purpose Financial

Statements of the City to the Mayor and the City Council. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 48)

Section 7-95 Petition to state for audit of financial accounts.
Whenever the director of accounts of the state department of revenue is unable to provide an audit of the financial accounts of the city as provided by General Laws, chapter 44, section 36, the mayor shall in accordance with the provisions of M. G. L. Chapter 44, Section 42, arrange for an audit acceptable to the Director of Accounts. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 49)

Section 7-96--7-110 Reserved.

ARTICLE IV. CITY TREASURER

Section 7-111 Appointment, term of office, vacancy.
(a) In accordance with the provisions of Sections 2-10 and 3-3 of the Charter, the mayor shall, on or before the first Monday in February in every third year, appoint a city treasurer, subject to confirmation by the city council. (A0173-12)

(b) The city treasurer shall hold office for three (3) years from the first Monday in March of the year of appointment.

(c) A vacancy shall be filled for the unexpired term in the same manner of the original appointment. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 50; Ord. of 3-15-93(2))

Section 7-112 Bond.
The city treasurer shall give a bond annually for the faithful performance of his duties as required by General Laws, chapter 41, section 35. The premium for such bond shall be paid by the city. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 51)

Section 7-113 Powers, duties and responsibilities generally.
In addition to the powers, duties and responsibilities, imposed upon the city treasurer by the , General Laws, chapter 41, sections 35 through 43A, and by other special and general laws, he shall have the powers, duties and responsibilities imposed upon a city collector and upon a collector of taxes by General Laws, chapters 41, 59 and 60, and by other general and special laws, and such additional powers, duties and responsibilities as are established by ordinance. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 52) (Ord. of 12-29-76, § 1; A0173-12)

Section 7-114 Record of receipts and disbursements to be kept.
The city treasurer shall cause an accurate and true account to be kept of all receipts and disbursements on behalf of the city, and such records shall conform as far as practicable with the accounts of the city auditor. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 53)

Section 7-115 Payments to be made only upon warrants issued by city auditor, approved by the mayor.
Except as provided in section 7-119 no payments shall be made by the city treasurer except upon a warrant issued by the city auditor approved by the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 54)

Section 7-116 Books, papers, vouchers and documents to be kept in safe or vault.

The city treasurer shall cause all books, papers, vouchers and documents under his care, together with all money not deposited in banks, and belonging to the city, when not in use, to be kept in a proper safe or vault. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 55)

Section 7-117 Payments to employees or officials based on departmental payrolls.
The city treasurer shall make payment, based on departmental payrolls and warrants issued by the City Auditor and approved by the mayor and the city auditor, to each employee or official, or his authorized agent or attorney, or his assignee, and shall take therefore the receipt of no person other than such employee or official, his authorized agent or attorney, or assignee. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 56)

Section 7-118 Reserved.

Section 7-119 Payments which may be made without warrants of the City Auditor, approved by the mayor.
The city treasurer may pay any sum of money due on the principal or interest of any bond, note or certificate of indebtedness, or state or county taxes or assessments, or on any court execution against the city. Any of the aforesaid payments made by the city treasurer without a warrant issued by the City Auditor approved by the mayor shall forthwith be reported to the mayor and the city auditor. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 58)

Section 7-120 Statement of receipts and disbursements to be furnished mayor and city council.
The city treasurer shall furnish to the mayor and city council a statement of receipts and disbursements for the preceding fiscal year. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 59)

Section 7-121 Monthly statement to city auditor.
The city treasurer shall furnish to the city auditor, not later than the fifth day of each month, a detailed statement of all cash receipts, including trust and investment funds, during the preceding month. (Rev. Ords. 1976, Pt. 2, Ch. 6, § 60)

Section 7-122--7-140 Reserved.

ARTICLE V. CITY COLLECTOR

Section 7-141 Authority of city treasurer as city collector.
The city treasurer shall exercise the powers, duties and responsibilities of a collector of taxes and a city collector under the title of city collector. (Ord. of 12-29-76, § 2)

Section 7-142 Bond.
The city treasurer shall give bond for the faithful performance of his duties as collector of taxes and as city collector in accordance with the provisions of General Laws, chapter 60, section 13. The premium for such bond shall be paid by the city. (Ord. of 12-29-76, § 2)

Section 7-143 Collection of taxes, accounts and other money due the city.
The city treasurer as city collector shall collect all taxes, accounts and other sums payable to the city, not otherwise specifically provided for, together with interest, costs and charges thereon. (Ord.

of 12-29-76, § 2)

Section 7-144 Statement filed with city auditor by the city treasurer of all moneys collected by him as city collector.

(a) Any treasurer shall, at least once in each week, file with the city auditor a statement of all moneys received or collected by him as city collector since his previous statement on account of taxes, accounts or other sums, together with interest and costs and charges thereon, accompanied by a statement of the purposes for which the moneys were received or collected.

(b) Such statement shall include all fees, charges, costs and commissions allowed by law, received or collected by him or for him or by any deputy collector, clerk, sheriff, deputy sheriff or constable acting under authority of law by their appointment, and shall certify that all moneys so received or collected have been deposited to the account of the city. (Ord. of 12-29-76, § 2)

Section 7-145--7-160 Reserved.

ARTICLE VI. SALARIES

Section 7-161 To be paid from appropriation.

All executive, legislative and administrative officers and persons in the service of the city shall be paid from the proper appropriation for the office to which they are elected or appointed or the department in which they are employed. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 17)

Section 7-162 Full payment for services rendered by city officials.

All salaries or compensation which have been or shall be established by the city council as the salaries or compensation of city officials shall be in full for all services rendered. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 18)

Section 7-163 Amounts for mayor, city council and school committee.

(a) In conformity with the provisions of Sections 2-4, 3-1 and 4-4 of the Charter, the salaries of the mayor, the city council and the school committee are established by ordinance. (A0173-12; A0278-13)

(b) Effective January 1, 2014, the salary for the position of mayor shall be $105,000.00 annually. Thereafter, and on January 1st of each ensuing year, the salary for the position of mayor shall be adjusted by applying the most recently reported three year (calendar year) average of the un-adjusted Consumer Price Index ("CPI"). Said calculation shall be based on applying the aforementioned three year average to the salary in effect as of December 31st of the immediately preceding calendar year. (A0278-13)

In accordance with the provisions of Chapter 3, Section 1 of the City of Everett Charter and this section, the salary for the position of Mayor shall be $138,000 annually effective January 1, 2018. (C0218-16)

(c) Effective January 1, 2014, the salary for each member of the city council shall be $15,000.00 annually. (A0278-13)

In accordance with the provisions of Chapter 2, Section 4 of the City of Everett Charter and this section, the salary for all members of Everett City Council shall be $25,000 annually effective January 1, 2018. All members of the City Council shall receive a two percent increase in the annual salary beginning on the first day of each calendar year ending in an even number effective January 1, 2020. (C0217-16)

(d) The members of the school committee shall receive an annual salary of eleven thousand and five hundred dollars ($11,500.00) to take effect upon the organization of the city government following the 2015 municipal election. (C0071-15)

Section 7-164 Amounts for administrative officers.
The salaries of the following city officers are established by ordinance and are on file in the city clerk's office: city auditor, city solicitor, city treasurer, members of the board of assessors, members of the board of health, members of the licensing board and members of the city services commission. (C0181-06, A0173-12)

Section 7-165 Changes in salaries established in accordance with Charter to conform to General Laws.
Changes in salaries established in accordance with the provisions of Sections 2-4, 3-1 and 4-4 of the Charter shall conform with the requirements of General Laws, chapter 39, section 6A, chapter 44, section 33A and any other applicable statutes. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 21) (A0173-12)

Section 7-166 Longevity Allowance.
(C0134-14)

(a) All permanent full-time non-union and administrative officers and employees shall receive a longevity payment as follows:

10 years service $400

15 years service $650

20 years service $850

(b) All permanent full-time non-union and administrative officers and employees that are department heads shall receive a longevity payment as follows:

10 years service $800

15 years service $1,300

20 years service $1,700

(c) Payment shall be made on the anniversary date of employment. If an officer or employee terminates service, by death or retirement, they shall be entitled to a pro-rated payment based on the number of whole months of service since the previous anniversary date.

Section 7-167 Longevity – Mayor.

Any individual serving in the office of Mayor shall receive a longevity payment of $10,000 for each completed full term as Mayor, as defined in Article 3, Section 1(b) of the City Charter.

Any individual serving as Mayor at the time of passage of the ordinance codified in this section shall receive a one-time payment of $10,000 for each previously completed term as Mayor, as defined in Section 25 of the previous Charter. (C0421-16)

Section 7-168--7-180 Reserved.

ARTICLE VII. SCHOLARSHIP FUND

Section 7-181 Establishment.
There is hereby established a scholarship fund to be known as the “City of Everett-Scholarship ’75” in commemoration of the seventy-fifth anniversary of the city’s incorporation. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 87)

Section 7-182 Purpose.
The purpose of this article is to establish a fund, the interest of which shall be made available each year to provide financial assistance to students in the city who have been accepted at an institution of higher learning beyond high school. Financial assistance will be in the form of an outright grant, an interest-bearing loan, or an interest-free loan. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 88)

Section 7-183 Board of trustees.
(a) Established; membership; compensation. There shall be a board of trustees of the scholarship fund which shall consist of nine (9) persons, who shall serve without compensation.

(b) Composition, terms. The board of trustees of the scholarship fund shall consist of the city auditor, who shall be chairman; the city treasurer, who shall be treasurer of the fund; and the superintendent of schools; as permanent members. The permanent members shall,

by majority vote, name six (6) additional trustees; one (1) of whom shall be a member of the clergy and one (1) a member of the bar. The additional members shall be appointed for terms of three (3) years. The permanent members shall also make appointments to fill vacancies and expired terms of the board of trustees.

(c) Meetings. Meetings of the board of trustees shall be at the call of the chairman, or upon written request by any five (5) trustees. The board of trustees shall meet not less than twice each year.

(d) Duties. The board of trustees shall have charge and management of the fund provided for in this article and shall invest the principal in such interest-bearing bonds, notes and savings accounts as a majority of the trustees shall determine. (Rev. Ords. 1976, Pt. 2, Ch. 2, §§ 89--91, 95)

Cross reference(s)--Boards, commissions and committees, § 2-151 et seq.

Section 7-184 Grants and loans.

The income of the fund shall be allocated annually by the trustees for the assistance of students who have resided in the city for at least three (3) years prior to application for such assistance provided,, however, the trustees shall not approve any grant or loan which will reduce the principal in the fund below five thousand dollars ($5,000.00). The total of Financial Assistance allocated annually shall not exceed three thousand dollars ($3000.00). Not less than five hundred dollars ($500.00), or more than one thousand dollars ($1,000.00) shall be allocated to any recipient. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 92; Ord. of 12-12-88(1))

Section 7-185 Selection of recipients; financial assistance committee.
The board of trustees of the scholarship fund shall elect from its membership a financial assistance committee to consist of three (3) members, to review all applications for assistance and make recommendations to the board of trustees. Final selection of recipients of Financial Assistance, and allocation amounts, shall be by a majority vote of the trustees. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 93)

Section 7-186 Applications for assistance.
Each applicant shall furnish the financial assistance committee a completed application in such form as the trustees determine, which shall include a financial statement, a transcript of scholastic record, an acceptance letter from school or college the applicant plans to attend, and such additional information as the committee may request. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 94)

Section 7-187 Annual report.
Annually, in the month of September, the board of trustees shall render a full report of their activities and of the financial status of the fund to the mayor and the city council. (Rev. Ords. 1976, Pt. 2, Ch. 2, § 96)

ARTICLE VIII. BROWNFIELD TAX ABATEMENT AGREEMENTS

Section 7-191 Purpose.
It is the intent of the City of Everett to help remove financial impediments to the clean up and redevelopment of neglected and abandoned properties zoned for business and industrial uses in the City and to encourage “innocent” owners and lenders to develop these properties.

Section 7-192 Authority.
The Mayor is hereby authorized to negotiate agreements regarding the payment of outstanding real estate taxes, interest and penalties, including abatement of those amounts needed to make a cleanup and redevelopment project economically feasible. Said agreement may also contain additional incentives, financial and otherwise as may be deemed appropriate.

Section 7-193 Scope of Authority.
(a) Agreement shall cover property contaminated with oil or other hazardous materials as defined by the Massachusetts Department of Environmental Protection, and/or the United States Environmental Protection Agency and be zoned for commercial or industrial use.

(b) Agreements may be entered into only with eligible persons as defined by the Massachusetts General Laws, Chapter 21E, section 2 who did not own the site at the time the oil or hazardous material was released and did not cause or contribute to its release.

(c) Agreements must specify the details agreed to regarding payment of any outstanding obligations, including the amount owed, rate of interest to accrue if any, amount of monthly payments, payment schedule, late penalties and other terms. These obligations may consist of outstanding real estate taxes or other financial packages negotiated with the City.

(d) Agreements must be signed by the mayor, president of the city council, the Board of Assessors, the property owner and must be notarized and attested to by the City Clerk. Copies must be provided to the Massachusetts Commissioner of Revenue, Massachusetts Department of Environmental Protection, and the United States Environmental Protection Agency. Additionally the property owner and the City Council must receive copies. (A0173-12)

Section 7-194 Approval of Agreements.
All agreements negotiated by the Mayor and the Owner of the property that reduce outstanding property taxes, penalties and interest that total more than one hundred thousand dollars ($100,000) shall be subject to approval by a two-thirds vote of the City Council. (Ord. of 12-18-2000; Ord. 6-25-2001)

Section 7-195 Water and Sewer Enterprise Fund.
(a) Notwithstanding the provisions of MGL section fifty-three or any other provision of law to the contrary, and in accordance with MGL CH 44 Section 53 ½, the city of Everett hereby establishes a separate account classified as a “Water and Sewer Enterprise Fund”, hereinafter referred to as the enterprise. Such account shall be maintained by the treasurer, and all receipts, revenues and funds from any source derived from all activities of the enterprise shall be deposited in such separate account. The treasurer may invest the funds in such separate account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four. Any interest earned thereon shall be credited to and become part of such separate account. The books and records of the enterprise shall be maintained in accordance with generally accepted accounting principles and in accordance with the requirements of section thirty-eight.

(b) No later than one hundred and twenty days prior to the beginning of each fiscal year, an estimate of the income for the ensuing fiscal year and a proposed line item budget of the enterprise shall be submitted to the mayor, by the City Services Commission or its successor department. The Mayor shall submit its recommendation to the city council which shall act upon the budget in the same manner as all other budgets.

(c) The city shall include in its tax levy for the fiscal year the amount appropriated for the total expenses of the enterprise and an estimate of the income to be derived by the operations of the enterprise. If the estimated income is less than the total appropriation, the difference shall be added to the tax levy and raised by taxation. If the estimated income is more than the total appropriation, the excess shall be appropriated to a separate reserve fund and used for capital expenditures of the enterprise, subject to appropriation, or to reduce user charges if authorized by the appropriate entity responsible for operations of the enterprise. If during a fiscal year the enterprise incurs a loss, such loss shall be included in the succeeding fiscal year’s budget.

(d) If during a fiscal year the enterprise produces a surplus, such surplus shall be kept in such

separate reserve fund and used for the purposes provided therefor in this section.

(e) The city may, in like manner of acceptance of MGL 44, sec 53 1/2, may revoke its acceptance. (C0007-11)

Chapter 8.
FIRE PREVENTION AND PROTECTION

ARTICLE I. IN GENERAL

Section 8-1 Definitions.
The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section:

(a) Person. Any agency or political subdivision of the Federal Government or the Commonwealth of Massachusetts; any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, consortium, joint venture, or other commercial entity; and any officer, employee or agent of said person, and any group of said persons.

(b) FFD. The fees for permits issued by the fire department, on file in the City Clerk's office.

(c) Capacity. A maximum combined total of all flammable products or their by-products licensed by the city council on a person's property. (A0173-12)

(d) Class. Class A, B, C, as is defined in CMR 527 Section 9.02.

(e) Gallon. The U.S. standard gallon.

(f) Fees. The fees as established by ordinance in the city.

(g) Carrier means a person engaged in the business of transporting L.E.G. by L.E.G. trailer or other vehicle; if the trailer or vehicle is leased, the lessee is the carrier.

(h) Fire chief means the Everett fire chief or his designee.

(i) Police chief means the Everett police chief or his designee.

(j) L.E.G. means liquefied energy gases.

(k) L.E.G. trailer means a tank trailer designed for the bulk transport of L.E.G.

(l) Fire Detail means a contingent consisting of one firefighter or more, which shall be present during events requiring same, to ensure the safety of lives, the environment, and property from the perils of fire, hazardous materials and/or other causes under the jurisdiction of the Fire Department.

(m) Firefighter means a full-time permanently appointed firefighter employed by the City of Everett and working for the City of Everett and/or those similarly employed by adjacent communities that are part of the mutual-aid agreement.

(n) Fire Watch shall be composed of permanently appointed firefighters taken from the active ranks of the City of Everett Fire Department and are here considered equivalent or equal to a Fire Detail.

(o) Hot Work means and includes any open flame, electrical equipment which may cause sparks,

including welding, cutting or spark producing operation. (Ord of 5-26-98)

Section 8-2 Storage of flammable products fee schedule.

(a) The schedule of licensing and registration fees for the keeping, storage, manufacturing or sale of flammable or combustible products is not printed herein but a schedule of such fees is on file in the city clerk's office. An application fee of one hundred and fifty dollars is also due at the time of request for an application for a new license. The fees set forth by the Board of Aldermen as of July 1, 2003 shall be in effect for licensing and registration until further amended or rescinded.

(b) In the case of a new flammable product or by-product not yet discovered or developed, that could take any shape or form, the storage fee charge shall be determined by the City council based upon classification by the Massachusetts Board of Fire Prevention Regulations according to 527 CMR and comparable established fee schedules. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 29; Ord. of 10-17-77(1); Ord. of 10-17-77(2); Ord. of 11-5-86(3); Ord. of 2-26-90; Ord. of 5-14-90)(A0339-06)

Section 8-3 Applications for storage of flammable products.

All applications for the storage, keeping, manufacture or sale of hydrocarbons, flammable, flammable fuels, shall contain the specific commercial (i.e. gasoline) name of the product as used in the trade, other than its generic (i.e. benzene) term. (Ord. of 12-18-78)

Section 8-4 Construction of certain plants forbidden.

(a) No new bulk storage plants and no new processing plants utilizing flammable and combustible liquids and/or gases shall be constructed in the city.

(b) No additional flammable and liquid or gas storage shall be permitted at any existing bulk storage plant or processing plant, duly licensed, except under such terms and conditions as the city council and the chief of the fire department may direct. (A0173-12)

(c) Renewals and revocations of licenses provided for in subsections (a) and (b) of this section shall be governed by chapter 148 of the General Laws.

(d) After a permit or license has been granted under this section, the construction permission granted shall commence within two (2) years of the granting of such permit, and if at the expiration of two (2) years construction of at least twenty-five (25) percent of proposed new construction granted under this section has not commenced, then the permit shall be automatically revoked without the necessity of any further hearings. This twenty-five (25) percent to be a determination to be made by the building inspector, according to plans filed in his office. (Rev. Ords. 1976, Pt. 2, Ch. 7, §§ 29A, 29B, 30; Ord. of 3-7-77; Ord. of 4-6-87)

Section 8-5 Sprinkler systems required in certain buildings.

(a) All buildings erected or increased in height by alterations or additions so as to consist of five (5) or more stories or fifty (50) feet or more in height shall be equipped with an automatic sprinkler system and sprinkler alarm satisfactory to the chief of the fire department as defined in General Laws, chapter 148, section 1. The vertical distance is measured from the ground grade to the top of the highest roof beams of a flat roof, or to the mean level of the highest gable or slope of a hip roof. When a building faces on more than one (1) street, the height shall be measured from the average

of the grades at the center of each street.

(b) The sprinkler system shall be designed in accordance with N.F.P.A. No. 13, Standards for the Installation of Sprinkler Systems.

(c) Each tenant floor shall be considered a separate fire area in the design of the sprinkler system, with a shutoff valve for each floor.

(d) A one and one-half (11/2) inch hose valve shall be provided at the sprinkler riser exclusively for fire department use.

(e) A wet standpipe system must also be installed in a stairwell, in accordance with N.F.P.A. requirements. One and one-half (11/2) inch hose of suitable length to reach all floor areas, with a nozzle, must be attached to the 21/2 inch--11/2 inch gated outlet.

(f) An indicator panel with local supervision shall be located at the building entrance, easily accessible to fire fighters, to designate by signal the floor on which the sprinkler system is operating. The indicator panel shall provide for takeover of control of one (1) or more elevators by fire fighters and for running at least one (1) elevator on emergency power.

(g) That whenever a sprinkler system is inoperable, a fire watch will be required and paid for by the owner of the premises. The fire watch shall be in place until the sprinkler system becomes operable. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 33; Ord. of 10-16-95(1))

Section 8-6 Transportation of liquefied energy gases.

(a) Restricted stopping places. Unless the L.E.G. trailer is disabled, a carrier or a driver may stop, park and stand an L.E.G. trailer within the city only to:

(1) Load or unload that L.E.G. trailer,

(2) Comply with the orders of the fire chief, or his designee,

(3) Comply with the orders of a police officer,

(4) Comply with an official traffic control device.

(b) Enforcement. This section shall be enforced by the Police Chief.

(c) Disabled L.E.G. carriers. Any disabled carrier, in the City of Everett, shall post a sign in front and rear of said carrier indicating that L.E.G. carrier is disabled.

(d) Penalty. A carrier or a driver who violates this ordinance is liable to a fine in accordance with Section 1-8. (Ord. of 3-5-79)

Section 8-7 Regulation of vehicle cargo.

(a) Liquified propane gas (LPG). No vehicle with a load limit in excess of 5,000 gallons of LPG shall be allowed in the city, other than on streets listed in the city clerk's office.

(b) Liquified natural gas (LNG). No vehicle transporting in excess of 100 gallons of LNG shall be

allowed in the city, other than on streets listed in the city clerk's office.

(c) Enforcement.

(1) The Chief of police or his designee shall enforce this section and shall have the authority during any emergency; including but not limited to street repair, traffic congestion, or weather conditions; to temporarily permit the use of streets other than those listed in the city clerk's office.

(2) The Chief of Police shall report in writing to the mayor and the city council within seven (7) days of any temporary permits granted.

(3) During any emergency in which the cargo of a vehicle is, in the judgment of the operator, placed in jeopardy, then the operator of the vehicle may travel on streets not authorized for use.

(4) The operator of any vehicle using unauthorized streets, for any reason, shall report to the Police Department and to the terminal, to or from which they were traveling, as soon as possible.

(d) Declaration.

The Chief of the Fire Department shall notify in writing to the mayor and the city council that a new cargo is classified into the category of LEG and the City Council shall act to determine if an amendment will be added to this ordinance. (A0173-12)

(e) Notification.

(1) The office of the City Clerk shall to the degree possible, supply a copy of this ordinance to all persons that are involved in the transportation of cargos covered by the provisions of this ordinance.

(2) It shall be the responsibility of any person, conducting an operation in the city for the loading or unloading of cargos covered by this ordinance; to provide to its own or other LEG carriers, that load or unload at its facilities with a copy of this ordinance; and also post a copy of this ordinance in a conspicuous place where operators of LEG carriers will take notice.

Section 8-8 Bonfires.
No person shall make a bonfire or any other fire in a public way or in close proximity to any building, except in accordance with a permit from the chief of the fire department. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 31)

Section 8-9 Permits for rockets, missiles, similar projectiles.
The construction, use, discharge, firing, launching or exploding of rockets, missiles and similar projectiles and devices within the city is hereby prohibited unless a written permit therefor has been obtained from the chief of the fire department. The chief of the fire department is hereby authorized to impose reasonable requirements and limitations in the interest of public safety and welfare upon

the issuance of and privileges granted by such permits, including minimum age, experience and education of the permittees, adult supervision and limitations on the place and time of use. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 32)

Section 8-10 Public buildings fire alarm system.
Any construction of public buildings or additions thereto shall include a water sprinkler alarm system subject to approval of the fire department. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 33A)

Section 8-11 Apartment house buildings fire alarm system.
(a) An auxiliary fire alarm system shall be installed in all future apartment house buildings containing more than six (6) housing units and said system to be connected with city fire alarm system and shall also include an “Alarm Warning” to alert occupants and to include heat or smoke detectors in each apartment and a “pull type” fire alarm box or boxes to be placed in corridors or stairways.

(b) The number and location of the protective and alarm devices named in subsection (a) of this section shall be determined in each instance by the fire department. The method of connection to the fire alarm system in each case shall be determined by the inspector of wires. All costs involved under the provisions of this ordinance shall be paid by the owner of the property.

(c) That whenever an alarm system is inoperable, a fire watch will be required and paid for by the owner of the premises and shall be in place until it becomes operable. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 33B; Ord. of 9-27-82; Ord. of 10-16-95(2))

Section 8-12 Automatic fire warning and smoke detector systems in unoccupied buildings.
(a) Every building or structure not exceeding seventy (70) feet in height above the mean grade erected or substantially altered to be occupied or unoccupied for any purposes or erected or substantially altered and presently unoccupied for a period not to exceed forty-five (45) days for any purpose, shall be protected with an approved automatic fire warning system in accordance with the provisions of the state building code. Such system shall include the features of automatic smoke detection in conjunction with the approved fire detection devices.

(b) The fire detection devices shall be placed in or outside the unoccupied building so as to give an audible signal of a noise decibel satisfactory to the fire chief.

(c) The chief of the fire department shall enforce the provisions of this section.

(d) Whoever is aggrieved by the chief of the fire department’s interpretation, order, requirement, direction or failure to act under the provisions of this section may, within forty-five (45) days after the service of notice thereof, appeal from such interpretation, order, requirement, direction, or failure to act, to the state board of appeals as provided in the state building code.

(e) The Fire Chief or his designee is empowered to enforce the following schedule of fees and penalties which shall be assessed to owners of property, to include “absentee landlords” and or persons in possession of property equipped with electronic or battery operated signal systems which detect smoke or fire, who cause or allow such systems to broadcast false alarms due to

negligence or failure to maintain such equipment:

(1) No fee will be charged for the first two responses to alarm activation, where no smoke or fire condition exists, within a six month period. After the first two offenses the following fees apply:

(2) Response to alarm activation, third offense, where no smoke or fire condition exists, a twenty-five dollar ($25.00) fee.

(3) Response to alarm activation, fourth offense, where no smoke or fire condition exists, a fifty dollar ($50.00) fee.

(4) Response to alarm activation, fifth offense, where no smoke or fire condition exists, a one hundred dollar ($100.00) fee.

(5) Response to alarm activation, sixth and subsequent offense, where no smoke or fire condition exists, a two hundred dollar ($200.00) fee.

(f) Any person aggrieved by the assessment of a fee pursuant to section (e) above, may, within seven days of notice of said assessment, appeal in writing to the Chief of the Fire Department. The appeal will be heard by the Fire Chief or his designee. (Ord. of 11-14-83; Ord. of 7-13-98)

Section 8-13 Driving over a fire hose.
No person shall drive any vehicle upon or over any hose, placed in any street by order of any officer of the fire department, without the consent of an officer of the department. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 16)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

State law reference(s)--Driving over a fire hose, M.G.L.A. c. 89, § 7A.

Section 8-14 Self-service gasoline stations.
(a) The city council may issue a permit for gasoline filling stations to be a so-called “Self Service” station, provided that any such station shall be required during any day of operation between the hours of 8:00 a.m to 8:00 p.m., to also provide for full service to customers desiring such services. (A0173-12)

(b) Gas stations shall not be prohibited from charging different prices for such level of services provided.

(c) Consistent with the provisions of M.G.L., c. 94, § 295CC, gas stations shall post signs, a minimum of eighty (80) square inches in size, at the self service pumps so that vehicles bearing handicapped or disabled veteran’s plates, maybe served at the self service pump by an attendant on duty.

(d) The city council may impose further conditions on said permits as they deem necessary for the public safety of the general public using filling stations, including limitation of hours of service and all consistent with state department of public safety rules and regulations. (A0173-12)

(e) All applicants for permits to operate a self service station shall require a public hearing by the city council. The city clerk upon receipt of an application shall set a date for the public hearing. The applicant shall provide proof that all property owners within three hundred (300) feet of applicant's location have received notice of the public hearing at least seven (7) days prior to the date set for the public hearing. (A0173-12)

(f) For any violation of this section or other conditions imposed by the city council, there shall be a fine of fifty dollars ($50.00) a day for each day said violation continues by only commencing two (2) days after notice received of said violation. (A0173-12)

(g) If any provision of this section or the application of such provisions to any persons or circumstances shall be held to be invalid, the remainder of this section or the application of its provisions to persons or circumstances, other than those held to be invalid, shall not be affected thereby, but shall continue in full force and effect. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 35; Ord. of 11-18-91; Ord. of 2-18-92; Ord. of 6-5-95(1))

Section 8-15 Permit fee schedule.
The schedule of permit fees for permits issued by the fire department is not printed herein but a schedule of such fees is on file in the city clerk's office. (Ord. of 4-21-81)(Ord. of 08/24/98)

Section 8-16 Reserved.

Editor's note--Ord. of 3-8-93, repealed the provisions of former § 8-16, which pertained to key box requirements, as derived from Ord. of 9-3-91 and Ord. of 10-28-91(1). Said provisions were never codified and contained in this Code.

Section 8-17 Outside Details.
(a) The Chief of the Fire Department shall require such means of fire protection as, in his judgment, is necessary for the protection of the health, safety and welfare of the residents of the City of Everett, including fire details which may consist of permanent members of the fire department. Such details shall be approved by the Chief of the Fire Department and shall include any fire watch or other detail required by state law or the chief of the fire department affecting fire prevention, fire protection or a detail left at the scene of a fire to prevent rekindle and to protect human life or public or private property, and as may be required by the Chief of the Fire Department, ordinance or state law.

(b) The personnel assigned and the number thereof shall be determined by the Chief of the Fire Department. Members so assigned by the Chief of the Fire Department shall be under such instructions as the Chief of the Fire Department, city ordinance or state law may require.

(c) When members of the fire department are so assigned by the Chief of the Fire Department, they shall be considered to be on official duty under the direct supervision of and responsible to the Chief of the Fire Department.

(d) Equipment owned or maintained by the fire department shall only be used with the approval of the head of the fire department, and a reasonable fee shall be charged for the use of such

equipment.

(e) All persons who desire or are required by the Chief of the Fire Department, by a city ordinance or by state law to employ the services of any equipment and/or members of the fire department shall do so through the Chief of the Fire Department, under such terms and conditions as he may prescribe.

(f) The costs of such fire department personnel so assigned shall be the sole responsibility of the owner, occupant, contractor, person or persons so required to have such detail and/or equipment. Under no conditions shall the City of Everett be responsible for any part of such financial transaction.

(g) Any person aggrieved by any rule, order, or decision of the Chief of the Fire Department so made under this provision may file an appeal in writing within ten (10) days of the date of such act, rule, order of decision to the state fire marshal in accordance with the provisions of Chapter 148, Section 31 of the Massachusetts General Laws. (Ord.of 06-23-1998)

Section 8-18 Fire Details.

(a) Required during demolition work. Where any contractor is doing demolition work in the City of Everett, and where said work is taking place within one hundred (100) feet of a dwelling unit or other building that is occupied, and where the safety, health and welfare of the general public is concerned, said contractor shall produce, at his expense, sufficient fire details, as in the opinion of the Chief of the Fire Department may be needed and furnished by the Everett Fire Department and under such terms and conditions he may prescribe.

(b) Required during work on gas lines. Whenever any work is being performed on charged or unpurged gas lines or gas mains in the City of Everett, the Chief of the Fire Department, may, if deemed necessary for the safety, health and welfare of the general public concerned, order a fire detail with or without a charged hose line. It shall be the function of the fire detail to observe that all safety precautions are taken and that all work is done in strict conformance with all laws, rules and regulations of the Everett Fire Department, city ordinances, and state laws.

(c) Required during blasting. Whenever blasting is to be done in the City of Everett, the Chief of the Fire Department may, if deemed necessary for the safety, health and welfare of the general public, order a fire detail with or without a charged hose line. It shall be the function of the fire detail to observe that all safety precautions are taken and that all work is done in strict conformance with all laws, rules and regulations of the Everett Fire Department, city ordinances, and state laws.

(d) Required for pyrotechnics. Whenever pyrotechnics are being displayed, stored, or assembled in the City of Everett, the Chief of the Fire Department may, if deemed necessary for the safety, health and welfare of the general public, order a fire detail with or without a charged hose line. It shall be the function of the fire detail to observe that all safety precautions are taken and that all work is done in strict conformance with all laws, rules and regulations of the Everett Fire Department, city ordinances, and state laws.

(e) Other conditions which may warrant details. Whenever conditions, if in the opinion of the Chief

of the Fire Department, present themselves to be a hazard from fire, hazardous material, or to the safety, health and welfare of the general public, he may order a fire detail with or without a charged hose line and under such conditions as he may require for the prevention of fire or for fire protection and also as required by state law. (Ord. of 6-23-98)

Section 18-19 Hot Work at Marine Terminals.

(a) Any work or repairs involving “hot work”, so-called is prohibited aboard any vessel, ship, or barge while located at any marine terminal in the City of Everett.

(b) Any work or repairs involving “hot work”, so-called, on docks, storage tanks, pipes or other equipment whatever, located in, or within the property line of a marine terminal or yard area, including a pipeline for petroleum products or the like (including L.E.G.) extended from a petroleum terminal or which extends into the City of Everett, shall be prohibited unless a permit has been obtained from the Chief of the Fire Department under such terms and conditions as he may require for the prevention of fire or for fire protection and also as required by law.

(c) Any company operating a marine terminal or yard within the City of Everett shall inform all bidders for such work that a permit is required and that such work will require a fire watch in accordance with the requirements of the City of Everett Fire Department. Such permits shall be taken out in the name of the contractor, unless such work is being done by employees of the terminal or yard in which case it will be taken out in the name of the marine terminal company.

(d) All “hot work” shall stop when, in the opinion of the Chief of the Fire Department, or his authorized representative, it is not safe due to any spill of product or vapors due to transfer of product from ship or vessel or barge or at a landing rack which may be dangerous due to weather, wind conditions, or other reasonable cause. “Hot work” must only be conducted under safe conditions with all necessary safe precautions, if the plant is to continue operations.

(e) No Smoking” regulations for marine terminals and yards shall be established and regulated by the Everett Fire Prevention Bureau and/or state law. (Ord. of 6-23-98)

Section 8-20 Entering fire lines by certain persons prohibited.

No person not a member of the fire department shall enter within the lines formed at a fire except by permission of the officer in command. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 10)

Section 8-21 Right-of-way of fire department.

In case of fire, the fire department shall have the right of way in the public streets of the city at all times. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 13)

Section 8-22 Interfering with signal boxes, etc.

(a) No person shall interfere with any of the signal boxes, wires or other supports of the wires belonging to or in connection with the fire department of the city.

(b) Any person found guilty of this section, including the conviction for interfering with a fire alarm box by falsely pulling the alarm therein, shall be fined in accordance with M.G.L. Chapter 268 Section 32.

(c) Anyone found in violation of this provision shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 14; Ord. of 6-28-82(1); Ord. of 04-08-2004)

Section 8-23 Interfering with refusal to obey orders, etc., of fire department.
No person shall neglect or refuse to remove any combustible material, when ordered to do so by the chief of the fire department, or obstruct any officer or member of the fire department, in the discharge of his duties, or willfully interfere with any pump or other apparatus used by the members of the fire department in the discharge of their duties. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 22)

Section 8-24--8-59 Reserved.

Note: Sections 8-41, 8-42 and 8-43 pertaining to the Board of Fire Commissioners repealed by C0084-08

ARTICLE III. FIRE DEPARTMENT

Section 8-60 Appointment of chief, other firefighters.
The chief of the fire department and other firefighters shall be appointed by the mayor, subject to confirmation by the city council, in accordance with the provisions of the civil service law of the Commonwealth and the rules of the department of civil service. (A0124-08; A0173-12)

Section 8-61 Powers and duties of chief.
The chief of the fire department shall have sole and absolute control and command of all members of the department, and of all persons at fires. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 5)

Section 8-62 Duties generally of fire fighters.
It shall be the duty of the persons employed in the fire department to keep the apparatus, and the several buildings, and all things entrusted to their care, clean and in order for immediate use. They shall do and perform all things in connection with their duties as fire fighters under the direction of their officers. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 8)

Section 8-62.5. Residency Requirement.
(A0197-11)

(a) Any permanent full-time firefighter hired on or after January 1, 2012, shall establish his or her residency within the City of Everett within one hundred eighty (180) days of his or her date of hire, and at a minimum, shall remain a resident of the City through their seventh anniversary date of hire, at which time at such employee's sole discretion, such employee may establish residency either within or outside of the City, provided however, the establishment of such residency is in accordance with Massachusetts General Laws, Chapter 41, Section 99A.

(b) Each and every permanent full-time firefighter hired on or after January 1, 2012, on each and every anniversary date of hire, through and including such employee's seventh anniversary date, shall submit to such employee's Department Chief and the City's Personnel Department proof of residency within the City satisfactory to the Department Chief and Personnel Department.

(c) Any permanent full-time firefighter employed by the City prior to January 1, 2012, including any such firefighter who is promoted to a higher rank after January 1, 2012, shall be exempt from this residency ordinance.

(d) Any permanent full-time firefighter who wishes to laterally transfer into the City of Everett Fire Department and who is employed by a Commonwealth of Massachusetts community which has adopted Massachusetts General Laws, Chapter 31, and any permanent full-time firefighter who has been Reduced In Force by such a community and whose name appears on the Chapter 31 rehire list shall be exempt from this residency ordinance.

Section 8-63 Bureau of fire prevention.

(a) Established. A bureau of fire prevention in the fire department is hereby established, which shall be operated under the supervision and direction of the chief of the fire department. (A0173-12)

(b) Duties generally. It shall be the duty of the bureau of fire prevention, under the direction of the chief of the fire department, to enforce all laws of the Commonwealth and ordinances of the city covering the following: (A0173-12)

(1) The prevention of fires.

(2) The storage and use of flammables.

(3) The installation and maintenance of automatic fire extinguishing equipment, sprinklers, standpipes and all fire appliances, the maintenance and regulations of fire escapes.

(4) The means and adequacy of exits in case of fire, from factories, schools, hotels, lodging houses, asylums, hospitals, churches, halls, theatres, amphitheaters and all other places in which numbers of persons work, live or congregate from time to time for any purpose.

(5) The investigation of the cause, origin and circumstance of all fires.

(c) Inspection of buildings. Members of the bureau of fire prevention shall inspect as often as may be necessary all business establishments, factories, stores, garages, theatres, schools, hospitals, apartment houses and cellars of dwelling houses having three (3) stories or more.

(d) Ordering removal of dangerous, etc., conditions; procedure upon failure to comply with order. Whenever any member of the bureau of fire prevention shall find in any building or upon any premises or other places, combustible or explosive matter, or dangerous accumulation of rubbish, or unnecessary accumulation of waste paper, boxes, shavings or any highly inflammable materials especially liable to fire, and which is so situated as to endanger property, or shall find obstruction to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the operation of the fire department, or egress of occupants in case of fire he shall order the owner, tenant or occupant of such place to remove the same at once. If such order is not complied with he may cause the same to be removed at the expense of such owner, tenant or occupant.

(e) Aid of city solicitor in certain cases. The city solicitor upon request of the bureau of fire prevention shall aid in the prosecution of persons who refuse to comply with the orders of the chief

of the fire department and bureau of fire prevention, where such refusal constitutes a violation of any provision of these Revised Ordinances or the state law. (Rev. Ords. 1976, Pt. 2, Ch. 7, §§ 23--27; Ord. of 6-8-92(1); Ord. of 10-26-92(1))

Section 8-64 Badge to be worn by fire fighters.
Every member of the fire department shall wear such badge as the chief of the fire department shall prescribe. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 9) (A0173-12)

Section 8-65 Calls outside of the city.
No fire company shall leave the city in case of a fire in another city or town except by order and in charge of the chief of the fire department. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 11)

State law reference(s)--Authority of fire department to respond to call for aid from other cities, M.G.L.A. c. 48, § 59A.

Section 8-66 Taking fire apparatus outside the city.
No part of the fire apparatus shall be taken from the city except to a fire, or in case of emergency, without special permission from the Chief of the Fire Department, and in all cases, such apparatus shall be returned to the city as soon as practicable. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 12) (A0126-08)

Section 8-67 Gambling and spirituous liquors prohibited in fire department buildings.
No gambling shall be allowed in any building occupied by the fire department, nor shall spirituous liquors be carried into, kept or used therein. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 15)

Section 8-68 Agreement to be signed by members of fire department.
Every officer and member of the fire department shall sign the following agreement, to be deposited with the chief of the fire department:

> "I, _____, having been appointed a member of the Everett Fire Department, hereby agree to abide by the ordinances of the city, the rules, regulations and orders of the Mayor and City Council, and of the Chief of the Fire Department."

Any officer or member who shall neglect or refuse to sign the same shall not be entitled to any compensation whatsoever; and unless he shall so sign within ten (10) days from his appointment, he shall be deemed to have declined the same. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 18) (A0173-12)

Section 8-69 Chaplains.
The Chief of the Fire Department may appoint clergymen to serve without pay as chaplains of the fire department for a period of one (1) year from date of appointment. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 22A) (A0128-08)

Section 8-70 Fire hydrant markers.
(C0204-15)

(a) Markers shall be installed on all fire hydrants within the City of Everett.

(b) The installation and maintenance of fire hydrant markers on privately owned hydrants shall be the responsibility of the property owner.

(1) All fire hydrants must have fire hydrant markers installed in accordance with this section.

(2) Installation of these markers shall be the responsibility of the developer or property owner.

(3) Fire hydrant markers must be installed and approved prior to the issuance of a certificate of occupancy.

(c) Fire hydrant marker specifications. Markers shall meet the specifications listed below and be approved by the fire official. The specifications are as follows:

Three-eighths inch (3/8") pultrusion, four (4) foot long fiberglass shafts, inter locking stainless steel springs, mounts and locks and aluminum fittings.

(d) Removal or tampering with fire hydrant markers shall be deemed a violation as it is defined in Section 1-8 of these Revised Ordinances.

Chapter 9.
FLOOD DAMAGE PREVENTION

ARTICLE I. IN GENERAL

Section 9-1 Statement of purpose.
It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(a) Protect human life and health;

(b) Minimize expenditure of public money for costly flood control projects;

(c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) Minimize prolonged business interruptions;

(e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

(f) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;

(g) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

(h) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. of 6-2-86, § 1.1)

Section 9-2 Methods of reducing flood losses.
In order to accomplish its purposes, this chapter includes methods and provisions for:

(a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(d) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. of 6-2-86, § 1.2)

Section 9-3 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Appeal means a request for a review of the city engineer's interpretation of any provision of this chapter or a request for a variance.

(b) Area of shallow flooding means a designated AO or VO zone on the flood insurance rate map (FIRM). The base flood depths range from one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

(c) Area of special flood hazard means the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year.

(d) Base flood means the flood having a one-percent chance of being equalled or exceeded in any given year.

(e) Breakaway walls means any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway, under normally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

(f) Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

(g) Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters;

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

(h) Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(i) Flood insurance study means the official report provided in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

(j) Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

(k) Habitable floor means any floor usable for living purposes, which includes working, sleeping,

eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

(l) New construction means structures for which the “start of construction” commenced on or after June 2, 1986.

(m) Start of construction means the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation.

(n) Structure means a walled and roofed building that is principally aboveground.

(o) Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

(1) Before the improvement or repair is started; or

(2) If the structure has been damaged and is being restored, before the damage occurred.

(3) For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

(4) The term does not, however, include either:

a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

b. Any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(p) Variance means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. of 6-2-86, § 2)
Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Section 9-4 Application of provisions.
The provisions of this chapter shall apply to all areas of special flood hazards within the jurisdiction of the city. (Ord. of 6-2-86, § 3.1)

Section 9-5 Basis for establishing areas of special flood hazard.
The areas of special flood hazard are within the City of Everett are identified on the Middlesex

County Flood Insurance Rate Maps (FIRMS) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Middlesex County FIRMS that are wholly or partially within the City of Everett are panel numbers 25017C0437E, 25017C0439E, 25017C0441E, 25017C0442E and 25017C0443E dated June 4, 2010. The exact boundaries of the areas of special flood hazard may be defined as the 100-year base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated June 4, 2010. The FIRM and FIS are incorporated herein by reference and are on file in City Engineer's Office. (A0149-10)

Section 9-6 Compliance.
No structure or land shall be constructed, located, extended, converted, or altered after June 2, 1986, without full compliance with the terms of this chapter and other applicable regulations. (Ord. of 6-2-86, § 3.3)

Section 9-7 Enforcement; violations.
The city engineer shall enforce the provisions of this chapter. Whoever violates the provisions of this chapter shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 4-8-04)

Section 9-8 Abrogation and greater restrictions.
This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. of 6-2-86, § 3.4)

Section 9-9 Interpretation.
In the interpretation and application of this chapter, all provisions shall be:

(a) Considered as minimum requirement;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. of 6-2-86, § 3.5)

Section 9-10 Warning and disclaimer of liability.
(a) The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes.

(b) This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

(c) This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. of 6-2-86, § 3.6)

Section 9-11--9-25 Reserved.

ARTICLE II. ADMINISTRATION

Section 9-26 City engineer--Appointment.
The city engineer is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. of 6-2-86, § 4.2)

Cross reference(s)--City engineer generally, § 2-81 et seq.

Section 9-27 Same--Duties and responsibilities.
The duties of the city engineer shall include, but not be limited to:

(a) Permit review. The city engineer shall:

(1) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

(3) Review all development permits in the area of special flood hazard except in the coastal high hazard area to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For the purposes of this chapter, adversely affects means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one (1) foot at any point;

(4) Review plans for walls to be used to enclose space below the base flood level in accordance with article III of this chapter.

(b) Use of other base flood data. When base flood elevation data has not been provided in accordance with section 9-5, the city engineer shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer sections 9-51 and 9-52.

(c) Required information. The city engineer shall obtain and maintain the following information:

(1) The actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures.

(2) For all new substantially improved flood proofed structures:

a. Verify and record the actual elevation (in relation to mean sea level); and

b. Maintain the flood proofing certifications required in section 9-26.

c. Maintain for public inspection all records pertaining to the provisions of this chapter.

(d) Alteration of watercourses. The city engineer shall:

(1) Notify adjacent communities and the Massachusetts Department of Conservation and Recreation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

(2) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(e) Interpretation of FIRM boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 9-29. (Ord. of 6-2-86, § 4.3)

(f) Floodway Data

(1) In zones AE, along watercourses within the City of Everett that have a regulatory floodway designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. (A0151-10)

Section 9-28 Development permit.

(a) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in section 9-5.

(b) Application for a development permit shall be made on forms furnished by the city engineer, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

(c) Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(2) Elevation in relation to mean sea level to which any structure has been flood proofed;

(3) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in section 9-52;

(4) Description of the extent to which any watercourse will be altered or relocated as a result

of proposed development; and

(5) Plans for any walls to be used to enclose space below the base flood level. (Ord. of 6-2-86, § 4.1)

Section 9-29 Appeal board.

(a) The city council shall hear and decide appeals and requests for variances from the requirements of this chapter.

(b) The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city engineer in the enforcement or administration of this chapter.

(c) Those aggrieved by the decision of the city council or any taxpayer may appeal such decision to the superior court, as provided in M.G.L.A. c. 40A.

(d) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter; and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location, where applicable;

(6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(e) Generally, variances may be issued for new construction and substantial improvements to be

erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1)--(11) in (d) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(f) Upon consideration of the factors of (d) above and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(g) The city engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (Ord. of 6-2-86, § 4.4-1)

Section 9-30 Conditions for variances.

(a) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.

(b) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

(d) Variances shall only be issued upon:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in section 9-26, or conflict with existing local laws or ordinances.

(e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. of 6-2-86, § 4.4-2)

Section 9-31--9-45 Reserved.

ARTICLE III. PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 9-46 General standards.

In all areas of special flood hazards the standards and provisions of this article are required. (Ord. of 6-2-86, § 5.1)

Section 9-47 Anchoring.
All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. (Ord. of 6-2-86, § 5.1-1)

Section 9-48 Construction materials and methods.
(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage. (Ord. of 6-2-86, § 5.1-2)

Section 9-49 Utilities.
(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. of 6-2-86, § 5.1-3)

Cross reference(s)--Sanitary Sewers and Storm Drains, Ch. 15 Water, Ch. 20.

Section 9-50 Subdivision proposals.
(a) All subdivision proposals shall be consistent with the need to minimize flood damage.

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less). (Ord. of 6-2-86, § 5.1-4)

Section 9-51 Residential construction.
New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation. (Ord. of 6-2-86, § 5.2-1)

Section 9-52 Nonresidential construction.
(a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in section 9-28. (Ord. of 6-2-86, § 5.2-2)

Chapter 10.
HEALTH AND SANITATION

ARTICLE I. IN GENERAL

Section 10-1 Milk and food inspector.
The board of health shall appoint an inspector of milk and food who shall have the powers, duties and responsibilities of an inspector of milk and collector of samples of milk in accordance with the provisions of General Laws, chapter 94, sections 33 through 38, and such other duties as the board of health may assign to him from time to time. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 5)

Cross reference(s)--Officers and employees, § 2-31 et seq.

Section 10-2--10-20 Reserved.

ARTICLE II. BOARD OF HEALTH

Section 10-21 Created; composition; appointment of members.
There shall be a board of health consisting of three (3) persons, one of whom shall be a physician. The members shall be appointed by the mayor, subject to confirmation or rejection by the city council, with the appointments to be made in accordance with the provisions of General Laws, chapter 111, section 26. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 6) (A0173-12)

Section 10-22 Annual organization; naming officers, agents and assistants.
The board of health shall organize annually in accordance with the provisions of General Laws, chapter 111, section 27, and name the necessary officers, agents and assistants to execute the health laws and its regulations. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 7)

Section 10-23 Appointment and assignment of school physicians and nurses.
The board of health shall appoint and assign school physicians and nurses to carry out the duties and responsibilities of General Laws, chapter 71, section 53. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 9)

Section 10-24 Summoning aid of police department and other city officers.
The board of health may call upon the police department and the various city officers to aid it in the performance of its duties. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 10)

Section 10-25 Annual report to mayor.
The board of health shall present to the mayor and the city council annually, in the month of July, a report containing a full and comprehensive statement of the acts of the board of health, including all receipts and disbursements, and a review of the sanitary conditions of the city for the preceding year. (Rev. Ords. 1976, Pt. 2, Ch. 9, § 11)

Cross reference(s)--Officers and employees, § 2-31 et seq.

ARTICLE III. CERTIFICATE OF HABITABILITY

Section 10-26 Definitions.
(a) Owner: any person who alone or severally with others: has legal title to any dwelling, dwelling

unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park; or has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, administrator, trustee or guardian of the estate of the holder of legal title; or is a mortgagee in possession of any such property; or is an agent, trustee or any other person appointed by the courts and vested with possession or control of any such property; or is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. Owner also means every person who operates a rooming house.

(b) Dwelling: every building or shelter including but not limited to rooming houses and temporary housing used or intended for human habitation and every other structure or condition located within the same lot line whose existence causes or is likely to effect noncompliance with the State Sanitary Code.

(c) Dwelling Unit: the room or group of rooms within a dwelling used or intended for use by one family or household for living, sleeping, cooking and eating. Dwelling unit shall also mean condominium unit.

(d) Vacant: empty or unoccupied.

Section 10-27 Inspection Request before Occupancy.
(a) The owner must request a legal use of status from the Building Department of the City of Everett.

(b) An application fee is due at the time of request for an application. The fee shall be determined by the Health Department of the City of Everett with approval of the Everett City Council. The fee for the certificate application shall be $25.00. (Ord of 05-24-2005)

(c) Owners who qualify for an exemption under MGL Chapter 59, Section 5, Clause 41C will be exempt from paying the fee. (Ord. of 12-13-2003)

Section 10-28 Inspection Deadline after Notification.
The Health Department of the City of Everett must respond within ten (10) business days of the notification. If such inspection has not been made within ten (10) business days, the owner may rent the apartment.

Section 10-29 Certification before Occupancy - Standards.
(a) The unit described in the application must be certified by the Health Department of the City of Everett meeting the standards set forth in the Sanitary Codes, Article II, “Minimum Standards of Fitness for Human Habitation,” prior to being occupied.

(b) The Health Inspector shall forward any suspected violations out of the scope of the Health Department to the appropriate department in the City of Everett for further inspection.

(c) A certificate of habitability shall not be given until all violations are corrected within the appropriate time.

Section 10-30 Refusal to Certify - Correction of Violations.

(a) If after any inspection by the Health Department of the City of Everett, an inspector refuses to issue a certificate of habitability, such inspector shall issue a written order or a copy of the inspection form setting forth the violations of Article II of the State Sanitary Code existing in the unit which must be corrected before a certificate of habitability may be issued.

(b) It shall be the responsibility of any owner receiving such order to notify the Board of Health when violations have been corrected.

Section 10-31 Appeal.

The procedures for appealing any decisions of the Health Department of the City of Everett shall be the same as that set forth in Article II of the State Sanitary Code.

Section 10-32 Fitness as Public Record.

Whether or not a certificate of habitability has been issued by the Health Department of the City of Everett for a particular unit shall be a matter of public record.

Section 10-33 Violation - Penalty.

(a) Any owner of property used for dwelling purposes failing to comply with this chapter shall pay a fine not to exceed twenty-five ($25.00) dollars for each violation.

(1) Each day that the owner or allows any person to live, occupy or inhabit such premises without having received a certificate of fitness from the Health Department of the City of Everett for a particular unit shall be a separate offense.

(b) Such failure shall be a matter of public record.

Section 10-34 Severability.

The provisions of this Ordinance shall be severable and if any section, part or portion hereof shall be held invalid for any reason by any court, the decision of such court shall not affect or impair any remaining section, part or portion thereof.

Section 10-35 Rodent Control.

(a) Purpose. It is the intent of these regulations to control and reduce the rodent population of the City of Everett by modifying the environment to create conditions adverse to the continued reproduction, colonization, and existence of rats.

(b) Definitions.

“Building” means any structure, whether public or private, which is devoted to or designed for occupancy of any kind, for the transaction of business of any nature, for the rendering of professional services, for amusement, for the display, sale, or storage of goods, wares, or merchandise, or for the performance of work or labor.

“Burrow” means a below-ground nest or harborage for rats.

“Debris” means the worthless remains that result from the destruction or breaking down of

anything.

“Director” means the Health Director for the City of Everett. The term also means the authorized representative of the Director.

“Evidence of rats” means the natural presence of rat runs, burrows, fecal droppings, rubmarks, gnaw marks, tail drag marks, tracks or other signs which may be associated with the presence of rats, as well as the visual sighting, hearing, smelling, or otherwise sensing of the presence of rats.

“Garbage” means the refuse of animal or vegetable matter from households, other activity.

“Harborage” means any place which provides shelter or protection for rats, thus favoring their reproduction, presence, or continued existence on the premises.

“Occupant” means the person who has the use of or occupies any building or any part thereof or who has the use or possession, actual or constructive, of the premises, whether the actual owner or tenant. In the case of vacant buildings or vacant portions of a business building, or in case of occupancy in whole or in part by the owner, the owner of the building shall be deemed to be, and shall have the responsibility of, an occupant of such building.

“Opening” means any opening in the foundation, sides of walls, ground or first floor, basement, chimneys, eaves, grills, windows, ventilators, walk grates, elevators of a building, and any pipes, wires, or other installations through which a rat may enter.

“Owner” means the person owning the building or premises.

“Person” means individuals, firms, partnerships, associations, public or private institutions, municipalities, political subdivisions of the State of Massachusetts, governmental agencies, and public or private corporations.

“Premises” means a parcel of real property, including all buildings located thereon.

“Rat” means a long-tailed rodent belonging to the genus Rattus, including the Norway rat and roof rat.

“Rat eradication” means the elimination or extermination of rats from premises and from rat harborages of any kind by measures such as baiting, fumigation, or trapping and, where necessary, rat-proofing such that the premises and rat harborages are completely freed of rats, and there is no evidence of rat infestation remaining.

“Rat-proof container” shall mean a garbage can or other container reasonably impervious to rats.

“Rat-proofing” means to prevent the ingress of rats into buildings from the exterior or from one building to another. It consists of the closing, with material impervious to rat gnawing, of all openings in the exterior walls, ground or first floors, basements, roofs, and foundations that may be reached by rats from the ground by climbing or by burrowing.

“Rat-tight condition of sewers” means the condition achieved by the construction and maintenance

of sewer lines, manholes, and all other parts of the sewer system in such a manner as to prevent rats from exiting through openings or breaks.

“Refuse” means material rejected or thrown aside as worthless.

“Rubmark” means a dark, sometimes greasy mark formed from contact by the rat’s body.

“Run” means a narrow pathway of beaten earth and vegetation swept clear of debris by the frequent travel of a rat.

“Trash” means any accumulation of waste materials no longer of any use, including but not limited to paper, sweepings, dust, rags, bottles, cans, or cardboard.

(c) General Provisions.

(1) All premises within the City of Everett shall be free of rats and maintained in a rat-free condition;

(2) Rat harborages shall be eliminated, buildings shall be maintained in a rat-proof condition, foods and foodstuffs shall be stored and handled so as to be inaccessible to rats; and

(3) Where rat infestation is evident, effective measures of rat eradication shall be instigated by the person occupying the premises or in the absence of an occupant, by the owner.

(d) Storage and Handling of Food and Foodstuffs.

(1) All food for human consumption and feed for animals and fowl shall be stored in rat-free and rat-proof containers, compartments, or rooms unless stored in a rat-free and rat-proof building.

(2) Feed for animals and fowl shall not be left on the ground, on the floor or left in feed pans, trough, and other feeder containers any longer than necessary to feed the animals and fowl unless such feeder equipment is made inaccessible to rats.

(3) Foods for human consumption shall not be left on floors, counters, or otherwise exposed so as to provide food for rats.

(4) When feeding birds, the feed should be kept at all times on raised platforms which are made inaccessible to rats. Bird food shall not be placed on the ground when there is evidence of rats on the premises or on nearby premises.

(e) Storage and Disposal of Garbage, Refuse, and Debris.

(1) No person shall place, leave, dump, or permit to accumulate any garbage, refuse, debris, or trash on any premises, alley, or roadway, so as to afford food or harborage for rats.

(2) All garbage shall be placed and stored in rat-proof containers until collected.

(f) Rat Harborage.

(1) Conditions which provide rat harborage shall not exist on premises. No person shall accumulate or permit the accumulation of boxes, bottles, cans, containers, junk appliances, or other similar objects which afford rat harborage.

(2) When there is evidence of rats upon premises, the following persons shall be jointly and severally responsible to remove from such premises objects of the type described in subsection (f)(1) of this section, upon request of the Director:

a. The person who placed such objects upon the premises; and

b. The occupant of the premises, if the objects are in or on a part of the premises which the occupant occupies or controls; and

c. The owner of the premises if the owner leased the part of the premises containing such objects with such objects upon the premises, or the objects are in or on a part of the premises which is vacant or occupied by the owner, or the objects are upon a part of the premises which the owner maintains or controls even though the premises are occupied by another.

(3) When there is evidence of rats in and around useful materials, such as firewood, lumber, or building material, indicating the presence of a rat harborage, and the Director requests, the owner of such useful material shall store them at least 15 inches above ground. If the owner of such useful materials cannot be found after inquiry, the Director may treat them as abandoned property and either sell the useful materials at public auction and pay the net proceeds of the sale into the general fund of the City, or send the useful materials to a designated landfill for disposal, or give the useful materials to any governmentally owned agency located in the City for use by that agency.

(g) Rat-Proofing.

(1) The owner of any building shall be responsible to rat-proof that building when evidence of rats exist in, under, or around said building, and the Director cites to the owner or to the owner's rental agent for the building, such evidence and also requests that the owner rat-proof the building. Nothing contained in the foregoing sentence shall bar any right of action the owner of the building may have against the lessee for breach of the lease, but the owner may not plead the terms of any such lease in bar of the owner's responsibility set forth in the foregoing sentence. Methods and materials used for rat-proofing shall be sufficient to stop the ingress of rats into buildings from the exterior and from one building to another.

(2) All buildings shall be maintained free of rats and in a rat-free condition. It shall be the responsibility of each and every occupant of a building to maintain that portion of the building which he or she occupies or controls, free of rats and in a rat-free condition. It shall be the responsibility of the owner of a building to maintain free of rats and in rat-free condition the unoccupied parts of his or her building and the parts of such building over which a nonowner occupant does not exert control.

(h) Failure to Restore Rat-Proofing Materials – New Openings to Be Sealed. No person shall remove rat-proofing from any building for any purpose and fail immediately thereafter to restore the same in a rat-proof condition or to make any new openings that are not immediately thereafter closed or sealed against the entrance of rats.

(i) Street Opening, Demolition, or Moving Buildings.

(1) No permit shall be issued for any street opening work, and no building permit shall issue for any new construction, demolition, moving of a structure, for any work in which the displacement of earth requires a building permit, or for any renovation of a building that has been vacant for three or more months until the applicant provides evidence that the construction site area, including buildings or premises thereon, have been treated for, or are free from, insects and rodents in accordance with State Sanitary Code, 105 CMR, Section 410.550; except at the discretion of the Health Agent.

(2) The Department of Public Works shall be responsible for enforcing baiting procedures relative to street opening permits.

(3) The applicant shall be held responsible for corrective measure should his/her digging, construction, renovations, or conversions 10 days after the completion of, or at the discretion of the health agent, any construction in accordance with this section.

(j) Sewers.

(1) The owner or person responsible for the maintenance of a sewer system or any portion thereof shall maintain to the greatest extent possible said system in a rat-tight, rat-free condition at all times. Whenever the owner or responsible person is notified by the Director that there is evidence of rat infestation in the sewer, that person shall institute rat eradication measures immediately and shall maintain the eradication measures in a satisfactory manner until the sewers are rat free.

(2) New sewer lines must be constructed and all existing ones maintained in such a manner as to prevent the exit of rats from sewers.

(3) Whenever the owner or responsible person is notified by the Director that there is evidence of rats burrowing or otherwise exiting from the sewer system, that person shall institute with reasonable dispatch the necessary repairs to the said sewer line to prevent the exit of rats.

(k) Right of Entry – Inspection.

(1) The Director shall have the right of entry upon any premises where entry is necessary to carry out the provisions of this section.

(2) If consent for entry is not obtained, an administrative search and inspection warrant shall be obtained pursuant to the M.G.L. However, if an imminent hazard exists, no warrant is required for entry upon the premises.

(l) Penalties and Remedies.

(1) Any person who violates any provision of this section shall be fined in accordance with the provisions of Section 1-8.

(2) The Director may bring a civil proceeding through the appropriate court to enforce the provisions of this section.

(m) Severability. If any provision or clause of this section shall be declared invalid, such declaration shall not invalidate any other provision or clause of this section.

(n) Effective Date. These regulations shall be in full force and effective upon approval by the City Council and subsequent approval by His Honor the Mayor. (C0368-16)

Chapter 11.
LIBRARIES*

ARTICLE I. BOARD OF TRUSTEES OF THE FREDERICK E. PARLIN MEMORIAL LIBRARY

Section 11-1 Establishment, appointment, composition.
There shall be a board of trustees of the Frederick E. Parlin Memorial Library consisting of thirteen (13) persons, to be appointed by the mayor, subject to confirmation by the city council. The initial appointments shall be made as follows: four (4) persons for three (3) years, four (4) persons for two (2) years, and five (5) persons for one (1) year from the first Monday in June of the year of appointment. Thereafter, the same number of members shall be chosen annually for a term of three (3) years to succeed the members whose term expired. (Rev. Ords. 1976, Pt. 2, Ch. 14, § 1) (Ord. of 3-28-88, § 1; A0173-12)

Section 11-2 Powers and duties.
(a) The board of trustees of the Frederick E. Parlin Memorial Library shall have charge and control of the main branch of the Frederick E. Parlin Memorial Library, the Shute Memorial Library Branch of the Frederick E. Parlin Memorial Library and any other branches which may be opened, and the contents thereof.

(b) The board of trustees of the Frederick E. Parlin Memorial Library set forth in this chapter shall allow the inhabitants of the city free use of its facilities, under any necessary and proper restrictions and regulations. An adequate and up-to-date collection of materials, together with proper facilities for the use and circulation of the same, shall be provided by the board of trustees. (Rev. Ords. 1976, Pt. 2, Ch. 14, § 2; Ord. of 3-28-88, § 2)

Section 11-3 Annual report.
The board of trustees shall make an annual report to the mayor which shall include a review of the year's events, together with the statistics for the year. (Rev. Ords. 1976, Pt. 2, Ch. 14, § 3; Ord. of 3-28-88, § 3)

Section 11-4--11-20 Reserved.

ARTICLE II. IN GENERAL

Section 11-21. Frederick E. Parlin Memorial Fund.
(a) The legacy bequeathed to the city by the codicil dated November 13, 1924, to the will of Albert N. Parlin, shall be known as the Frederick E. Parlin Memorial Fund.

(b) The trustees of the "Frederick E. Parlin Memorial Library" shall have charge and management of the fund and shall invest the principal thereof in such bonds and notes, as may be permitted by law for the investment of the funds of savings banks in the state, and all bonds shall be registered, at least as to the principal thereof, in the name of, and all notes shall be made payable to the order of the City of Everett, Frederick E. Parlin Memorial Library Fund and shall be sold and transferred only with the written consent of a majority of the members of such board of trustees.

(c) The treasurer of the Frederick E. Parlin Memorial Fund shall be the treasurer of the city.

(d) The income from the Frederick E. Parlin Memorial Fund shall be expended by the board of trustees for the purchase of furniture, equipment other than supplies, and books for the Frederick E. Parlin Memorial Library, for the care of the library grounds and for the enlargement of or addition to the library building whenever the same shall be necessary, but for no other purpose. (Rev. Ords. 1976, Pt. 2, Ch. 14, §§ 4—7)

Chapter 12.
LICENSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Section 12-1 Revocation due to unpaid fees.
The failure to pay the annual license fee for any license or special license granted by the city council shall be cause for the revocation of such license or special license after the licensee has been informed by written notice of the fee due, the year, the name, and that his license or special license may be revoked after a hearing by the city council. (Ord. of 4-17-79; 06-22-2005; A0173-12)

Section 12-2 LICENSING UNDER MGL CHAPTER 140, SECTION 57 & 59
(a) License required. No person, except one whose principal business is the manufacture and sale of new motor vehicles but who incidentally acquires and sells second hand vehicles, or a person whose principal business is financing the purchase of or insuring motor vehicles but who incidentally acquires and sells second hand vehicles, shall engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof or allow any property under his control to be used as a place of sale or display of motor vehicles without securing a license from the city council. This section shall apply to any person engaged in the business of conducting auctions for the sale of motor vehicles, and to any person engaged in the business of leasing or renting motor vehicles and who, as an incident to such business, sells or offers to sell any such lease or rental vehicle to the public.

(1) The number of licenses granted under MGL Chapter 140, Section 57 shall not exceed one per 1,300 residents as determined by the most recent federal census. (A0173-12; amended C0441-16) (M.G.L. c. 140, § 57)

(b) Application requirements.

(1) Application for license shall be filed with the City Clerk of the City of Everett and be made in such form as shall be approved by the Registrar of Motor Vehicles, and if the applicant has not held a license in the year prior to such application, such application shall be made in duplicate, which duplicate shall be filed with the registrar. (M.G.L. c. 140, § 57)

(2) Every applicant for such license shall file, with the City Clerk of the City of Everett, the following additional information:

a. Name, local address and telephone number of the manager of the business if different from applicant.

b. Federal Employer Identification Number if applicant is a corporation, partnership or firm; Social Security Number if applicant is a sole proprietorship.

c. Certificates of inspection issued by the Everett Building Department and Fire Prevention Division of the Everett Fire Department.

d. Certificate of Good Standing issued by the Treasurer -Collector of the City of Everett.

e. A current Criminal Offender Record Information (CORI) report for owner and manager. (New license or change in manager)

f. A Revenue Enforcement and Protection (REAP) Attestation.

g. A certified plot plan approved by the Building Department, shall accompany all new applications, indicating required parking designations for customer, employee and vehicles for sale or repair and any other requirements set forth by the Zoning Ordinances of the City of Everett. (New license only)

h. Proof of ownership and/or right to possession of the property wherein the license will be effective.

i. Property Card from the Assessor's Department of the City of Everett displaying name and address of current owner.

j. Workmen's Compensation Insurance Affadavit

k. Application fee of $200.00. (New license only)

l. Other information that may be requested by the city council. (A0173-12)

(c) License fee, expiration. The annual license fee to be paid for said license shall be $200.00. All licenses shall expire on the last day of each calendar year. Any change of ownership shall require a new application and license with corresponding payment of fees.

(d) Standards for issuance of license; denial.

(1) The City, in considering the application, shall take into consideration the nature and development of the surrounding property; the proximity of churches, schools, public buildings or other places of public gathering; the effect such business may have upon traffic conditions in the City and the creation of traffic hazards; the sufficiency in number of such other businesses of the same character in the City; the health, safety and general welfare of the public; and the suitability of the applicant to establish, maintain and operate such business and to receive a license.

(2) All licenses shall be issued by the City Clerk only after payment of licensing fee and proof of the licensee obtaining of a bond, or equivalent proof of financial responsibility as described in Massachusetts General Law Ch 140§ 58, and continue in effect a surety bond or other equivalent proof of financial responsibility satisfactory to the municipal licensing authority in the amount of $25,000 executed by a surety company authorized by the insurance department to transact business in the commonwealth.

(3) In the case of a sale of a business licensed under this section, no license shall be issued to the purchaser until the previous license is surrendered or an executed purchase and sale agreement is filed with the City Clerk.

(e) Transferability. Said license shall not be assignable or transferable and shall authorize the licensee to conduct the business only on the premises specified.

(f) Suspensions and revocations.

(1) All licenses granted under this section shall be revoked by the city council if it appears, after hearing, that the licensee is not complying with sections fifty-seven to sixty-nine of the Massachusetts General Laws, inclusive, or the rules and regulations made there under; and no new license shall be granted to such person thereafter, nor to any person for use on the same premises, without the approval of the Registrar. The hearing may be dispensed with if the registrar notifies the licensing board or officer that a licensee is not so complying. In each case where such license is revoked, the city council shall forthwith notify the Registrar of such revocation. Any person aggrieved by any action of the licensing board or officer refusing to grant, or revoking a license for any cause may, within ten days after such action, appeal to any justice of the superior court in the county in which the premises sought to be occupied under the license or permit applied for are located. (A0173-12) (MGL Ch 140§ 59)

(2) All licenses issued pursuant to this section may be suspended by the city council for cause, after notice to the licensee. The licensee may request an appeal to be presented to the city council, whose decision on said suspension shall be final. (A0173-12)

(g) Standards of Operation

(1) All licensees shall comply with all applicable laws of the State and Federal Government, the Rules and regulations of the Massachusetts Registry of Motor Vehicles and the Revised Ordinances of the City of Everett.

(2) No stripped, dismantled or wrecked automobiles shall be displayed, stored or otherwise permitted on said licensed area.

(3) All employee, customer and vehicles for sale, shall be parked or otherwise stored at all times in an orderly and uniform manner on the licensed premises only.

(4) All employee and customer parking spaces shall be clearly marked with proper signage.

(5) Conditions as to hours of operation, number of vehicles available for sale and any other conditions shall be strictly adhered to unless amended by the city council and attached to the license. (A0173-12)

(6) Proper office facilities shall be maintained on the premises for conduct of business.

(7) Proper fencing and lighting, as required by the city council or Building Department shall be maintained. (A0173-12)

(8) Banners, flags (except the proper display of an National, State or City Flag) are prohibited to prevent a carnival atmosphere.

(9) Proper signage as required by the Building Department, Traffic Division of the Everett

Police Department or the city council shall be maintained. (A0173-12)

(10) All vehicles for sale on any lot licensed under the provision of this section shall be owned by the license holder.

(11) All vehicles for sale shall be so identified in a manner approved by the city council. (A0173-12)

(h) Unlicensed Business. Whoever, not being licensed, carries on the business for which a license is required by section fifty-seven of Chapter 140 of the Massachusetts General Laws, or is concerned therein, or, being licensed, carries on such business or is concerned therein in any other place or manner than that designated in his license, or after notice to him that his license has been revoked or suspended, shall be punished by a fine of not less than two hundred and not more than one thousand dollars. . (MGL Ch 140§ 68)

(i) Violations and penalty

(1) Each and every person failing to comply with any of the provisions in this section, shall be subject to a fine of not more than five hundred dollars fines as provided in Chapter 140: Section 69 of the Massachusetts General Laws.

(2) In addition to being subject to the penalties provided herein, any license issued under this section may be revoked or suspended for any intentional misstatement in any application or for any violation of this section. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 14, A0048-10)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 12-3 Licensing under Chapter 148, Section 56.
Persons may be licensed in accordance with chapter 148, section 56, of the M.G.L. The fee for each license shall be one hundred dollars ($100.00) and a fee of one hundred dollars ($100.00) for each renewal thereof.

Editors Note: Changed from 12-2.5 in 2004

Section 12-4 Notice to abutters.
Any person or other entity applying for a license under M.G.L., c. 140, §§ 57, 58 and 59, shall provide to the clerk of the city council, when such application for a license is first presented to the city council, return receipt from the U.S. Postal Service, indicating that all abutters within one hundred fifty (150) feet of any part of the property intending to be used for a first, second or third class motor dealer, have been notified of the date that such application will be heard by the city council. (Ord. of 4-4-94; A0173-12)

Editor's note--Ord. of 6-5-95(2), deleted the provisions of former § 12-4, which pertained to food dispensing at gasoline stations restricted, as derived from Ord. of 4-10-78. Changed from 12-2.5 in 2004.

Section 12-5 Time restriction upon delivering or removing merchandise.

No person shall deliver or remove merchandise from any business establishment in the city between the hours of 10:00 p.m. and 7:00 a.m., except in emergencies. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 1)

Section 12-6 Delivery of milk and bread.
The delivery of milk and bread to stores is allowable between the hours of 10:00 p.m. to 12:00 midnight. Permission for such delivery between such hours shall be granted by the chief of police upon request of the business establishment. The chief of police shall not grant this permission of delivery if in his judgment a nuisance shall be created, and the chief of police shall withdraw such permission if in his judgment, a nuisance is created by such delivery or if requested to do so by the city council. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 2)

Section 12-7 Prohibited conduct in certain establishments.
(a) The following acts or conduct in or on premises licensed in accordance with chapter 140, section 181 or section 183A of the General Laws are deemed contrary to the public need and to the common good. Therefore no license shall be held for the sale of alcoholic beverages to be served and consumed on the licensed premises where such acts or conduct are permitted:

(1) It is forbidden to employ or permit any person in or on the licensed premises while such person is unclothed or in such attire as to expose to view any portion of the areola of the female breast or any portion of the pubic hair, cleft of the buttocks, or genitals.

(2) It is forbidden to employ or permit any hostess or other person to mingle with the patrons while such hostess or other person is unclothed or in such attire as described in subsection (a)(1) of this section.

(3) It is forbidden to encourage or permit any person in or on the licensed premises to touch, caress, or fondle the breasts, buttocks, or genitals of any other person.

(4) It is forbidden to employ or permit any person to wear or use any device or covering exposed to view which simulate the breasts, buttocks, pubic hair, or genitals or any portions thereof.

(5) It is forbidden to employ or permit any person in or on the licensed premises to perform any act or acts, or to simulate the act or acts, of:

a. Sexual intercourse, masturbation, sodomy, flagellation, or any sexual acts prohibited by law; or

b. Touching, caressing, or fondling of the breasts, buttocks, or genitals of another.

(b) It is forbidden to employ or permit any person in or on the licensed premises to show motion picture films, television type cassettes, still pictures, or other photographic reproductions depicting any of the acts, or any simulation of any of the acts, prohibited in subsection (a) of this section.

(c) Notwithstanding any of the provisions of this section, no person duly licensed by the licensing board for the city under chapter 140, section 181, or 183A, or chapter 138, sections 1, 12, or 23 of

the General Laws shall employ, use the services of, or permit upon this licensed premises any employee, entertainer, or other person who by his or her attire or conduct violates any general laws, special act, or ordinance of the city.

(d) Any person violating any of the provisions of this section shall, upon conviction, be punished in accordance with Section 1-8 of these Revised Ordinances. (Ord. of 12-20-76; A0173-12)

Section 12-8 Delinquencies in municipal taxes or charges/licenses and permits.

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or the other municipal charges for not less than a twelve-month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector or with respect to any activity, event or other matter which is the subject of such license or permit and which activity, event or matter is carried out or exercised or is to be carried out or exercised on or about real estate owned by any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen (14) days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments, or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The city council may waive such denial, suspension or revocation if it finds there is no direct

or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter 268A in the business or activity conducted in or on said property.

(e) This section shall not apply to the following licenses and permits: open burning; section 13 of chapter 48; bicycle permits; section 11A of chapter 85; sales of articles for charitable purposes, section 33 of chapter 101; children work permits, section 69 of chapter 149; clubs, associations dispensing food or beverage licenses, section 21E of chapter 140; dog licenses, section 137 of chapter 140; fishing, hunting, trapping license, section 12 of chapter 131; marriage licenses, section 28 of chapter 207 and theatrical events, public exhibition permits, section 181 of chapter 140, and dumpster permits, section 17-79 of the Revised Ordinances of the City of Everett. (Ord. of 8-19-96(1))

Editor's note--Ord. of 8-19-96(1), added provisions to the Code, but did not specify manner of inclusion. At the discretion of the editor, therefore, said provisions have been included as § 12-30 herein. Editor's Note: Changed from 12-11 in 2004.

Section 12-9 Special Licenses for Extended Hours of Operation.

(a) For the purpose of controlling noise and promoting the public peace and to protect public safety and nighttime tranquility, no retail or wholesale store, factory or manufacturing plant, or any establishment that services the general public shall conduct business or operate between the hours of 11:00 p.m. and 6:00 a.m. (A0237-09)

(1) All businesses required to be registered under MGL Chapter 112: Section 87H and other applicable sections and or Chapter 112: Section 87AA and other applicable sections shall be required to obtain a special permit to operate between the hours of 9:00 p.m. and 7:00 A.M. (C0113-08)

(b) A special license to extend the hours of operation between 11:00 p.m. and 6:00 a.m. may be granted by the city council and at the discretion of the city council, a police detail may be required. (A0237-09; A0173-12)

(c) Upon receipt of an application for a special license by the City Clerk:

(1) The city clerk shall forward such application to the city council. (A0173-12)

(2) The city council shall hold a public hearing and shall, within 30 days of the public hearing take final action on the application for the special license. The applicant shall publish notice of said hearing in a local paper and shall notify all abutters by registered mail of the time of said hearing. (A0173-12)

(3) Applications for special licenses shall only be approved if the city council finds that in its judgment all the following general rules are compiled with: (A0173-12)

a. The particular site is an appropriate location for such a condition.

b. The use will not adversely affect the neighborhood.

c. There will be no nuisance or serious hazard to vehicles or pedestrians.

d. Adequate and appropriate facilities are provided for the proper operation under the proposed condition.

e. Petitioner complies with sections 12-1 and 12-8.

(d) A special license granted under this section shall lapse within one year, and may be reviewable by the city council. (A0173-12)

(e) The city council reserves the right to revoke a special license at any time for violations to the conditions of issuance or of any of the ordinances of the City of Everett or State or Federal Law. (A0173-12)

(f) Any appeals to the actions of the city council shall be before and subject to the rules of to the Board of Appeals. (A0173-12)

(g) Any business currently operating contrary to the intent of this section may continue to operate provided that a license is issued by the licensing authority. (Ord of 06-22-2005)

Section 12-10 Time limit on renewal of license.
Any establishment licensed under Chapter 12 shall file a full and complete application for renewal, including required inspection reports, no later than 30 days from the date of the expiration of their current license. (03-08-2006)

Section 12-11 HOME OCCUPATIONS.
(a) Purposes. The purposes of these home occupation provisions are in recognition of:

(1) The need to protect market value of existing residential properties;

(2) The need to guarantee existing residential property owners freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible adverse effects from commercial-type activities being conducted in residential areas;

(3) The need of some citizens to use their place of residence for limited commercial type activities to produce or supplement personal or family income;

(4) The fact that certain limited home occupational uses can be useful to both the community as well as the residential-proprietor;

(5) The fact that the nature of the investment or operation of some activities have a pronounced tendency once started to rapidly increase beyond the limits permitted and thereby impair the use and value of residentially zoned areas for residential purposes; and

(6) The City's obligation to protect the integrity of its residential areas from activities that detract from the residential character of a neighborhood and infringe upon the rights of neighborhood residents.

(b) General limitations. Uses permitted as home occupations shall be limited as follows:

(1) Uses that are limited in extent;

(2) Uses defined in this chapter as customary home occupations or recognized professions,

(3) Uses that are clearly incidental and subordinate to the use of the premises for residential purposes;

(4) Uses that do not substantially change the appearance or condition of the residence or accessory structure;

(5) Uses that are compatible with neighboring residential uses; and

(6) Do not detract from the residential character of the neighborhood.

(c) Definitions. As used in this section, the following terms shall have the meanings indicated:

(1) HOME OCCUPATION -- Any use of a legally existing residential property which is consistent with the limitations established in Subsection (a) above and which is in compliance with the performance standards established in Subsection (d) below. Uses which are not consistent with the limitations established in Subsection (b) above and/or which are not in compliance with the performance standards established in Subsection (d) below shall not be registered as a home occupation or be issued a permit as a home occupation. Such activities shall be considered by definition either a conforming or a nonconforming commercial activity.

(d) Performance standards. In any legally existing dwelling unit or accessory structure, home occupations may be conducted, provided that they are in compliance with the applicable requirements of this section and the following performance standards:

(1) Number allowed per residential unit. The total number of home occupations conducted within a dwelling unit is limited to one (1) Home Occupation.

(2) Appearance. In no way shall the appearance of the residential structure or the premises be altered by a home occupation, and in no way shall the home occupation be conducted such that the structure or premises differs from its residential character by the use of colors, materials, premises layout, construction or lighting.

(3) Garage sales and yard sales. Home occupations do not include garage sales and yard sales.

(4) Home occupations involving classes or instruction. If the home occupation is the type in which classes or instruction is given, there shall be no more than two (2) students or pupils in the dwelling unit or on the premises at any one (1) time, provided that the Board of Appeals may grant specific conditional approval of a reasonable number of additional students if it is found that the additional students will not generate additional motor vehicle traffic.

(5) Retail sales limited. Retail sales, on premises, shall be prohibited except for the retail

sales of merchandise, products, supplies or goods produced or fabricated on the premises as a result of the home occupation, provided that incidental retail sales may be made in connection with other permitted home occupations.

(Examples: A dressmaker would be permitted to sell only clothing produced or fabricated on site and would not be allowed to purchase stocks of dresses for sale to the general public on-site.)

(6) Number of employees.

a. No person other than members of the immediate family or those permanently residing on the premises shall be employed, on a full-time or part-time basis, in the home occupation, except that the Board of Appeals may grant specific conditional approval of up to two (2) additional persons to be employed on a part-time basis for periods not to exceed three (3) months if it is found that the additional persons will not generate additional motor vehicle traffic.

b. Persons engaged in building trades or similar fields, using their dwelling units or residential premises as an office for business activities carried on off the premises, may have more employees if they are not employed on the premises nor report to the premises for any job-related purpose.

(7) Space/floor area devoted to home occupation. A home occupation shall be conducted only within the dwelling unit or an accessory building and shall not occupy more than twenty-five percent (25%) of the combined total floor area of the dwelling unit and accessory buildings on the premises, excluding any unenclosed areas such as decks and open porches, etc.

(8) Outdoor display and storage. There shall be no outside operations, storage or display of products, materials, goods, supplies or equipment associated with the home occupation without the specific conditional approval of the Board of Appeals based upon a determination that such out-of-doors operation can be accomplished without adverse impact to adjoining properties and the traveling public, except that samples of goods sold or job-related materials may be carried in vehicles used for business purposes.

(9) Off-street parking. The home occupation shall not require more than one (1) on-street parking spaces, for clients or customers, in addition to the off-street parking spaces available to the residence.

(10) Home deliveries.

a. Home occupations shall not involve the use or storage at or on the premises of tractor trailers, semi-trucks or heavy equipment such as fuel trucks, logging or construction trucks or equipment. One commercial vehicle not to exceed (7,000 lbs) seven thousand pounds may be parked off-street at the premises during non-business hours.

b. Deliveries shall not exceed those normally and reasonably occurring from a

residence, and shall not include more than an average of one (1) delivery of products or materials per day.

c. Deliveries shall not require vehicles other than those customarily used for residential package delivery.

(11) Signs.

a. There shall be no signs related to the home occupation present on the property, except one (1) flush-mounted wall sign, not over two (2) square feet in area, indicating only the occupant's name and occupation.

b. The Board of Appeals may grant specific conditional approval of larger signs and non-flush-mounted signs upon a determination that a sign would not detract from the essential residential appearance of the particular dwelling and is consistent with the character of the zone in which it is located.

(12) Adverse impacts.

a. A home occupation shall not be permitted to produce any offensive noise, vibration, smoke, electrical interference, dust, odors or heat. Any noise, vibration, smoke, electrical interference, dust, odors or heat detectable beyond the property lines shall constitute a violation of the terms of this provision.

b. Home occupations which will constitute a fire hazard to neighboring residences, will adversely affect neighboring property values or will constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, odors or other circumstances shall not be approved.

(13) Hours of operation. In no case shall a home occupation be open to the public at times earlier than 8:00a.m. nor later than 8:00 p.m.

(e) Administrative procedures.

(1) Registration required. All home occupations established, operated or maintained in the City of Everett are required to apply for a permit with the City Clerk, as follows:

a. Existing home occupations. Within six (6) months of the effective date of this provision all existing home occupations are required to apply.

b. Application forms. Applications to permit a home occupation shall be on forms provided by the City Clerk.

c. There shall be no application fee for a Home Occupation Permit, but the annual fee for the permit shall be $25.00.

d. Permits limited. Uses that do not meet the definition of a home occupation, as provided in Subsection (c) above, shall not be permitted as a home occupation.

e. Failure to apply. A failure to obtain a permit as required shall be deemed abandonment of any right to operate a nonconforming home occupation regardless of actual intent.

(2) Permits required. Prior to the establishment of a new home occupation after the effective date of this provision, the legal occupant of the residential property shall apply for a permit from City Clerk pursuant to this section.

a. Application forms. Applications for a home occupation permit shall be on forms provided by the City Clerk.

b. Permits limited. Permits for home occupations are limited as follows:

1. Permits for home occupations shall be granted to a designated person who resides at the residential address.

2. Permits for home occupations are not transferable from person to person or from address to address.

3. Should a home occupation permit holder die or move to a new location, the existing permit shall be automatically terminated, except that, in the case of death, the surviving spouse or child residing at the same address may continue the permit upon notice to and written authorization from the City Clerk.

4. In cases where an application is considered not to be in compliance with the home occupation performance standards, the application will be denied.

5. If operating under name but the individual or corporate name, home occupations shall possess a valid business certificate.

c. Revocation of a permit. The City Clerk may revoke any home occupation permit for noncompliance with the criteria set forth in this section. If the permit is revoked, such home occupation use shall be terminated.

d. Compliance with other applicable statutes and standards. Home occupations shall comply with all local, state or federal regulations pertinent to the activity pursued, and the requirements of or permission granted by this section shall not be construed as an exemption from such regulations.

e. Inspections. Home occupation applicants shall permit, if requested, a reasonable inspection of the premises by the Code Enforcement Officer or designee to determine compliance with this section.

(3) Penalties - Any person who violates the provisions of this chapter by any act of commission or omission shall be punished by a fine pursuant to Section 1-8 of the Revised Ordinances of the City of Everett, unless otherwise stated. Each day such violation continues shall be considered a separate offense. (A0131-08)

Section 12-12--12-20 Reserved.

ARTICLE II. HAWKERS AND PEDDLERS

DIVISION 1. GENERALLY

Section 12-21 Name, address to be recorded.
No hawker or peddler shall sell, or offer or expose for sale, any of the articles enumerated in M.G.L. section 17 of chapter 101, until he has recorded his name and residence with the board of health. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 7)

Section 12-22 Noise control.
No person hawking, peddling or carrying or exposing any article for sale shall cry his wares in a public street, nor use or cause to be used a bell, horn or other noise-making instrument, or other means therein for the purpose of giving notice of the exercise of a business or calling, or for the sale of an article. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 8)

Section 12-23 Transportation of wares.
No person hawking, peddling or carrying or exposing articles for sale shall carry or convey such articles in any manner that will tend to injure or disturb the public health or comfort nor otherwise than in vehicles and receptacles which are neat and clean and do not leak. Such vehicles and receptacles shall be inspected by the agent of the board of health once a month. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 9)

Section 12-24 Identification--Badge, number.
Every hawker and peddler licensed by the board of health shall be assigned a number, and shall provide himself with a badge of such type or design as may be approved by the board of health, which shall be worn conspicuously by him. Every other hawker or peddler, as described in section 12-21, shall also provide himself with a similar badge, which he shall wear in a like manner. Whoever neglects to wear such badge or wears it without authority shall be punished by a fine in accordance with the provisions of Section 1-8 of these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 10) (A0173-12)

Section 12-25 Same--Vehicles, containers.
Every vehicle or other receptacle used by a licensee under the provisions of this article as a conveyance for articles offered or exposed for sale by him shall have plainly painted or attached to each side of such vehicle or other receptacle the licensee's name and number, in letters and figures at least two (2) inches in height. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 11)

Section 12-26 Weighing and measuring devices.
No person shall be registered or assigned a number under the provisions of sections 12-21 and 12-24 until he presents a certificate from the inspector of weights and measures stating that all weighing and measuring devices intended to be used by such person have been duly inspected and sealed as required by law and each licensee shall have such measuring and weighing devices inspected at least once a month thereafter. The use of or possession by such person with intent to

use any false or unsealed weighing or measuring devices shall be sufficient cause for the revocation of his license. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 12)

Cross reference(s)--Weights and measures, Ch. 21.

Section 12-27 Identification badge required for certain persons.

(a) Every person who is required by reason of his employment to enter the premises of any private firm, home or residence in the city for the purpose of reading gas, electric or water meters, or working on telephone or cable television systems shall have in his possession to display, if requested, an identification badge. Such identification shall contain the photo of the person having such badge, together with name of such person and whom he represents, signed by a duly authorized officer of his employment. Such badges shall not be less than two (2) inches in height and width.

(b) Whoever refuses to show such badge when requested or has such badge without authority shall be punished by a fine in accordance with the provisions of section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 13; Ord. of 04-08-2004)

Section 12-28 Solicitation permit.

(a) No person shall go from place to place or from door to door, or occupy or use any part of a public way within this city for the purpose of soliciting charitable contributions, or

of conducting any survey or poll, or of selling or offering for sale any article or service whatsoever, without first obtaining a written permit so to do from the chief of police or other officer in charge of the police department at the time such request is made.

(b) Such permit may be issued not more than seven (7) days prior to the date on which it is to be effective and shall specify the time of day and other terms and conditions under which it is to be issued. Any person found violating this section shall be informed of its existence and must obtain a permit before continuing such activities.

(c) Whoever violates any of the terms or conditions under which the permit was issued or whoever persists in soliciting, etc. after being informed of its existence without obtaining such permit, shall be fined in accordance with the provisions of Section 1-8. Additionally, any company and/or organization for whom the solicitor is employed or otherwise associated with for the purpose of door-to-door solicitation shall be responsible for the individual's violation of the terms or conditions under which the permit was issued or for the individual's persistence in soliciting, after the individual has been informed of its existence without obtaining such permit, and shall be fined in accordance with the provisions of Section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 16; amended C0212-16)

Section 12-29--12-40 Reserved.

DIVISION 2. LICENSES

Section 12-41 Required; exception.

No person, other than a person licensed under M.G.L. Ch. 101 sec. 22, shall go from place to place

in the city selling, bartering or carrying or exposing for sale or barter, any fruits, vegetables, meat, butter, cheese, or fish in or from any cart, wagon or other vehicle, or in any other manner without a license therefor from the board of health; provided, however, that this section shall not apply to any person who sells only fruits or vegetables raised or produced by himself or his family or fish which is obtained by his own labor or the labor of his family. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 1)

Section 12-42 Issuance.
The board of health shall have the authority to issue licenses required by the provisions of Section 12-41 to any person of good repute for morals and integrity. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 2)

Section 12-43 Term; fee.
Licenses required by 12-41, unless sooner revoked by the board of health, shall date from and expire on the first day of May of each year. The fee shall not exceed the limit set by the Division of Standards.

(a) Burial – fifteen dollars ($15.00)

(b) Funeral Director – one hundred dollars ($100.00)

(c) Catering Company – seventy-five dollars ($75.00)

(d) Catering (outside) – ten dollars ($10.00)

(e) Dumpster

(1) Permanent – seventy-five dollars ($75.00)

(2) Temporary – twenty-five dollars ($25.00)

(3) Hauler – one hundred dollars $100.00

(f) Food Service (restaurant/theatre) – seventy-five dollars ($75.00)

(g) Food-retail store – seventy-five dollars ($75.00)

(h) Frozen Desert – twenty-five dollars ($25.00)

(i) Massage Therapist – fifty dollars ($50.00)

(j) Massage Establishment – one hundred dollars ($100.00)

(k) Milk – ten dollars ($10.00)

(l) Milk Dealer – fifty dollars ($50.00)

(m) Mobile Vendor – fifty dollars ($50.00)

(n) Tanning – fifty dollars ($50.00)

(o) Tobacco – fifty dollars ($50.00) (Rev. Ords. 1976, Pt. 2, Ch. 8, § 3)(Ord. of 3-4-99)

Section 12-44 Failure, etc., to exhibit upon demand.
Any licensee under this article who fails, neglects or refuses to exhibit his license when the same is demanded of him by an officer of the board of health, inspector of weights and measures or police officer shall be fined in accordance with the provisions of Section 1-8 of these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 4) (A0173-12)

Section 12-45 Status of Commonwealth licenses.
Nothing in this article shall be construed as conflicting with any license issued under the authority of the Commonwealth. (Rev. Ords. 1976, Pt. 2, Ch. 8, § 5)

Section 12-46 Victualler's license fee.
The Board of License Commissioners shall establish a fee schedule in accordance with the provisions of M.G.L. c. 140 § 2. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 14)

Section 12-47 Garages.
(a) The following fees shall be for licenses and each renewal thereof to use the land at a designated location to maintain and use buildings or structures for garages: to be occupied by motor vehicles but shall not apply to Motor Vehicle Repair Shops or Motor Vehicle Body Repair Shops.

4 – 10 Vehicles	$10.00
11 – 15 Vehicles	$25.00
16 – 25 Vehicles	$50.00
26 – 50 Vehicles	$75.00
51+ Vehicles	$125.00

(Rev. Ords. 1976, Pt. 2, Ch. 7, § 28; amended C0440-16)

Section 12-48 Commercial garages, auto body shops and automobile repair shops.
(a) Definitions - The following words, terms and phrases, when used in this article, shall have the meanings ascribed by them in this section, except where the context clearly indicates a different meaning:

(1) Commercial garage shall mean an income producing building or structure in which an automobile, truck, motorcycle or other self-propelled vehicle designed primary to transport persons or property over public streets or highways is kept or stored for any purpose, whether temporarily or regularly.

(2) Motor vehicle shall mean an automobile, truck, motorcycle or self-propelled vehicle designed primarily to transport persons or property over public streets and highways, and shall include motorized off-road vehicles, but shall not include trailers.

(3) Motor vehicle body shop shall mean any business of a person or firm that repairs, modifies, remodels, paints or alters in any way a motor vehicle body, or part thereof for

compensation.

(4) Motor vehicle repair shop shall mean any business of a person or firm that maintains, repairs, modifies, remodels, or alters in any way any engine or mechanical parts of a motor vehicle for compensation.

(b) Licensing Required

(1) It shall be unlawful for any person or firm to maintain and use a building or structure for a commercial garage, motor vehicle repair shop or motor vehicle body shop, unless such person or firm has first obtained a license for such purposes from the city council. (A0173-12)

(2) When a person or firm engages in the business of operating a motor vehicle repair shop and motor vehicle body shop at the same location, a single application for the two uses may be submitted and a single license may be issued.

(3) No owner of any real property shall allow any person or firm to maintain and use a building or structure for a commercial garage, motor vehicle repair shop or motor vehicle body shop on the owner's real property without the person or firm having obtained a license therefore from the city council and complying with the terms of this article. (A0173-12)

(4) Municipal owned garages and private garages of single motor vehicles appurtenant to one, two, or three family dwelling houses are exempted from the provisions of this section. (A0255-09)

(5) The number of licenses granted for auto body shops and automobile repair shops shall not exceed one per 800 residents as determined by the most recent federal census. (C0442-16)

(c) License Application.

(1) Applications for licenses hereunder shall be made to the City Clerk on forms to be provided by the Clerk. Each application shall be accompanied by a fee of $200.00 which shall be retained by the city. (A0254-09)

(2) If filed by an individual, the application shall be signed by the individual; if filed by a partnership, the application shall be signed by all partners; if filed by a corporation or other organization, the application shall be signed by the president or chief officer.

(3) Upon application for a commercial garage, motor vehicle repair shop or motor vehicle body shop, the City Clerk shall cause notice of such application together with the location of the business, to be advertised at least seven days prior to the hearing in one or more daily newspapers, stating that a public hearing will be given by the city council or a committee thereof, at the time and place stated in such notice. Notice shall also give given by registered or certified mail return receipt requested by the applicant not less than seven days prior to the hearing, to all owners of real estate within a 300 foot radius of the land for which the application is made. (A0173-12)

(4) The costs of the advertising shall be paid by the applicant at the time of application. These costs are in addition to the filing fee described in subsection (a) of this provision.

(5) After application and notice, the city council shall hold a public hearing at the time and place stated in the notices. At the public hearing, the city council will hear fully the applicant and any interested person wishing to be heard. The city council or committee thereof may limit the discussion to a reasonable length of time. (A0173-12)

(d) License Issuance. In determining whether to grant a license, the city council shall consider the effect the commercial garage, motor vehicle repair shop or motor vehicle body shop will have on the neighborhood in relation to fire hazards, aesthetics, traffic, waste discharge, water, and air and noise pollution. Petitioner shall accept each license on condition that he will conform to such conditions as may be imposed. (A0173-12)

(1) No license shall be granted unless the applicant has obtained the following:

a. A statement from the building inspector that the building or structure to be used conforms to the applicable requirements of the Everett Zoning Ordinance and State Building Code.

1. Petitioners for a new license shall supply the building inspector with a certified plot plan that clearly indicates proposed parking for customers, vehicles for repair and employees.

b. A statement from the Bureau of Fire Prevention that the building or structure to be used conforms to the requirements of the Fire Safety Code.

c. A statement from the Collector's Office stating that no taxes or fees are owed to the City of Everett by the property owner.

d. Proof of proper disposal of Waste Oil and other fluids.

e. A statement from the Chief of Police that the information provided by a Criminal Offender Record Check (CORI) is satisfactory.

f. Auto Body Repair Applications shall present a copy of their registration from the Massachusetts Division of Standards pursuant to MGL Ch. 100A.

g. The applicant shall comply with all applicable federal, state, and local laws, regulations, and ordinances.

h. The city council may impose restrictions and conditions as to the operation of the business concerning hours of operation, fencing and screening, parking, vehicle storage, number of vehicles, location of outside storage, outdoor work areas, and/or restrictions and conditions which the city council decides are necessary to protect the public safety and welfare. (A0173-12)

i. The city council shall not issue more than 60 auto repair licenses within the City of Everett. (A0173-12)

1. A license previously granted by the city council of the City of Everett shall remain in effect at the licensee's location as long as the licensee complies with all of the rules and regulations of the city council. (A0173-12)

2. The city council shall not approve the transfer of an existing repair license on the effective date of this act, from its existing location to any other location within the City of Everett. (A0071-07A; A0115-10; A0173-12)

(2) The applicant shall pay the annual fee of $200.00 and comply with such conditions and restrictions as may be imposed by the city council. (A0254-09; A0173-12)

(3) Any license granted under this article shall be posted in a conspicuous place on the premises of the licensed property.

(4) The city council reserves the right to limit the number of said establishments operating with the City by placing a moratorium on such for a period of not more than one year. At the end of the moratorium period the city council's committee on community & business development shall review the number of licenses currently operating and report its findings and recommendation to the full city council. (A0173-12; C0032-14)

(e) Transferability of License.

(1) Any license granted under this article shall be a personal privilege and shall not be assignable or transferable.

(2) Any license granted under this article shall allow the holder to operate only on the property address for which the license is granted. The license shall terminate upon the transfer of the business to another location.

(f) Revocation of License. The city council may revoke or suspend any license issued under this article for any violation of any condition or restriction of the license or any violation of any applicable law, regulation, or ordinance, after giving the license holder notice and an opportunity to be heard at a duly publicized public hearing. (A0173-12)

(g) License Renewal. Any license issued hereunder shall be effective as of May 1 in each year and shall expire on April 30 of the following year. At least 30 days prior to the expiration of any license, the license holder shall apply for the renewal of the license on forms provided by the City Clerk. Renewals shall be issued upon the completion of necessary inspections and documentation, and payment of the annual fee of $200.00 without the necessity of a public hearing. The city council, however, reserves the right to require full city council approval for any license where the conduct of said licensee or operation of said business is determined by any member of the city council to warrant such review. (A0173-12)

(h) Additional Conditions. The use and occupation of every garage shall be subject to but not

limited to the following conditions:

(1) All vehicles, serviced by the license holder shall be serviced inside the building and not on any public or private way. All vehicles shall be stored within property lines.

(2) Hours of operation as determined by the city council shall be in effect at all times, and no work shall be allowed on Sunday. (A0173-12)

(3) No more than the number of vehicles allowed by the city council shall be on the licensed lot awaiting service. (A0173-12)

(4) The storing of junk or “parts” cars is prohibited.

(5) No vehicles are to be parked on or along the public ways.

(6) Establishments or operators and employees shall possess and/or conform to all necessary registrations, licensing, or other requirements of the Commonwealth of Massachusetts or United States of America.

(7) Auto Body Shops - painting of cars must be done in a spray booth or spray space that conforms to 780 CMR Section 411.

(8) Auto Body - Exterior garage doors are to be closed while painting vehicles.

(9) Auto Body - building shall meet all applicable 780 CMR rules and regulations

(i) Enforcement. The provisions of this article may be enforced by the City Clerk pursuant to M.G.L.A. c. 40, § 21D. Each day on which a violation exists shall be deemed a separate offense. Any person, firm, corporation, association or other entity violating any provision of this article shall be punished in accordance with the provisions of section 1-8 and/or by suspension or revocation of said license or licenses. (A0077-07)

Section 12-49 Licenses for four or more vehicles.

(a) No person, firm, corporation or other legal entity shall park, garage, maintain, store or keep on display, on any private premises, covered or uncovered, more than three (3) unregistered or uninsured motor vehicles, except by license granted by the city council, except municipal parking lots, licensed open air parking lots or holders of first or second class motor vehicle licenses and licensed garages. (A0173-12)

(b) Said licenses shall be subject to such rules and regulations established by the fire prevention bureau of the City of Everett.

(c) Whosoever violates the provision of subsection (a) of this shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Rev. Ords. 1976, Pt. 2, Ch. 7, § 34) (Ord. of 04-08-2004)

State law reference(s)--Licensing of Open Air Parking Spaces. M.G.L. c. 148, § 56.

Section 12-50 Flowering plants and related items.

(a) No person shall sell flowering plants, whether real, artificial, permanent, temporary, wild, cultivated, either on open, private property or from a tent, booth, building structure on said private property without first obtaining a letter of authorization from the owner of said property and a license from the city council. The applicant may then present said letter from the owner and license from the city council to the city clerk for a temporary license. Upon paying the fee of fifty dollars ($50.00) a day for each day of use, the city clerk shall issue such license for the property where flower and flower related items are to be sold, provided such property, from any point, is not closer than five hundred (500) feet to a point of a property to which was granted an occupancy permit by the building inspector to conduct a florist business. (A0173-12)

(b) No person shall sell flowering plants or related items, whether real, artificial, permanent, temporary, wild cultivated or uncultivated on a public way or public land without:

(1) Obtaining a license from the city council specifying location on public way which he wishes to occupy. The license granted must be posted in a conspicuous area for public viewing. (A0173-12)

(2) Obtain a permit from the city services commission or its designee in compliance with chapter 17, sections 17-81 and 17-82. (A0173-12)

(3) Upon obtaining approval from the city council and permit from the city services commission, the applicant may then present such permits and approval to the city clerk, who shall issue a temporary license for the occupation of public land or on a public way or part thereof to sell flowers and related items and shall pay a fee of fifty dollars ($50.00) dollars for each day of use. The license granted shall be posted in a conspicuous view. (A0173-12)

(4) No license shall be issued by the city clerk for any location on public property or way or parts thereof which location from any point would be within five hundred (500) feet, to a point of property to which was granted an occupancy permit by the building inspector to conduct a florist business.

(5) All applications must be made thirty (30) days prior to the first date requested.

(c) All hawkers and peddlers licensed under M.G.L., c. 101 shall comply with the provisions of this section, but this shall not prevent a hawker or peddler licensed under said chapter to sell his wares provided he does not remain in a set position on a public way or part thereof for more than ten (10) minutes to make a sale.

(d) There is exempted from the provisions of this section, florist establishments, which have been granted an occupancy permit by the building inspector to carry on the business of a florist shop.

(e) No person shall sell Christmas trees or Christmas wreaths on a private open area without obtaining a license from the city council. No person shall sell Christmas trees or Christmas wreaths on an open private area that is located within five hundred (500) feet of an existing florist shop for which a florist occupancy permit has been issued.

The city clerk may issue the license granted by the city council upon the payment of the sum of fifty dollars ($50.00) for each day requested or an annual fee of two hundred fifty dollars ($250.00). The annual fee shall cover a period of time from the granting of such license and for one year thereafter. This license must be posted in a conspicuous area for public viewing. (A0173-12)

(f) Anyone who violates this section shall be subject to a fine in accordance with chapter 1, section 1-8. Each day of violation shall constitute a separate violation. The city may seek injunctive relief, if deemed appropriate, in addition to the fines. (Ord. of 6-28-82; Ord. of 7-27-83, § 13A; Ord. of 11-16-92)

Section 12-51 Hacking License Fee.

(a) In accordance with MGL, Chapter 40, Section 22, the annual fee for operating a taxicab (Hacking License) shall be twenty-five dollars. This fee shall be effective April 1, 2002 and any new license shall be pro-rated by any part of a moth until next April 1st.

(b) Any person operating a taxi (Hacking License) without a license from the City Clerk's Office shall be fined in accordance with Chapter 1, Section 8 of the Revised Ordinances of the City of Everett. (Ord. of 05-11-02)

Section 12-52 OPEN AIR PARKING.

(a) This ordinance shall be known and may be cited as the Open Air Parking Ordinance.

(b) For the purpose of this chapter, the following words are defined as set forth herein:

(1) Abutters – owners and residents of property within one hundred and fifty feet (150') of the proposed open air parking lot;

(2) Open-Air Parking Lot – a land area for the parking or storage of four (4) or more motor vehicles for any period of time for a fee, including Towing Yards.

(3) Property Owner – the registered owner of the property used or to be used for the purpose of operating an open-air parking lot;

(4) Towing Yards - an area of land that is used for the short-term storage of motor vehicles, not to exceed ninety (90) days. Vehicles stored in such lots shall be limited to those removed at the request of public agencies, insurance companies, financial institutions, or other persons who may claim a property or security interest in the vehicle

(c) No person shall operate an open-air parking lot as defined above, without obtaining a license to do so by affirmative vote of the city council upon fulfilling the requirements set herein. (A0173-12)

(d) Any person seeking a license to operate an open-air parking lot, hereinafter called the petitioner, shall at the time of application provide to the City Clerk the following:

(1) completed forms provided by the City Clerk or his designee, which shall be signed and attested to under oath;

(2) a certified engineered plot plan of the proposed location. Said plot plan shall included:

a. the surface of such lot,

b. the building(s) thereupon,

c. the location of proposed parking spaces;

d. the means and direction of egress and exits,

e. the location of secured lighting,

f. location of employee parking

g. location of vehicles used by operator

h. such other information as requested by any department of the City of Everett.

(e) No original license shall be granted unless the petitioner has conformed to the rules and regulations of the city council pertaining to the granting of such license. The rules and regulations are as follows: (A0173-12)

(1) Petitioner shall obtain from the building inspector a statement that the lot and any building(s) or structure(s) to be used is in a business or industrial district or is an existing non-conforming use in a dwelling or apartment district, and that such building conforms to local and State Building Codes.

(2) Petitioner shall obtain from the bureau of fire prevention a statement that the lot and any building or structure conforms to the requirements of public safety, police department and fire prevention.

(3) Petitioner shall accept each license on condition that he will conform to such conditions as may be imposed, as to the hours of operation, elimination of noise, and nuisance within the area where the business is being conducted, in each case, for the public's safety and welfare.

(4) A public hearing shall be held by the city council on each petition and the petitioner shall publish notice of said hearing in a local paper and shall notify all abutters by registered mail of the time of said hearing. (A0173-12)

a. Notice of public hearing via mail and newspaper shall be made not more than fourteen (14) days and not less than seven (7) days before the date of the required public hearing;

(5) Petitioner shall furnish a statement under pains and penalties of perjury that he is the owner and operator of the business and a duly authorized agent of the corporation and that no other person, corporation, trust or business entity is interested in said business, in whole or in part.

(6) Any person seeking a license to operate an open-air parking lot, hereinafter called the

petitioner, shall also submit to a review by the City Treasurer in accordance with Section 12-8 of this Chapter.

(f) Every parcel of land hereafter used as an open-air parking lot as defined in this Section shall be designed, developed, and maintained in accordance with the following requirements. The parking lot:

(1) Shall not be used for the repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies.

(2) Shall be graded for proper drainage and provided with an all-weather surfacing maintained at all times in such a manner as to prevent the release of dust and to be free of dust, trash and debris.

(3) Shall be designed such that each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.

(4) Shall be designed with appropriate means of vehicular access to a street or alley in such a manner as to minimize interference with traffic movement.

(5) Shall be designed with proper landscaping to add to the aesthetic properties of the neighborhood as determined by the city council. (A0173-12)

(6) Shall, if hazards exist which can be eliminated or lessened by properly designed and located lighting, be required to be illuminated. The Building Department may recommend, and the city council may authorize, any required parking facilities to be illuminated at such hours and in such a manner as deemed to be in the best interest of the public safety and security. (A0173-12)

a. Lighting facilities, if required, shall be so arranged and operated so that they neither unreasonably disturb occupants of adjacent properties nor interfere with traffic.

b. All exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residence district.

(7) Shall comply with all the applicable Sections of the Zoning Ordinances of the City of Everett.

(g) If any subsection, subdivision, paragraph, sentence, clause or phrase of this Section or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Section.

(h) Violations of this Section shall be punished by fine in accordance with the provisions of Chapter 1-8 of these Revised Ordinances of the City of Everett. (Ord of 06-22-2005)

Section 12-53 Fortune Telling, Psychic Reading.
No person shall tell fortunes for money unless a license therefor has been issued by the city council. Said license shall be granted only to applicants who have resided continuously in the city for at least twelve months immediately preceding the date of the application. No such license shall be transferred or assigned. The fee for each license granted under this section shall be fifty dollars. Whoever tells fortunes for money unless licensed under this section shall be punished by a fine of not more than one hundred dollars. (A0173-12)

Section 12-54--12-60 Reserved.

ARTICLE III. JUNK AND SECONDHAND DEALERS

Section 12-61 License.
(a) Required. No person shall purchase, barter, collect or store junk, waste materials, materials discarded by others, old metal, rags or other secondhand articles, for any purpose, without first having received a license to do so from the city council. City administrative officers, Boards, and Commissions shall be exempt from the provisions of this ordinance. (A0173-12)

(b) Fee. The fee for a license to keep a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall be one hundred fifty dollars ($150.00) and the fee for a license to collect junk shall be fifteen dollars ($15.00). The fee for selling second hand articles in a second hand establishment shall be twenty-five dollars ($25.00).

(c) Revocation. Any license granted under the provisions of this article may after notice and hearing, be revoked by the city council. (Rev. Ords. 1976, Pt. 2, Ch. 10, §§ 1--3) (A0173-12)

Section 12-62 Records to be kept.
Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall keep a book in which shall be written, at the time of every purchase of any such article, a description of the article purchased, the name, age and residence of the person from whom purchased, a photocopy of a valid identification (driver's license, liquor ID, military ID, etc.). and the day and hour when such purchase was made. Such book shall at all times be open to any police officer of the city. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 4; Ord. of 04-26-2004)

Section 12-63 Sign to be displayed.
Every keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall place in some suitable and conspicuous location on his shop a sign, having his name and occupation legibly inscribed thereon in large, no more than 12 inches in height, letters. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 5)

Section 12-64 Examination of shops, articles by city.
Every shop for the purchase, sale or barter of junk, old metals or secondhand articles and all articles of merchandise therein may be examined by any police officer of the city. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 6)

Section 12-65 Purchases from minors.

No keeper of a shop for the purchase, sale or barter of junk, old metals or secondhand articles shall, directly or indirectly, either purchase or receive, by way of barter or exchange, any of the articles aforesaid of any minor knowing or having reason to believe him to be such.

Section 12-66 Retention Period for Purchases.
No junk or old metals purchased or received by such keeper shall be sold by him until a period of at least one (1) week from the date of its purchase, or receipt shall have elapsed. No secondhand articles purchased or received by such keeper shall be sold by him until a period of at least fifteen (15) days from the date of purchase, or receipt shall have elapsed. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 7; Ord. of 04-26-2004)

Section 12-67 Location of shops, stores, etc.
No dealer or collector of junk, or rags shall be allowed to keep, expose, sort or offer for sale any junk or rags in any shop, store or any other building which is located within five hundred (500) feet of any school or other public building. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 8)

Section 12-68 Condition of premises; manner of keeping clothing.
All dealers and collectors of junk, old metals, rags or secondhand wearing apparel shall be required to keep their premises in a neat and orderly condition. Such clothing shall be kept enclosed in sacks, boxes, barrels or other suitable covered containers. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 9)

Section 12-69 Storage of old rags overnight prohibited.
No person to whom has been issued a license for the purpose only of collecting junk, old metals or old rags, or other secondhand articles, except secondhand clothing, shall store any old rags overnight in any building within the city limits. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 10)

Section 12-70 Licensing of vehicles.
Every vehicle used in the collection of junk, metals, rags or secondhand articles shall have the owner's name, or business upon each side thereof, in plain legible words and figures of not less than one and one-half (11/2) inches in size. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 12)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 12-71 Copy of article to be printed in license.
A copy of this article shall be printed upon every license granted pursuant to this article. (Rev. Ords. 1976, Pt. 2, Ch. 10, § 13)

Section 12-72--12-90 Reserved.

ARTICLE IV. PRECIOUS METAL DEALERS*

Section 12-91 License required.
No person shall purchase, barter, collect or store precious metals, gold, silver, platinum, etc., for any purpose without a license to do so by the city council. (Ord. of 8-17-81; A0173-12)

Section 12-92 License fee.
The fee for a precious metal dealer's license shall be twenty dollars ($20.00). (Ord. of 8-17-81)

Section 12-93 Revocation of license.
Any license granted under this article may be revoked following notice and hearing by the city council. (Ord. of 8-17-81, A0173-12)

Section 12-94 Records to be kept.
Every shopkeeper shall keep a daily legible list containing an accurate description on forms provided by the Police Department of all articles purchased during the preceding business day, the respective numbers of such articles, the prices paid therefore, the time and hour when such purchase was made, the name and address of the seller, and a photocopy of a valid identification (driver's license, liquor ID, military ID, etc.). The above list is to be delivered to the commanding officer of the police station on the first workday of each week before twelve noon. (Ord. of 8-17-81; Ord. of 5-4-87(2); Ord. of 04-26-2004)

Section 12-94.5 Purchases from minors.
No shopkeeper shall, directly or indirectly, either purchase or receive, by way of barter or exchange, precious metals, gold, silver, platinum, etc., from any minor knowing or having reason to believe him to be such. (Ord. of 04-26-2004)

Section 12-95 Purchases to be held for thirty days.
All articles purchased, over the counter, by dealers in precious metals licensed under the provisions of this article, shall be held for a period of thirty (30) days in its original state before disposing of same. (Ord. of 12-7-81; Ord. of 5-4-87(1))

Section 12-96 Daily transaction book required.
Every person licensed under the provisions of this article shall keep a daily book transaction recording all purchases and sales over the counter shall make the daily transaction book available to the police department. (Ord. of 12-21-81)

Section 12-97 Penalty.
Any person who violates any provision of this article shall, upon conviction, be punished in accordance with section 1-8. (Ord. of 8-17-81)

ARTICLE V. RECYCLING REDEMPTION CENTERS

Section 12-98 Definitions.
(a) Recycling Redemption Centers are defined as any person who owns and/or operates a facility for the purpose of accepting and redeeming containers from consumers, and who had registered with the Bureau of Solid Waste Disposal as provided in Commonwealth of Massachusetts Regulation 301 CMR 4.00.

(b) Beverage Containers are defined as any sealable bottle, can, jar, or carton, which is primarily composed of glass, metal, plastic, or any combination of those materials and produced for the purpose of containing a beverage. This definition shall not include containers made of biodegradable material, or of greater than two-gallon capacity.

Section 12-99 License Required.

(a) Required. No person shall purchase, barter, collect or store beverage containers for any purpose without a license to do so by the city council. (A0173-12)

(b) Information to be supplied. The applicant for a license to operate a recycling redemption center shall provide to the licensing authority the following:

(1) Provide proof that a Notice of Intent has been filed with the Bureau of Solid Waste Management.

(2) The owner's name and address.

(3) The operator's name and address, if different from the owner.

(4) The address of the redemption center.

(5) The initial date of operation.

(6) In the case of an existing redemption center, the number of beverage containers received and redeemed on a monthly basis.

(7) In the case of a new redemption center, the anticipated number of beverage containers received and redeemed on a monthly basis.

(8) Such other information as the city council shall determine is necessary to ensure the protection of the public interest. (A0173-12)

(c) Fee. The annual fee to operate a recycling redemption center shall be twenty-five dollars ($25.00).

(d) Revocation. Any license granted under the provisions of this article, may after notice and hearing, be revoked by the city council. (A0173-12)

Section 12-100 Examination of Redemption Centers.
Every redemption center including all articles and any merchandise therein may be inspected by the Board of Health, by any police officer, and any member of the licensing authority to insure compliance that all laws and restrictions issued with the license are complied with.

Section 12-101 Location of Recycling Redemption Centers.
No recycling redemption center shall be located within five hundred (500) feet of any school or other public building.

Section 12-102 Penalty.
Any person who violates any provisions of this Article, shall be fined in accordance with Section 1-8, and may have the license revoked under Section 12-99(d).

Section 12-103 Existing Redemption Centers.
(a) Any redemption center in operation prior to the passage of this may continue to operate provided that a license is issued by the licensing authority.

(b) Any redemption center in operation prior to the passage of this Article that is located with five hundred (500) feet of a school or public building, may continue to operate provided that a license is issued by the licensing authority, unless the physical size of the business area increases. (Ord. of 04-11-2002)

Section 12-104--12-199 Reserved.

ARTICLE VI. SPECIAL EVENTS

Section 12-200 Establishing a special event.
The city council may establish any event in the City of Everett as a special event and shall describe the area of such special event, and also shall name such special event, and declare the date(s) and times of such special event. (Ord of 05-03-2004; A0173-12)

Section 12-201 Special Events Exceptions.
(a) During any Special Event in the City of Everett, and in accordance with Chapter 12 of the Revised ordinances of the City of Everett, no vendor shall sell any products from public or private property within the Special Event area without first obtaining a special license from the city council. (A0173-12)

(b) Any vendor operating without a Special License from the city council in a Special Event area during a Special Event shall have all products being offered for sale confiscated and held in a convenient place until after the completion of the Special Event. (A0173-12)

(c) Any person who shall fail to comply with any of the provisions of this article will be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett.

(d) All products confiscated shall be disposed of eight days after the Special Event if not claimed by the vendor.

(e) Any permanently established business within the area of such exclusion shall not be required to comply with this section provided that such established business may only offer for sale items normally presented for sale at its location. (Ord of 05-03-2004)

Section 12-202 Area of Vendor Limits.
(a) No vendor, with or without a license or permit, except a vendor with a holder of a special license from the city council, shall be allowed to present its good for sale within a certain designated area from the property line of the location of a special event so established by the city council. (A0173-12)

(b) Any permanently established business within the areas of such exclusion will not be required to comply with this section provided such established business shall only offer for sale items normally presented for sale at its location.

(c) A list of such exclusions with the area, dates, and times shall be kept on file in the office of the City Clerk. (Ord of 05-03-2004)

Section 12-203 Designated Area.
(a) The city council shall determine the designated area of each Special Event in the City of Everett. The Designated area shall surround an area of a Special Event and shall always be indicated by a measurement in feet from the Special Event area. (A0173-12)

(b) No vendor, with or without a license or permit, except a vendor with a holder of a special license from the city council, shall be allowed to present its good for sale within the designated area from the property line of the location of a special event so established by the city council. (A0173-12)

(c) Any permanently established business within the areas of such designated area shall not be required to comply with this section provided that such established business shall only offer for sale items normally presented for sale at its location.

(d) A list of such exclusions with the area, dates, and times shall be kept on file in the office of the City Clerk. (Ord of 05-03-2004)

ARTICLE VII. PAWNBROKERS

(A0150-12)

Section 12-204 License required.
Any suitable person complying with the provisions of this article and Chapter 140 of the General Laws may be licensed to set up and maintain the business of a pawnbroker within the city. No person shall set up or maintain a business of a pawnbroker without complying with such provisions.

Section 12-205 Authority of licensing commission.
The city council shall have exclusive authority to grant, suspend or revoke any licenses issued under this article. (A0278-13)

State law reference(s)--Licensing of pawnbrokers; revocation, M.G.L. c. 140, § 70.

Section 12-206 Number of licenses restricted.
Licenses granted under this article shall be restricted to one (1) to each ten thousand (10,000) residents of the city, or major part thereof, as of the latest census.

Section 12-207 Fee.
The fee for a license as a pawnbroker or renewal thereof shall be as set out by the city council. (A0278-13)

State law reference(s)—Pawnbrokers; license fee, M.G.L. c. 140, § 77.

Section 12-208 Bond.
Every licensee under the provisions of this article shall, at the time of receiving such license, file with the city clerk a bond to the city in the sum of three hundred dollars ($300.00) with two (2) sureties approved by the city council, and conditioned for the faithful performance of the duties and obligations pertaining to the business so licensed. (A0278-13)

State law reference(s)—Pawnbrokers; bond required, M.G.L. c. 140, § 77.

Section 12-209 Term of license.
The license required by this article shall commence on May 1st and shall expire on April 30th next following, unless sooner revoked.

State law reference(s)--Licensing of pawnbrokers; governing statutes, M.G.L. c. 140, §§ 202, 203.

Section 12-210 Failure to obtain license.
Any person who, not being licensed as provided by this article, carries on the business of pawnbroker or is concerned therein within the city, or being licensed, carries on such business or is concerned therein in any other place or manner than that designated in the pawnbroker's license, or after notice to the pawnbroker that his or her license has been revoked, shall be punished in the manner set forth in Section 75 of Chapter 140 of the General Laws.

Section 12-211 Sign required.
Every pawnbroker shall put in some suitable and conspicuous place on his or her place of business a sign having his or her name or business name and occupation legibly inscribed thereon in large letters.

Section 12-212 Rate of interest.
(A0249-13)

(a) Licensed pawnbrokers may charge interest at the rate of 3% per month.

State law reference(s)—Pawnbrokers; interest rate, M.G.L. c. 140, § 72.

(b) No such pawnbrokers shall charge or receive any greater rate of interest, and interest shall be determined on the precise sum advanced by the lender.

(c) No pawnbroker shall make or receive any extra charge or fee for storage, care or safekeeping of any goods, articles or things pawned with lender.

State law reference(s)—Pawnbrokers; regulations; interest rate, M.G.L. c. 140, § 78.

Section 12-213 Holding period—Sale of articles.
(a) Articles deposited in pawn with a licensed pawnbroker shall, unless redeemed, be retained by the pawnbroker on the premises occupied by the pawnbroker for his or her business for at least four (4) months after the date of deposit, if not of a perishable nature and if perishable, for at least one (1) month after such date. After such date, the pawnbroker may sell the same by public auction, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the notice and sale, and pay such surplus to the person entitled thereto on demand; provided, that after the expiration of the applicable period of time, no such sale of any article of a nonperishable nature shall be made unless not less than ten (10) days before the sale a written notice of the intended sale has been sent by registered mail to the person entitled to the payment of any surplus, addressed to that person's residence, as appearing in the records of such pawnbroker.

(b) No article taken in pawn by such pawnbroker exceeding twenty-five dollars ($25.00) in value shall be disposed of otherwise than as provided in subsection (a) of this section, any agreement or contract between the parties thereto to the contrary notwithstanding.

(c) Articles of personal apparel shall not be deemed to be of a perishable nature within the meaning of this section.

State law reference(s)—Pawnbrokers; retention and sale of articles, disposition of proceeds, M.G.L. c. 140, § 71.

Section 12-214 Inspection—Right of entry.
The police chief, the city council, or any officer authorized by either of them, or a state police officer, may at any time enter upon the premises used by a licensed pawnbroker for the purpose of the pawnbroker's business, to ascertain how the pawnbroker conducts the business, and examine all articles taken in pawn or kept stored or kept in or upon the premises and all books and inventories relating thereto. Every such pawnbroker, the pawnbroker's clerk, agent, servant or other person in charge of the premises shall exhibit to such officer on demand any or all of such articles, books and inventories. (A0278-13)

State law reference(s)—Pawnbrokers; entry upon premises, investigation, M.G.L. c. 140, § 73.

Section 12-215 Inspection—Duty of police.
The police chief, or their duly authorized and qualified subordinate upon orders from the police chief, shall make an inspection of every pawnshop in the city for the purposes set forth in Section12-214 at least once every forty-five (45) days and report any violations of this article or any violation of Chapter 140 of the General Laws pertaining to pawnbrokers to the city council for such action as it may deem necessary and expedient for the public welfare. (A0278-13)

Section 12-216 Inspection—Hindering.
A licensed pawnbroker, clerk, agent or other person in charge of such premises who refuses to admit thereto an officer or any person duly authorized by this article to enter the same, or who fails to exhibit to such officer or authorized person on demand all such articles, books and inventories, and any person who willfully hinders, obstructs or prevents such officer or authorized person from entering the premises for making the examination authorized in Sections 12-214 and 12-215 shall be punished in such manner as provided by the General Laws or as provided by this article, whichever of the two (2) provisions provides the greater punishment to control.

State law reference(s)—Pawnbrokers; obstruction of entrance or examination, M.G.L. c. 140, § 74.

Section 12-217 Loans on personal property subject to provisions.
No person shall engage in or carry on the business of loaning money upon mortgages, deposits or pledges of wearing apparel, jewelry, ornaments, household goods or other personal property, or of purchasing such property on condition of selling it back again at a stipulated price, unless that person is licensed as a pawnbroker.

State law reference(s)—Pawnbrokers; loans on personal property. M.G.L. c. 140, § 76.

Section 12-218 Regulations by licensing commission.
The city council shall establish regulations, to the satisfaction of the commissioner of banks, relative to the business carried on. (A0278-13)

State law reference(s)—Pawnbrokers; regulations, M.G.L. c. 140, § 78.

Section 12-219 Records required.
Every pawnbroker shall keep a book in which, at the time of making a loan, shall be legibly written in the English language an account and description, including all distinguishing marks and numbers of articles pawned, the amount of money loaned thereon, the time of pawning them, the rate of interest to be paid on such loan, and the name and residence of the person pawning such articles, and shall furnish a correct record of such transactions containing all such information, once a week, or oftener if required, to the city council or to any person designated by the city council. (A0278-13)

State law reference(s)—Pawnbrokers; record book; information to authorities, M.G.L. c. 140, § 79.

Section 12-220 Memorandum to pledger.
Every pawnbroker shall, at the time of making a loan, deliver to the person who pawns any article a memorandum or note signed by the pawnbroker and containing the substance of the entry required by Section 12-219. No charge shall be made or required by any pawnbroker for such entry, memorandum or note.

State law reference(s)—Pawnbroker; memorandum for pawner, charge prohibited, M.G.L. c. 140, § 80.

Section 12-221 Donation bins.
(a) Definitions. As used in this section, the following terms shall have the meanings indicated:

"Donation bin" means any container or receptacle held out to the public as a place for people to drop off donated articles and to store such articles until carted away.

(b) Prohibitions.

(1) No person or other legal entity shall hold any donation bin out to the public for people to drop off articles, unless the proceeds from the sale of such articles shall be utilized for charitable purposes.

(2) No person or other legal entity shall place or maintain any donation bin on any premises open to the public except when issued a permit by the City Clerk.

(c) Standards. Registered nonprofit organizations are permitted to place used donation bins on nonresidential property in accordance with the following:

(1) Any person or entity wishing to place or utilize a donation bin within the area of the City

of Everett in a place that is open to the public must obtain a permit from the City Clerk.

(2) There shall be no fee for an application or permit to place a donation bin subject to the provisions of this chapter at any location.

(3) Only entities or organizations that have a tax status under Section 501(c)(3) of the Internal Revenue Code, as amended, may apply for and obtain a permit. Proof of such tax status must accompany an application for a permit.

(4) A donation bin that is subject to the provisions of this chapter must have clearly identified, in writing, on its face the entity or organization that is maintaining the donation bin. A phone number and address for such entity must also be written on the donation bin.

(5) Nonresidential commercial premises devoted to nonprofit purposes, and churches, are permitted to have up to three used donation bins.

(6) The bin(s) shall be appropriately located so as not to interfere with sight triangles, on-site circulation, required setbacks, landscaping, parking, and any other requirements that may have been imposed as part of the site plan approval for the premises, and shall be placed on a concrete surface.

(7) The bin(s) shall be of the type that are enclosed by use of a receiving door and locked so that the contents of the bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.

(8) Each bin shall not cover a ground surface area in excess of five feet by five feet, nor be more than six feet in height.

(9) Each bin must be regularly emptied of its contents so that it does not overflow, resulting in used articles being strewn about the surrounding area.

(10) Submission of a letter of authority/permission from the owner of the property upon which the bins are to be and/or are already located.

(d) Enforcement – Penalties for Offenses – Injunctions.

(1) If any donation bins are placed without a permit, or an inspection reveals that such bins are not in compliance with this section, enforcement and abatement shall take place as generally provided under this section.

(2) The owner, lessee, or other person or legal entity in control of the property where a donation bin is being maintained in violation of this chapter and the person or entity which owns, maintains, or operates a donation bin in violation of this chapter shall be jointly and severally liable therefor.

(3) Code enforcement officers of the Inspectional Services Department and the Everett Police Department are hereby authorized to issue tickets, for any violations of this chapter.

(4) Any such violation shall be categorized as an offense punishable under Section 1-8. Each day that the offense(s) shall continue shall be considered a separate violation.

(5) Additionally, the City may, in an appropriate case, institute a cease and desist order in the name of the City to assure compliance with the terms of this chapter.

(e) Exemption. This chapter shall not apply to any donation bin that is located on premises that is owned or leased by any religious or charitable organization.

(f) Severability. In the event that any provision of this chapter shall be deemed illegal or otherwise unenforceable by a court of competent jurisdiction, then only that specific provision shall not be enforced, and all other sections and provisions shall remain in full force and effect. (C0349-16)

Section 12-222--12-239 Reserved.

ARTICLE VII. JUNK COLLECTORS

(C0227-14)

Section 12-240 License - Required for junk collectors; restrictions on issuance, conditions.
(a) No person, other than the city's contracted recyclables collector, shall go about from place to place within the city collecting junk, old metals, rags, paper or secondhand articles, bottles and cans, with any vehicle, wagon or other mode of conveyance, without having been licensed to do so by the city council or their designee.

(b) Each vehicle, wagon or other mode of conveyance so used shall have neatly painted upon each side of the outer part thereof the name of the licensee and the contact information, minimum of a telephone number, in plain letters and figures of not less than three (3) inches in height, and so that same may be distinctly seen and read.

(c) The license issued under this section shall be carried by the person licensed when engaged in collecting junk, and shall be shown upon request to any police officer or inspectional services officer. Such license shall be valid only as to the person or entity named thereon.

(d) No vehicle, wagon or other mode of conveyance used for the collection of junk, old metals, rags, paper or secondhand articles shall be parked or stored on a city street or in a residential neighborhood while still containing aforementioned materials in any quantity.

(e) No collection of junk, old metals, rags, paper or secondhand articles shall be parked or stored in a residential neighborhood or any other area prohibited by zoning.

(f) Any vehicle, wagon or other mode of conveyance engaged in the collection of junk, old metals, rags, paper or secondhand articles or other like materials on public ways within the city must be enclosed in such manner or otherwise covered or secured so as to prevent materials and debris from falling from said vehicles onto public ways within the city.

(g) No license issued under this article shall constitute a license or authorization by the city to enter into or to trespass upon any private premises or property without the consent of the owner

thereof.

Section 12-241 Violations.

(a) Whoever is in violation of this article shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances.

(b) Repeat violations may result in suspension or revocation of license.

Chapter 12A.
SIGNS and BILLBOARD

Section 12A-30 PURPOSE OF ORDINANCE.
The purpose of this ordinance is to regulate all exterior signs and all interior signs placed for exterior observance from public ways and places, but not located on city property

Section 12A-31 DEFINITIONS.
(a) "Sign" any structure, device light, letter, word, model, banner, pennant, insignia, trade flag, or representation which is designed to be seen from outside a building which advertises a use conducted, or goods, products, services or facilities available, including electric signs in windows or doors, but excluding window displays of merchandise and signs incidental to the display of merchandise.

(b) "Sign area of":

(1) For a sign, either free standing or attached, the area shall be considered to include all lettering, wording, and accompanying designs and symbols together with the background whether open or enclosed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself.

(2) For a sign painted upon or applied to a building, the area shall be considered to include all lettering, wording, and accompanying designs or symbols together with any background of a different color than the natural color of the building.

(3) Where the sign consists of individual letters or symbols attached to or painted on a surface, building, canopy, awning, wall or window, the area shall be considered that of the smallest rectangle or other geometric shape that encompasses all of the letters or symbols.

(4) Only one side of a projecting sign shall be counted in computing the total square feet of signs on a sign frontage.

(c) "Sign, types of"

(1) "Sign, awning", a sign on or attached to a temporary retractable shelter which is supported entirely from the exterior wall of a building.

(2) "Sign, canopy", a sign on or attached to a permanent overhanging shelter which projects from the face of a building and is supported only partially by said building.

(3) "Sign, design, comprehensive," a plan submitted to the Community Development Office for review for signs and related architectural features on a sign frontage, a building front or a group of buildings.

(4) "Sign frontage," the length along a ground floor building front, facing a street or a private way accessible from a street, which is occupied by a separate and distinct use, as defined by Article 8: the length along a ground floor building side, facing a street, which is occupied by a separate and distinct use or by the same use which occupies the front of said building.

(5) “Signs, marquee,” a display sign attached to or hung from a marquee canopy or other covered structure projecting from and supported by the building and extending beyond the building wall, building line or street lot line.

(6) “Sign, off-premises,” a sign which advertises or announces a use conducted or goods available elsewhere than on the lot on which the sign is located.

(7) “Sign, on-premises”, a sign which advertises or announces a use conducted or goods available on the lot on which the sign is located.

Section 12A-32 ERECTION, ALTERATION, PERMIT REQUIRED.
No sign located on private property shall be erected, altered or relocated without a permit issued by the Building Inspector.

Section 12A-33 SIGNS IN HISTORIC DISTRICTS.
A certificate of appropriateness must accompany each application with respect to a sign within a Historic District from the Historic Districts Commission, unless such sign is exempt from requirement of such a certificate under Ch. 40C of the General Laws of the Commonwealth of Massachusetts.

Section 12A-34 APPLICATION FOR PERMIT.
(a) Application for permit shall be submitted to the Building Inspector and must provide the name and address of the sign owner, the proposed location, a scale, drawing, and a sketch, including an indication of colors to be used, showing the design, dimensions and position of the sign, and such other pertinent information as the building inspector may require to insure compliance with this ordinance and any other applicable law.

(b) A permit shall be issued only if a sign conforms to the provisions of this ordinance, and all other applicable laws, and may be issued as hereinafter provided, pursuant to a possible decision of the Board of Appeals.

Section 12A-35 FEES.
Fees for sign permits shall be paid in accordance with the schedule of fees for permits set forth in the Building Code.

Section 12A-36 NULLIFICATION.
A sign permit shall become null and void if the work for which the permit was issued has not been completed within a period of six months from the date of the permit, provided, however that the Building Inspector may, in his discretion, issue extensions covering a period not to exceed one year from the date of issue of the original permit.

Section 12A-37 INSPECTION.
Signs for which a permit is required may be inspected periodically by the Building Inspector for compliance with this ordinance and other requirements of law.

Section 12A-38 REMOVAL OF SIGNS.

The Building Inspector shall order the removal of any sign erected or maintained in violation of this Ordinance. Ninety days notice in writing shall be given to the owner of such sign, or of the building, structure, or premises on which such sign is located, to remove the sign or to bring it into compliance with this Ordinance.

Section 12A-39 ENFORCEMENT.
The Building Inspector is hereby authorized and directed to enforce all of the provisions of this Ordinance.

Section 12A-40 FAILURE TO ACT ON PERMITS.
If no sign permit has been issued within 30 days after application therefore has been made, it shall be deemed to be denied.

Section 12A-41 DESIGN REVIEW.
The total area of signs on a sign frontage may exceed the amount allowed by schedules hereinafter set forth provided that a comprehensive sign design for said sign frontage is certified by the Office of Community Development to be a complementary and harmonious synthesis of signs and architectural features.

Section 12A-42 RIGHT OF APPEAL.
(a) Any applicant for a permit, any person who has been ordered by the inspector to incur expense in connection with a sign, and any person dissatisfied with any refusal, order, or decision of the building inspector, may appeal to the Board of Appeals within 30 days from the date of such refusal, order or decision.

(b) After notice given to such parties as the Board shall order the Board of Appeals shall hold a public hearing. Applying the standards described in 12A-43, where applicable, the Board shall affirm, annul or modify such refusal, order or decision.

(c) The action of the Building Inspector may be annulled or modified only by a decision of a super majority of the Board.

(1) If the action of the Inspector is modified or annulled, the Building Inspector shall issue a permit or order in accordance with the decision of the Board.

Section 12A-43 VARIANCES IN SPECIFIC CASES.
(a) The Board of Appeals may vary the provision of this Ordinance in specific cases which appear to them not to have been contemplated by this Ordinance, and in cases wherein its enforcement would involve practical difficulties or unnecessary hardship, if in each instance, desirable relief may be granted without substantially derogating from the intent and purpose of this Ordinance but not otherwise.

(b) Any decision to vary the provision of this Ordinance shall be unanimous and shall specify any variance allowed and the reasons therefor. Each decision of the Board of Appeals shall be filed in the office of the City Clerk within thirty days after the hearing and a copy of the decision shall be sent by mail or delivered to the appellant and any other person appearing at the hearing and so

requesting in writing. Failure to file such a decision within thirty days after the hearing shall be deemed approval of any variance sought.

Section 12A-44 CONDITIONS AND SAFEGUARDS.
The Board of Appeal in granting variances shall set forth appropriate conditions and safeguards whenever, in its opinion, they are desirable.

Section 12A-45 PENALTIES.
Any sign owner or owner of property on which a sign is located who violates, or permits a violation of this ordinance, shall be subject to a fine of not more than $20.00 a day if the violation continues more than 90 days after (a) the date of the notice referred to in 12A-38 hereof is given, or (b) continues more than 15 days after the date of conclusion of any appeal therefrom.

Section 12A-46 SIGNS OR STRUCTURES OVER PUBLIC WAYS.
Signs or structures over public ways shall, when erected, be at least ten (10) feet over the sidewalk. Signs or advertising devices over a public way shall be at least twenty (20) feet over such public way.

Section 12A-47 SAME - SURETY BOND.
No permit required for a sign over a public way or sidewalk shall be effective until a surety company bond in the sum of one thousand dollars ($1,000.00) conditioned to save harmless the city from any claims for or by reason of the maintenance of such sign, and shall be on file with the city clerk.

Section 12A-48 SAME - TERM OF BOND.
(a) All bonds required by 12A-47 shall be for a term of one (1) from the date of permit issuance. A renewal thereof shall be filed annually with the city clerk.

(b) Any failure to renew such bond shall be sufficient reason for the revocation of the permit for the sign to which it applies.

Section 12A-49 SAME - CERTIFICATION BY BUILDING INSPECTOR.
No permit required by 12A-47 shall be effective until the superintendent of streets, and the city electrician, in the case of illuminated signs, are securely fastened so as not to endanger persons upon the sidewalk or street.

Section 12A-50 SAME - DURATION OF PERMIT.
Permits required for signs or structures over a public sidewalk or public way shall be effective only until revoked by the Building Inspector, or until the sign for which the permit was required has been removed.

Section 12A-51 GENERAL PROVISIONS.
No billboards, signs or other advertising devices shall be erected or maintained on or over the public ways of the city, or on private property with public view of a public way or public park or reservation, except as may be permitted by statute, the rules and regulations of the Outdoor Advertising Board legally established thereunder, the provisions of this code and the ordinances of

the city consistent therewith.

Section 12A-52 SAME -REPAIR. AND MAINTENANCE.
(a) All billboards, signs or other advertising devices erected or maintained within the city shall be kept in repair, painted and in good condition.

(b) The Building Inspector may order the removal of any billboards, sign or other advertising device in any location where the maintenance thereof constitutes a fire hazard, is dangerous or a menace to public health or safety, when the use thereof has been abandoned, or the permit for its use has been revoked by the Building Inspector.

Section 12A-53 SIGNS IN RESIDENTIAL DISTRICTS.
In any residential district as defined in the Everett Zoning Ordinance, there shall not be any sign except as follows:

(a) One sign, not exceeding two square feet in total area, attached to the building or on a rod or post not more than four feet high and at least three feet in from the street line, and stating only the street number and name of the occupant or occupants of the lot.

(b) One bulletin or announcement board, name-sign or entrance marker for each church or institution not exceeding twenty square feet in area, except that if the street frontage of such church or institution exceeds one hundred feet, one such sign for each hundred feet computed to the nearest hundred but in no event more than three such signs for each church or institution.

(c) One “For Sale” or “For Rent” sign, not exceeding eight square feet in area, advertising the property on which such sign is located.

(d) One building contractor’s or developer’s sign, not exceeding thirty-two square feet in total area, on a lot where a building is actually under construction.

(e) One sign not exceeding twenty square feet per entrance to a tract of land divided into building lots.

(f) One sign, accessory to a non-conforming use, which conforms to 15-53, provided however that the area of said sign does not exceed one-half of the area allowed in non-residential districts under said Section.

Section 12A-54 ON-PREMISE SIGNS IN NON-RESIDENTIAL DISTRICTS.
(a) All signs allowed in residential districts.

(b) A wall sign attached parallel to a building which projects no more than fifteen inches from the building surface, provided that the top of such sign is no higher than whichever of the following if lowest:

(1) twenty-five feet above grade;

(2) the top of the sills of the first level of windows above the first story; or

(3) the height of the building at the building line.

(c) A permanent non-illuminated sign on the inside of the glass of a window, provided that the total area of the sign does not exceed thirty percent of the total glass area of windows appurtenant to the use to which the sign is accessory, and provided that signs on ground floor windows be included in calculating the total area of signs on a sign frontage.

(d) A sign attached at right angles to a building, provided that such sign has no more than two faces and

(1) There is no more than one such sign for each entrance door to a business establishment;

(2) It projects no more than five feet from the building;

(3) The sign advertises a use which occupies at least 18 feet of sign frontage;

(4) The bottom of the sign is at least ten feet from grade and its top is no higher than whichever of the following is lowest: twenty-five feet above grade: the top of the sills of the first level of windows above the first story or the height of the building at the building line;

(5) The area of sign shall not exceed twenty-four square feet on either side. Excepting that an additional ten square feet on each face is allowed for a sign which incorporates a public service message device such as a time and temperature sign; and

(6) There are no exposed guy wires or turnbuckles.

(e) A free standing sign, provided that such sign has no more than two faces and

(1) if there are one or two uses, on the lot, the area of each face does not exceed sixty-five square feet and the top of such sign is no higher than twenty-five feet above grade; or

(2) if there are three or more such uses on the lot, the area of each face does not exceed one hundred twenty-five square feet and the top of such sign does not exceed thirty feet above grade. A lot with a front lot line of two hundred or more feet may have two freestanding signs.

(f) Temporary signs pertaining to special sales or events lasting no more than fifteen days may be affixed to windows provided that their total area does not exceed thirty percent of the window.

(1) No permit is required for such temporary sign or signs.

(g) Directional signs necessary for public safety and convenience that do not exceed twelve square feet per face and which bear no advertising.

(1) Such signs are not counted in computing total sign area allowed by this Section.

(h) A sign painted on or attached to the face of but not extending above, a marquee, or a sign attached to the under side of a canopy or marquee.

(i) A sign painted on or attached to an awning.

(j) A sign may bear lettering to indicate the street number, the name and kind of business, service or facility conducted on the premises, the year the business was established, a slogan, hours of operation, time and temperature, and lettering which is part of a trademark.

(k) The registered trademark of a specific commodity may occupy no more than twenty-five percent of the area of a sign, except that if the sale of said commodity is the major business conducted on the premises, there shall be no such restriction.

(l) Signs shall be lighted only by any continuous light, except that a warning sign or a sign illuminated to show time and temperature may have intermittent illumination. Signs shall remain stationary.

(m) No support for a sign shall extend above the cornice line of a building to which it is attached.

(n) The total area (1) in square feet of all permanent signs on a sign frontage, except for signs on windows above the first floor, free standing signs, and directional signs shall not exceed:

Average Distance of Sign from Center Line of Abutting Street Sign Frontage (1)	Multiplied by
0-99	2
100-399	2.5
400 and over	3

Excepting that a use with less than twenty-five feet of sign frontage may have a maximum of fifty square feet of permanent signs. (1) See section 12A-31 (A and B)

(o) The distance of a sign on or under a canopy, marquee or awning from the center line of an abutting street shall be constructed to be the same as if such sign were attached to the building to which the said canopy, marquee or awning is attached.

(p) If the first floor of a building is substantially above street grade and the basement is only partially below street grade, separate occupants of each level may each have one - half the square feet of signage to which a use would be if it were a single ground floor use.

(q) If a building fronts on two or more streets, the sign area for each street frontage shall be computed separately.

Section 12A-55 SIGNS IN LICENSED PARKING LOTS AND PARKING GARAGES.
In the interest of public safety and convenience there shall not be any sign in a parking lot, in any district, except:

(a) one sign per parking lot entrance which shall bear thereon in fifty percent or more of its total sign area a blue rectangle with white letter “P” being not less than fifty percent of the area of that

blue rectangle,

(b) a sign bearing only that information and that location required by the Off-Street Parking Commission and

(c) directional signs.

Section 12A-56 SAME - SIGN AREA.
The area of the sign containing the “P” shall not exceed twenty-four square feet on each face it may have only two faces and shall not exceed a height of 25 feet above grade; it may be free standing or attached to a building.

Section 12A-57 SIGNS ON PARKING GARAGES.
In the interest of public safety and convenience, there shall not be any sign on a parking garage, in any district, except:

(a) at each vehicular entrance, one sign attached at right angles to the building which shall bear thereon in fifty percent or more of its total sign area a blue rectangle with a white letter “P” being in sans serif gothic type face, the letter “P” being not less than fifty percent of the area of that blue rectangle

(b) at each vehicular entrance, one optional sign directly above , and the exact width of , that entrance, and not to exceed two feet in height, and

(c) a sign bearing only that information and at that location as may be required by the Parking Commission.

Section 12A-58 SAME-SIGN AREA.
The area of the sign containing the “P” shall not exceed twenty-four square feet on each face: it may have only two faces and shall not exceed a height of twenty-five feet above grade.

Section 12A-59 ALTERATION, REPAIR AND REPLACEMENT OF ON-PREMISE SIGNS.
(a) Except for copy changes on signs with changeable letter panels, no sign shall be reconstructed, extended, changed structurally or in content with this ordinance.

(b) A sign which does not conform with this Ordinance may be repaired provided that the cost does not exceed thirty-five percent of the replacement cost of the entire sign, except that an electric time and temperature sign which is an integral part of a non-conforming sign may be repaired or replaced with no restriction on the cost of the repair or replacement.

(1) A non-conforming sign which is deemed unsafe by the building inspector shall be removed by its owner.

Section 12A-60 SIGNS IN URBAN RENEWAL PROJECT AREAS.
In an urban renewal project area, there shall not be any sign which does not comply with this article and with the urban renewal plan for such project area.

Section 12A-61 POLITICAL SIGNS.

All signs associated with a political campaign shall be exempted from the provisions of this ordinance provided that they are of a temporary nature and shall be removed within thirty days after the date of the election to which they refer.

Section 12A-62 SAME- PENALTY FOR NON-REMOVAL.

(a) The candidates involved shall be held responsible for the removal of signs and placards necessary to fulfill the provisions of this section of the Ordinance.

(b) Failure to do so within the allotted time shall result in penalties of not more than $5.00 per day per sign with a maximum penalty of not more than $50.00 per sign.

Section 12A-63 ILLUMINATION.

(a) Flashing lights or simulations of traffic signals or emergency vehicle lights shall not be used. In addition, red and green colored lights shall not be used when so placed that they could obscure or hazard the clear vision of traffic control signals viewed from any point on an approaching public way or if in the opinion of the Building Inspector, such light would constitute a hazard.

(b) Spotlights or floodlights shall not be aimed so that any portion of the main beam can be seen from a public way.

Section 12A-64 PROHBITED SIGNS.

(a) On premise signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located are prohibited. In the event that the on premise activity changes, the proprietor will have ninety (90) days to alter the sign in order to reflect the new activity.

(1) If after 90 days, no such alteration occurs, or the premises are vacant of an activity for a ninety (90) day period, then the sign becomes an off premise sign and must meet the requirements set forth in Section 12A-65.

(b) Signs which contain or consist of pennants, ribbons, streamers, spinners, other moving devices or other devices are prohibited.

(c) Signs which have blinking, flashing or fluttering lights or other illuminated devices which have a changing light intensity, brightness, or color, are prohibited.

(d) Signs which are pasted or attached to utility poles, trees, fences, other signs, or structures which are on or over public or private ways are prohibited.

(e) Movable or portable and so called “trailer signs” are prohibited, with the exception of signs and other advertising devices on rolling stock.

Section 12A-65 BILLBOARD AND OTHER OFF-PREMISE SIGNS.

No persons, firm, association, or corporation shall erect, display, or maintain, within the limits of the city, a billboard or off-premise sign unless it meets the following requirements or unless it was approved by the Massachusetts Outdoor Advertising Board under Section 30 and 32 of Chapter 93 of the General Laws, or by any amendments or additions thereto, in which case any such off-

premise sign or billboard shall comply with the requirements of this Section and all other sections of this Ordinance by January 1, 1975.

(a) Within fifty (50) feet of any public way;

(b) Within three hundred (300) feet of any public park, playground or other public grounds, if within view of any of the same;

(c) Nearer than fifty (50) feet to any other such billboard, off premise sign or other advertising device, unless said billboards or off-premise signs are placed back to back;

(d) On any location at the comer of any public ways and with a radius of one hundred fifty (15 0) feet from the point where the centerlines of such ways intersect;

(e) Nearer than one hundred (100) feet to any public way, if within view of any portion of the same, if such billboard or off-premise sign shall exceed a length of eight (8) feet or a height of four (4) feet.

(f) Nearer than three hundred (300) feet to any public way, if within view of any portion of the same, if such billboard or off-premise sign shall exceed a length of twenty-five (25) feet or a height of twelve (12) feet;

(g) In any event if such billboard or off-premise sign shall exceed a length of fifty (50) feet or a height of twelve (12) feet; except that the Building Inspector may permit the erection of billboards, off- premise signs or other outdoor advertising devices which do not exceed forty (40) feet in length and fifteen (15) feet in height if not nearer than three hundred (300) feet to the boundary line of any public way.

(h) No billboard or off-premise sign shall be erected, displayed or maintained in any residence district or in any block in which one-half or more of the buildings on both sides of the street are used partially or wholly for residential purposes.

(i) No billboard or off-premise sign shall be erected, displayed or maintained until a permit has been issued by the Outdoor Advertising Board of the Commonwealth of Massachusetts in accordance with their rules and regulations. Section 12A-65 shall not apply to signs or other devices erected and maintained on conformity with law, which advertise or indicate either the person occupying the premises in question or the business transacted thereon, or advertising the property itself or any part thereof as for sale or to let and which contain no other advertising matter.

Section 12A-66 SAME - PENALTIES.

(a) Whoever violates any of the provision of Section 12A-65 of this Ordinance shall be punished by a fine of not more than fifty dollars ($50.00), and

(b) whoever, after conviction for such violation unlawfully maintains such billboards or off-premise sign for twenty (20) days thereafter shall be punished by a fine of not more than twenty dollars ($20.00) per day.

Section 12A-67 CONSTITUTIONALITY OF ORDINANCE.

If any provision of this Ordinance is declared unconstitutional or illegal by final judgment or order of decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provision of this Ordinance shall not be affected thereby. (Ord. of 10-10-2000) (A0126-10)

Chapter 13.
OFFENSES AND MISCELLANEOUS PROVISIONS

Section 13-1 Public consumption of alcoholic beverages.

(a) No person shall drink or possess in any open or partially consumed container any alcoholic beverage as defined in chapter 138, section 1, of the General Laws including possession of any empty or partial container of alcoholic beverages that is open, and in the possession or control of such person while on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, park or playground, or private land or place without consent of the owner or person in control thereof. A police officer may arrest, without a warrant, any person who in his presence violates this section.

(b) All alcoholic beverages being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person arrested or summoned before the court, at which time they shall be returned to the person entitled to lawful possession.

(c) No person shall serve or consume any alcoholic beverages on city owned property or within city owned buildings. No person shall serve or consume any alcoholic beverages at any event or function, be that event or function public or private, held on city owned property or within city owned buildings.

(1) The city council, by majority vote, may, upon written application to the City Clerk, permit and issue a license for the public sale, use and/or possession of beer and wine and the consumption thereof for city sponsored functions in on city owned property or within city owned buildings and may impose such conditions on said use and/or possession as it deems appropriate. (A0173-12)

(2) Applications for special licenses shall only be approved if the city council finds that in its judgment all the following general rules are compiled with: The particular site is an appropriate location for such a condition, the use will not adversely affect the neighborhood, there will be no nuisance or serious hazard to vehicles or pedestrians. (A0173-12)

(3) A special license granted under this section shall be for the date of the function only, and may be reviewable by the city council. The city council reserves the right to revoke a special license at any time for violations to the conditions of issuance or of any of the ordinances of the City of Everett or State or Federal Law. Any appeals to the actions of the city council shall be before and subject to the rules of the Board of Appeals. (A0173-12)

(4) The special license, if permitted, shall be valid only upon the approval of a special liquor permit application from the Licensing Commission.

(d) Whoever is found guilty of violating this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 13A; Ord. of 9-27-82(1); Ord. of 9-27-82(2); Ord. of 6-25-90; Ord of 06-14-2004; A0027-10)

Section 13-1.1. Public consumption or use of marihuana or tetrahydrocannabinol.

(a) No person shall consume or use marihuana, as defined in Chapter 94C, Section 1 of the

General Laws on, in or upon any public way or upon any way to which the public has a right of access, or any place to which members of the public have access as invitees or licensees, including but not limited to, parks and or playgrounds. A police officer may arrest, without a warrant, any person who in his presence violates this section.

(b) All marihuana consumed or being used in violation of this section shall be seized and safely held until final adjudication of the charge against the person arrested or summoned before the court, at which time it shall be destroyed in accordance to M.G.L. c.94C, s47A.

(c) No person shall use or consume marihuana on city owned property or within city owned buildings to which the public has a right of access. No person shall use or consume any marihuana at any event or function, be that event or function public or private, held on city owned property or within city owned buildings.

(d) Any person who violates this section shall be punishable by a fine of three hundred dollars ($300.00) for each such violation.

(e) Any person upon whom is imposed a fine pursuant to this ordinance shall have the right to appeal the imposition of such fine in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate for the Malden District Court.

(f) The Everett Police Department shall be the enforcing authority of this section. (A0004-09)

Section 13-2 Repairs, Restitution.
Whenever, without right, property is willfully destroyed or defaced, the responsible person or persons shall, in addition to being fined pursuant to M.G.L. c. 266:127, repair of replace such property unless otherwise ordered by the court. (Ord. of 2-28-94)

Section 13-3 Off-loading vehicles from carriers.
(a) No person shall off-load new or used vehicles from a car or vehicle carrier except during the hours of 9:00 a.m. to 9:00 p.m.; no unloading on Sundays.

(b) The chief of police may grant permission to unload in the prohibited hours and days in the event of an emergency. After three (3) such emergencies by the chief of police, he shall notify the city council's committee on community & business development. (A0173-12; C0032-14)

(c) For the purposes of this section, the words car or vehicle carrier shall include, but not be limited to, trucks and trailers. (Ord. of 12-14-87)

Cross reference(s)--Licenses and business regulations, Ch. 12; traffic and motor vehicles, Ch. 18.

Section 13-4 Use of playgrounds restricted.
(a) No person shall be allowed to enter a playground without right or remain therein after having been forbidden to do so either directly or by posted notice.

(b) A person may enter a playground, and conduct himself within a playground, in accordance

with the rules and regulations of the playground commission; said playground hours shall be from 8:00 a.m. to 9:00 p.m., except when other hours have been authorized by the playground commission.

(c) Any police officer may make arrests for violation of this section.

(d) Any conviction for a violation of this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 10-24-77(1); Ord. of 4-8-2004)

Section 13-5 Prohibition against consumption of alcoholic beverages or drugs by minors on private property.

(a) Legislative Intent: It is the purpose of this section to protect the public interest, welfare, health and safety within the City of Everett by prohibiting the services to and consumption of alcoholic beverages and drugs by persons under the age of twenty-one (21) at private premises located within the City. The Everett City Council finds that the occurrence of social gatherings at private premises where alcoholic beverages or drugs are served to or consumed by persons under the age of twenty-one (21) is harmful to such persons themselves and a threat to public welfare, health and safety. The Everett City Council finds further that persons under the age of twenty-one (21) often obtain alcoholic beverages or drugs at such gatherings and that persons who rent, own or otherwise control the premises at which such service and/or consumption is occurring will be more likely to ensure that alcoholic beverages and drugs are neither served to nor consumed by persons under the age of twenty-one (21) at these gatherings.

(b) Definitions: For purposes of this section, the following terms shall be defined as follows:

(1) Alcoholic beverage" means any liquor, wine, beer, spirits, cider or other liquid or solid, patented or not, composed of or containing alcohol or spirits, whether or not brewed, fermented or distilled, and capable of being consumed by a person.

(2) Control" means the authority and ability to regulate, direct, or dominate.

(3) Drug" means any substances recognized as drugs in the official United States Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; or any substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; or any substances, other than food, intended to affect the structure, or any function of the body of man and animals.

(4) Open House Party" means a social gathering at a residence or other private property with minors present.

(5) Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association or a partnership.

(6) Premises" means a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation. The term

"premises" shall also include private functions held at public facilities within the City of Everett.

(c) Prohibition: Any person who owns, rents or otherwise controls any premises shall be responsible when an open house party takes place at said residence where any alcoholic beverage or drug is being unlawfully possessed, served to or consumed by persons under the age of twenty-one (21) at these gatherings at said premises.

(d) Exception: The provisions of this section shall not apply to:

(1) The possession or consumption of a drug for which the individual has a current, valid prescription or as otherwise permitted by any other applicable law;

(2) The use of alcoholic beverages, which occurs exclusively between a person under the age of twenty-one (21) and his/her parent or legal guardian; and

(3) The practice of legally recognized religious observances.

(e) Penalties: Failure to comply with subsection (c) above shall constitute a violation of this ordinance punishable by a fine as outlined below:

(1) Fines.

a. A first violation of this ordinance shall be punishable by a warning, which shall be issued by the Chief of the Everett Police Department.

b. A second violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of $150.

c. A third or subsequent violation of this ordinance at the same premises or by the same person, within a twelve (12) month period shall be punishable by a fine of $300.

d. The fine schedule prescribed at subsection (e) is based upon a "rolling schedule" meaning that in calculating the fine payable the Police Chief or City Solicitor shall count backward starting from the date of the most recent violation of this ordinance to determine how many previous violations of said ordinance have taken place at the premises or been committed by the same person during the statutory twelve (12) month period. A warning given pursuant to this ordinance shall remain in effect for the premises until a full twelve (12) month period has elapsed during which there has been no response to the premises.

(g) Appeal: Any person upon whom is imposed a fine/penalty pursuant to this ordinance shall have the right to appeal the imposition of such fine/penalty in a non-criminal proceeding by making a written request within 21 days to the Clerk Magistrate for the Malden District Court.

(h) Inconsistency with Other Laws:

(1) If any part or provision of this section is inconsistent with any federal or state statute,

law, rule or regulation, then such statute, law, rule or regulation shall prevail.

(2) If any part or provision of this section or the applicability thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section, or the application thereof to other persons or circumstances. (A0311-08)

Editor's note--Ord. of 8-26-96(1), deleted the provisions of former § 13-5, which pertained to disorderly conduct, as derived from Rev. Ords. 1976, Pt. 2, Ch. 11, § 4.

Section 13-6 Harassment.

(a) It shall be unlawful for any person to knowingly and willfully engage in a course of conduct which seriously alarms, annoys or harasses another person and which serves no legitimate purpose.

(b) The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause the victim to suffer substantial emotional distress.

(c) For purposes of this section, "course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.

(d) Constitutionally protected speech is not included within the meaning of "course of conduct" for purposes of this section.

(e) For purposes of this section, a victim shall not include a peace officer acting in his official capacity.

(f) For purposes of a second or subsequent offense involving the same victim, a course of conduct need only consist of one (1) act that follows the same continuity of purpose established in the offense that is the basis of the first conviction.

(g) Anyone convicted under this section is subject to the fine allowable under section 1-8. (Ord. of 10-24-77(2)(Ord of 04/08/2004)

Section 13-8 Missiles and weapons.

(a) No person shall sell or expose for sale, use or cause to be used, arrows, snowballs or other similar missiles, any instrument or weapon of the kind usually known as an air rifle, air gun, spring gun, gas pellet gun, stench bombs, bean blower, switchblade knife, automatic knife, push button knife, snap knife, swing back knife or spring blade knife or a sling shot or any instrument or product designed to project a string or streamer of plastic material.

(b) No person, except as provided by law, shall carry on his person, or carry on his person or under his control in a vehicle, including those weapons and instruments enumerated in Chapter 269 of the General Laws of Massachusetts, Section 10, paragraph (B), any saber, sword, or weapon of like or similar nature; any knife having any type of blade in excess of 2 and one-half (2½) inches in

length, or other object or tool so redesigned, fashioned, prepared, or treated that the same may be used to inflict bodily harm or injury to another; provided that this section shall not apply to any person actually engaged in hunting, fishing, or fowling and carrying a valid license for said activity, or in traveling to or from such activities, or to persons whose employment requires the use of said instruments as described above.

(c) Any person found in the act of violating this ordinance may be arrested, without a warrant by any officer authorized to serve criminal process, and shall be punished by a fine of not more than five hundred dollars ($500.00) nor less than one hundred dollars ($100.00) for each offense. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 12; Ord. of 3-27-89; Ord of 4-6-1998)

Section 13-9 Street games.
No person shall play ball, football, handball, basketball or any other game involving the use of a ball or hockey equipment except under the supervision of authorized city personnel on any public way, nor on any private way except with the written permission of the owners of the fee of such private way. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 12A)

Section 13-10 Discharge of weapons.
No person shall fire or discharge a cannon, gun, fowling piece, air rifle or firearm within the limits of the city except at a military exercise authorized by the military authority of the Commonwealth or by the city council or mayor of the city; or in the lawful defense of the person or property of a citizen; or by a police officer in the lawful performance of his duty; provided, however, that this prohibition shall not apply to persons engaged in target shooting within the building of a gun club licensed to be used for such purpose. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 12B) State law reference(s)--Weapons, M.G.L.A. c. 269, §§ 10--12D.

Section 13-11 Peeping or spying.
No person shall enter upon the premises of another with the intention of spying or peeping upon any person therein; provided, however, that officers of the law may enter such premises in the performance of their duties. The penalty for violation of this section shall be a fine not exceeding twenty dollars ($20.00). (Rev. Ords. 1976, Pt. 2, Ch. 11, § 15)

Section 13-12 Coasting.
No person shall coast on any public way not designated by the city council for coasting. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 35) (A0173-12)

Section 13-13 Control of pornography.
(a) Every person who shall willfully or knowingly engage in the business of selling, lending, giving away, showing, advertising for sale or distributing to any person under the age of eighteen (18) years or has in his possession with intent to engage in such business or to otherwise offer for sale or commercial distribution to any individual under the age of eighteen (18) years or who shall display at newsstands or any other business establishment frequented by minors under the age of eighteen (18) years, or where such minors are or may be invited as a part of the general public any pornographic motion picture, or any still picture or photograph or any book, pocket book, pamphlet or magazine the cover or content of which exploits, is devoted to, or is principally made up of

descriptions or depictions of illicit sex or sexual immorality or which is obscene, lewd, lascivious, or indecent, or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain or any article or instrument of indecent or immoral use shall be punished by a fine not exceeding fifty dollars ($50.00) for each offense and to a like fine for each day's continuance of such violation.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) Description or depiction of illicit sex or sexual immorality shall mean:

a. Human genitals in a state of sexual stimulation or arousal.

b. Acts of human masturbation, sexual intercourse or sodomy.

c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

(2) Knowingly shall mean having knowledge of the character and content of the publication or failure on notice to exercise reasonable inspection that would disclose the content and character of the same.

(3) Nude or partially denuded figures shall mean:

a. Less than completely and opaquely covered human genitals, pubic regions, buttock, and female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernible turgid state, even if completely and opaquely covered. (Rev. Ords. 1976, Pt. 2, Ch. 11, § 17)

Section 13-14 Gypsy or Browntail moths, eggs, etc.

(a) No person shall suppress, remove or destroy or undertake to suppress, remove or destroy in the city, except on premises owned by himself or his usual employer, the eggs, the pupae or nests of the Gypsy or Browntail moth without first obtaining a permit in writing so to do from the park commission of the city, or from some person authorized by such commission to grant such permit. The park commission may revoke any such permit at any time for cause.

(b) No person shall intentionally bring into or carry through the city any eggs, pupae, nests or caterpillars of the Gypsy or Browntail moth or the moths.

(c) No person shall carry the eggs, pupae, nests or caterpillars of the Gypsy or Browntail moth, nor the moths from place to place in the city, intentionally, unless the same are securely and safely confined and kept in a box, bag or other suitable receptacle while so carried.

(d) All eggs, pupae and nests of the Gypsy and Browntail moths removed in the city by any person shall be destroyed by him by fire or otherwise within twenty-four (24) hours of such removal. (Rev. Ords. 1976, Pt. 2, Ch. 11, §§ 7--10)

Section 13-15 Aggressive solicitation.
(A0008-12)

(a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them as listed below, except where the context clearly indicates a different meaning:

(1) Aggressive manner: Defined as any of the following:

a. Approaching or speaking to a person, or following a person before, during or after soliciting, asking or begging, if that conduct is intended or is likely to cause a reasonable person to:

1. Fear bodily harm to oneself or to another, or damage to or loss of property, or

2. Otherwise be intimidated into giving money or other thing of value;

b. Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking or begging;

c. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

d. Using violent or threatening gestures toward a person solicited either before, during, or after soliciting, asking or begging;

e. Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that such person does not want to be solicited or does not want to give money or any other thing of value to the solicitor; or

f. Using profane, offensive or abusive language which is inherently likely to provoke an immediate violent reaction, either before, during, or after solicitation.

(2) Automated teller machine: A device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and/or mortgage and loan payments.

(3) Automated teller machine facility: The area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers after regular business hours.

(4) Bank: Any business establishment authorized to perform one (1) or more of the following services:

a. Receive and safeguard money and other valuables;

b. Lend money at an interest;

c. Execute bills of exchange, such as checks and drafts;

d. Purchase and exchange foreign currency; or

e. Issue notes of circulation or currency.

(5) Check cashing business: Any person duly licensed by the superintendent of banks to engage in the business of cashing checks, drafts or money orders for consideration pursuant to the provisions of the banking laws.

(6) Public area: An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, transportation facilities, school, place of amusement, sidewalks, median, streets, and rights-of-way open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.

(7) Solicit, ask or beg: To request, by the spoken, written, or printed word, or by other means of communication, an immediate donation or transfer of money or another thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value, and regardless of whether consideration is offered.

(b) Purpose. This section is intended to protect citizens from the fear and intimidation accompanying certain kinds of solicitation, and not to limit a constitutionally protected activity.

(c) Prohibited activities. It shall be unlawful for any person to solicit money or other things of value, or to solicit the sale of goods or services:

(1) In an aggressive manner in a public area.

(2) In any public transportation vehicle or passenger terminal for such vehicles.

(3) Within thirty (30) feet of any entrance or exit of any bank or check cashing business or within thirty (30) feet of any automated teller machine during the hours of operation of such bank, automated teller machine or check cashing business without the consent of the owner or other person legally in possession of such facilities.

a. When an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility.

(4) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.

(5) From any operator of a motor vehicle that is in traffic on a public street or stopped for a traffic control device or stop sign on a public street, regardless of whether in exchange for

cleaning the vehicle's windows, or for blocking, occupying, or reserving a public parking space, or directing the occupant to a public parking space or even if no services are received in exchange for responding to the solicitation; provided, however, that this paragraph shall not apply to services rendered in connection with emergency repairs requested by the operator or passengers of such vehicle.

(6) By standing on or going into any street or highway, including medians, on ramps and exit ramps.

(7) From any person sitting in a parked motor vehicle.

(8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.

(d) Penalty. Any person violating the provisions of this section shall be punished by a fine in accordance with Section 1-8 of these Revised Ordinances.

(e) Construction of section. The procedure and authority granted by this section shall be in additional to and not in lieu of procedures provided in other ordinances of the city. If the provisions of this section are in conflict with any other provisions of these Revised Ordinances, the provisions of this section shall govern.

Editors Note: Former Section 13-15.0 was superceded by Section 13A-63.1

Section 13-16 No loitering public property, School Safety Zones.

(a) Definitions as used in this ordinance:

(1) "Loitering" shall mean remaining idle in essentially one location and shall include but shall not be limited to, the concept of spending time idly; to be dilatory; to linger; to stay; to delay; to stand around and shall also include the colloquial expression "hanging around".

(2) "Public Place" shall mean any place to which the general public has access and a right to use for business, entertainment, or other lawful purpose, but does not necessarily mean a place devoted solely to use by the public. It shall also include but shall not be limited to the front or surrounding area of any store, shop, restaurant, tavern or other place of business, and all public parking facilities, public grounds, areas or parks.

(b) It shall be unlawful for any person to Loiter, either alone or in concert with others in a Public Place in such manner so as to:

(1) Obstruct any public street, public highway, public sidewalk or any other Public Place or building by hindering, disrupting or impeding the free and uninterrupted passage of vehicles, traffic or pedestrians.

(2) Commit in or upon any public street, public highway, public sidewalk or any other Public Place or building, any act which is an obstruction to or interference with the free and uninterrupted use of property or any business lawfully conducted by anyone in or upon facing or fronting on any public street, public highway, public sidewalk or any other Public Place or

building, all of which prevents or inhibits the free and uninterrupted ingress and egress, thereon and thereto.

(3) When any person or persons cause or commit any of the actions enumerated in Subsection (a) hereof, a police officer or any law enforcement officer shall order such person or persons to stop causing or committing such actions and to move on or disperse. Each person or persons who fail or refuse to obey such order shall be guilty of a violation of this ordinance.

(4) Each person who violates any provisions of this ordinance shall be subject to a fine pursuant to the provisions of Section 1-8 of the Revised Ordinances. Any such violation shall constitute a separate offense on each successive day continued.

(c) That in order to ensure the safety and well-being of school students attending Everett Public Schools, there shall be established “School Safety Zones”. Said “School Safety Zones” will create a protective area around the schools and will provide a corridor for the safe passage of students and persons having business with these zones.

(d) School Safety Zones will include the sidewalks within the area designated as follows:

(1) Everett High School Safety Zone. From the intersection of Elm Street and Russell Street to the intersection of Harding Avenue and Gledhill Avenue; Gledhill Avenue to Sycamore Street; from the intersection of Sycamore Street and Coburn Terrace; along Coburn Terrace to the entrance at Glendale Park; Glendale Park walkway from the entrance at Coburn Terrace along the front of the school to the intersection of Elm Street and Russell Street.

(2) Albert N. Parlin School Safety Zone. From the intersection of Lexington Street and Broadway along the easterly side of Broadway to High Street; along the northerly side of High Street to Prospect Street; along the westerly side of Prospect Street to Lexington Street and along the southerly side of Lexington Street to Broadway. Also the westerly side of Broadway from Hancock Street to Hosmer Street.

(3) Lafayette School and its abutting sidewalks.

(4) Madeline English School and its abutting sidewalks.

(5) Sumner Whittier School and its abutting sidewalks.

(6) Webster School and its abutting sidewalks.

(7) George Keverian School and its abutting sidewalks.

(8) Pope John XXIII High School and its abutting sidewalks; from Shute Street, at Dairy Maid, to Dunster Road.

(e) Said School Safety Zones shall be posted with appropriate signage to be determined by the City Services Department.

(f) Whoever without right or without a legitimate school purpose remains in or loiters with the School Safety Zones between the hours of 7:00 A.M. and 3:00 P.M. Monday through Friday shall be in willful violation of this ordinance upon being forbidden to do so, either by a notice posted therein or by the Chief of Police or his designee or in his absence any police officer, shall be subject to arrest in accordance with Chapter 272, § 59 of the General Laws of Massachusetts and punished by a fine of not more than five hundred dollars ($500.00). (Ord. of 9-3-91(2); Ord. of 10-28-91(2) (Ord. of 05-16-03) (Ord of 05-02-2005) (C0250-05) (C0253-07) (C0014-08) (A0213-07)

Editor's note--Ord. of 9-3-91(2), and Ord. of 05-16-03 added provisions to Chapter 13 of the Code, but did not specify manner of inclusion. At the discretion of the editor, therefore, said provisions have been included as § 13-16 herein.

Section 13-17 SEX OFFENDER RESIDENCY RESTRICTIONS.

(a) Definitions. For the purpose of this Section, the following terms shall have the respective meanings ascribed to them:

(1) Adult Criminal Level 3 Sex Offender – A person convicted of a criminal sex offense and designated as a Level 3 sex offender by the Massachusetts Sex Offender Registry Board. The Board has determined that these individuals have a high risk to re-offend and that the degree of dangerousness posed to the public is such that a substantial public safety interest is served by active community notification.

(2) School – A licensed or accredited public or private school or church school that offers instruction in pre-school, including a licensed daycare or other business permitted as a school by the City of Everett, or any grades K through 12. This definition shall not include private residences in which students are taught by parents or tutors.

(3) GIS. Geographical Information System.

(b) Residency Restrictions. It shall be unlawful for any Adult Criminal Level 3 Sex Offender to establish a residence or any other living accommodations within one thousand (1000) feet of the property on which any school, day care center, park, or recreational facility open to the public is located. The one thousand (1000) feet restriction shall be measured in a straight line from the nearest property line upon which the house, apartment complex, condominium complex, motel, hotel or other residence is located to the property line of the nearest school, day care center, park, or recreational facility. Distances will be taken from the City's GIS system and GIS services to the City shall be presumed accurate and shall be evidence of a violation.

(c) Established Residents. Changes to property resulting in a school, day care center, park or recreational facility being located within one thousand (1000) feet of an Adult Criminal Level 3 Sex Offender's registered address which occurs after an Adult Criminal Level 3 Sex Offender establishes residency shall not form the basis for finding that a Adult Criminal Level 3 Sex Offender is in violation of this section.

(d) Notice to Move. Level 3 Registered Sex Offenders who reside on a permanent or temporary basis within one thousand (1000) feet of any school, day care center, park or recreational facility

following passage of this ordinance, shall be in violation of this section and shall, within thirty (30) days of receipt of written notice of the Registered Sex Offender's noncompliance with this section, move from said location to a new location, but said new location may not be within one thousand (1000) feet of any school, day care center, park, or recreational facility. The first day following the thirty (30) day written notice shall be considered the first violation. Following the first violation, every day that the Registered Sex Offender continues to reside within one thousand (1000) feet of any school, day care center, park or recreational facility shall be considered a violation each day.

(e) Penalties. The following penalties will be imposed by the City of Everett:

(1) First Offense by Registered Sex Offender: Non-criminal fine of $150.00.

(2) Subsequent Offense by Registered Sex Offender. Non-criminal fine of $300.00 and notification to offender's parole office and/or probation office and the Commonwealth's Sex Offender Registry Board that the Sex Offender has violated a municipal ordinance.

(f) This ordinance expressly does not repeal or otherwise affect any other provisions of the Revised Ordinances of the City of Everett, Massachusetts. This ordinance shall become effective immediately upon its passage or otherwise becoming law. (C0048-09)

Section 13-18--13-20 Reserved.

Editors Note former Section 13-17 Code Enforcement Ordinances Moved to 13A-1.0

Editors Note former Section 13-18 Repeat Nuisance Call Service Fees Moved to 13A-95.0

Editors Note former Section 13-19 Bill Posting Moved to 13A-75.0

Section 13-21 YOUTH SPORTS CODE OF CONDUCT.

(a) Definitions. As used in this article, the following terms shall have the meanings indicated:

(1) CODE OF CONDUCT -- A written specification of the behavior of parents, guardians, coaches and officials prepared by each sports league or team which must at a minimum incorporate the terms of the within article and must be consented to in writing by the parents and legal guardians of the minor participants of each youth sports team.

(2) YOUTH SPORTS EVENT -- Any competition, practice or instructional event involving one or more youth sports teams.

(3) YOUTH SPORTS TEAM -- Any sports organization pursuant to a nonprofit or similar charter which is affiliated with or received monetary or other support or service from the City of Everett or regularly utilizes any facilities owned, operated or maintained by the City, which sports organizations participate in sporting competitions involving minors.

(b) Following and availability of Code of Conduct. Every sports team utilizing the facilities of the City of Everett shall be required to follow and to make available to all parents and guardians of each child participating in a sport team the Code of Conduct as set forth in this section and incorporate the same into any pre-existing code enforced by the team.

(c) Minimum Requirements for Code of Conduct. A team's Code of Conduct must at a minimum incorporate the following terms.

c. Fights, scuffles, etc. Any parent, guest, spectator, coach or official at any youth sports event who initiates a fight, scuffle, or any type of physical abuse or threats of abuse towards any player, coach, official, parent or spectator shall be banned from attendance at all youth sports events within the City of Everett for a period not exceeding 12 months from the date of the incident.

d. Entering field of play. Any parent, guest, coach, or official at any youth sporting event who enters the field of play, court or rink during any youth sporting event for the purpose of physically or verbally abusing or confronting coaches, players or officials shall be banned from attendance at all youth sports events within the City of Everett for a period not exceeding 12 months from the date of the accident.

e. Obscene or profane language, etc. Any parent, guest, spectator, coach or official at any youth sports event who verbally abuses officials, players or spectators, including the use of obscene or profane language or gestures or racial, ethnic or sexual slurs, may be banned from all youth sports events for a period not exceeding 12 months from the date of the incident and shall be subject to such discipline as provided for by the applicable team's Code of Conduct.

f. Throwing objects on field of play. Any parent, guest, spectator, or official at any youth sports event who throws or causes to be deposited any object on the field of play, court or rink during any youth sports event may be banned from attendance at all youth sports events for a period of 12 months from the date of the incident and shall be subject to such discipline as provided for by the application sports team's Code of Conduct.

g. Anger management program. Any person banned for 12 months from youth sports events for a violation of the Code of Conduct prior to being allowed to resume attendance at any youth sports event shall be required to complete anger management or equivalent counseling program consisting of no less than 12 hours or instruction and shall provide proof of satisfactory completion to the Recreation Commission. Any banning for less than 12 months may include up to 12 hours of anger management.

h. Authority of field officials, etc. Any parent, official, coach or spectator at any youth sporting event shall be subject to the authority of all field officials, including umpires and referees, and elected league officials of the youth sport team or teams sponsoring the youth sports event in the absence of such persons at a youth sports team's practice or instructional event to the authority of the ranking youth sports team coach on the premises. Such authority shall include the authorization to direct any person or persons involved in any incident in violation of this article or the applicable sports team's Code of Conduct to immediately remove themselves from the premises.

(d) Violation procedures and hearings. Upon a determination by a majority vote of the highest

ranking officials and the governing board of a youth sports team that a parent, guest, spectator, coach or official at any youth sports event sponsored by such youth sports team has violated a provision of this article or the Code of Conduct of the youth sports team, such official shall forward to such violator a notice via regular and certified mail indicating the date and location and nature of the violation and period of banning or other action to be taken in response to such violation.

(1) Any person receiving such a notice who wishes to contest same shall appeal to the City of Everett Recreation Commission within seven calendar days of the mailing of said notice by forwarding a copy of said notice with a written request for appeal specifically setting forth the basis of such persons contest of the notice of violation via personal delivery or certified mail to the Chairperson of the Recreation Commission at City Hall, 484 Broadway, Everett, MA 02149.

(2) Upon receipt of such appeal, the Recreation Commission shall convene within 10 days and provide an opportunity for said person and any interested person to appear and be heard with respect to the occurrence of any violation and the action taken by the youth sports team.

(3) The Recreation Commission shall be authorized to hear testimony under oath, review affidavits and such other and further information or documentation relevant to the violation and, upon a majority vote of the members of the Committee present at such hearing, may sustain, overturn or modify the youth sports team's notice of violation and the period of banning or other action taken in response to such violation consistent with this article or the youth sports team bylaws or Code of Conduct.

(4) All notices of violation and resulting banishments shall remain in effect until overturned or modified by the Recreation Commission.

(5) In the event any notice of violation is not appealed within 10 days of such notice, said notice of violation and the action taken by the youth sports team official, including banning from youth sports events, shall become final.

Section 13-22 Sale of Lighters and Matches to Minors.

(a) Prohibited. No person shall sell, exchange or distribute cigarette lighters and/or matches to a minor.

(b) Definitions. For the purposes of this chapter, the following words shall have the meanings respectively ascribed to them by this section:

(4) "City" means city of Everett.

(5) "Minor" means any individual who is under the age of eighteen (18).

(6) "Person" means a person, employer, employee, retail store manager or owner, or the owner or operator of any establishment engaged in the sale, exchange, or distribution of cigarette lighters and matches.

(c) Identification required. A person selling, exchanging or distributing cigarette lighters and/or

matches shall request and examine proper identification from any purchaser suspected of being a minor, and shall positively establish the purchaser's age as eighteen (18) years or older before allowing the purchase and/or distribution.

The following shall constitute proper identification: a valid Massachusetts Driver's License, a certified birth certificate along with a picture identification card; or two other similar forms of identification, one of which shall be a picture identification card.

(d) Violation--Penalty--Enforcement. Any person violating any of the provisions of this chapter shall be subject to a fine of one hundred dollars ($100.00) for the first offense; and, for the second offense, a fine of two hundred dollars ($200.00); and, for the third offense, a fine of three hundred dollars ($300.00).

(e) The Everett Health Department and the Everett Fire Department shall be the enforcing authority of this chapter. (A0109-08)

Chapter 13A.
Code Compliance

ARTICLE I. CODE ENFORCEMENT TASK FORCE

Section 13A-1 Code Enforcement Task Force.

(a) There shall be in the City of Everett a Code Enforcement Task Force (CETF).

(b)

(c) It shall be the responsibility of the Task Force to coordinate the enforcement of the City ordinances pursuant to this chapter in order to combat blight, reduce nuisances, discourage criminal activity and ensure a higher quality of life for the residents of the City.

(d) The Task Force shall consist of the following:

(1) Chairman – to be appointed to a coterminous term by His Honor the Mayor and who will serve as the supervisor of other appointed inspectors and staff,

(2) Chief of Police or his designee,

(3) Fire Chief or his designee

(4) City Clerk or his designee,

(5) City Solicitor or his designee,

(6) Building Inspector or his designee,

(7) Director of the Board of Health or his designee,

(8) Chairman of the Licensing Board or his designee,

(9) Director of City Services or his designee,

(10) President of the city council or his designee. (A0173-12)

(e) In order to create the “Code Enforcement Ordinance”, the City Council hereby adopts the following codes and incorporates them in the “Code Enforcement Ordinance”:

(1) The Massachusetts Building Code, 780 CMR Code of Massachusetts, as amended;

(2) The Massachusetts State Sanitary Code, 105 CMR, Sections 400 and 410, as amended; and

(3) The Massachusetts Fire Prevention Code, 527 CMR, Section 10.

(f) Violations of the said “Code Enforcement Ordinance” will be enforced in accordance with the provisions of the Everett Non-Criminal Disposition Ordinance.

(g) Any person violating any provision of this chapter shall be deemed guilty of a violation shall be

subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 3-11-2004; Ord. of 4-8-2004; A0416-06)

Editors note: 13A-1 sections (d)-(e)) moved from 13-17.

Section 13A-2 Name and Purpose.

(a) This chapter shall be known as "Code Compliance". The purpose of this section is to identify processes and methods to encourage compliance with the ordinances of the City of Everett and the Building and Safety Codes of the City and the Commonwealth of Massachusetts and other state laws to promote and protect the general public health, safety and environment of city residents. This chapter declares certain acts to be civil violations and establishes non-penal enforcement procedures and civil penalties. This chapter also declares certain acts to be misdemeanors.

(b) It is the intention of the City to pursue code compliance actively and vigorously in order to protect the health, safety and welfare of the general public. This City intention is to be pursued in a way that is consistent with adherence to, and respectful of, fundamental constitutional principles.

(c) While this chapter does authorize the City to take action to enforce City laws and regulations, it shall not be construed as placing responsibility for code compliance or enforcement upon the City in any particular case, or as creating any duty on the part of the City to any particular person or class of persons. (A0416-06)

Section 13A-3 Statement of goals.

(a) It is the policy of the City to emphasize code compliance by education and prevention as a first step. This policy is designed to ensure code compliance and timely action that is available to all persons and uniform in its implementation. While warnings and voluntary compliance are desirable as a first step, enforcement and civil penalties should be used for remedial purposes as needed to assure and effect code compliance. Abatement or remediation should be pursued when appropriate and feasible. Uniform and efficient procedures, with consistent application tailored by regulation to each department's mission, should be used to accomplish these goals. (A0416-06)

Section 13A-4 Definitions.

The words and phrases designated in this chapter shall be defined for the purposes of this chapter as follows:

(a) "Abate" means to take whatever steps are deemed necessary by the director to return a property to the condition in which it existed before a civil code violation occurred or to assure that the property complies with applicable code requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal, replacement or repair.

(b) Chairman" means, Chairman of the Code Enforcement Task Force.

(c) "Civil code violation" means and includes one or more of the following:

(1) Any act or omission contrary to any ordinance, resolution, regulation or public rule of the City that regulates or protects the public health or the use and development of land or water, whether or not the ordinance, resolution or regulation is codified; and

(2) Any act or omission contrary to the conditions of any permit, notice and order to correct or cease and desist order issued pursuant to any such an ordinance, resolution, regulation or public rule.

(d) "Director" means, depending on the code violated:

(1) The director of any City department authorized to enforce civil code compliance;

(2) Authorized representatives of a director, including but not limited to, the compliance officers and inspectors whose responsibility includes the detection and reporting of civil code violations; or

(3) Such other person as the City Council by ordinance authorizes to utilize this chapter.

(e) "Hearing examiner" means the City Solicitor or his designee

(f) "Mitigate" means to take measures, subject to City approval, to minimize the harmful effects of the violation where remediation is either impossible or unreasonably burdensome.

(g) "Permit" means any form of certificate, approval, registration, license or any other written permission issued by the City. All conditions of approval, and all easements and use limitations shown on the face of an approved final plot map which are intended to serve or protect the general public are deemed conditions applicable to all subsequent plat property owners and their tenants and agents as permit requirements enforceable under this chapter.

(h) "Person" means any individual, association, partnership, corporation or legal entity, public or private, and the agents and assigns of the individual, association, partnership, corporation or legal entity.

(i) H. "Person responsible for code compliance" means either the person who caused the violation, if that can be determined, or the owner, lessor, tenant or other person entitled to control, use or occupy, or any combination of control, use or occupy, property where a civil code violation occurs, or both.

(j) "Remediate" means to restore a site to a condition that complies with sensitive area or other regulatory requirements as they existed when the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition that does not pose a probable threat to the environment or to the public health, safety or welfare.

(k) "Ordinance" means any law enacted by ordinance by the City Council.

(l) "Public rule" means any rule properly promulgated to implement code provisions. (A0416-06)

Section 13A-5 Declaration of public nuisance.

(a) All civil code violations are hereby determined to be detrimental to the public health, safety and environment and are hereby declared public nuisances. All conditions determined to be ordinance or code violations shall be subject to and enforced pursuant to the provisions of this

chapter except where specifically excluded by law or regulation.

(b) Any person who willfully or knowingly causes, aids or abets an ordinance or code violation pursuant to this chapter by any act of commission or omission shall be punished by a fine pursuant to Section 1-8 of the Revised Ordinances of the City of Everett, unless otherwise stated. Each day such violation continues shall be considered a separate offense. As an alternative, or in addition to any other judicial or administrative remedy provided in this section or by law or other regulation, a director may request that the City Solicitor consider filing a misdemeanor complaint against the persons responsible for code compliance when the director has documentation or evidence that the violation was willful and knowing. (A0416-06)

Editors note: the phrase “unless otherwise stated” was added to provide for stated fines appearing elsewhere in Chapter.

Section 13A-6 Enforcement authority and administration.

(a) In order to discourage public nuisances and otherwise promote compliance with applicable code provisions, a director may, in response to field observations or reliable complaints, determine that violations have occurred or are occurring and may:

(1) Enter into voluntary compliance agreements with persons responsible for code compliance;

(2) Issue citations,

(3) Issue cease and desist orders authorized by

(4) Order abatement by means of a notice and order to correct, and if such abatement is not timely completed by the person responsible for code compliance, undertake the abatement and charge the reasonable costs of such work.

(5) Allow a person responsible for code compliance to perform community service in lieu of paying penalties as authorized by

(6) Suspend, revoke or modify any permit previously issued by a director or deny a permit application as authorized by when other efforts to achieve compliance have failed.

(b) Should violations occur involving multiple agencies, a lead agency shall be designated by the Chairman to coordinate the City’s response. Unless otherwise determined by the directors of the affected departments, the Code Enforcement Task Force staff shall serve as the lead agency.

(c) The procedures set forth in this section are not exclusive. These procedures shall not in any manner limit or restrict the City from remedying violations or abating violations in any other manner authorized by law. This ordinance shall not be construed to affect the authority of any City board in enforcement of their codes or regulations.

(d) In addition or as an alternative to utilizing the procedures set forth in this section, a director may seek legal or equitable relief to abate any conditions or enjoin any acts or practices that

constitute a violation.

(e) In addition or as an alternative to utilizing the procedures set forth in this ordinance, a director may assess or recover penalties accruing under this section by legal action filed in Superior court by the City Solicitor on behalf of the City.

(f) The provisions of this section shall in no way adversely affect the rights of the owner, lessee or occupant of any property to recover all costs and expenses incurred and required by this section from any person causing such violation.

(g) The City may use liens, withholding issuance of permits or licenses or the services of a collection agency in order to collect any fines, penalties, fees or costs owing under this section.

(h) In administering the provisions for code enforcement, the director shall have the authority to waive any one or more such provisions so as to avoid substantial injustice by application thereof to the acts or omissions of a public or private entity or individual, or acts or omissions on public or private property including, for example, property belonging to public or private utilities, where no apparent benefit has accrued to such entity or individual from a violation and any necessary remediation is being promptly provided. For purposes of this clause, substantial injustice cannot be based on economic hardship.

(i) The provisions of this section detailing City department administration of code compliance procedures are intended only for the purpose of providing guidance to City employees and are not to be construed as creating a basis for appeal or a defense of any kind to an alleged violation.

(j) The provisions of this ordinance authorizing the enforcement of non-codified ordinances are intended to assure compliance with unclassified use permits, zone reclassifications and other similar permits or approvals which may have been granted by ordinances which have not been codified, and to enforce new regulatory ordinances which are not yet codified. Departments should be sensitive to the possibility that citizens may not be aware of these ordinances, and should give warnings prior to enforcing such ordinances, except in high-risk cases. (A0416-06)

ARTICLE II. GUIDELINES

Section 13A-7 Guidelines for departmental responses to complaints.
The following guidelines should be applied by the departments, subject to departmental resource limitations, when responding to code compliance complaints. The timelines identified below may be modified by departmental rule, subject to council review and approval.

(a) High risk investigations needing an urgent response (within twenty-four hours to one week) include any cases in which:

(1) There is an imminent likelihood of or actual bodily harm, damage to public resources or facilities, damage to real or personal property, public health exposure, or environmental damage or contamination; or

(2) The sites and/or persons responsible for code compliance have a history of prior high or

moderate risk violations.

(b) Moderate risk investigations needing a prompt response (within seventy-two hours to ten days) include cases where:

(1) There is risk of bodily harm, damage to public resources and/or facilities, damage to real or personal property, or environmental damage or contamination; or

(2) The subject sites and/or persons responsible for code compliance have a history of prior low risk violations; or

(3) There are ongoing moderate or low risk violations; or

(4) More than five wrecked, dismantled or inoperative vehicles are found.

(c) Low risk investigations needing response as time permits (within two to four weeks of violation being identified by code compliance staff) include cases where:

(1) The violation is non-emergent, does not fit within the high risk or moderate risk categories and has only minor public impacts; and

(2) The violation is an isolated incident.

(d) The response times set out in this section are not jurisdictional, and failure to meet them in any particular case shall not affect the City's authority to enforce City code provisions with regard to that case. (A0416-06)

Section 13A-8 Initial Investigation.
This section sets forth guidelines for more specific procedures to be used by each department in implementing this ordinance. The guidelines set forth in this section are not jurisdictional, and failure to meet them in any particular case shall not affect the City's authority to enforce City code provisions with regard to that case.

(a) Field verification. Except in emergencies and for low risk case complaints, field verification should be made if possible prior to, concurrent with or shortly after notifying the owner, occupant, and/or other person responsible for code compliance of the potential or alleged violation. Low risk case complaints should be acknowledged by sending an informal letter to the person(s) responsible for code compliance. The letter should state that a violation may have occurred, but has not been verified, and should ask the recipient to contact the department issuing the letter.

(b) Advising interested parties of receipt of complaint and/or field investigation.

(1) The owner, occupant and person responsible for code compliance (if not an owner or occupant) should be advised of any complaint by personal contact, phone, posting and/or mail.

(2) The complainant should be contacted by phone and, if possible, in person during the field visit.

(c) All departments with compliance requirement authority should record land-based violations in the database system, which should be accessible to all other departments.

(d) To the extent possible, the department shall check its own records and the records of other agencies for previous violations on the site of the alleged violation or by the owner or occupant of the site or such other person as may be responsible for code compliance.

(e) Staff undertaking the field investigations shall comply with the provisions of this section regarding right of entry. (A0416-06)

Section 13A-9 Procedures when probable violation identified.

(a) The department shall determine, based on information derived from sources such as field observations, the statements of witnesses, relevant documents and data systems for tracking the violations and applicable City codes, whether or not a violation has occurred. As soon as a department has reasonable cause to determine that a violation has occurred, it shall document the violation and promptly notify the owner, occupant or other person responsible for code compliance.

(b) Except as provided in subsection (d) of this section, a warning shall be issued verbally or in writing promptly when a field inspection reveals a violation, or as soon as the department otherwise determines that a violation has occurred. The warning shall inform the person determined to be responsible for code compliance of the violation and allow the person an opportunity to correct it or enter into a voluntary compliance agreement as provided for by this section. Verbal warnings shall be logged and followed up with a written warning within two weeks, and the site shall be re-inspected within thirty days.

(c) The guidelines in this section for warnings, notifications and re-inspections are not jurisdictional, and failure to meet them in any particular case shall not affect the City's authority to enforce City code provisions with regard to that case.

(d) No warning need be issued in high-risk cases, emergencies, repeat violation cases, cases that are already subject to a voluntary compliance agreement, cases in which the violation creates a situation or condition that is not likely to be corrected within a short period of time, cases in which a cease and desist order is necessary, or if the person responsible for code compliance knows or reasonably should have known that the action was a code violation.

(e) Citations may be issued in moderate- and low-risk cases, if the department determines it is probable that violation can likely be fully corrected in a short period of time.

(f) Notice and orders to correct should be issued in all high-risk cases in which a voluntary compliance agreement has not been entered into. Notice and orders to correct may be issued in moderate- and low-risk cases where the department determines that the violation is unlikely to be fully corrected in a short period of time.

(g) The department shall use all reasonable means to determine and cite the person or persons actually responsible for the violation occurring when the owner has not directly or indirectly caused the violation.

(h) If the violation is not corrected or a voluntary compliance agreement is not achieved within a reasonable time period, a citation, notice and order to correct or cease and desist order should be issued. As a guideline, citations should be issued within thirty days from receipt of a complaint, and notice and orders to correct should be issued within 7 days from receipt of a complaint. Cease and desist orders should be issued promptly upon discovery of a violation in progress.

(i) Any complainant who provides a mailing address and requests to be kept advised of enforcement efforts should be mailed a copy of all written warnings, voluntary compliance agreements, citations, notice and order to corrects, cease and desist orders and notices of settlement conferences issued by a department with regard to the alleged violation. Any complainant who is an aggrieved person may appeal a citation, notice and order to correct, cease and desist order, a determination to enter into a voluntary compliance agreement or a determination not to issue a citation or order pursuant to the provisions of this chapter. (A0416-06)

Section 13A-10 Service - citation, notice and order to correct, and cease and desist order.
(a) Service of a citation or notice and order to correct shall be made on a person responsible for code compliance by one or more of the following methods:

(1) Personal service of a citation or notice and order to correct may be made on the person identified by the department as being responsible for code compliance, or by leaving a copy of the citation or notice and order to correct at that person's house of usual abode with a person of suitable age and discretion who resides there.

(2) Service directed to the landowner and/or occupant of the property may be made by posting the citation or notice and order to correct in a conspicuous place on the property where the violation occurred and concurrently mailing notice as provided for below, if a mailing address is available.

(3) Service by mail may be made for a citation or a notice and order to correct by mailing two copies, postage prepaid, one by ordinary first class mail and the other by certified mail, to the person responsible for code compliance at his last known address, at the address of the violation, or at the address of the place of business of the person responsible for code compliance. The taxpayer's address as shown on the tax records of the City shall be deemed to be the proper address for the purpose of mailing such notice to the landowner of the property where the violation occurred. Service by mail shall be presumed effective upon the third business day following the day upon which the citation or notice and order to correct was placed in the mail.

(b) For notice and orders to correct only, when the address of the person responsible for code compliance cannot reasonably be determined, service may be made by publication once in a local newspaper with general circulation.

(c) Service of a cease and desist order on a person responsible for code compliance may be made by posting the cease and desist order in a conspicuous place on the property where the violation occurred or by serving the cease and desist order in any other manner permitted by this

chapter.

(d) The failure of the director to make or attempt service on any person named in the citation, notice and order to correct or cease and desist order shall not invalidate any proceedings as to any other person duly served. (A0416-06)

Section 13A-11 Voluntary compliance agreement - authority.

(a) Whenever the applicable department determines that a code violation has occurred or is occurring, the department shall make reasonable efforts to secure voluntary compliance from the person responsible for code compliance. Upon contacting the person responsible for code compliance, the department may enter into a voluntary compliance agreement as provided for in this section.

(b) A voluntary compliance agreement may be entered into at any time after issuance of a verbal or written warning, a citation, a notice and order to correct or a cease and desist order and before an appeal is decided pursuant to this section.

(c) The voluntary compliance agreement is a commitment by the person responsible for code compliance under which the person agrees to do any combination of abating the violation, remediating the site or mitigating the impacts of the violation. The voluntary compliance agreement shall include the following:

(1) The name and address of the person responsible for code compliance;

(2) The address or other identification of the location of the violation;

(3) A description of the violation and a reference to the provision or provisions of the ordinance, resolution or regulation that has been violated;

(4) A description of the necessary corrective action to be taken and identification of the date or time by which compliance must be completed. For the purpose of this subsection (c)(4), the department may either require that compliance be achieved by a specific date or that compliance be achieved by a date to be determined based on the occurrence of some future event;

(5) The amount of the civil penalty that will be imposed pursuant to Section 1-8 of the Revised Ordinance of the City of Everett if the voluntary compliance agreement is not satisfied; unless superceded by state or federal law;

(6) An acknowledgment that the voluntary compliance agreement will be recorded against the property in the office of the Assessor, the recording to be accomplished as provided for in notice and order to correct cases;

(7) An acknowledgment that if the department determines that the terms of the voluntary compliance agreement are not met, the City may, without issuing a citation, notice and order to correct or cease and desist order, impose any remedy authorized by this section, which includes the assessment of the civil penalties identified in the voluntary compliance

agreement, abatement of the violation, assessment of the costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit;

(8) An acknowledgment that if any assessed penalty, fee or cost is not paid, a director may charge the unpaid amount as a lien against the property where the civil code violation occurred if owned by the person responsible for code compliance, and that the unpaid amount may be a joint and several personal obligation of all persons responsible for code compliance;

(9) An acknowledgment that by entering into the voluntary compliance agreement the person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and that if the department determines the terms of the voluntary compliance agreement are not met, the person is subject to and liable for any remedy authorized by this section, which includes the assessment of the civil penalties identified in the voluntary compliance agreement, abatement of the violation, assessment of the costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses, and the suspension, revocation or limitation of a development permit; and

(10) An acknowledgment that the person responsible for code compliance understands that he or she has the right to be served with a citation, notice and order to correct or cease and desist order for any violation identified in the voluntary compliance agreement, has the right to administratively appeal any such a citation, notice and order to correct or cease and desist order, and that he or she is knowingly, voluntarily and intelligently waiving those rights.

(d) Upon entering into a voluntary compliance agreement, a person responsible for code compliance waives the right to administratively appeal, and thereby admits, that the conditions described in the voluntary compliance agreement existed and constituted a civil code violation; and agrees that if the department determines the terms of the voluntary compliance agreement are not met, he or she is liable for the civil penalty identified in the voluntary compliance agreement, is liable for the costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses and is subject to all other remedies provided for in this section.

(e) An extension of the time limit for compliance or a modification of the required corrective action may be granted by the department if the person responsible for code compliance has shown due diligence or substantial progress in correcting the violation, but circumstances render full and timely compliance under the original conditions unattainable.

(f) The voluntary compliance agreement is not a settlement agreement. (A0416-06)

Section 13A-12 Failure to meet terms of voluntary compliance agreement.
If the terms of the voluntary compliance agreement are not completely met, the department may abate the violation in accordance with this section, and the person responsible for code compliance may, without being issued a citation, notice and order to correct or cease and desist order, be

assessed a civil fine or penalty, in accordance with the penalty provisions of this chapter, plus all costs incurred by the City to pursue code compliance and to abate the violation, including legal and incidental expenses as provided for in this section, and may be subject to other remedies authorized by this section. Penalties imposed when a voluntary compliance agreement is not met accrue from the date that the terms of the voluntary compliance agreement were violated. (A0416-06)

Section 13A-13 Right of entry.
It is the intention of the council that any entry made to private property for the purpose of inspection for code violations be accomplished in strict conformity with constitutional and statutory constraints on entry, and the holdings of relevant court cases regarding entry. The right-of-entry granted by this section shall not supersede those legal constraints. The director is authorized to enter upon any property for the purpose of administering this ordinance provided that the director shall make entry only if such entry is consistent with the constitutions and laws of the United States and the Commonwealth of Massachusetts. If so required by the constitutions and laws of the United States or the Commonwealth of Massachusetts, the director shall apply to a court of competent jurisdiction for a search warrant authorizing access to such property for such purpose. The court may upon such application issue the search warrant for the purpose requested. (A0416-06)

Section 13A-14 Training and rulemaking.
(a) In order to ensure strict conformity with the constraints on entry imposed by state and federal law and to assure that City employees deal with the public in a manner which respects the rights of private property owners, the Task Force, as needed, shall develop and adopt internal procedures, protocols and training programs governing the conduct of searches by code compliance officers which shall be issued within two months of the adoption of this ordinance.

(b) The Task Force shall adopt procedures to implement the provisions of this ordinance, and specifically the guidelines set out in this chapter describing reasonable and appropriate protocols for investigating code violations. (A0416-06)

Section 13A-15 Obligations of persons responsible for code compliance.
(a) It shall be the responsibility of any person identified as responsible for code compliance to bring the property into a safe and reasonable condition to achieve code compliance. Payment of fines, applications for permits, acknowledgment of stop-work orders and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the extent reasonably possible under the circumstances.

(b) Persons determined to be responsible for code compliance pursuant to a citation or notice and order to correct shall be liable for the payment of any civil fines, penalties and abatement costs, provided, however, that if a property owner affirmatively demonstrates that the action which resulted in the violation was taken without the owner's knowledge or consent by someone other than the owner or someone acting on the owner's behalf, that owner shall be responsible only for bringing the property into compliance to the extent reasonably feasible under the circumstances. Should the owner not correct the violation, only those abatement costs necessary to bring the property into a safe and reasonable condition, as determined by the director, shall be assessed by

the City. No civil fines or penalties shall be assessed against such an owner or his property interest. (A0416-06)

Section 16-22 Reserved.

ARTICLE III. CITATIONS

Section 13A-23 Authority.
Whenever a director has determined, based on investigation of documents and/or physical evidence, that a civil code violation has occurred, the director may issue a citation to any person responsible for code compliance. The director shall make a determination whether or not to issue a citation within thirty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist. Subsequent complaints shall be treated as new complaints for purposes of this section. (A0416-06)

Section 13A-24 Effect.
(a) Subject to the appeal provisions of this section, a citation represents a determination that a civil code violation has occurred and that the cited party is a person responsible for code compliance.

(b) Subject to the provisions of this section, a citation subjects the person responsible for code compliance to the civil fine prescribed by this chapter.

(c) Subject to the provisions of this section, the person responsible for code compliance shall either pay the civil fine assessed within twenty-one days of the date of issuance of the citation or appeal the citation according to the procedures described in this chapter.

(d) Failure to appeal the citation within twenty-one days shall render the citation a final determination that the conditions described in the citation existed and constituted a civil code violation and that the cited party is liable as a person responsible for code compliance.

(e) Imposition of a civil fine creates a joint and several personal obligation in all persons responsible for code compliance who are served with notice of the violation. The prosecuting attorney on behalf of The City may collect the civil fines assessed by any appropriate legal means.

(f) Issuance of a citation in no way limits a director's authority to issue a notice and order to correct or stop work order to the same person responsible for code compliance pursuant to this chapter. Payment of the civil fine assessed under the citation does not relieve a person responsible for code compliance of his duty to correct the violation and/or to pay any and all civil penalties accruing under a notice and order to correct or cease and desist order issued pursuant to this chapter. (A0416-06)

Section 13A-25 Contents.
The citation shall include all of the following information:

(a) Identification of the location of the violation;

(b) A brief description of the violation or violations found;

(c) A statement of the specific ordinance, resolution, regulation, public rule, permit condition, notice and order to correct provision, or cease and desist order provision that was violated;

(d) A statement that the citation represents a determination that a civil code violation has occurred and that the cited party is subject to civil fines;

(e) A statement of the amount of the civil fine assessed and that the fine must be paid within twenty-one days;

(f) A statement of the options provided in this chapter for responding to the citation and the procedures necessary to exercise these options;

(g) A statement that failure to appeal the citation within twenty-one days renders the citation a final determination that the conditions described in the citation existed and constituted a civil code violation and that the cited party is liable as a person responsible for code compliance; and

(h) A statement advising that a failure to respond or appeal may be referred to the prosecuting attorney for prosecution. (A0416-06)

Section 13A-26 Revocation.
A director may revoke or modify a citation issued under this chapter if the original citation was issued in error or if a party to a citation was incorrectly named. Such revocation or modification shall identify the reasons and underlying facts for revocation. (A0416-06)

Section 13A-27 Remedy - civil fines.
A citation shall carry a civil fine to be determined with reference to the schedule contained in Section 1-8. The payment of civil fines does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation. (A0416-06)

ARTICLE IV. NOTICE AND ORDERS TO CORRECT

Section 13A-28 Authority.
Whenever a director has reason to believe, based on investigation of documents and/or physical evidence, that a civil code violation exists or has occurred, or that the civil code violations cited in a citation have not been corrected, or that the terms of a voluntary compliance agreement have not been met, the director is authorized to issue a notice and order to correct to any person responsible for code compliance. The director shall make a determination whether or not to issue a notice and order to correct within one hundred twenty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist, or within thirty days of the end of a voluntary compliance agreement time period which has not been met. Subsequent complaints shall be treated as new complaints for purposes of this section. Issuance of a citation is not a condition precedent to the issuance of a notice and order to correct. (A0416-06)

Section 13A-29 Effect.
(a) Subject to the appeal provisions of this chapter, a notice and order to correct represents a

determination that a civil code violation has occurred, that the cited party is a person responsible for code compliance, and that the violations set out in the notice and order to correct require the assessment of penalties and costs and other remedies specified in the notice and order to correct.

(b) Failure to correct the civil code violation in the manner prescribed by the notice and order to correct subjects the person to whom the notice and order to correct is directed to the use of any of the compliance remedies provided by this chapter, including:

(1) Additional civil penalties and costs;

(2) A requirement that abatement, remediation and/or mitigation be performed;

(3) An agreement to perform community service as prescribed by this chapter;

(4) Permit suspension, revocation, modification and/or denial as prescribed by this chapter; and/or

(5) Abatement by a director and recovery of the costs of abatement according to the procedures described in this chapter.

(c) Any person identified in the notice and order to correct as responsible for code compliance may appeal the notice and order to correct within twenty-one days according to the procedures described in this chapter.

(d) Failure to appeal the notice and order to correct within the applicable time limits shall render the notice and order to correct a final determination that the conditions described in the notice and order to correct existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance.

(e) Issuance of a notice and order to correct in no way limits a director's authority to issue a citation or stop work order to a person previously cited through the notice and order to correct process pursuant to this chapter. Payment of the civil penalties assessed under the notice and order to correct does not relieve a person found to be responsible for code compliance of his duty to correct the violation and/or to pay any and all civil fines or penalties accruing under citations or cease and desist orders issued pursuant to this chapter. (A0416-06)

Section 13A-30 Contents.
The notice and order to correct shall contain the following information:

(a) The address, when available, or location of the civil code violation;

(b) A legal description of the real property or the City tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators;

(c) A statement that the director has found the named person to have committed a civil code violation and a brief description of the violation or violations found;

(d) A statement of the specific provisions of the ordinance, resolution, regulation, public rule,

permit condition, notice and order to correct provision or cease and desist order that was or is being violated;

(e) The dollar amount of the civil penalty per separate violation;

(f) A statement advising that any costs of enforcement that exceed the amount of the penalty may also be assessed against the person to whom the notice and order to correct is directed;

(g) A statement advising that the notice and order to correct will be recorded against the property in the City Clerk's office subsequent to service;

(h) A statement of the corrective or abatement action required to be taken and that all required permits to perform the corrective action must be obtained from the proper issuing agency;

(i) A statement advising that, if any required work is not commenced or completed within the time specified by the notice and order to correct, a director may proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and several personal obligation of any persons responsible for code compliance;

(j) A statement advising that, if any assessed penalty, fee or cost is not paid on or before the due date, a director may charge the unpaid amount as a lien against the property where the civil code violation occurred if owned by a person responsible for code compliance and as a joint and several personal obligation of all persons responsible for code compliance;

(k) A statement advising that any person named in the notice and order to correct or having any record or equitable section in the property against which the notice and order to correct is recorded may appeal from the notice and order to correct to the hearing examiner within fourteen days of the date of service of the notice and order to correct;

(l) A statement advising that a failure to correct the violations cited in the notice and order to correct could lead to the denial of subsequent City permit applications on the subject property;

(m) A statement advising that a failure to appeal the notice and order to correct within the applicable time limits renders the notice and order to correct a final determination that the conditions described in the notice and order to correct existed and constituted a civil code violation, and that the named party is liable as a person responsible for code compliance; and

(n) A statement advising the person responsible for code compliance of his duty to notify the director of any actions taken to achieve compliance with the notice and order to correct. (A0416-06)

Section 13A-31 Recording.

(a) Whenever a notice and order to correct is served on a person responsible for code compliance, the director shall record a copy of the notice and order to correct with the City Clerk.

(b) When all violations specified in the notice and order to correct have been corrected or abated, the director shall record a certificate of compliance with the City Clerk. The certificate shall include a legal description of the property where the violation occurred and shall state that any unpaid civil

penalties for which liens have been recorded are still outstanding and continue as liens on the property. (A0416-06)

Section 13A-32 Supplementation, revocation, modification.
(a) Whenever there is new information or a change in circumstances, a director may add to, rescind in whole or part or otherwise modify a notice and order to correct by issuing a supplemental notice and order to correct. The supplemental notice and order to correct shall be governed by the same procedures applicable to all notice and orders to correct contained in this chapter.

(b) A director may revoke or modify a notice and order to correct issued under this chapter if the original notice and order to correct was issued in error or if a party to an order was incorrectly named. The revocation or modification shall identify the reasons and underlying facts for revocation and shall be recorded with the City Clerk. (A0416-06)

Section 13A-33 Administrative Conference.
An informal administrative conference may be conducted by a director at any time for the purpose of facilitating communication among concerned persons and providing a forum for efficient resolution of any violation. Interested parties shall not unreasonably be excluded from such conferences. (A0416-06)

Section 13A-34 Remedies - civil penalties - authority and general provisions.
(a) Failure to correct a civil code violation in the manner and within the time frame specified by the notice and order to correct subjects the person responsible for code compliance to civil penalties calculated with reference to the schedule contained in Section 1-8.

(b) Civil penalties assessed create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of The City may collect the civil penalties assessed by any appropriate legal means.

(c) Civil penalties assessed also authorize The City to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.

(d) The payment of penalties does not relieve a person responsible for code compliance of any obligation to cure, abate or stop a violation. (A0416-06)

Section 13A-35 Remedies - community service.
A director is authorized to allow a person responsible for code compliance who accumulates civil penalties as the result of a notice and order to correct to voluntarily participate in community service projects in lieu of paying all or a portion of the assessed civil penalties. Community service may include, but is not limited to, abatement, restoration or education programs. The amount of community service will reasonably relate to the comparable value of penalties assessed against the violator. The director shall take into consideration the severity of the violation, any history of previous violations and practical and legal impediments in considering whether to allow community service in lieu of paying penalties. (A0416-06)

Section 13A-36 Remedies - cost recovery.

(a) In addition to the other remedies available under this chapter, a director may charge the costs of pursuing code compliance and abatement incurred to correct a code violation to the person responsible for code compliance, including legal and incidental expenses to the extent these costs exceed the amount of the penalty paid. Such costs are due and payable thirty days from mailing of the invoice.

(b) For purposes of this section, “legal and incidental expenses” shall include but are not limited to:

(1) Personnel costs, both direct and indirect, including attorney’s fees and costs incurred to document the violation as soon as the violation occurs;

(2) Hauling, storage and disposal expenses;

(3) Actual expenses and costs of the City in preparing notices, specifications and contracts and in accomplishing or contracting and inspecting the work and the costs of any required printing or mailing; and

(4) Interest on the costs of abatement incurred by the City.

(c) All costs assessed by the City in pursuing code compliance and/or abatement creates a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of The City may collect the costs of code compliance efforts by any appropriate legal means.

(d) The City may take a lien for the value of the costs of pursuing code compliance against the real property of the person responsible for code compliance. (A0416-06)

Section 13A-37 Remedies - suspension, revocation or limitation of permit.

(a) A director may suspend, revoke or limit any permit issued by that director whenever:

(1) The permit holder has committed a code violation in the course of performing activities subject to that permit;

(2) The permit holder has interfered with a director in the performance of his duties relating to that permit;

(3) The permit was issued in error or on the basis of materially incorrect information supplied to the City;

(4) Permit fees or costs were paid to the City by check and returned from a financial institution marked non-sufficient funds (NSF) or canceled;

(5) For a permit or approval that is subject to critical areas review, the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant’s ability to meet the permit or approval conditions or which makes inaccurate the critical areas study that was the basis for establishing permit or approval conditions; or

(6) For a permit or approval for which fees that have been billed are sixty days or more past due.

(b) A suspension, revocation or modification authorized by subsection (a) of this section shall be carried out through the notice and order to correct provisions of this chapter and shall be effective upon the compliance date established by the notice and order to correct. The revocation, suspension or cancellation may be appealed to the hearing examiner using the appeal provisions of this chapter.

(c) Notwithstanding any other provision of this section, a director may immediately suspend operations under any permit by issuing a cease and desist order as provided for in this chapter. (A0416-06)

Section 13A-38 Remedies - denial of permit.

(a) The City may deny a development proposal permit, when, with regard to the site or project for which the permit application is submitted:

(1) Any person has been found in violation and remains in violation of any ordinance, resolution, regulation or public rule of the City that regulates or protects the public health or the use and development of land or water, whether or not such ordinance, resolution, regulation or public rule is codified;

(2) Any person has been found in violation and remains in violation of the conditions of any permit, notice and order to correct or cease and desist order issued pursuant to any such ordinance, resolution, regulation or public rule; and/or

(3) For any property which has been found in violation and remains in violation of any rule, permit, approval, order, easement, plan or agreement.

(b) In order to further the remedial purposes of this chapter, such denial may continue until the violation is cured by restoration accepted as complete by the City and by payment of any civil penalty imposed for the violation, except that permits or approvals shall be granted to the extent necessary to accomplish any required restoration or cure.

(c) For the purposes of this chapter, “found in violation” means:

(1) That a citation, notice and order to correct or cease and desist order has been issued and not timely appealed; or

(2) That a voluntary compliance agreement has been entered into; or

(3) That the hearing examiner has determined that the violation has occurred and such determination has not been stayed or reversed on appeal. (A0416-06)

Section 13A-39 Remedies - abatement – authorized.

In addition to or as an alternative to any other judicial or administrative remedy, a director may use the notice and order to correct provisions of this chapter to order any person responsible for code

compliance to abate the violation and to complete the work at such time and under such conditions as a director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, a director may proceed to abate the violation. (A0416-06)

Section 13A-40 Remedies - abatement cost recovery.

(a) Abatement costs may be recovered pursuant to this chapter.

(b) The director shall keep an itemized account of costs incurred by the City in the abatement of any violation under this chapter. Upon completion of any abatement work, the director shall prepare a report specifying a legal description of the real property where the abatement work occurred, the work done for each property, the itemized costs of the work, including legal and incidental expenses, and interest accrued. (A0416-06)

ARTICLE V. CEASE AND DESIST ORDERS

Section 13A-41 Authorized.

A director, the building inspector, board of health, and code enforcement officers, or their designees, the city council or the city clerk as their agent, or other official designated as an enforcement authority by ordinance of the City Council is authorized to issue a cease and desist order to a person responsible for code compliance. Issuance of a citation or a notice and order to correct is not a condition precedent to the issuance of the cease and desist order. (A0416-06; A0400-06; A0173-12)

Editors note: Section 13A-41 combines authorized agents included in (A0416-06) and (A0400-06)

Section 13A-42 Effect.

(a) Cease and desist order represents a determination that a civil code violation has occurred and that any work or activity that is causing or contributing to the violation on the property where the violation has occurred or is occurring must cease.

(b) A cease and desist order requires the immediate cessation of the specified work or activity on the named property. Work or activity may not resume unless specifically authorized by the director issuing the cease and desist order.

(c) A cease and desist order shall be issued and may be appealed according to the procedures prescribed under the Revised Ordinances of the City of Everett.

(d) Failure to appeal the cease and desist order within the applicable time limits renders the cease and desist order a final determination that the civil code violation occurred and that work was properly ordered to cease.

(e) Failure to comply with the terms of a cease and desist order subjects the person responsible for code compliance to civil penalties and costs. (A0416-06)

Section 13A-43 Remedy - civil penalties.

(a) In addition to any other judicial or administrative remedy, a director may assess civil penalties

for the violation of any cease and desist order according to the civil penalty schedule established in Section 1-8 of the Revised Ordinances of the City of Everett.

(b) Civil penalties for the violation of any cease and desist order shall begin to accrue on the first day the cease and desist order is violated and shall cease on the day the work is actually stopped.

(c) Violation of a cease and desist order shall be a separate violation from any other civil code violation.

(d) Civil penalties assessed create a joint and several personal obligation in all persons responsible for code compliance. The prosecuting attorney on behalf of The City may collect the civil penalties assessed by any appropriate legal means.

(e) Civil penalties assessed also authorize The City to take a lien for the value of civil penalties imposed against the real property of the person responsible for code compliance.

(f) The building inspector, board of health, code enforcement officer, city council or the city clerk as their agent, or other official designated as an enforcement authority by ordinance of the City Council may issue a cease and desist order against any violation of any local ordinance for which they are the designated licensing authority or enforcement authority. (A0173-12)

(g) The order shall state, in writing:

(1) The precise regulation, provision, specification or condition which is being violated.

(2) The facts constituting the violation, including the date of any inspection from which these facts were ascertained.

(3) The corrective action required, including a reasonable time within which such action shall be taken.

(4) A statement that a motion for summary enforcement of the order shall be made to the court of the district in which the property is situated unless such corrective action is taken within the time provided, or unless an answer is filed within 20 days, as provided in Article VII.

(5) A statement that failure to either take the corrective action, or to file an answer, may result in corrective action being taken by the municipality, and that if this occurs the municipality's costs shall constitute a lien against the real estate, enforceable in the same manner as real estate taxes, including possible loss of the property if not paid.

(6) The order shall be served upon the record owner of the property or the record owner's agent, and upon the person to whom taxes are assessed for the property, if other than the owner, and upon any occupying tenant of the property, and upon any other person known by the enforcing officer to exercise control over the premises in violation, and upon all persons holding mortgages upon such property as recorded in the office of the register of deeds, in the same manner provided for service of a summons in a civil action in district court. Personal service may be made by a sheriff, deputy sheriff, local police officer, or constable. If the

owner is unknown or cannot be found, the order shall be served by posting it upon the property and by 4 weeks' publication in a newspaper in general circulation in the municipality.

(h) Upon service of the order, the owner or the owner's agent, occupying tenant or the tenant's agent, or any other person who is engaged in development, construction, excavation, or other changes of the land or buildings on the land or engaged in the operation of a prohibited enterprise shall cease immediately such activities, if so provided in the order, until such time as judgment is rendered under paragraphs (g) or (h). Failure to cease such activity shall constitute a separate violation of this title in addition to the violation cited in the order, unless such order is annulled as provided in paragraph (h).

(i) A copy of the order with proof of service shall be filed with clerk of the district court of the district in which the property is located not fewer than 5 days prior to the filing of a motion to enforce under paragraph (g).

(j) Within 20 days after the date of service, any person upon whom the order is served may serve an answer in the manner provided for the service of an answer in a civil action, specifically denying such facts in the order as are in dispute.

(k) If no answer is served, the enforcement official may move the court for the enforcement of the order. If such a motion is made the court may, upon the presentation of such evidence as it may require, affirm or modify the order and enter judgment accordingly, fixing a time after which the governing body may proceed with the enforcement of the order. The clerk of the court shall mail a copy of the judgment to all persons upon whom the original order was served.

(l) If an answer is filed and served as provided in paragraph Article VII, further proceedings in the action shall be governed by the rules of the district court. If the order is sustained following trial, the court shall enter judgment and shall fix a time within which the corrective action shall be taken, in compliance with the order as originally filed, or as modified by the court. If the order is not sustained, it shall be annulled and set aside. If it appears to the court that the order was frivolous, was commenced in bad faith, or was not based upon information and belief formed after reasonable inquiry or was not well-grounded in fact, then the court shall order the defendant's costs and reasonable attorneys fees to be paid by the municipality. The clerk of the court shall mail a copy of the judgment to the persons upon whom the original order was served.

(m) If a judgment is not complied with in the time prescribed, the local governing body may cause the corrective action to be taken as set forth in the judgment. The cost to the municipality of taking such corrective action together with its other expenses as provided in paragraph (j), shall be a lien against the real estate on which the violation occurred.

(n) The municipality shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses in connection with its enforcement, including but not limited to filing fees, service fees, publication fees, the expense of searching the registry of deeds to identify mortgages, witness and expert fees, attorneys fees and traveling expenses. The court shall examine, correct if necessary, and allow the expense account. The City Council, by majority vote, may commit the expense account to the collector of taxes, in which case the mayor shall direct the

expense account, together with a warrant under the mayor's hand and seal, to the city tax collector, requiring the tax collector to collect the same from the person to whom real estate taxes are assessed for the premises upon which such corrective action was taken, and to pay the amount so collected to the city treasurer. Within 30 days after the receipt of such warrant, the collector shall send a bill. Allowable interest shall be charged on any amount not paid within 30 days after the bill is mailed. The collector shall have the same rights and remedies as in the collection of taxes.

(o) A party aggrieved by the judgment of the district court may appeal, within 15 days after the rendering of such judgment, to the superior court.

(p) The remedy provided in this section is supplementary to other enforcement remedies provided by this chapter or local ordinance. (A0416-06)

Editors note: The provisions of this section duplicate the provisions of the former 1-24 (A0400-06)

ARTICLE VI. CIVIL FINES AND CIVIL PENALTIES

Section 13A-44 Assessment schedule.

(a) Civil fines and civil penalties for civil code violations shall be imposed for remedial purposes and shall be assessed for each violation identified in a citation, notice and order to correct, voluntary compliance agreement or cease and desist order pursuant to provisions of Section 1-8 of the Revised Ordinances of the City of Everett; unless otherwise stated or superceded by state or federal law.

Editors note: the phrase "unless otherwise stated" was added to provide for stated fines appearing elsewhere in Chapter.

(b) For the purposes of this section, previous similar code violations that can serve as a basis for a higher level of civil penalties include violations of the same chapter of the City Ordinances. Any stop work order or notice and order to correct previously issued by the department shall not constitute a previous code violation for the purposes of this section if that cease and desist order or notice and order to correct was appealed and subsequently reversed.

(c) The penalties assessed pursuant to this chapter for any failure to comply with a notice and order to correct or voluntary compliance agreement shall be assessed daily for the first thirty days following the date the notice and order to correct or voluntary compliance agreement required the code violations to have been cured. If after thirty days the person responsible for code compliance has failed to satisfy the notice and order to correct or voluntary compliance agreement, penalties shall be assessed daily at a rate of double the rate for the first thirty days. Penalties may be assessed daily until the person responsible for code compliance has fully complied with the notice and order to correct.

(d) Penalties based on violation of a cease and desist order shall be assessed for each day the department determines that work or activity was done in violation of the cease and desist order.

(e) Citations shall be subject to a one-time penalty only.

(f) The director may suspend the imposition of additional civil penalties if the person responsible for code compliance has entered into a voluntary compliance agreement. If the person responsible for code compliance enters into a voluntary compliance agreement and cures the code violations, the director may also waive all or part of the accrued civil penalties. Penalties shall begin to accrue again pursuant to the terms of the voluntary compliance agreement if any necessary permits applied for are denied, canceled or not pursued, or if corrective action identified in the voluntary compliance agreement is not completed as specified. (A0416-06)

Section 13A-45 Civil Penalty - definitions.

(a) For the purposes of assessing civil fines and penalties, “found in violation” means that:

(1) Citation, notice and order to correct or cease and desist order has been issued and not timely appealed; or

(2) A voluntary compliance agreement has been entered into; or

(3) The hearing examiner has determined that the violation has occurred and such determination has not been stayed or reversed on appeal. (A0416-06)

Section 13A-46 Duty to comply.

(a) Persons responsible for code compliance have a duty to notify the director of any actions taken to achieve compliance with the notice and order to correct.

(b) For purposes of assessing civil penalties, a violation shall be considered ongoing until the person responsible for code compliance has come into compliance with the notice and order to correct, voluntary compliance agreement, or cease and desist order and has notified the director of this compliance. (A0416-06)

Section 13A-47 Waivers.

(a) Fines and penalties, in whole or in part, may be waived or reimbursed to the payer by the director, with the concurrence of the City Treasurer and City Auditor under the following circumstances:

(1) The citation, notice and order to correct or cease and desist order was issued in error;

(2) The civil fines or civil penalties were assessed in error; or

(3) Notice failed to reach the property owner due to unusual circumstances.

(b) Fines and penalties, in whole or in part, may be waived by the director, with the concurrence of the City Treasurer and City Auditor under the following circumstances:

(1) The code violations have been cured under a voluntary compliance agreement;

(2) The code violations which formed the basis for the civil penalties have been cured, and the director finds that compelling reasons justify waiver of all or part of the outstanding civil penalties; or

(3) Other information warranting waiver has been presented to the director since the citation, notice and order to correct or cease and desist order was issued.

(c) The director shall document the circumstances under which a decision was made to waive penalties and such a statement shall become part of the public record unless privileged. (A0416-06)

ARTICLE VII. APPEALS AND JUDICIAL ENFORCEMENT

Section 13A-48 Administrative Appeal - filing requirements.

(a) Any person issued a citation or named in a notice and order to correct or cease and desist order and any owner of the land where the violation for which a citation, notice and order to correct or cease and desist order is issued occurred and any complainant who is an aggrieved person and requests to be kept advised may file a notice of appeal of a citation, notice and order to correct, cease and desist order, determination to enter into a voluntary compliance agreement or a determination not to issue a citation or order within fourteen days of the service of the citation, notice and order to correct or cease and desist order with the issuing department.

(b) If a notice of appeal has been filed within the time period provided herein, the appellant shall file a statement of appeal within twenty-one days of the service of the citation, notice and order to correct or cease and desist order with the issuing department.

(c) Any person named in a citation may appeal the citation by signing the citation, indicating on the citation that a hearing is requested, and returning the citation to the issuing agency or department within fourteen days of its service. (A0416-06)

Section 13A-49 Administrative appeal - procedures.

(a) The appeal hearing shall be conducted as provided for by rules promulgated under this section, except that where specific provisions in this chapter conflict with those rules, the provisions of this chapter shall govern.

(b) Enforcement of any notice and order to correct of a director issued pursuant to this chapter shall be stayed as to the appealing party during the pending of any administrative appeal under this chapter, except when a director determines that the violation poses a significant threat of immediate and/or irreparable harm and so states in any notice and order to correct issued.

(c) Enforcement of any cease and desist order of a director issued pursuant to this chapter shall not be stayed during the pending of any administrative appeal under this chapter.

(d) When multiple citations, cease and desist orders, or notices and orders have been issued simultaneously for any set of facts constituting a violation, only one appeal of all the enforcement actions shall be allowed. (A0416-06)

Section 13A-50 Administrative Appeal - final order.

(a) Following review of the evidence submitted, the hearing examiner shall make written findings and conclusions and shall affirm or modify the citation, notice and order to correct or cease and desist order previously issued if the examiner finds that a violation has occurred. The examiner shall uphold the appeal and reverse the citation or order if the examiner finds that no violation has

occurred.

(b) If an owner of property where a violation has occurred has affirmatively demonstrated that the violation was caused by another person or entity not the agent of the property owner and without the property owner's knowledge or consent, such property owner shall be responsible only for abatement of the violation. Strict compliance with permit requirements may be waived regarding the performance of such an abatement in order to avoid doing substantial injustice to a non-culpable property owner.

(c) The hearing examiner's final order shall be final and conclusive unless proceedings for review of the decision are properly commenced in superior court within the time period specified by state law.

(d) A final order by the hearing examiner affirming or reinstating a citation, notice and order to correct or cease and desist order renders such citation, notice and order to correct or cease and desist order a final agency order. (A0416-06)

Section 13A-51 Judicial Enforcement - petition for enforcement.
(a) In addition to any other judicial or administrative remedy, the prosecuting attorney on behalf of the City may seek enforcement of a director's order by filing a petition for enforcement in superior court.

(b) The petition must name as respondent each alleged person against whom the director seeks to obtain civil enforcement.

(c) A petition for civil enforcement may request monetary relief, declaratory relief, temporary or permanent injunctive relief and other civil remedy provided by law, or any combination of the foregoing. (A0416-06)

Section 13A-52 Judicial Enforcement - limitation on defenses.
A respondent in a proceeding by petition for enforcement may not assert as a defense any fact or issue that the respondent had an opportunity to assert before the hearing examiner and did not, or upon which the final determination of the hearing examiner was adverse to the respondent. (A0416-06)

ARTICLE VIII. LIENS

Section 13A-53 Filing and Contents.
(a) Within ninety days from the date any civil penalty, civil fine, abatement cost, or enforcement cost is due pursuant to this chapter, a the City may record a lien against the property of a person responsible for code compliance for the amount owing with the Registry of Deeds.

(b) The lien shall contain the following information:

(1) The City Ordinance provision;

(2) A brief description of the violation and its duration at the date of recording;

(3) A brief description of the abatement work done, if any, and who performed the abatement work;

(4) The owner of the property, if known, or a statement that the owner is not known;

(5) A legal description of the property;

(6) The amount of penalties, fines or costs that are owing; and

(7) A sworn statement signed by a director that the director believes the claim is just. (A0416-06)

Section 13A-54 Lien – supplemental.
The City may record supplemental liens with the Registry of Deeds to update information regarding penalties, fines, costs or fees contained in any existing lien. (A0416-06)

Section 13A-55 Lien - duration.
When all penalties or abatement costs, or both, assessed against the property owner have been paid, the director shall expeditiously record a satisfaction of lien with the Registry of Deeds. The satisfaction shall include a legal description of the property where the violation occurred. (A0416-06)

Section 13A-56--13A-60 Reserved.

ARTICLE IX. REGULATING PUBLIC NUISANCES

Section 13A-61.0 Public Nuisance Prohibited.
No person shall erect, cause, continue, maintain or permit to exist any public nuisance within the City. (A0606-06)

Section 13A-62.0 Public Nuisance Defined.
The following acts, omissions, places, conditions and things are hereby declared to be public nuisances:

(a) Common Law – Any public nuisance known as common law or in equity jurisprudence.

(b) In General – Any act, occupation, condition, or use of property (real or personal) which shall continue for such length of time as to:

(1) Substantially annoy, injure or endanger the comfort, health, repose, safety or expectation of quiet enjoyment of the public;

(2) In any way render the public insecure in life or in use of property;

(3) Greatly offend the public morals or decency;

(4) Unlawfully and substantially interfere with, or obstruct, or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property.

(c) Code Violation – The open, continuous, repeated or intentional violation of the City ordinances or state and federal laws relating to the public health, safety, peace, morals or welfare.

(d) Blighted Premises – Any structure, building, improvement or premises which is a menace to public health, safety, moral or welfare in the present condition, or which endangers life or property by threat of fire or other hazard, due to any of the following reasons:

(1) Faulty design or construction;

(2) Failure to maintain the premises; or

(3) The accumulation thereon of junk, garbage or rubbish.

(e) Attractive Nuisance – Any artificial condition existing on land which presents an unreasonable risk of harm to children, who, because of their youth, may not discover the condition or realize the risk of intermeddling or coming with the area of danger, and the utility to the possessor of maintaining the condition and the burden of eliminating the danger are slight as compared to the risk to children. Attractive nuisances shall include, but are not limited to, the following:

(1) Vacant buildings or structures which possess unsecured doors or windows;

(2) Abandoned wells or shafts which are not securely sealed or covered;

(3) Basements and excavations which are unprotected or unfenced;

(4) Abandoned refrigerators or freezers which do not have the doors removed;

(5) Structurally unsound fences and structures;

(6) Abandoned, untitled or unlicensed motor vehicles that possess unsecured doors, windows, or trunks.

(7) Abandoned shopping carts.

(f) Public Health – The following acts omissions, places, conditions and things are hereby specifically declared to be public nuisances affecting public health, but such enumeration shall not be construed to exclude other health nuisances:

(1) Adulterated Food - all decayed, harmfully adulterated or unwholesome food sold or offered to the public for human consumption;

(2) Unburied Carcasses – Carcasses of animals, birds, fowl not intended for human consumption or food which are not buried or otherwise disposed of in an appropriate sanitary manner within 24 hours after death;

(3) Breeding Places for Vermin, Etc. – Accumulation of decayed animal or vegetable matter, garbage, refuse, rubbish, rotting lumber, packing materials, scrap metal or any materials whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may

breed;

(4) Stagnant Water – All stagnant water or other liquids in which mosquitoes, flies or other insects can breed;

(5) Improper Use of Garbage Cans – Garbage containers that are not fly-tight or that are placed on the public way at such time or in such a manner as to violate or cause a violation of Article III of Chapter 16 of the City Ordinances.

(6) Improper Use of Dumpsters – The use or maintenance of a commercial garbage container commonly known as a dumpster in a manner that violates Division 2 of 16-71 of the City Ordinances.

(7) Noxious Weeds – any living stage, such as seeds and reproductive parts, of any parasitic or other plant of a kind, which is of foreign origin, is new to or not widely prevalent in the United States, and can directly or indirectly injure crops, other useful plants, livestock, or poultry or other interests of agriculture, including irrigation, or navigation, or the fish or wildlife resources of the United States or the public health.

(8) Air Pollution – The emission or escape into the open air of such quantities of smoke, ash, dust, soot, cinders, acid or other fumes, dirt or other material of noxious gases in such place or manner that causes or is likely to cause injury, detriment or nuisance to any appreciable number of persons within the City;

(9) Water Pollution: The pollution of any public well or cistern, stream, dam, river or other body of water; the discharge directly or indirectly into any catch basin, storm drain or sanitary sewer of gasoline or other explosive or inflammable substance or any other matter or thing which may tend to cause an obstruction thereof or deposit therein, or any injury thereto in violation of sections 15-16, 15-17 of the City Ordinances or State or Federal Law.

(10) Noxious Odors, Etc. – The continuous use of property, substances or things within the City emitting or causing any foul offensive, poisonous, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to persons of ordinary sensibilities, or which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the City. Nothing in this section shall be construed to prohibit odors of a temporary nature or those emitted by cooking or fertilizing a garden.

(11) Highway Pollution – Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, highway, gutter, alley, sidewalk or public place within the City;

(12) Animals at Large – All animals running at large. An animal is considered to be running at large if it is off the premises of its owner and not under the control of the owner or some other person;

(13) Accumulation of Waste – Accumulations of garbage, refuse, rubbish or recyclable waste which exist for more than ten (10) consecutive days and which are not stored

completely in an enclosed structure designed and approved for said use.

(g) Public Peace and Safety – The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and/or safety, but such enumeration shall not be construed to exclude other nuisances:

(1) Signs, Billboards, Etc. - All signs, billboards, awnings and other similar structures over or near streets, sidewalks, public grounds, or places frequented by the public, which are so situated or which because of its color, location, brilliance or manner of operation can be presumed as to endanger the public safety, to subtract from the aesthetic value of the building or area or in violation of Section 71.0 of this Chapter or Chapter 15A of the City Ordinances;

(2) Graffiti – The existence of graffiti on public or private property in violation of the City Ordinances is expressly declared to be a public nuisance and, therefore, is subject to removal and abatement provisions specified in Section 13-2.5 of the City Ordinances.

(3) Unauthorized Traffic Signs – All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purports to be or may be mistaken as an official traffic control device, railroad sign or signal, or which because of its color, location, brilliance or manner of operation interfere with the effectiveness of any such official device, sign or signal;

(4) Improper Structure or House Numbering - Every dwelling house and other structure without proper street numbers affixed thereto in violation of section 17-5 of the City Ordinances.

(5) Obstructions of Streets and Excavations – All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in violation of any appropriate sections of Chapters17 and 18 of the Revised Ordinances of the City of Everett, or which, although made in accordance with the Ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished or do not conform to the permit issued;

(6) Litter - Any quantity of uncontainerized paper, metal, glass, plastic or miscellaneous solid waste which may be classified as trash, debris, rubbish, refuse, garbage or junk in violation of Article II and/or Article III of Chapter 16 of the City Ordinances.

(7) Open Cisterns, Wells, Basements or Other Dangerous Excavations – Any open cisterns, cesspools, wells, unused basements, excavations, swimming pools as provided for in 4-2 of the City Ordinances, or other dangerous openings unless such places are filled, securely covered or fenced in such a manner as to prevent injury, provided any cover shall be of a design, size and weight that the same cannot be easily removed, especially by children;

(8) Abandoned Refrigerators – Any abandoned, unattended or discarded ice box, refrigerator, or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside;

(9) Tree Limbs – All limbs of trees which project over a public sidewalk less than ten (10)

feet above the surface thereof and all limbs which project over a public street less than fourteen (14) feet above the surface thereof.

(10) Dead Trees – All dead or dying trees and tree limbs, which are so situated that the tree or limb could fall on a public or private street, alley, sidewalk, parking lot, house, garage, playground equipment or other structure. A tree limb shall be presumed to be dead or dying if 50% or more of the tree or limb does not have leaves or other growth consistent with the on it during the growing season;

(11) Fireworks – All use or display of fireworks, except as provided by the laws of the Commonwealth of Massachusetts,

(12) Wires Over Streets – All unauthorized wires over streets, highways, alleys or public grounds which are strung less than fifteen (15) feet above the surface thereof;

(13) Noisy Animals or Fowl – The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking crowing, or other noise which greatly annoys or disturbs a person of ordinary sensibilities or any number of persons within the City;

(14) Loud and Unnecessary Noises

a. General Prohibition – No person shall make, continue or cause to be made or continued, any loud and unnecessary sound or noise tending to annoy, disturb or deny expectation of quiet enjoyment to a person of ordinary sensibilities in or about any public street, highway, alley, park or private residence.

b. Specific Acts Prohibited – The following acts are declared to constitute loud and unnecessary noise in violation of this section,

but the following list should not be deemed to be exhaustive or inclusive:

1. Horns, Signaling Devices – The sounding of any horn or signaling device on any motor vehicle in the City for longer than three seconds in any period of one minute, except as a danger warning.

2. Radios, Stereos – The use, operation or playing of any radio, stereo, phonograph, musical instrument or other machine or device for producing or reproducing sound or music between the hours of 10:00 PM and 7:00 AM in such a manner so as to permit the sound emanating therefore to be plainly audible at the property line of the building, structure, apartment in which such device is located.

3. Loudspeakers, Amplifiers for Advertising – The use or operation of any radio, stereo, phonograph, musical instrument or other machine or device for producing or reproducing sound which is cast upon any public street, alley or highway for the purpose of commercial advertising or attracting attention of the public to the building, business or enterprise from which the sound is cast.

4. Animals, Birds – The keeping of one or more animals or birds which individually or in combination, bark or chirp frequently or for long periods of time, and which thereby create a noise plainly audible at the property line of the building, structure or apartment in which they are located.

5. Exhaust – The ownership or operation of any motor vehicle or other combustible engine that does not have an adequate muffler in constant operation and properly maintained to prevent excessive or unusual noise. The equipping of any muffler or exhaust system with a cutout, bypass or similar device, or the modifying of any muffler or exhaust system in a manner which will amplify or increase the noise emitted by the engine above that emitted by the muffler or exhaust system originally installed shall constitute a violation of this section.

6. Construction Work – The erection, excavation, demolition, alteration or repair of any building, including but not limited to the operation of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, backhoe, caterpillar, or other similar equipment attended by loud or unusual noise, between the hours of 9:00 PM and 7:00 AM unless first authorized in writing as follows:

(a) In the event of an emergency that impacts public safety, by the Chief of Police or his/her designee;

(b) In all nonemergency cases where the overnight work requested shall not exceed three consecutive evenings, by the Chief of Police or his/her designee;

(c) In all nonemergency cases where the overnight work requested shall exceed three consecutive evenings, or if said requests for overnight work, on the same project/property site, shall exceed four separate requests in the same calendar year, by approval of the City Council or its designee.

7. Alarms – Any vehicle alarm or any alarm system in violation of 14-57 of the City Ordinances by emitting a continuous and uninterrupted signal for more than thirty (30) minutes which cannot be shut off or otherwise

curtailed due to the absence or unavailability of the alarm user or those persons designated by him, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance.

(h) Public Morals and Decency – The following acts, omissions, conditions and things are hereby specifically declared to be nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances, which may offend public morals and decency:

(1) Disorderly Houses – All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purposes of prostitution, promiscuous sexual activities or gambling.

(2) Gambling Devices – All gambling machines and gambling places as defined in the Massachusetts General Laws.

(3) Unlicensed Sale of Liquor or Beer – All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as required by Massachusetts General Laws.

(4) Illegal Drinking or Drugs – Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages, or for the purpose of consuming drugs or other illegal substances in violation of State Law.

(i) Buildings, Structures and Premises – The following acts, omissions, conditions and things are hereby specifically declared to be nuisances affecting buildings, structures and premises, but such enumeration shall not be construed to exclude other nuisances regarding buildings and structures:

(1) Illegal Buildings – All buildings erected, repaired, altered or used in violation of the provisions of the Revised Ordinances of the City of Everett or the Laws of the Commonwealth.

(2) Illegal Lodgings – Any domicile erected, repaired, altered or used for the purpose of letting rooms or subletting space to persons for the use as living quarters as to be dangerous, unsafe, unsanitary, in violation of the provisions of the Revised Ordinances of the City of Everett or the Laws of the Commonwealth or otherwise unfit for human use or occupancy.

(3) Illegal Lodging House - Any house erected, repaired, altered or used for the purpose of letting to four or more persons not within the second degree of kindred to the person conducting it that is not duly licensed as a Lodging House by the City of Everett, but shall not include dormitories of charitable or philanthropic institutions or convalescent or nursing homes licensed under MGL Ch. 111 § 71 or

rest homes so licensed, or group residences licensed or regulated by agencies of the commonwealth.

(4) Dilapidated Structures – All buildings or structures so old, dilapidated, abandoned or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use or occupancy.

(5) Unoccupied Buildings – All unoccupied buildings not in conformance with 8-2 of the City Ordinances which required automatic fire or smoke detection systems in said buildings.

(6) Rodents – Every foundation, exterior wall, roof, window, exterior door, basement hatchway and every other entrance to a structure which is not maintained to prevent the entrance and harborage of rats, mice or other vermin.

(7) Fences – Every fence that is not kept in a reasonably good state of repair and resulting in a dangerous condition.

(8) Motor Vehicles – Abandoned, untitled or unlicensed motor vehicles that are not stored in

a completely enclosed structure. (A0606-06; amended C0419-16)

ARTICLE X. SPECIFIC NUISANCES

Section 13A-63 Abandoned, Wrecked, Dismantled, or Inoperative Vehicles.
(a) Purpose. The purpose of this chapter is to establish procedures for the abatement and removal as public nuisances of abandoned, wrecked, dismantled or inoperative vehicles.

(b) Any enforcement officer of the Police Department, Fire Department or Code Enforcement may inspect and certify that a vehicle is a "wrecked, dismantled or inoperative vehicle or an abandoned vehicle" as those terms are defined in Section 18-10. The certification shall be made in writing. (A0416-06)

Section 13A-63.1 Wrecked, dismantled or inoperative vehicles -- prohibited activity.
(a) No person may park, store or abandon a wrecked, dismantled or inoperative vehicle, or part thereof, on private property or public property in violation of Section 18-10 of the City Ordinances, except where the following conditions apply:

(1) A vehicle or vehicle part is completely enclosed within a building on private property in a lawful manner where it is not visible from the street or from other public or private property; or

(2) A vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced as required by state law. (A0416-06)

Section 13A-63.2 Notice required.
(a) Whenever a vehicle has been determined to be a wrecked, dismantled or inoperative vehicle or as an abandoned vehicle, the last registered vehicle owner of record and the land owner of record where the vehicle is located shall each be given notice by certified mail that a public hearing may be requested before the hearing examiner. If no hearing is requested within ten days from the certified date of receipt of the notice, the vehicle shall be removed by the City.

(b) If a request for hearing is received within ten days, a notice giving the time, location and date of the hearing on the question of abatement and removal of the vehicle or vehicles shall be mailed by certified or registered mail, with five-day return receipt requested, to the land owner as shown on the last equalized assessment roll and to the last registered and legal owner of record of each vehicle unless the vehicle identification numbers are not available to determine ownership. (A0416-06)

Editors Note: See 18-170 for applicability

Section 13A-63.3 Determination of responsibility.
(a) The owner of the land on which the vehicle is located may appear in person at the hearing or present a written sworn statement in time for consideration at the hearing. The owner may deny responsibility for the presence of the vehicle on the land stating the reason for such denial. If it is determined by the hearing officer that the vehicle was placed on the land without consent of the land owner and that the land owner has not subsequently acquiesced in its presence, then costs of

administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located nor otherwise be collected from the land owner.

(b) Nothing in this chapter shall relieve the landowner of any civil penalties which may accrue from any zoning code violation related to the improper placement, parking or storage of vehicles or parts thereof to which the landowner has consented or acquiesced.

(c) In addition to determination of responsibility as provided for in paragraph (a), the hearing examiner shall receive and examine evidence on other relevant matters, including whether a public nuisance as defined in this chapter exists. The decision of the hearing examiner shall be final. Any further approval shall be as prescribed in this ordinance. (A0416-06)

Section 13A-63.4 Abatement and removal authorized.
The City may remove any abandoned, wrecked, dismantled or inoperative vehicle, automobile hulk or part thereof, after complying with the notice requirements of this chapter. The proceeds of any such a disposition shall be used to defray the costs of abatement and removal of any such a vehicle, including costs of administration and enforcement. (A0416-06)

Section 13A-63.5 Costs of abatement and removal.
(a) The costs of abatement and removal of any such vehicle or remnant part, including costs of administration and enforcement, shall be collected from the last registered vehicle owner if the identity of such owner can be determined, unless such owner in the transfer of ownership thereof has complied with State Law. If the vehicle owner cannot be established, the costs of abatement and enforcement shall be collected from the land owner on which the vehicle or remnant part is located, unless the landowner has shown in a hearing that the vehicle or remnant part was placed on such property without the landowner's consent or acquiescence.

(b) Costs of administration for the removal and disposal of vehicles or remnant parts may be recovered according to the lien and personal obligation provisions of this chapter. (A0416-06)

Section 13A-63.6 Photographic record.
The City shall maintain a photographic record of all abated vehicles for a period of two years following adoption of this ordinance. At the conclusion of the two-year period, a written report along with copies of the photographs shall be transmitted to the council on the implementation of this ordinance. (A0416-06)

Section 13A-64--13A-69 Reserved.

Section 13A-70.0 Animals as Nuisances.
No owner shall fail to exercise proper care and control of an animal to prevent it from becoming a public nuisance. Excessive or untimely barking, molesting passersby, chasing vehicles, habitually attacking people or other domestic animals, trespassing upon school grounds, trespassing upon private property in such manner as to damage property, or violating the provision of this Chapter or Chapter 3 of the revised Ordinances of the City of Everett shall be deemed a nuisance. (Ord. of 10-11-77, § 5(8)) State law reference(s)--Barking dogs, M.G.L.A. c. 140, § 157.

Section 71-74 Reserved.

Section 13A-75.0 Bill posting as Nuisance.

(a) It is unlawful to paint, print, post, paste, attach or in any way affix a bill, poster, dodger, card or other advertising matter upon any tree, post, hydrant, curb, sidewalk or other public improvement on any public ground or street, or upon any bridge or part of the same, or upon any public building, structure of any kind belonging to the city, or upon any mast or pole in a street, avenue or alley erected or used for supporting or carrying any wire or cable or incidental thereto, or upon any lamppost in the city.

(b) It is unlawful to post, paste, attach or in any way affix a bill, poster, dodger, card or other advertising matter upon any private building, structure of any kind without the permission of the owner and in such as manner as to increase the possibility that said article will become litter.

(c) The posting of any material in violation to this ordinance shall be considered a public nuisance.

(d) Each occurrence of the aforementioned shall be deemed a separate violation.

(e) Whoever is found guilty of violating this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (A606-06)

Section 13A-76.0--13A-87.0 Reserved

Section 13A-88 Illegal Lodgings and Illegal Lodging Houses in Dwelling Prosecutions for illegal residential occupancies and illegal over-occupancy in dwellings.

(a) In all civil and criminal prosecutions brought for the enforcement of this Ordinance's provisions with respect to the illegal use of any building for residential purposes or the illegal residential occupancy of any dwelling or dwelling unit by more families than the number of families permitted for such dwelling or dwelling unit under this Ordinance, the following rebuttable presumptions shall apply:

(1) That any detached dwelling or dwelling unit which maintains more than one mailbox or mail receptacle, more than one gas meter, more than one electric meter, and/or more than one water meter is being used as the residence of two or more families.

(2) That any detached dwelling or dwelling unit which maintains more than two mailboxes or mail receptacles, more than two gas meters, more than two electric meters and/or more than two water meters is being used as the residence of three or more families.

(3) That any detached dwelling or dwelling unit which maintains any entrance or entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department, is being used as the residence of two or more families.

(4) That any detached dwelling or dwelling unit which maintains any third or additional entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department, is being used as the residence of three or more

families.

(5) That any building which has been advertised in any newspapers, magazines, or advertising publications as being available for sale or rent for residential purposes, in whole or in part, which advertisement expressly or implicitly provides that such building or the dwellings or dwelling units therein contain rooms for rent, contain more than one separate dwelling living unit, or may be occupied by more than one separate family, is being used as a dwelling containing the number of rooms for rent, dwelling units, or families stated or implied in such advertisement.

(6) That any dwelling or dwelling unit which maintains two or more doorbells is being used as a dwelling for the same number of families as there are doorbells.

(7) There shall be a rebuttable presumption that any room, which shall have a door-locking device commonly called a “Yale lock” or similar device including a padlock added in or on the door, is intended as a “rooming unit” and the burden of disproving the same rests with the owner, operator or occupant.

(8) That any single-family dwelling or dwelling unit at which there are the following is being used for two or more families:

a. Permanent partitions or internal doors which have not been set forth on any plans approved by and on file with the Building Department, which may serve to bar access between segregated portions of the dwelling, including but not limited to bedrooms, or the inability of any occupant or person in possession thereof to have unimpeded and/or lawful access to all parts of the dwelling unit; and/or

b. Two or more kitchens which have not been set forth on any plans approved by and on file with the Building Department, each containing one or more of the following: a range, oven, microwave, or other similar device customarily used for cooking or preparation of foods; and/or

(9) That any two-family dwelling unit at which there are the following is being used for three or more families:

a. Permanent partitions or internal doors which have not been set forth on any plans approved by and on file with the Building Department, which may serve to bar access between three or more segregated portions of the dwelling, including but not limited to bedrooms; and/or

b. Three or more kitchens which have not been set forth on any plans approved by and on file with the Building Department, each containing one or more of the following: a range, oven, microwave, or other similar device customarily used for cooking or preparation of foods.

(b) The rebuttal of the aforesaid presumptions shall be an affirmative defense by the defendant that, notwithstanding the existence of such conditions, once such conditions have proven to the

court or City, the subject building is not being used as a dwelling or the subject dwelling is not being used for more families than permitted under this Ordinance or the Revised Ordinances of the City of Everett or the Laws of the Commonwealth of Massachusetts.

(c) A person charged with a violation of this Ordinance as described herein may demand an inspection by the Building Department of the subject building or dwelling to rebut such presumption. Such demand shall be in writing addressed to the Building Department. The Building Department inspector shall prepare a report of the findings of the inspection together with photographs, if appropriate.

(d) Cellars/Basements. Cellars shall be used only for incidental storage for the dwelling units above. Use of cellars for sleeping purposes or as a dwelling unit, rooming unit or independent rooming unit is prohibited. Partitions, walls and/or showers and/or bathtubs and/or kitchens, except kitchens used in conjunction with the dwelling unit above, are prohibited in cellars.

(1) Use of a cellar for purposes other than incidental storage may be permitted, provided that all permits and all other applicable municipal approvals are obtained prior to such use.

(c) Any residential attic used for other than incidental storage must meet the following criteria:

(1) Under no circumstances shall the attic be offered as a separate dwelling unit, rooming unit or independent rooming unit.

(2) The attic must be an integral part of the dwelling unit below and shall not be leased to any party. Attic occupant(s) shall have full use of the floor below.

(3) Access to the attic shall be through the dwelling unit immediately below the attic. If fire exits are required, only egress shall be allowed. Entrance to the attic through fire exits shall be prohibited, and proper door hardware shall be installed to prevent entry.

(4) The attic shall be limited to having only a stall shower, toilet and vanity.

(5) There shall be no kitchen or food cooking/preparing facilities (hotplates, refrigerator, food cabinets or sink) permitted in the attic.

(6) One door leading to the stairwell between the attic and the unit immediately below will be allowed. The door will be at the lower level of the stairwell and will have no locks on the door. The door will be a thirty-minute-fire-resistant-rated door.

(7) Egress windows must be installed in every attic bedroom prior to occupancy.

(8) Fire stopping must be installed throughout the attic at the floor level in all walls which communicate with a lower floor or level; must obtain certificate of occupancy for attic part and parcel.

(9) Preexisting thirty-six-inch width stairways may remain. Any existing stairway less than thirty-six-inch width shall be enlarged to 44 inches in width and no variations of the State Building Code.

(10) All walls and ceilings in an attic unit must have a minimum one-hour fire rating.

(11) All floors of the building, including any basements, subbasements, cellars, etc., shall have interconnected, hardwired smoke detectors with battery backup. Plans for placement of detectors must be approved by the Fire Department prior to occupancy of the attic dwelling unit.

(12) An exterior flashing strobe light connected to the smoke detector system shall be installed on the street address side of the building at the peak of the roofline in such a manner as to be visible from the curbline of the building to indicate attic occupancy.

(13) Only family members of the dwelling unit immediately below the attic shall be permitted to occupy the attic. Family members shall include parents, children, grandparents, brothers, sisters, aunts, uncles, nieces and nephews.

(14) The number of occupants permitted in the attic area shall be based on the number of square feet of living space in the attic. This is to avoid overcrowding conditions. Ceiling height must be seven feet for at least 70 square feet of the room or space. Not to be counted is any portion of the room less than five feet in height.

(15) The attic dwelling unit must be inspected and approved by all applicable city agencies before occupancy and may be subject to annual inspections.

(16) Existing legal attic dwelling units are exempt from compliance with this section except for the requirements under Subsections 11 and 12 above. Existing attic units will have a period of 90 days after the adoption of this section to come into compliance with Subsections 11 and 12. All existing requirements for the occupancy shall be adhered to. Should renovations of the building exceed 25% of the value of the building or should the attic be damaged due to a fire, that unit must be brought into compliance with this revised section before being reoccupied.

(17) In addition to the above requirements, the following codes and regulations pertaining to attic use shall be enforced, along with all applicable codes enforced by the City of Everett.

a. Plans are to be submitted for existing rooms; building officials are to determine if they need to be signed and sealed by an architect.

b. Signed and sealed plans are required for the construction of any room.

c. All work performed is to conform to the most recent editions of the following codes:

1. State Building Code

2. BOCA Code.

3. National Electrical Code.

4. National Standard Plumbing Code.

d. Observance of the regulations presently in effect is mandatory.

e. Useable floor area of the attic shall not exceed 1/3 of the floor area below.

f. Each room shall have adequate outlets.

g. Each bathroom outlet must be a ground fault interrupter (GFI) outlet.

h. Rooms used for sleeping must have an operable window with the minimum clear opening of 5.7 square feet.

i. Necessary permits are to be obtained before any work begins.

j. Rooms are not to be occupied until a certificate of occupancy is issued.

k. The entrance to the attic must be through the second floor apartment.

l. Smoke detectors shall be installed within each bedroom, and a second hardwired battery backup interconnected smoke detector shall be installed in the immediate vicinity of the bedrooms, including the floor below. In addition to the above, smoke detectors are to be installed at every floor level, hardwired battery backup.

m. No portable heating appliances shall be used in the attic.

n. Privacy locks only will be permitted on bedroom doors.

(d) Penalties for offenses.

(1) Notwithstanding any provision of this Ordinance inconsistent herewith, for each code violation involving an illegal residential occupancy or an illegal over-occupancy of a dwelling or dwelling unit, the owner and any person who is in charge of the subject building, dwelling, or dwelling unit at the time of the violation shall be liable to a fine of not more than $300.

(2) Each day that a violation continues to exist shall constitute a separate and distinct violation. Each occupancy exceeding the allowed occupancy under the Zoning Ordinances of the City of Everett or MGL 140 s.22. (A0607-06)

Section 13A-89 Graffiti.

(a) PURPOSE. The purpose of this Ordinance is to help prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

The City of Everett considers graffiti a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless graffiti is removed from public and private property, the graffiti tends to remain. Other properties then become the target of graffiti, and entire neighborhoods are affected and become less desirable places in which to be, all to the detriment of the City.

(b) GRAFFITI as NUISANCE

(1) The existence of graffiti on public or private property in violation of the Ordinance is expressly declared to be a public nuisance and, therefore, is subject to removal and abatement provisions specified in this Ordinance.

(2) It is the duty of both the owner of the property to which the graffiti has been applied and any person who may be in possession or who has the right to possess such property to at all time keep the property clear of graffiti.

(c) DEFINITIONS

(1) Graffiti means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property by a graffiti implement, to the extent that the graffiti was not authorized in advance by the owner of the property.

(2) Graffiti Implement means an aerosol paint container, a broad-tipped marker, gum label, paint stick or graffiti stick, etching equipment, brush or any other device capable of scarring or leaving a visible mark on any natural or manmade surface.

(d) PROHIBITED ACTS

(2) Defacement. It shall be unlawful for any person to apply graffiti to any natural or manmade surface on any city owned property or, without the permission of the owner, on any privately owned property.

(3) Possession of Graffiti Implements. It shall be unlawful for any person, with the intent to deface public property, to possess any graffiti implement while upon school property, any public facility, park, playground, swimming pool, recreational facility, or other public building or within fifty (50) feet of an underpass, bridge abutment, storm drain, or other similar types of infrastructure unless authorized by the City.

The provisions of this section shall not apply to the possession of broad tipped markers by a minor attending or traveling to or from school at which the minor is enrolled.

(4) Furnishing to minors. It shall be unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any aerosol paint container, or paint stick to any person under the age of eighteen (18) years without the expressed written consent of the parents or guardian of the person.

(e) REMOVAL OF GRAFFITI

(1) Removal by the Perpetrator. Any person applying graffiti on public or private property shall have the duty to remove the graffiti within twenty-four (24) hours after notice by the Code Enforcement Task Force of the City of Everett. Such removal shall be done in a manner prescribed by the Code Enforcement Task Force. Any person applying graffiti shall be responsible for the removal or for the payment of the removal. Where graffiti is applied by an

un-emancipated minor, the parents or legal guardian shall also be responsible for such removal or payment for the removal.

(2) Property Owner Responsibility. If Graffiti is not removed by the perpetrator according to the previous paragraph, graffiti shall be removed pursuant to the following provisions:

a. It is unlawful for any person who is the owner or who has primary responsibility for control of property or for repair or maintenance of property in the City, to permit property that is defaced with graffiti to remain defaced for a period of ten (10) days after service by first class mail of notice of the defacement. The notice shall contain the following information:

1. The street address and legal description of the property sufficient for identification of the property.

2. A statement that the property constitutes a potential graffiti nuisance property with a concise description leading to the finding.

3. A statement that the graffiti must be removed within ten (10) days after receipt of the notice and that if the graffiti is not abated within that time the City, as prescribed by law, will declare the property to be a public nuisance.

4. An information sheet identifying any graffiti assistance programs available through the City and private graffiti removal contractors.

(3) Exceptions to Property Owner Responsibility. The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

a. The property owner or responsible party lacks the financial ability to remove the defacing graffiti; or

b. The property owner or responsible party has an active program for the removal of the graffiti as part of that program, in which case it shall be unlawful to permit such property to remain defaced with graffiti for a period of fifteen (15) days after service by first class mail of notice of the defacement.

(5) Right of City to Remove.

a. Use of Public Funds. Whenever the City becomes aware or is notified and determines that the graffiti is located on publicly or privately owner property viewable from a public or quasi-public place, the City shall be authorized to use public funds for the removal of the graffiti, but shall not authorize or undertake to provide for the painting or repair of any more extensive an area than that where the graffiti is located, unless the property owner or responsible party agrees to pay the costs of repainting or repairing.

b. Right of Entry on Private Property. Prior to entering upon private property owned by a public entity other than the City for the purpose of graffiti removal the City shall attempt to

secure the consent of the property owner or responsible party and a release of the City from liability for property damage or personal injury. If the property owner or responsible party fails to remove the offending graffiti within the time specified by this Ordinance, or if the City has requested consent to remove or paint over the offending graffiti and the property owner or responsible party has refused consent for entry on terms acceptable to the City and consistent with the terms of this section, the property owner or responsible party shall be fined according to the provisions specified below.

(6) Abatement and Cost Recovery Proceedings.

a. Notice of Due Process Hearing. The Chairman of the Code Enforcement Task Force, serving as the Hearing Officer, shall provide the property owner of record and the party responsible for the maintenance of the property, if a person different from the owner, not less than forty-eight (48) hours notice of the City's intention to hold a due process hearing at which the property owner or responsible party shall be entitled to present evidence and argue that the property does not constitute a public nuisance. Notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in newspaper of general circulation published in the area in which the property is located.

b. Determination of Hearing Officer. The determination of the Hearing Officer after the due process hearing shall be final and not appealable. If, after the due process hearing, regardless of attendance of the owner or the responsible party or their respective agents, the Hearing Officer determines that the property contains graffiti viewable from public or quasi-public place, the Hearing Officer shall give written notice in an eradication order that, unless the graffiti is removed within ten (10) days, the City shall enter upon the property, cause the removal, painting over , or such other eradication thereof as the Hearing Officer determines appropriate, and shall provide the Owner and the responsible party thereafter with an accounting of the costs of the eradication effort on a full cost recovery basis.

c. Eradication Effort. Not sooner than the time specified in the order of the Hearing Officer, the Director of City Services, shall implement the eradication order and shall provide an accounting to the Hearing Officer.

d. Cost Hearing. The Owner or responsible party may request a cost hearing before the Hearing Officer on the eradication accounting, and appropriate due process must be extended to the Owner or responsible party. If following the cost hearing or, if no hearing is requested, after the implementation of the eradication order, the Hearing Officer determines that all or a portion of the costs are appropriately chargeable to the eradication effort, the total amount thereof determined as appropriate by the Hearing Officer, shall be due and payable within thirty (30) days. Any amount of eradication charges assessed by the Hearing Officer that are less than the total amount set forth in the eradication accounting shall be explained by written letter from the Hearing Officer to

the Mayor.

e. Lien. As to such property where the responsible party is the property owner, if all or any portion of the assessed eradication charges remains unpaid after thirty (30) days, the portion thereof that remains unpaid shall constitute a lien on the property that was subject of the eradication effort.

(f) PENALTIES. Any person violating this ordinance shall be fined according to Section 1-8 of the Revised Ordinances of the City of Everett and/or punished in accordance with Massachusetts General Law, Chapter 266; Section 126A.

(g) SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance. (Ord of 09-30-2004)

Section 13A-90.0--13A-94.0 Reserved

ARTICLE XI. MISCELLANEOUS PROVISIONS

Section 13A-95.0 Repeat Nuisance Call Service Fees.

(a) Purpose. The purpose of this section is to protect the public safety, health, and welfare and to prevent and abate repeat service response calls by the City to the same property or location for nuisance service calls, as defined herein, which prevent police or public safety services to other residents of the City. It is the intent of the City by the adoption of this section to impose and collect service call fees from the owner or occupant, or both, of property to which City officials must repeatedly respond for any repeat nuisance event or activity that generates extraordinary costs to the City. The repeat nuisance service call fee is intended to cover that cost over and above the cost of providing normal law or code enforcement services and police protection City wide.

(b) Scope and Application. This section shall apply to all owners and occupants of private property that is the subject or location of the repeat nuisance service call by the City. This section shall apply to any repeat nuisance service calls as set forth herein made by an Everett police officer or any designee of the Chief of Police, and shall include but not be limited to animal control officers, parking enforcement officers and code enforcement officers.

(c) Definition of Nuisance Call or Similar Conduct. The term nuisance service call shall mean any activity, conduct, or condition occurring upon private property within the City which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any member of the public; or will, or will intend to, alarm, anger or disturb others or provoke breach of the peace, to which the City is required to respond, including but not limited to the following:

(1) Any activity, conduct, or condition deemed as a public nuisance under any provision of the Revised Ordinances.

(2) Any activity, conduct or condition in violation of any provision of Chapter 13 of the Revised Ordinances.

(3) Any conduct, activity or condition constituting a violation of Massachusetts state laws prohibiting or regulating prostitution, gambling, controlled substances, use of firearms; and

(4) Any conduct, activity, or condition constituting disorderly conduct under Massachusetts or Federal Statutes.

(d) Repeat Nuisance Service Call Fee; Amount. The City may impose a repeat nuisance service call fee upon the owner or occupant of private property if the City has rendered services or responded to the property on three (3) or more occasions within a period of 365 days in response to or for the abatement of nuisance conduct, activity, or condition of the same or similar kind.

(1) Violations of the said “Repeat Nuisance Call Service Fees Ordinance” will be enforced in accordance with the provisions of the Everett Non-Criminal Disposition Ordinance.

(2) Any person violating any provision of this chapter shall be deemed guilty of a violation shall be subject to a fine established by the City Government under Section 1-8 of the Revised Ordinances.

(3) All repeat nuisance service call fees imposed and charged against the owner or occupant under this section shall be deemed delinquent 30 days after the City’s mailing a billing statement therefor. Delinquent payments are subject to a fourteen percent (14%) annual penalty of the amount due.

(4) Non-payment of fee imposed on a property owner may result in a lien being placed on said property.

(e) Notice. No repeat nuisance service call fee may be imposed against an owner or occupant of property without the City Solicitor or his designee, hereafter referred to as the hearing officer, first providing the owner or occupant with written notice of the previous nuisance service calls prior to the latest nuisance service call rendered by the City upon which the fee is imposed. The written notice shall:

(1) State the nuisance conduct, activity or condition that is or has occurred or is maintained or permitted on the property, the dates of the nuisance conduct, activity or condition;

(2) State the owner or occupant may be subject to a repeat nuisance call service fee if a third nuisance service call is rendered to the property for the same nuisance, in addition to the City’s right to seek other legal remedies or actions for abatement of the nuisance or compliance with the law, and

(4) Be served personally by the hearing officer or by U.S. mail upon the owner or occupant at the last known address.

(f) Right to Appeal Repeat Nuisance Service Call Fee. Upon the imposition of a repeat nuisance service call fee, the City shall provide the owner or occupant notice as required in Section 13-18(e). The City shall also inform the owner or occupant of his/her right to a hearing on the alleged repeat nuisance service calls.

(1) The owner or occupant upon whom the fee is imposed may request a hearing by serving upon the City Clerk within fourteen (14) business days of the mailing of the fee invoice, inclusive of the day the invoice is mailed, a written request for hearing.

(2) The hearing shall be heard by the City Government or its appointed hearing officer within fourteen (14) days of the date of the owner's or occupant's request for hearing.

(3) The hearing shall be conducted in an informal manner and the Massachusetts Rules of Civil Procedure and Rules of Evidence shall not be strictly applied.

(4) The hearing need not be transcribed, but may be recorded by any means at the sole expense of the party who requests the transcription.

(5) After considering all evidence submitted, the hearing officer shall make written findings of fact and conclusions of the issue of whether the City responded to or rendered services for repeat nuisance service calls of the same or similar kind on three (3) or more occasions within a 365 day period.

(6) The findings and conclusions shall be served upon the owner or occupant by U.S. mail within fourteen (14) days of the notice of hearing.

(7) An owner or occupant's right to a hearing shall be deemed waived if the owner or occupant fails to serve a written request for hearing as required herein or fails to appear at the scheduled hearing date.

(8) Upon waiver of the right to a hearing, or upon the hearing officer's written findings of fact and conclusions that the repeat nuisance call service fee is warranted hereunder, the fee imposed is due immediately.

(g) Legal Remedies Nonexclusive. Nothing in this section shall be construed to limit the City's other available legal remedies for any violation of the law that may constitute a nuisance service call hereunder, including criminal, civil, injunctive or others. (Ord. of 5-5-05)

(h) Police and inspectional services responses to problem properties. (A0187-11)

(1) After 5 (five) valid complaint incidents in a twelve (12) month period relating to the occupants of a dwelling unit, a particular property or a specific location, the police chief (chief) or the director of inspectional services (director) shall determine whether the cost of response should be assessed to the property owner and shall notify and submit said determination to the city solicitor and the Code Enforcement Task Force.

a. Following each valid complain incident as determined by the chief or the director, notice shall be delivered, in writing, via certified mail, to the property owner's residence that is on record at the assessor's office.

(2) The chief or the director shall keep an accurate record of the cost of response to a dwelling unit, to a particular property or to a specific location, and such record shall include

the number of officers who are part of the response;

(3) The chief or director shall forward such record to the city solicitor, the city treasurer and the Code Enforcement Task Force;

(4) The Code Enforcement Task Force shall notify in writing the property owner of the chief's or director's decision to assess the cost of officer's response. The notification shall:

a. Be delivered by certified mail to the property owner's residence that is on record at the assessor's office.

b. Identify the number of complaint incidents that have occurred in the last 12 months.

c. Inform the property owner that he or she shall be subject to the costs of this and all future costs of police and inspectional services response to valid complaint incidents.

d. Indicate that the property owner has the right to appeal to the hearing officer.

e. Inform the property owner that he has seven (7) days to appeal.

(5) The treasurer-collector shall bill the property owner for the costs of the city incurred for its police or inspectional services response in addition to any incidental costs during the period of the officer's response to the location. The property owner is responsible for paying the bill in full within thirty (30) days.

(6) Any unpaid bill for response shall be added to the real estate tax on the property and collected as part of that tax. Failure to pay real estate taxes will render the property owner delinquent and the treasurer-collector shall commence municipal liens and foreclosure proceedings.

(7) In the event that the property owner has in good faith begun eviction proceedings against the tenant responsible the incidents at the property, then the application of subsection (h) shall be stayed until the eviction process is concluded.

(8) The provisions of this section are severable, and if any subsection, phrase, sentence or provision shall be ruled invalid by any decision of a court of competent jurisdiction, such decision shall not impair or otherwise affect any other remaining provision of this section.

Section 13A-96 Grammatical Construction.
Unless the context clearly indicates otherwise, words in any tense shall include the present, past and future tense. (A0416-06)

Section 13A-97 Severability.
Should any section, subsection, paragraph, sentence, clause or phrase of this chapter be declared unconstitutional or invalid or unenforceable for any reason, such decision shall not affect the validity of the remaining portions of this chapter, which will remain in full force and effect. (A0416-06)

Section 13A-98 Penalties.

All fines and penalties not expressly assigned to the provisions of this chapter 13A shall be assessed according to Section 1-8 of these Revised Ordinances of the City of Everett. No provision of this chapter shall be construed as prohibiting the City of Everett from seeking legal remedies. (A0416-06)

Chapter 13B.
REGULATING THE MAINTENANCE OF VACANT AND FORECLOSED RESIDENTIAL PROPERTIES

(A0108-08)

Section 13B-1 Purpose.
It is the intent of this chapter to protect and preserve public safety, security, and quiet enjoyment of occupants, abutters, and neighborhoods by:

(a) Requiring all residential property owners, including lenders, trustees, and service companies, to properly maintain vacant and foreclosed residential properties.

(b) Regulating the maintenance of vacant and foreclosed residential properties to prevent blighted and unsecured residences.

Section 13B-2 Enforcement authority.
The Code Enforcement Task Force has enforcement authority pursuant to the State Building Code, the State Sanitary Code, the city's Zoning Ordinance, and Chapter 13A of these Revised Ordinances.

Section 13B-3 Definitions.
When used in this chapter, unless a contrary intention clearly appears, the following terms shall have the following meanings:

(a) City: City of Everett

(b) Code Enforcement Task Force: The City of Everett's Code Enforcement Task Force acting through its Chairman.

(c) Days: Consecutive calendar days.

(d) Foreclosing: The process by which a property, placed as security for a real estate loan, is prepared for sale to satisfy the debt if the borrower defaults.

(e) Initiation of the foreclosure process: Taking any of the following actions:

(1) Taking possession of a residential property pursuant to the General Laws, Chapter 244, Section 1.

(2) Delivering the mortgagee's notice of intention to foreclose to the borrower pursuant to the General Laws, Chapter 244, Section. 17B.

(3) Commencing a foreclosure action on a property in either the Land Court or Suffolk Superior Court.

(f) Local: Within twenty (20) driving miles distance of the property in question.

(g) Mortgagee: The creditor, including but not limited to, service companies, lenders to a

mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

(h) Owner: Every person, entity, service company, property manager or real estate broker, who alone or severally with others:

(1) Has legal or equitable title to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park; or

(2) Has care, charge or control of any dwelling, dwelling unit, mobile dwelling unit or parcel of land, vacant or otherwise, including a mobile home park, in any capacity including but not limited to agent, executor, executrix, administrator, administratix, trustee or guardian of the estate of the holder of legal title; or

(3) Is a mortgagee in possession of any such property; or

(4) Is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

(5) Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, this chapter shall not apply to a condominium association created pursuant to the General Laws, Chapter 138A to the extent that such association forecloses on or

initiates the foreclosure process for unpaid assessments due or owing to the association; or

(6) Is every person who operates a rooming house; or

(7) Is a trustee who holds, owns or controls mortgage loans for mortgage backed securities transactions and has initiated the foreclosure process.

(i) Property: Any real, residential property, or portion thereof, located in the city, including building or structures situated on the property. For purposes of this chapter only, property does not include property owned or subject to the control of the city or any of its' governmental bodies. Such property includes, but is not limited to, property owned or controlled by the Everett Housing Authority.

(j) Residential property: Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

(k) Securing: Measures that assist in making the property inaccessible to unauthorized persons.

(l) Vacant: Any property not currently legally occupied and not properly maintained or secured.

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Section 13B-4 Registration of vacant and foreclosing/foreclosed residential properties; to

provide written notice of vacant, residential property and/or mortgage foreclosure.
On or before November 15th of each calendar year, all owners must register vacant and foreclosing/foreclosed residential properties with the Code Enforcement Task Force on forms provided by the Code Enforcement Task Force. All registrations must state the individual owner's or agent's phone number and mailing address located within the Commonwealth as required by the General Laws, Chapter 59, Section 57D and Chapter. 156D, Section 5.02, and 950 CMR 113.20. The mailing address may not be a P.O. Box. This registration must also certify that the property was inspected and identify whether the property is vacant at the time of filing. If the property is vacant, the owner and/or registrant must designate and retain a local individual or local property management company responsible for the security and maintenance of the property. This designation must state the individual or company's name, phone number, and local mailing address. The mailing address may not be a P.O. Box. If the property is in the process of foreclosure, then the registration must be received within seven days of the initiation of the foreclosure process as defined in Section 13B-3 of this chapter. If the Chairman of the Code Enforcement Task Force determines that the property is vacant and that foreclosure proceedings have not been initiated, the registration must be received within fourteen days of the Code Enforcement Task Force's first citation for improper maintenance.

The annual registration fee shall be based on the duration of the vacancy and/or length of the foreclosure as of November 15th of such calendar year according to the following schedule:

$500.00	For properties that have been vacant and/or foreclosed for less than one year.
$1,000.00	For properties that have been vacant and/or foreclosed for one year or more but less than two years.
$2,000.00	For properties that have been vacant and/or foreclosed for two years or more but less than three years.
$3,000.00	For properties that have been vacant and/or foreclosed for three years or more.

Subsequent annual registrations and fees are due within thirty (30) days of the expiration of the previous registration and must certify whether the foreclosing and foreclosed property remains vacant or not. Once the property is no longer vacant or is sold, the owner must provide proof of sale or written notice and proof of occupancy to the Code Enforcement Task Force.

A failure to pay timely the registration fee shall be a violation of this chapter, and the full fee shall be deemed an assessment subject to a lien on property. (C0377-16)

Section 13B-5 Maintenance requirements.
Properties subject to this chapter must be maintained in accordance with the relevant Sanitary Codes, Building Codes, and local regulations concerning external and/or visible maintenance. The owner, local individual or local property management company must inspect and maintain the property on a monthly basis for the duration of the vacancy.

The property must contain a posting with the name and 24-hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.

Section 13B-6 Inspections.
The Code Enforcement Task Force shall have the authority and the duty to inspect properties subject to this chapter for compliance and to issue citations for any violations. The Code Enforcement Task Force shall have the discretion to determine when and how such inspections are to be made, provided that their policies are reasonably calculated to ensure that this chapter is enforced.

Section 13B-7 Enforcement and penalties.
Failure to initially register with the Code Enforcement Task Force is punishable by a fine of three hundred dollars and no cents ($300.00).

If applicable, failure to properly identify the name of the local individual or local property management company is punishable by a fine of three hundred dollars and no cents ($300.00).

Failure to maintain the property is punishable by a fine up to three hundred dollars and no cents ($300.00) for each week the property is not maintained.

All monies collected pursuant to this chapter shall be directed to a specific Code Enforcement Task Force enforcement fund.

Section 13B-8 Appeal.
Any person aggrieved by the requirements of this chapter may seek an administrative appeal to the Code Enforcement Task Force. Any person aggrieved by a final decision issued under this chapter by the Code Enforcement Task Force, may seek relief in any court of competent jurisdiction as provided by the laws of the Commonwealth.

Section 13B-9 Applicability.
If any provision of this chapter imposes greater restrictions or obligations than those imposed by any other general law, special law, regulation, rule, ordinance, by-law, order, or policy then the provisions of this chapter shall control.

Section 13B-10 Regulatory authority.
The Chairman of the Code Enforcement Task Force has the authority to promulgate rules and regulations necessary to implement and enforce this chapter.

Section 13B-11 Severability.
If any provision of this chapter is held to be invalid by a court of competent jurisdiction then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Section 13B-12 Implementation.
The provisions of this chapter are effective immediately upon passage and all provisions shall be enforced immediately but no monetary fine shall be imposed pursuant hereto until ninety (90) days

after passage.

Chapter 14.
POLICE DEPARTMENT*

ARTICLE I. IN GENERAL

Section 14-1 Composition.
The police department shall consist of a chief and such captains, lieutenants, lieutenant inspectors, sergeants, inspectors and patrol persons as the mayor, and city council, shall authorize. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 1)

Section 14-2 Appointment of police officers.
The police officers shall be appointed by the mayor, subject to confirmation by the city council, in accordance with the provisions of the civil service law of the Commonwealth and the rules of the department of civil service. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 2) (A0173-12; amended C0282-16)

Section 14-3 Rank, removal of police officers.
Police officers shall take rank in the order in which they are named, and shall hold their respective offices until removed for cause by the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 3)

Section 14-4 Oath of members.
Each police officer shall be sworn to the faithful discharge of his duties. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 4)

Section 14-5 Physical, mental examination of police officers.
Before confirming any person to be a police officer, such person shall be examined both physically and mentally by doctors provided by the city who shall report their examination to the mayor. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 5)

Section 14-6 Duties of police officers generally.
Each regular police officer shall make note of all obstructions, nuisances and defects in the streets or ways, and if practicable, remove such as are unauthorized. When removal is impracticable the police officer shall notify the Officer-in-Charge immediately. The police officer shall make note of broken, unlighted or defective street lights. He shall make note of and report on all matters affecting the health or safety of the public, to the chief of police, or the Officer-in-Charge, who shall call the same to the attention of the mayor, or the proper administrative officer or department as the circumstances may require. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 12)

State law reference(s)--Powers and duties of municipal police officers, MGL. c. 41, § 98.

Section 14-7 Enforcement of laws, ordinances, etc.
It shall be the duty of all police officers to enforce the laws of the Commonwealth, the laws and ordinances of the city, and do or perform such other acts as may be connected with their office or incidental thereto. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 13)

State law reference(s)--Similar provisions, M.G.L. c. 41, § 98.

Section 14-8 Daily report to police station.

Each police officer shall report at the police station for roll call at least once on each assigned work day except that, for cause, the chief of police may excuse a member therefrom. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 14)

Section 14-9 Uniforms and equipment.
All police officers, except plainclothesmen, shall wear the prescribed police uniform and badge while on duty and any other equipment as may be prescribed by the chief of police. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 15)

State law reference(s)--Appropriations for uniforms, etc., for members of municipal police departments, M.G.L. c. 41, § 6B.

Section 14-10 Special police.
The mayor may appoint, subject to confirmation by the city council, such special police officers to serve with or without pay, as he may designate, for special duty, and may limit their sphere of duty and their time of service. The persons so appointed shall be subject to the provisions of the city ordinances and laws of the Commonwealth, so far as the same are applicable, and to all rules and regulations prescribed for the administration of the police department, if and when they receive compensation as such officers, from the city. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 19) (A0173-12)

Cross reference(s)--Inspector of weights and measures to be special police officer, § 21-22.

Section 14-11 Chaplains.
The mayor may appoint clergymen to serve without pay as chaplains of the police department for a period of one (1) year from date of appointment. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 20)

Section 14-12 School traffic supervisors.
(a) School traffic supervisor appointments, shall be made by the officer in charge of the traffic division, under the direction of the chief of police.

(b) Such traffic supervisors shall have the authority of regular police officers in the enforcement of M.G.L. Chapter 90 other laws, and the ordinances of the city relating to the control of vehicular traffic. They shall observe all the rules and regulations of the police department not inconsistent with their authority and duties. Such traffic supervisors shall be under the charge and direction of the chief of police. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 21; Ord. of 8-2-76; Ord. of 10-7-76; Ord. of 11-8-82)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 14-13 Commanding officer in absence of chief.
The senior officer, next in rank to that of the chief of police, shall, in the absence of the chief, be in command of the police department. The salary and benefits shall be as the position he fills. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 23)

Section 14-14 Residency Requirement.
(a) Any permanent full-time police officer hired on or after January 1, 2012 shall establish his or her residency within the City of Everett within one hundred eighty (180) days of his or her date of

hire, and at a minimum, shall remain a resident of the City through their seventh anniversary date of hire, at which time at such employee's sole discretion, such employee may establish residency either within or outside of the City, provided however, the establishment of such residency is in accordance with Massachusetts General Laws, Chapter 41, Section 99A.

(b) Each and every permanent full-time police officer hired on or after January 1, 2012, on each and every anniversary date of hire, through and including such employee's seventh anniversary date, shall submit to such employee's Department Chief and the City Personnel Department proof of residency within the City satisfactory to the Department Chief and Personnel Department.

(c) Any permanent full-time police officer employed by the City prior to January 1, 2012, including any such police officer, shall be exempt from this residency ordinance.

(d) Any permanent full-time police officer who wishes to laterally transfer into the City of Everett Police Department and who is employed by a Commonwealth of Massachusetts community which has adopted Massachusetts General Laws, Chapter 31, and any permanent full-time police officer who has been Reduced In Force by such a community and whose name appears on the Chapter 31 rehire list shall be exempt from this residency ordinance. (A0198-11)

Section 14-15--14-29 Reserved.

ARTICLE II. POLICE CHIEF*

Section 14-30 Appointment, term of office, vacancy.
In accordance with the provisions of chapter 417 of the Acts of 1991, which was retained in Section 10-5(a) of the Charter, and Sections 2-10 and 3-3 of the Charter, the mayor shall appoint a chief of police subject to confirmation by the city council. The chief of police shall hold office for three (3) years from the date of his appointment and confirmation. A vacancy shall be filled for the unexpired term in the same manner as the original appointment. (Ord. of 2-3-92, A0173-12)

Section 14-31 Duties generally.
(a) The chief of police shall be the head of the department subject to the general supervision and control of the mayor and responsible for the discipline and efficiency thereof. All police officers and members of the department, shall be under the control of the chief of police. He shall enforce the special laws relating to the city, the ordinances of the city council, the orders of the mayor, and the rules and regulations of the board of health.

(b) He shall make proper rules and regulations, subject to the approval of the mayor, for the administration of the department.

(c) At any time when specially required, he shall make a written report to the mayor of the doings of the department, and of any misconduct, neglect of duty or want of efficiency on the part of any member. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 6; Ord. of 6-28-76)

Section 14-32 In charge of complaints; appearance in court.
The chief of police shall have charge of all complaints made to the police department by citizens or by any police officer thereof for any breach of the criminal law and the ordinances of the city, and

he or his designee shall appear in court and prosecute all violations thereof. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 7)

Section 14-33 Record of arrests; disposition of complaints.

(a) The chief of police shall keep a record, with a suitable index, of all persons arrested, with the name of the arresting officers, and the place of birth, age, height, complexion, residence and offense of the person arrested, with such other description or data as may be useful for identification.

(b) When complaints are made, the chief of police shall make a record of the result thereof. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 8)

Section 14-34 Administrative duties.

(a) The chief of police shall have general charge of the police headquarters, which shall be open day and night, and of all the property of the police department and be responsible for the good order and condition thereof.

(b) His office shall be at the police station.

(c) The chief of police shall keep a record of all duties performed by each police officer, and all absences from duty with causes thereof. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 10)

Section 14-35 Investigation, records of accidents.

(a) The chief of police, as soon as he is informed of any injury or accident to persons or property on any street or way, shall investigate or cause the same to be investigated immediately by a police officer, and ascertain and examine the exact place of the accident, its condition and the cause thereof, and the names and evidence of all persons who may have seen the same.

(b) He shall keep a full record of such investigations, and of all facts connected therewith, and, when required, exhibit the same to the city solicitor. (Rev. Ords. 1976, Pt. 2, Ch. 13, § 11)

Section 14-36--14-50 Reserved.

ARTICLE III. ALARM SYSTEMS*

Section 14-51 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Alarm system means an assembly of equipment and devices or a single device such as a solid state unit which plugs directly into a one hundred ten (110) volt AC line, arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(b) Alarm user or user means any person on whose premises an alarm system is maintained within the city except for alarm systems on motor vehicles or proprietary systems. Excluded from this definition and from the coverage of this article are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is

located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds or a flashing light or beacon designed to signal persons outside the premises, such system shall be within the definition of alarm system and shall be subject to this article.

(c) Automatic dialing device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

(d) Central station means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits or where guards are maintained continuously to investigate signals.

(e) Communications console means the instrumentation on an alarm console at the receiving terminal of a signal line which, through both visual and audible signals, indicates activation of an alarm system at a particular location, or which indicates line trouble.

(f) Direct connect means an alarm system which has the capability of transmitting system signals to and receiving them at the police department communication center.

(g) False alarm means:

(1) The activation of an alarm system through mechanical failure, malfunction, improper installation or negligence of the user of an alarm system or of his employees or agents.

(2) Any signal or oral communication transmitted to the police department requesting, or requiring, or resulting in a response on the part of the police department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises.

(3) Excluded from this definition are activations of alarm systems caused by power outages, hurricanes, tornadoes, earthquakes and similar conditions.

(h) Interconnect means to connect an alarm system to a voicegrade telephone line, either directly or through a mechanical device that utilizes a standard telephone, for the purpose of using the telephone line to transmit an emergency message upon the activation of the alarm system.

(i) Police chief means the chief of police of the city or his designated representative.

(j) Police or police department means the city police department or any authorized agent thereof.

(k) Public nuisance means anything which annoys, injures or endangers the comfort, repose, health or safety of a considerable number of persons or of any community or neighborhood. (Ord. of 4-27-87, § 24(1))

Cross reference(s)--Definitions and rules of construction, § 1-2.

Section 14-52 Exclusion from article.

Fire alarm systems and alarm systems which monitor temperature, smoke, humidity or any other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises and all residential houses are specifically excluded from the provisions of this article. (Ord. of 4-27-87, § 24(1))

Section 14-53 Administrative rules.
The police chief may promulgate such rules as may be necessary for the implementation of this article. (Ord. of 4-27-87, § 24(2))

Section 14-54 Automatic dialing devices--Interconnection to police department.
Automatic dialing devices may be interconnected only to telephone numbers at the police department as are specifically designated to receive such calls by the police department. (Ord. of 4-27-87, § 24(3))

Section 14-55 Same--Intermediary services.
Any person using an automatic dialing device may have the device interconnected to a telephone line transmitting directly to:

(a) A central station;

(b) An answering service; or

(c) Any privately-owned or privately-operated facility or terminal. (Ord. of 4-27-87, § 24(4))

Section 14-56 Direct connections to police department.
(a) Alarm systems may be connected to the communications console in the police department.

(b) In accordance with the normal bidding practices in effect in the city, the purchasing agent shall have the authority to request bids from alarm companies in order to furnish, at no cost to the city, a communications console and the necessary telephone lines which are compatible to the receipt of alarm signals from alarm systems whose lines are connected to the police department.

(1) Each of the bids shall set forth the annual fee each alarm user will be required to pay the alarm company for services rendered with respect to the communications console.

(2) Such services shall be set forth in the form of a written contract between the alarm company and each alarm user.

(3) The provisions of this paragraph (b) relate solely to the aforementioned communications console, connections to the said console by alarm users, and fees and charges related to the installation and maintenance of the console.

(4) Any alarm user may contract with any alarm company of his choice for the sale, installation, maintenance and/or servicing of the alarm system to be installed on his premises.

(c) The alarm user, or the alarm business contracting for servicing the alarm user's alarm system, shall be responsible for obtaining the leased telephone line between the alarm user's premises and the alarm-receiving equipment at the police department and for furnishing the

appropriate interface equipment used to operate the communications console.

(d) The provisions of section 14-59 concerning false alarms shall apply to all alarm users or persons having direct connect systems, except municipal, county and state agencies and religious organizations. (Ord. of 4-27-87, § 24(5))

Section 14-57 Control and curtailment of signals emitted by alarm systems.

(a) Every alarm user shall submit to the police chief the names and telephone numbers of at least two (2) other persons who can be reached at any time, day or night, and who are authorized to respond to an emergency signal transmitted by an alarm system, and who can open the premises wherein the alarm system is installed.

(b) All alarm systems directly connected to the police station may be equipped with a test device which will give a ten-second delay or longer prior to alarm system activation in order to warn the alarm user of an open alarm circuit.

(c) All alarm systems installed after January 1, 1987, which use an audible horn or bell shall be equipped with a device that will shut off such horn or bell within twenty (20) minutes after activation of the alarm system.

(d) Any alarm system emitting a continuous and uninterrupted signal for more than thirty (30) minutes which cannot be shut off or otherwise curtailed due to the absence or unavailability of the alarm user or those persons designated by him under paragraph (a) of this section, and which disturbs the peace, comfort or repose of a community, a neighborhood or a considerable number of inhabitants of the area where the alarm system is located, shall constitute a public nuisance.

(1) Upon receiving complaints regarding such a continuous and uninterrupted signal, the police chief shall endeavor to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section in an effort to abate the nuisance.

(2) The police chief shall cause to be recorded the names and addresses of all complainants and the time each complaint was made. In the event that the police chief is unable to contact the alarm user, or members of the alarm user's family, or those persons designated by the alarm user under paragraph (a) of this section, or if such persons cannot or will not curtail the audible signal being emitted by the alarm system, and if the police chief is otherwise unable to abate the nuisance, he may direct a police officer or a firefighter or a qualified alarm technician to enter upon the property outside the home or building in which the alarm system is located and take any reasonable action necessary to abate the nuisance.

(3) If entry upon property outside the home or building in which the alarm system is located is made in accordance with this clause, the person so entering upon such property:

a. Shall not conduct, engage in or undertake any search, seizure, inspection or investigation while he is upon the property;

b. Shall not cause any unnecessary damage to the alarm system or to any part of the

home or building; and

c. Shall leave the property immediately after the audible signal has ceased.

(4) After an entry upon property has been made in accordance with this section, the police chief shall have the property secured, if necessary.

(5) The reasonable costs and expenses of abating a nuisance in accordance with this section may be assessed to the alarm user, such assessment not to exceed fifty dollars ($50.00).

(6) Within ten (10) days after abatement of a nuisance in accordance with this section, the alarm user may request a hearing before the city council and may present evidence showing that the signal emitted by his alarm system was not a public nuisance at the time of the abatement; that unnecessary damage was caused to his property in the course of the abatement; that the costs of the abatement should not be assessed to him; or that the requirements of this clause were not fulfilled. (A0173-12)

(7) The city council shall hear all interested parties and may, in its discretion, reimburse the alarm user for the repairs to his property necessitated by the abatement, or excuse the alarm user from paying the costs of abatement. (A0173-12) (Ord. of 4-27-87, § 24(6))

Section 14-58 Testing of equipment.

(a) No alarm system designed to transmit emergency messages directly to the police department shall be worked on, tested or demonstrated without obtaining permission from the police chief.

(b) Permission is not required to test or demonstrate alarm devices not transmitting emergency messages directly to the police department.

(c) An unauthorized test constitutes a false alarm. (Ord. of 4-27-87, § 24(7))

Section 14-59 False alarms.

(a) When emergency messages are received by the police department that evidence false alarms, the police chief shall take such action as may be appropriate under paragraphs (b), (c), (d) and (e) of this section, and, when so required by the terms of such paragraphs, order that use of an alarm system be discontinued.

(b) After the police department has recorded three (3) separate false alarms within the calendar year from an alarm system, the police chief shall notify the alarm user, in person, by telephone or by mail, of such fact and require the user to submit, within fifteen (15) days after receipt of such notice, a report describing efforts to discover and eliminate the cause or causes of the false alarms.

(1) If the user, on the basis of absence from the city, or on any other reasonable basis, requests an extension of time for filing the report, the police chief may extend the fifteen-day period for a reasonable period.

(2) If the user fails to submit such a report within fifteen (15) days or within any such extended period, the police chief shall order that use of the alarm system be discontinued.

(3) Any such discontinuance shall be effectuated within thirty (30) days from the date of receipt of the police chief's order.

(c) If the police chief determines that a report submitted in accordance with paragraph (b) of this section is unsatisfactory, or that the alarm user has failed to show by the report that he has taken or will take reasonable steps to eliminate or reduce false alarms, then the police chief shall order that use of the alarm system be discontinued.

(1) Any such discontinuance shall be effectuated within thirty (30) days from the date of receipt of the police chief's order.

(d) If the police department records five (5) false alarms within the calendar year from an alarm system, the police chief shall order that the user of the alarm system discontinue use of the alarm system.

(1) Any such discontinuance shall be effectuated within thirty (30) days from the date of receipt of the police chief's order.

(2) Such discontinuance shall continue until the police chief has received a certified notice, that the alarm system has been reviewed and or repaired and is in perfect working order, by a business or person knowledgeable in the field of alarm systems.

(e) Any user of an alarm system which transmits false alarms shall be assessed a fine in accordance with section 1-8 for each false alarm in excess of three (3) occurring within the calendar year.

(1) All fines assessed hereunder shall be paid to the city treasurer for deposit in the general fund.

(2) Upon failure of the user of an alarm system to pay two (2) consecutive fines assessed hereunder within sixty (60) days of assessment, the police chief shall order that the user discontinue use of the alarm system.

(3) Any such discontinuance shall be effectuated within thirty (30) days from the date of receipt of the police chief's order.

(f) Any user of an alarm system who has, in accordance with this section, been ordered by the police chief to discontinue use of an alarm system may appeal the order of discontinuance to the city council. (A0173-12)

(1) Notice of an appeal shall be filed with the clerk of the city council within ten (10) days of the date of the order of discontinuance. (A0173-12)

(2) Thereafter the city council shall consider the merits of the appeal, and in connection therewith shall hear evidence presented by all interested persons. After hearing such

evidence, the city council may affirm, vacate or modify the order of discontinuance. (A0173-12) (Ord. of 4-27-87, § 24(8))

Section 14-60 Exception for residential units.

The provisions of section 14-59(e) shall not apply to residential dwelling units. (Ord. of 4-27-87, § 24(9))

Section 14-61 Penalties.

(a) The following acts and omissions shall constitute violations of this article punishable by a fine in accordance with section 1-8.

(1) Failure to obey an order of the police chief to discontinue use of an alarm system, after exhaustion of the right of appeal;

(2) Failure to disconnect an automatic dialing device from any telephone numbers at the police department within six (6) months after April 27, 1987;

(3) Interconnection of an automatic dialing device to any telephone numbers, other than those authorized, at the police department after the effective date of this article;

(4) Failure to pay two (2) or more consecutive fines assessed under this chapter within sixty (60) days from the date of assessment;

(5) Failure to comply with the requirements of this article.

(b) Each day during which such violations continue shall constitute a separate offense. (Ord. of 4-27-87, § 24(9))

Chapter 15.
SANITARY SEWERS AND STORM DRAINS*

Section 15-1 Definitions.
The following words and phrases, when used in this chapter, shall have the meaning ascribed to them in this section:

(a) Public storm drains and sanitary sewers. Drains and sewers that are owned by the city.

(b) Private storm drains and sanitary sewers. Drains and sewers that are privately owned and are connected to the public drains and sewers of the city and the Massachusetts Water Resources Authority.

(1) The cost of installing and maintaining these drains and sewers is the responsibility of the owner up to and including the connection to the public drains and sewers.

(c) Lateral connections. Drains and sewers that are connected from a property to the public or private storm drains and sanitary sewers

(d) Appurtenances. All other connections, including vents and manholes, that are connected to the public and private storm drains and sanitary sewers.

Section 15-2 Powers of city council generally.
The city council shall have full power to authorize by order the construction of all public sanitary sewers. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 1) (A0173-12)

Section 15-3 City services commission; powers, duties generally.
(a) The city services commission shall construct or cause to be constructed, public storm drains and sanitary sewers. (A0173-12)

(b) The city services commission shall have the general control of all the public and private storm drains and sanitary sewers of the city, and of all the appurtenances thereto, and of the construction, maintenance, repair and use of the same. (A0173-12)

(1) The city services commission shall authorize and license a sufficient number of suitable persons to connect private storm drains and sanitary sewers to the public storm drains and sanitary sewers or to the Massachusetts Water Resources sanitary sewer system. (A0173-12)

(c) The city services commission shall care for all catch basins and cleanouts. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, §§ 2--4)

Cross reference(s)—--City services commission, § 2-176 et seq.

Section 15-4 Duties of city engineer generally.
(a) The city engineer shall be responsible for the laying out, and constructing, public storm drains and sanitary sewers, and he shall provide accurate plans showing the location, depth and materials, with a section plan of each storm drain or sanitary sewer, indicating its size, shape, thickness and

construction.

(b) The city engineer shall cause to be shown by such plans all existing connections as they may be made. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 5)(Ord. of 06-25-2001)

Cross reference(s)--City engineer, § 2-81 et seq.

Section 15-5 Plans, record of charges and assessments.
Plans and descriptions of all public and private storm drains and sanitary sewers and lateral connections thereto shall be kept in the office of the city engineer. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 6)

Section 15-6 Storm Drains and Sanitary Sewers designated; approval of laying, connections.
(a) Every sewer or drain, laid in any land or street which is used or intended to be used for the purpose of draining more than one (1) house, building or estate, shall be deemed a public storm drain or sanitary sewer, or a private storm drain or sanitary sewer.

(b) No such storm drain or sanitary sewer shall be laid or connected with any existing storm drain or sanitary sewer except by the authorized order of the city council. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, § 7)

Section 15-7 Manner of Connecting Storm drains and sanitary sewers.
(a) Every lateral connection storm drain or sanitary sewer entering its respective main system shall be built in such manner as shall be satisfactory to the city services commission and with due observance of all regulations of the board of health, so far as applicable thereto. (A0173-12)

(b) The openings, excavations, construction, or repair of lateral connections, storm drains or sanitary sewers shall be made by a person licensed in writing for that purpose by the city services commission as provided in section 15-12, and by no other person. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, § 8)

Section 15-8 Permit required to interfere with, obstruct or enter storm drains or sanitary sewers.
No person shall interfere with, or obstruct a storm drain or sanitary sewer, or shall enter or attempt to enter a storm drain or sanitary sewer, except by permit of the city services commission. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 9) (A0173-12)

Section 15-9 Procedure where pipes for water, gas, etc. obstruct storm drains or sanitary sewers.
(a) Whenever any street is opened for the laying of pipes for water, gas or for other purposes, such laying of pipes or other work shall be so done as not to obstruct in any way the course, capacity or construction of a storm drain or sanitary sewer.

(b) Whenever such pipes or works are found to exist, interfere with or obstruct any existing storm drain or sanitary sewer or the building of any storm drain or sanitary sewer of the required size and at the proper depth and grades, the city services commission shall notify the department, corporation or person maintaining the same, to remove, change or alter such pipes or other works

at once and in such manner as the city engineer may direct. (A0173-12)

(1) If such department, corporation or person neglects to comply immediately with the terms of such notice the city services commission may cause such removal, change or alteration, and the cost thereof shall be paid by such department, corporation or person. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, § 10)

Section 15-10 Report of cost of construction to city council.
The city services commission shall keep an accurate account of the cost of each public sanitary sewer constructed, and make report thereof to the city council. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 11) (A0173-12)

Section 15-11 Assessments.
(a) The city council shall make all assessments upon persons and estates benefited by the laying of public sanitary sewers in accordance with provisions of chapter 83 of the General Laws, and of acts in amendment thereof or addition thereto. (A0173-12)

(1) All persons or estates so benefited shall be assessed an amount equal to one-half the cost of construction, and for that purpose the city services commission shall furnish the city council with such facts as to cost of construction, owners of abutting estates, and other persons benefited thereby, and such other information as may be required in making such assessments. (A0173-12)

(b) The city council shall deliver a list of such assessments provided for in the preceding section, when made, with their warrant to the collector of taxes, who shall demand payment of the same forthwith, in writing, and proceed in the collection thereof in the manner prescribed by law. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, §§ 12--14)

State law reference(s)--Sewer assessments, M.G.L. c. 83, §§ 14--24.

Section 15-12 Permit to construct.
(a) No storm drain, sanitary sewer or lateral connection shall be constructed or laid by a private drainlayer unless a written permit is first obtained from the city services commission. (A0173-12)

(b) Upon completion of the work of laying storm drains, sanitary sewers, or lateral connections the licensed drainlayer shall return the permit required in (a) above to the office of the city services commission with a statement thereon of the work done, and signed by him. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 16, §§ 15, 16)

Section 15-13 Drainlayer licenses.
(a) The city services commission may license competent private drainlayers for the purpose mentioned in section 15-6 and 15-7. Such licensed drainlayer shall comply with the conditions on the permit required to construct or lay drains or sewers as set forth in section 15-12. (A0173-12)

(1) All licenses hereunder shall expire on the first day of May, annually, unless sooner revoked by the city services commission. (A0173-12)

(b) Any person licensed as provided in subsection (a) of this section, before performing any work authorized thereby, shall execute a bond to the city in such a sum as the city council may prescribe, with one (1) or more sureties satisfactory to the mayor, conditioned that he will properly make the openings into all storm drains and sanitary sewers opened by him; that he will construct or repair the lateral connections to be connected by him with the storm drains and sanitary sewers or lateral connections, in a thorough and workmanlike manner; that he will leave no material or obstruction of any description in the storm drain or sanitary sewer which he may open, or in any storm drain, sanitary sewer or lateral connection leading into any storm drain or sanitary sewer; that he will close up the excavation properly, restore the earth and pavement taken up, regrade and repave the street, put the same in good and proper condition, and remove all superfluous material, all to the satisfaction of the city services commission. (A0173-12)

(1) If he fails so to do, or if at any time within one (1) year from the date of the completion of any storm drain, sanitary sewer or lateral connection the surface of the street shall settle or otherwise become unsafe for public travel, then the city services commission shall repave and regrade the street at the expense of the drainlayer, and within five (5) days thereafter deliver a bill of the same to the treasurer for collection, and the drainlayer shall pay the same immediately. (A0173-12)

(2) He shall not be entitled to receive another permit until such bill and all other bills of expense incurred by the city on account of his negligence or default shall be paid in full and the sureties on such bond shall be liable for such payment.

(3) The bond shall be upon the further condition:

a. that he will cause sufficient lighted barriers to be placed around the excavation and the earth, stone and other materials which may be put into the street;

b. that he will maintain such lighted barriers during the whole time such excavation, earth or other material may obstruct the street, and will cause the lighted barriers to function from twilight every evening and through every night during times such construction in the street may exist;

c. that he will comply with the ordinances which may be in force in relation to sewers, drains and streets, and with such orders and regulations as the city council have adopted or may from time to time adopt, for the regulation of persons licensed to construct or repair storm drains, sanitary sewers or lateral connections or open and dig in the streets for that purpose; and (A0173-12)

d. he will indemnify and save harmless the city from all damages, costs and expenses which it may incur or sustain, by reason of any and all injuries resulting to anyone in person or property, from the neglect or carelessness of himself or his servants in opening, closing, making or repairing any storm drain, sanitary sewer or lateral connection in performing work connected therewith, or in the care of property, or in lighting by night any excavation or obstruction caused or made by him or his servants, or which, the city may incur or sustain in any manner or reason of the excavation or

construction of any storm drain, sanitary sewer or lateral connection by him or his servants or agents, or any work or act performed or done by him or them connected therewith.

(c) Whoever shall employ any person, not licensed to lay storm drains, sanitary sewers or lateral connections in the city, to perform any work specified in section 15-6 shall be liable for all damage caused by such person, and also be fined in accordance with section 1-8. The person so employed shall also be fined in accordance with section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 16, §§ 17--19)

Cross reference(s)--Licenses and business regulations, Ch. 12.

State law reference(s)--Master Plumbers, M.G.L Ch. 142, § 3.

Section 15-14 Tide traps and gate valves.
No storm drain subject to the action of the tidewater shall be constructed without a tide trap or gate valve, to prevent completely the backing up or reverse flow of drainage matter, storm or tidewaters. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 20)

Section 15-15 Connecting steam engine exhaust or steam boiler blow-off to storm drains or sanitary sewers, etc., prohibited.
No exhaust from steam engines and no blow-off from steam boilers shall be connected with any storm drain, sanitary sewer, or lateral connection. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 21)

Section 15-16 Prohibited discharges generally into storm drains or sanitary sewers or drains.
No gasoline or other explosive or inflammable substance shall be caused or allowed to enter directly or indirectly into any storm drain or sanitary sewer, nor any other matter or thing which may tend to cause an obstruction thereof or deposit therein, or any injury thereto. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 22)

Section 15-17 Depositing animal or vegetable matter in catch basins prohibited.
No person shall deposit in any catch basin any animal or vegetable matter, solid or liquid. (Rev. Ords. 1976, Pt. 2, Ch. 16, § 23)

Cross reference(s)--Animals, Ch. 3; health and sanitation, Ch. 10.

Section 15-18 Connections to, discharges in sanitary sewer system.
(a) Connections to the city sanitary sewer system are absolutely prohibited without written approval by the city services commission. (A0173-12)

(b) Under no circumstances will water drainage from any source such as, but not limited to, roof leaders, cellar, yard, area drains, foundation drains, cooling water discharges, drain from springs and swampy areas, storm waters, surface runoffs, and be it city, county, district, state or federal government, be permitted to connect to the city sanitary sewer system without formal written approval by the city services commission. (A0173-12)

(c) If there is no storm drainage system available within close proximity of the using facility/structure, or within the immediate street/way/access, the owner/user may apply to the city

for a temporary storm/sanitary connection permit to connect to the available sewer system.

(1) The owner/user will be responsible for all costs relating thereto and involved in completing such connection, not limited to city/municipal permit costs, bonding and public liability insurance costs, construction and reconstruction costs, necessary and required survey costs, as well as impact studies if so required by the city engineer.

(2) All costs relating to the flow of the above-required water drainage through the available sewer system will be assessed to the owner/user via a flow meter supplied, paid for and maintained by the owner.

(3) The cost assessment to be paid to the city will be based upon the retail sewer use charge established by the city services commission and an administrative fee of ten (10) percent. (A0173-12)

(d) When a planned storm drain system becomes available in the immediate street/access, the owner/user will be responsible to pay to participating parties/contractors, etc., all costs relating to disconnecting and reconnecting the temporary system to the new available storm drainage system within a period of one (1) year following written notification of same by the city services commission; further, construction scheduling of the work shall be approved by the city services commission. (A0173-12) (Ord. of 11-4-87, § 24)

Section 15-19 Sewer use charge.

(a) There is hereby established a sewer use charge, which shall be paid by every person whose lateral connection is connected to the sanitary sewers of the city.

(b) The purpose of this sewer charge is to establish just and equitable charges for the use of the sanitary sewers.

(c) For the purpose of this section “person” shall include, but shall not be limited to, a trust, a realty trust, tenants in common, tenants by the entirety, joint tenants, or any other entity of form of ownership by which real property is held.

(d) The city services commission shall, establish a sewer use charge as a fixed sum per one hundred (100) cubic feet of water used by every person subject to the provisions of this section. (A0173-12)

(e) The city services commission shall send notice of such sewer use charge as established, to the mayor, the clerk of the city council, the city clerk, and the treasurer/collector, and shall cause notice of such sewer use charge to be published in a newspaper of general circulation within the city. (A0173-12)

(f) The sewer use charge as established shall be billed to every person subject to the provisions of this section.

(g) The city services commission, or their representatives, is hereby authorized, directed and empowered to determine and render bills for the sewer use charge against every person subject to

the provisions of this section at the rate authorized. (A0173-12)

(h) The revenues collected as a result of user charges shall be reserved exclusively for the purpose of paying the city's sewer charges assessed by the Massachusetts Water Resources Authority (MWRA) and for other expenses incurred to maintain, repair and improve the city's sanitary sewer system.

(i) The city treasurer/collector is hereby authorized, directed and empowered to collect any sums so determined and billed, enjoying all powers delegated to him by general law, special law or ordinance. (A0173-12)

(j) Any person who is of the opinion that his sewer use charge is inequitable may make written application to the city services commission requesting a review of the use charge. (A0173-12)

(1) The written request shall, when deemed necessary by the city services commission, show the actual or estimated average flow of his waste water in comparison with the factors upon which the charge is based, including a description of how the measurements or estimate were made. (A0173-12)

(2) The city services commission may require, as a condition of such review, the installation of a separate sewer flow meter, at the expense of the person, in order to validate such measurements or estimates. (A0173-12)

(3) The city services commission, following a thorough review of the sewer use charge being contested, may vote to abate all or a portion of such sewer use charge as may be warranted by the facts pertaining to each case. (A0173-12)

(k) The city services commission is authorized and directed to promulgate such regulations, service fees or conditions as may be required to effect compliance with federal, state or Massachusetts Water Resources Authority requirements, or to otherwise provide management oversight and supervision of the sanitary system of the city. (A0173-12) (Ord. of 11-9-87)

State law reference(s)--Charges for use of sewers, M.G.L. c. 83, § 16.

Chapter 16.
SOLID WASTE MANAGEMENT*

ARTICLE I. IN GENERAL

Section 16-1--16-20 Reserved.

ARTICLE II. LITTER*

Section 16-21 Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Containers are receptacles approved by the city services commission and used for the disposal and storage of solid waste. (A0173-12)

(b) Litter means any quantity of uncontainerized paper, metal, glass, plastic or miscellaneous solid waste which may be classified as trash, debris, rubbish, refuse, garbage or junk.

(c) Private property means and includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations: yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreational facilities.

(d) Public property means and includes, but is not limited to, the following locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal housing project grounds, municipal vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal waterways and bodies of water.

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Section 16-22 Disposal restricted.
(a) It shall be unlawful for any person to throw, discard, place or deposit litter in any manner or amount on any public or private property within the corporate limits of the city, except in containers or areas lawfully provided therefor.

(b) It shall be unlawful for any business located outside the city or person who is not a legal resident of the city, to throw, discard, place or deposit litter in any manner or amount on any public or private property within the corporate limits of the city.

(c) In the prosecution charging a violation of (a) above from a motor vehicle, proof that the particular vehicle described in the complaint was the origin of the litter, together with proof that the defendant named in the complaint was at the time of such violation the registered owner of such vehicle, shall constitute in evidence a presumption that the registered owner was the person who committed the violation.

(d) Every person distributing commercial handbills, leaflets, flyers or any other advertising and

information material shall take whatever measures that may be necessary to keep such materials from littering public or private property.

(e) To facilitate proper disposal of litter by pedestrians and motorists, such publicly patronized or used establishments as fast-food outlets, shopping centers, convenience stores, supermarkets, parking lots, mobile canteens, schools and any other establishments, as designated by the city services commission, shall provide, and regularly empty and maintain in good condition adequate containers that meet the standards prescribed by the city services commission. (A0173-12) (Ord. of 9-30-85, Part. II, § 1; Ord. of 12-1-2000)

Section 16-23 Vehicles transporting loose materials.

(a) It shall be unlawful for any person to transport any loose cargo by truck or other motor vehicle within the corporate limits of the city unless such cargo is covered and secured in such a manner as to prevent depositing of litter on public or private property.

(b) The provisions of (a), above, shall be applicable alike to the owner of the truck or other vehicle, the operator thereof, and the person from whose residence or establishment the cargo originated.

(c) In the prosecution charging a violation of (a) above, lack of adequate covering and securing shall in itself constitute proof a violation has been committed. (Ord. of 9-30-85, Part. II, § 2)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 16-24 Loading and unloading operations.

(a) Any owner or occupant of an establishment or institution at which litter is attendant to the packing and unpacking and loading and unloading of materials at exterior locations shall provide suitable containers there for the disposal and storage of litter and shall make appropriate arrangements for the collection thereof.

(b) Every owner or occupant shall remove at the end of each working day any litter that has not been containerized at these locations. (Ord. of 9-30-85, Part. II, § 3)

Section 16-25 Construction or demolition projects.

(a) It shall be unlawful for the owner, agent or contractor in charge of any construction or demolition site to cause, maintain, permit or allow to be caused, maintained or permitted the accumulation of any litter on the site before, during or after completion of the construction or demolition project.

(b) Every owner, agent or contractor shall have on the site adequate containers for the disposal of litter and to make appropriate arrangements for the collection thereof or for transport by himself to an authorized facility for final disposition.

(c) The owner, agent or contractor may be required at any time to show proof of appropriate collection or, if transported by himself, of final disposition at an authorized facility. (Ord. of 9-30-85, Part. II, § 4)

Cross reference(s)--Use of public ways during construction, reconstruction of buildings, § 17-81 et seq.

Section 16-26 Household solid waste containerization and removal.

(a) All residences located in any area in which collection is by the city or approved contractors shall have sufficient container capacity to accommodate their normal volume of solid waste between collections.

(b) All items too large to fit into containers such as, but not limited to, appliances, furniture and mattresses shall be disposed of only in accordance with the provisions outlined in article III of this chapter.

(c) All loose materials which normally fit into containers but which are excess as a result of special circumstances such as holidays shall be bundled and tied securely to prevent them from blowing or scattering and shall be placed beside the containers.

(d) Containers shall be kept covered at all times.

(e) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the city services commission. Failure to comply will result in a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. 03-18-2004; A0173-12)

(f) In placing containers for collection and removing them after collection, all residents shall follow the practices prescribed by the city services commission in article III of this chapter. (A0173-12)

(g) It shall be unlawful for any resident to deposit household solid waste in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians.

(h) It shall be unlawful for any person not residing within the limits of the city or a corporation, institution or organization not located within the limits of the city to place household or commercial solid waste on the streets of the city for removal by the city or its approved contractor.

(i) Requirements for storage of refuse and trash cans.

(1) Storage of all trash and trash containers, when not set out for collection in accordance with Section 16-55, shall meet one or more of the following requirements:

a. Stored in the yard behind the primary residential or commercial structure,

b. Stored in the garage,

c. Stored in the side yard of the primary residential structure.

(2) The code enforcement director or city services director may grant exceptions in neighborhoods where certain housing types prohibit compliance with storage requirements. (Ord. of 9-30-85, Part. II, § 5) (A0110-10)

Section 16-27 Commercial solid waste containerization and removal.

(a) All establishments and institutions which generate solid waste for collection by the city or approved contractors shall abide by the waste container requirements prescribed by the city services commission. (A0173-12)

(b) Containers shall be covered at all times.

(c) Any container which does not conform to prescribed standards or which has defects likely to hamper collection or injure the person collecting the contents thereof or the public generally shall be replaced promptly by the owner or user of the container upon receipt of written notice of such defects from the city services commission. (A0173-12)

(1) Failure to do so within five (5) days of such notification shall constitute a violation of this section.

(d) It shall be unlawful for any owner, manager, or employee of a commercial establishment or institution to deposit solid waste from that establishment or institution in any receptacle maintained on a sidewalk or at any other location for disposal of litter by pedestrians. (Ord. of 9-30-85, Part. II, § 6)

Section 16-28 Provisions for facilities at new buildings.

(a) Before building permits shall be issued for construction of commercial buildings and multiple-dwelling units, plans for the adequacy, location and accessibility of solid waste containerization and storage facilities must be approved by the city services commission. (A0173-12)

(b) No certificate of occupancy shall be issued for such premises until the city service commission's approval of these facilities has been obtained. (A0173-12) (Ord. of 9-30-85, Part. II, § 7)

Section 16-29 Keeping property clean.

(a) Every owner, agent, occupant or lessee shall keep exterior private property free of litter. This requirement applies not only to the removal of loose litter, but to materials that already are, or become, trapped at such locations as fence and wall bases, grassy and planted areas, borders, embankments and other lodging points.

(b) Owners, agents, occupants or lessees whose properties face on municipal sidewalks and strips between streets and sidewalks shall be responsible for keeping those sidewalks and strips free of litter.

(c) It shall be unlawful to sweep or push litter from sidewalks and strips into streets. Sidewalk and strip sweepings must be picked up and put into household or commercial solid waste containers.

(d) Every owner of a vacant lot or other vacant property shall appoint an agent who shall have responsibility for keeping that lot or other property free of litter and the growth of excess vegetation which traps litter and encourages dumping. (Ord. Of 9-30-85, Part II, C8: Ord. of 5-27-88) (Ord of

03-03-2005) (Ord of 3-30-2005)

Section 16-30 Enforcement authorization.
Designated personnel in the following departments or boards are authorized to enforce sections of this article as prescribed below:

(a) Police department. Regular police officers are empowered to enforce the provisions of this article.

(b) Executive Director of City Services. The executive director of City Services is authorized to delegate enforcement authority to such agents as he deems appropriate. Such authority is applicable to the entire article except where prohibited by police authority. (Ord. of 06-25-2001)

(c) In pursuance of their normal work, inspectors in the following departments and agencies are authorized to enforce the following sections:

(1) Building department.

a. The building department may enforce sections 16-25 and 16-28.

(2) Fire department. The fire department may enforce:

a. Section 16-26, wherever violations of the household solid waste containerization ordinance constitute existing or potential fire hazards.

b. Section 16-27, wherever violations of the commercial solid waste containerization ordinance constitute existing or potential fire hazards.

c. Section 16-29, wherever violations of the clean property ordinance constitute existing or potential fire hazards.

(3) Health department. The health department may enforce:

a. Section 16-26, wherever violations of the household solid waste containerization ordinance constitute existing or potential health hazards.

b. Section 16-27, wherever violations of the commercial solid waste containerization ordinance constitute existing or potential health hazards.

c. Section 16-29, wherever violations of the clean property ordinance constitute existing or potential health hazards.

(4) Housing authority. The housing authority may enforce:

a. Section 16-26, where there are violations of the household solid waste containerization ordinance at Housing Authority property.

b. Section 16-29, where there are violations of the clean property ordinance at Housing Authority property.

(5) Park department. The park department may enforce:

a. paragraphs (a) and (c) of section 16-22 with respect to parks and playgrounds in the city. (Ord. of 9-30-85, Part. III)

Section 16-31 Penalties.
(a) Any person who shall fail to comply with the provisions of this article will be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 3-30-2005)(Ord. of 10-21-2005)

Section 16-32 Orderly disposal of solid waste.
Anyone except an authorized agent of the City of Everett who opens a container placed on the sidewalk for collection or removes items from a container placed on the sidewalk for collection shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Ord. of 05-19-2004)

Section 16-33--16-50 Reserved.

ARTICLE III. COLLECTION AND DISPOSAL OF SOLID WASTE

DIVISION 1. GENERALLY

Section 16-51 Definitions.
The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Acceptable waste means and includes:

(1) Solid waste. Rubbish, garbage, and other discarded materials with insufficient liquid content to be free flowing, but excludes solids or dissolved materials in domestic sewage or other water pollutants.

(2) Garbage. All waste, animal, fish, fowl, fruit or vegetable matter produced or resulting from the use or storage of food.

(3) Rubbish. Domestic solid, combustible and incombustible waste other than garbage.

(4) Ordinary commercial waste. General and usual waste that accumulates on the premises of any grocery, market, store, restaurant or other such like small business enterprise operating for profit, and not exceeding seven (7) fifty-five (55) gallon size not to exceed fifty pounds (50 lbs) each. Each barrel shall contain the name of the business and the address of the business. The letters in each barrel shall be visible from a distance of ten feet (10'). (03/18/2004) (Ord of 9/21/2004)

a. Each commercial building shall not have more than ten (10) fifty-five (55) gallon barrels placed out for collection per week. The building owner will be subject to a fine in accordance with Section 1-8 of the Revised Ordinances of the City of Everett for any

additional barrels placed out for collection. (Ord. 3-18-2004)

(5) Garden and lawn waste. Includes grass, leaves, brush, tree trimmings, and vine or shrub trimmings not amounting to tree waste.

(b) Non-acceptable waste means and includes:

(1) Bulk means any one item larger than one (1) cubic yard and weighing not more than fifty pounds (50 lbs). (Ord of 03-18-2004; Ord of 04-08-04)

(2) Extraordinary commercial waste. Waste as defined and set forth in (4) above in excess of five (5) barrels or the equivalent thereof each week.

(3) Motor vehicles and large machinery. Any abandoned, junked or inoperative motor vehicle, motor vehicle parts or other large machinery.

(4) Building and construction waste. Discarded materials resulting from or non-usable in the construction, alteration, or repair of structures including, but not limited to: stones, plaster, brick, excavated earth, concrete, lathing, roofing materials, siding materials, lumber, and structural materials, chain link fences, fence posts, plumbing fixtures, masonry debris and electrical debris. (Ord of 03-18-2004)

(5) Animal remains. The carcass of any dead animal.

(6) Industrial waste. Wasted materials from factories, processing plants, and other manufacturing enterprises.

(7) Tree waste. Tree stumps, trunks or limbs which exceed five (5) inches in diameter or forty-eight (48) inches in length.

(8) White Goods. Includes items such as, but not limited to, washing machines, clothes dryers, hot water heaters, air conditioners, large household or office furniture and commercial equipment. (Ord. of 3-22-76, § 32A(II); (Ord. of 03-18-2004)

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Note: In 16-51(b)(1), the word “not” was removed before the word “more” during codification to conform to the original intention of the ordinance.

Section 16-52 Responsibility of city services commission.
The city services commission shall cause acceptable solid waste to be collected and shall provide for the disposal of such waste. (Ord. of 3-22-76, § 32A(I), A0173-12)

Cross reference(s)—--City services commission, § 2-176 et seq.

Section 16-53 Duty of occupants, owners.
(a) The occupant or occupants of every single-or two-family dwelling, the owner or agent of every dwelling housing more than two (2) families, and the owner or operator of any business enterprise,

shall remove non-acceptable waste at sufficiently frequent intervals to prevent a nuisance as may be determined by the city services commission or its designee. (A0173-12)

(b) The occupant or occupants of every single-or two-family dwelling, the owner or agent of every dwelling housing more than two (2) families, and the owner or operator of any business enterprise shall, whenever waste accumulates, provide, keep clean and in good repair proper and sufficient containers for the storage of solid waste. (Ord. of 3-22-76, § 32A(I)

Section 16-54 Disposal of waste.

(a) Non-acceptable waste to be collected by private collectors or to be collected and removed by an occupant, owner, owner's agent, or operator shall be stored, handled and placed for collection in a manner as to prevent a nuisance as determined by the city services commission or its designee. Such waste shall not be placed or stored on any public street or way except by permission of the city services commission or its designee under such reasonable terms as the city services commission or its designee shall determine. (A0173-12)

(b) Private collectors of solid waste may collect acceptable and non-acceptable waste within the city subject to the rules and regulations issued by the city services commission and any applicable provisions of the General Laws. (A0173-12)

(c) When the executive director of city services or his designee refuses to remove solid waste for just cause, the occupant, owner, owner's agent, or operator responsible under the provisions of section 16-53(b) shall remove the same forthwith at no expense to the city. (Ord. of 3-22-76, § 32A(III); A0173-12)

State law reference(s)--Permit for removal and transportation of garbage etc.; M.G.L. c. 111, § 31A.

Section 16-55 Time, place of collection.

(a) Acceptable solid waste and recyclable materials shall be placed in suitable containers at the outer edge of the sidewalk appurtenant to the premises of the occupant or owner not later than 7:00 a.m. on the day of scheduled collection, and not earlier than sunset of the day preceding the day of scheduled collection. Reusable solid waste containers and recycling containers shall be removed from the sidewalk after collection as soon as possible but in no case later than 12:00 midnight of the day of scheduled collection.

(1) No waste or recycling container placed out for collection shall extend beyond the boundaries of the property line abutting the sidewalk as to obstruct the walkway on the sidewalk.

(b) Acceptable solid waste shall be collected in accordance with a schedule published by the city services commission. (A0173-12)

(c) No person shall willfully or maliciously tip over or spill the whole or any part of the contents of any container, holding rubbish. (Ord. of 3-22-76, § 32A(IV)) (A0266-08)

Section 16-56 Administration and enforcement.

(a) The city services commission shall adopt, revise, revoke and enforce rules and regulations governing the management of solid waste and the administration of this article. (A0173-12)

(b) Any person who shall fail to comply with the provisions of this article will be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett.

(c) The city services commission or its designee shall periodically inspect all phases of the municipal solid waste management system within and without the city. (A0173-12) (Ord. of 3-22-76, § 32A(V); Ord. of 12-28-2000; Ord. of 03-18-2004)

Section 16-57--16-70 Reserved.

DIVISION 2. DUMPSTERS

Section 16-71 Definitions.

(a) The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) Contractor means the person owning or having legal title to a dumpster.

(2) Dumpster means any receptacle used for the collection and storage and transportation of rubbish, garbage, offal and other substances and materials, with a lid or covering satisfactory to the enforcing agencies.

(3) Owner means that person having title to the land upon which the dumpster is located, the permit holder and representatives of the permit holder, or his designee who resides on the premises where a dumpster is located. The name and address of the owner and designee shall be on file in the Board of Health Office. (Ord. of 7-19-82, § 1; Ord. of 3-14-88)

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

Section 16-72 Enforcing agencies; issuance of permit, license.

(a) The Board of Health and/or Fire Department are hereby designated as the enforcing agencies of this division, according to their respective powers and duties.

(b) Any temporary permit or annual license required under this division shall be issued by the board of health. (Ord. of 7-19-82)

Section 16-73 Location.

Each dumpster must be located at a distance from the lot line so as not to interfere with the safety, or destruction of the curb and sidewalk, convenience or health of abutters and residents and public, and location of dumpsters shall be subject to approval of the Board of Health and the Fire department. (Ord. of 7-19-82, § 2)

Section 16-74 Screening.

All dumpsters in residential areas shall be covered with a screen. When deemed necessary by an enforcing agency it shall be required that a dumpster site be enclosed or screened by the owner or his authorized agent. (Ord. of 7-19-82, § 3)

Section 16-75 Hours for use; protection when not in use.

(a) No dumpster shall be filled between the hours of 11:00 p.m. and 7:00 a.m., in or upon residential property.

(b) All dumpsters on commercial property shall be filled prior to the close of the working day, but not later than 6:00 p.m., unless special circumstances are shown to the enforcing agencies who then, at their discretion, may grant an extension of time.

(c) All dumpsters must be covered and secured at all times, except during the actual filling thereof. (Ord. of 7-19-82, § 4)

Section 16-76 Size.

(a) Each dumpster shall be of sufficient size and capacity, shall not be filled to overflowing and avoid noisome odors. he owner or his agent utilizing the dumpster service must take appropriate action to immediately cause the dumpster to be empty of its contents when full.

(b) The Board of Health may refuse an annual license or temporary permit, if in its discretion, the size or capacity of the dumpster does not fulfill the requirements of the board. (Ord. of 7-19-82, § 5)

Section 16-77 Obstruction of traffic.

(a) Each dumpster shall be situated so as not to obstruct the view of flowing traffic. No dumpster shall be placed or parked on a public way.

(b) If, in the opinion of the Board of Health, the primary department responsible for issuing permits, and the concurring approval of the following departments; city services, Police department, and Fire department, that a condition exists requiring the temporary placement of a dumpster on a public way, then a temporary permit may be issued. (A0173-12)

(1) If a temporary permit is issued for parking a dumpster on a public way, then such dumpster shall be clearly illuminated at night by lights or reflective materials.

(2) The Police Chief, or his designee, may require additional illumination.

(c) The Police Chief or his designee are hereby given authority to remove a dumpster from a public way that does not meet the requirements of this division or presents a threat to public safety.

(1) The cost of removal and storage of the dumpster shall be paid by the owner as defined in section 16-71. (Ord. of 7-19-82, § 6; Ord. of 3-14-88)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.; permit required, § 17-81.

Section 16-78 Maintenance, notification of violation.

(a) It shall be the responsibility of the owner as defined in Section 16-71 to:

(1) Maintain the dumpster area free of odors, scattered debris, overflowing and all other nuisances;

(2) Clean and disinfect said containers as needed with a minimum of three times a year on April 30th, July 30th, and October 30th;

(3) Deodorize dumpster when emptied or as directed by order of the Board of Health;

(4) Maintain covers and gates in proper working order;

(5) Bait around perimeter of dumpster if required by the Board of Health;

(6) Submit a maintenance plan for said dumpsters to the Health Department with said permit;

(7) Make maintenance records readily available for review by inspectors.

(b) An owner notified of a violation of any of the foregoing offenses, shall within 12 hours of notification cause the offense to be remedied or shall be in violation of this chapter. (Ord. of 7-19-82, § 7; amended C0369-16)

Section 16-79 Permit required, term, fee.

(a) An owner as defined in section 16-71 shall be required to have a plot plan showing location of dumpster and permit from the Board of Health for each dumpster in use upon his property.

(b) All permits shall expire at the end of the calendar year in which they were issued, but may be renewed each year on application as herein provided.

(c) Each permit issued hereunder shall cost sixty-five dollars ($65.00) for the year in which they are issued. (Ord. of 7-19-82, § 8)(Ord. of 3-4-99)

Section 16-80 Contractors' permit.

(a) No contractor shall supply a dumpster service in the city for the purpose of storage, removal or transportation of rubbish, garbage, offal and other materials and substances without first obtaining a permit from the board of health.

(b) All permits shall expire at the end of the calendar year they are issued, but may be renewable upon application annually as herein provided.

(c) The permit shall cost sixty-five dollars ($65.00) for the year in which they are issued and shall be payable upon the issuing of the permit. (Ord. of 7-19-82, § 9)(Ord. of 3-4-99)

Section 16-81 Temporary permits.

(a) Temporary dumpster permits (roll-off or gondola type) will be issued to an owner for a period of time not to exceed thirty (30) days, in connection with construction, demolition, fairs, carnivals or for other similar temporary needs.

(1) Such permit may be renewed for an additional thirty (30) days as the need requires and upon proper application.

(b) The owner shall comply with all the provisions of this division which are applicable to the

operation of the dumpster.

(c) There shall be a fee of twenty-five dollars ($25.00) payable upon the issuing of the permit and twenty-five dollars ($25.00) fee for each renewal thereof. (Ord. of 7-19-82, § 10)(Ord. of 3-4-99)

Section 16-82 Display of contractor's name.
The contractor shall have his or his firm's name and business telephone number conspicuously displayed on the dumpster. (Ord. of 7-19-82, § 11)

Section 16-83 Hours for emptying.
The emptying of the contents of the dumpster or its removal shall not commence before 7:00 a.m. nor continue after 6:00 p.m. (Ord. of 7-19-82, § 12)

Section 16-85 Application of division.
This division shall apply to all dumpsters used anywhere in the city. (Ord. of 7-19-82, § 14)

Section 16-86 Penalty for violation.
Any person found guilty of a violation of any of the provisions of this division shall be fined in accordance with Section 1-8. (Ord. of 7-19-82, § 16)

Section 16-87--16-110 Reserved.

ARTICLE IV. RECYCLABLE MATERIALS

Section 16-111 Purpose.
The purpose of the article is to prohibit the removal of recyclable material by unauthorized persons. (Ord. of 11-27-95(2))

Section 16-113 Beverage container collectors.
(a) Collectors of redeemable containers of beverages shall be permitted by the City Clerk's office; and to pay a fee established by the City Clerk.

(b) Collectors shall have said permit available for inspection while performing said task.

(c) Collectors shall remove no other recyclable items, such as metals, products made of recyclable materials or items for the purpose of resale, without first securing a junk collector's license.

(d) Collectors shall follow such rules and regulations as set forth by the Inspectional Services Department.

(e) The ordinance codified in this section shall take effect upon passage by the City Council and approval by his Honor the Mayor. (C0334-16)

Chapter 17.
STREETS AND SIDEWALKS

ARTICLE I. IN GENERAL

Section 17-1 Names and destinations; erection of signposts.

(a) The names and destinations of the streets, ways, squares and public places of the city shall remain as heretofore established, except that the city council may change and alter the same as provided in this section.

(1) Before making any alteration or change in the name and destination of any street, way, square or public place the city council shall hold a public hearing with relation thereto, first giving proper notice of the time and place of such hearing together with a statement of the proposed alteration or change.

(2) Such notice may be served by publication at least once in a newspaper published in the city and by delivering a copy of such notice to the abutting property owners on the street, etc., to be affected by the change in the name and destination.

(b) The city council shall establish the names of all streets, highways and public places hereafter laid out and accepted by the city, or by any other authority within the city, and shall cause signposts to be erected designating such names, and the names of all streets or ways laid out and accepted. (Ord of 1-28-04)

(c) No public way or part thereof, or square, shall be named or dedicated in the name of a person, unless such person's name has the approval of the Director of Veteran's Affairs. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 1; Ord. of 6-13-83(1), § 1A) (Ord of 01-28-2005)

Section 17-2 Minimum width.

No street or public way shall be constructed to a width of less than forty (40) feet; provided, however, to accept a street or way less than forty (40) feet in width, a plan and profile shall be approved by the planning board, approved by the city engineer, and adopted by a two-thirds vote of the city council. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 3) (A0173-12)

Section 17-3 Construction--Laying out, Alterations, etc.

(a) Every petition for the laying out, widening, altering, discontinuing or defining lines of streets or ways must have endorsed thereon the approval of the planning board, and shall be accompanied by a copy of an approved plan and profile, showing the present length, width, lines and grade of the street which it is proposed to have laid out, widened, altered, discontinued or defined; the abutting lands, with the fences and buildings thereon, and the length of frontage of each estate; the land to be taken and the names of the owners of such lands; also showing, in red ink, the proposed lines and grade of such street, and giving sufficient reference to stakes or other boundary marks on the premises, to enable the city engineer to locate such street with accuracy.

(b) Such plan shall be accompanied by an agreement referring thereto, bearing the signatures of such owners, parties and other parties in interest as may be willing to release all claims and demands against the city for property or other damage that may arise out of the proposed change in

accordance with such plan, together with the amount of damage.

(c) A list of the names of all owners, and other parties in interest who may decline to release or state their prospective damages shall be filed also. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 5)

Section 17-4 Same--Hearing; action.

(a) The city council before passing any order for laying out, accepting, widening, altering, discontinuing or defining the lines of any street or way shall issue an order of notice as to the proposed action for a public hearing thereon before the city council.

(b) Such notice shall be published for two (2) successive weeks in some newspaper published in the city, the last publication to be at least seven (7) days before such hearing, and such additional service thereof as may be prescribed by law.

(c) Such notice shall state the time and place appointed for such hearing. The city council shall act upon the proposed resolve or order for the laying out, accepting, widening, altering, discontinuing or defining the lines of such street or way, and upon all questions relating thereto. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 7) (A0173-12)

Section 17-5 House numbering.

(a) Every dwelling house and other structure shall have proper street numbers affixed thereto in the manner designated by the city engineer.

(b) The owner of any building, or part of a building, who neglects or refuses to affix to the same the numbers designated by the city engineer or who shall affix or retain there, for more than three (3) days, any number contrary to such direction, shall be in violation of this section. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 8). Cross reference(s)--Buildings and building regulations, Ch. 4.State law reference(s)--Authority of cities to provide by ordinance for the numbering of buildings, M.G.L. c. 40, § 21(10).

Section 17-6 Obstruction in streets and gutters.

(a) Except as provided in this chapter, no person shall place or deposit, or permit to be placed or deposited, in any public way, any impediment or obstruction of any kind, including snow or ice from private premises, without a permit from the city services commission; nor occupy or obstruct any public way to interfere with the convenient use of the same for public travel. (A0173-12)

(b) The number of street corner boxes allowed, such as newspapers, real estate, employment, etc., at any public location, shall be limited to three. (Ord. 2-27-01)

(c) Private property means and includes, but is not limited to, the following exterior locations owned by private individuals, firms, corporations, institutions or organizations; yards, grounds, driveways, entranceways, passageways, parking areas, working areas, storage areas, vacant lots and recreational facilities.

(d) Public property means and includes, but is not limited to, the following locations: streets, street medians, roads, road medians, catch basins, sidewalks, strips between streets and

sidewalks, lanes, alleys, public rights-of-way, public parking lots, school grounds, municipal housing project grounds, municipal vacant lots, parks, beaches, playgrounds, other publicly-owned recreation facilities, and municipal waterways and bodies of water.

(e) A police officer may arrest, without a warrant, any person who in his presence violates this section.

(f) Whoever is in violation of this section shall be subject to a fine in accordance with Section 1-8 of these Revised Ordinances of the City of Everett. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 21; Ord. of 8-15-94; Ord. of 04-08-2004)

Cross reference(s)--Solid waste management, Ch. 16.

Section 17-6A Removal of snow from sidewalks.
(C0099-14)

(a) This section shall only apply during a snow emergency as called by the police chief or his designee.

(b) This section shall apply to all residences, businesses and all other properties abutting a paved sidewalk – including, but not limited to properties owned by the Commonwealth of Massachusetts, all departments and agencies of the city, houses of worship and non-profit entities. All provisions of this section shall apply to both natural and unnatural accumulations of snow.

(c) The owner of land or of a building abutting any highway, street, lane, court, square or public way, where there is a footway or sidewalk duly established in the city shall make said sidewalk convenient for public use or travel by removing any accumulated snow thereon.

(d) Sidewalks should be cleared to provide a minimum passage of thirty-six (36) inches in width or approximately two-thirds (2/3) the sidewalk's width, whichever is less.

(e) All snow must be removed from property described in subsections (b) and (c) of this section within twelve (12) hours of the formal declaration that the snow emergency has ended. In the event of an unusually heavy snow fall or other exigent circumstances, the time limit may be extended at the discretion of the executive director of the department of public works or his agent.

(f) Waiver. To qualify for a waiver, all owners of record must occupy the premises as their primary residence. Application for a waiver must be submitted, with all supporting documentation, to the office of assessing by the first day of November preceding the upcoming winter. If these two (2) requirements are satisfied, waivers shall be granted in the following circumstances:

(1) A waiver shall be awarded if all owners qualify for and receive the elderly exemption on their property taxes;

(2) A waiver shall be awarded if all owners are deemed physically incapable of complying with this section and whose combined annual income does not exceed one hundred thirty-three percent (133%) of the federal poverty level. A letter, from a medical doctor, stating that a

disability exists that prevents the home owner from shoveling must be provided to the city;

(3) Owners of multi-unit residential dwellings shall be eligible for waivers if all of the following applies:

a. All owners of record occupy the premises as their primary residence; and

b. All owners of record meet criteria provided elsewhere in this provision.

Any waiver granted shall be valid for one year from the date of issuance. The office of assessing shall maintain a list of all waivers granted.

(g) Fines. Whoever is in violation of this section shall be subject to a fine in accordance with Massachusetts General Law, Chapter 85, Section 5.

(h) Trial period

(1) The first two (2) years after adoption of this section shall be deemed a trial period.

(2) During this trial period, the first two (2) offenses of this section shall be punished by warning.

(3) The third offense shall be punished by a fine of twenty-five dollars ($25.00).

(4) Any subsequent offenses shall be punished by a fine of fifty dollars ($50.00).

(5) Each twenty-four (24) hour period of continued violation, following notice of the initial violation to the owner by the city, shall constitute a separate offense for which a separate and additional fine may be imposed.

(6) The fine structuring system, as indicated above, shall restart with each declared snow emergency.

(i) Appeals. Fines shall be appealed in accordance with Massachusetts General Law, Chapter 40U.

(j) Severability. Should any subsection or portion of this section be declared invalid by a court of competent jurisdiction, that decision shall not affect the validity of the section as a whole or any part thereof, other than that portion so declared to be invalid.

Section 17-7 Fences or buildings on lines of public ways.

(a) No person shall erect, or cause to be erected, any fence or building on the line of any public way without first ascertaining the bounds of the street from the city engineer.

(1) If any encroachment shall be made upon any street or way, and the party making it neglects or refuses to remove the same after notice so to do, the city services commission may remove the same at the expense of the owner and shall cause the persons so offending to be prosecuted for such offense. (A0173-12)

(b) No person shall erect any fence to a height of less than eight (8) feet above ground level on any side that has barbed wire or razor wire mounted on the top of such fence.

(1) Any fence erected with barbed or razor wire mounted on the top is prohibited on or adjacent to residential use property. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 23; Ord. of 11-27-95(3)

Cross reference(s)--Buildings and building regulations, Ch. 4.

Section 17-8 Gasoline, etc., pumps in sidewalks.
No person shall be granted a permit or license to erect a gasoline pump or pump of similar nature in the sidewalk of any public street or way within the city. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 24)

Section 17-9 Encroachment by gates, doors.
No person shall allow any gate or door belonging to premises under his legal control, and adjoining any public way, to swing on, over or into a public way. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 26)

Section 17-10 Openings, etc., to cellars, basements, etc., in public way--Permit required.
No person shall erect or maintain a passageway or other opening to any cellar, basement or other structure in or upon any public way, without a license therefor from the city council, and shall execute a bond to the city in such a sum as the city council may prescribe. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 27) (A0173-12)

Section 17-11 Same--Guards and lighting.
(a) No platform or grate covering the entrance or passageway to a cellar or basement, or any shaft or light shaft leading to a cellar or basement, in any public way, shall project above the even surface of such way.

(b) Every such entrance, passageway or shaft shall be kept covered with a suitable platform or grate, or shall be guarded and protected by a sufficient railing on both sides thereof, and well lighted at night.

(c) Whenever such platform, grate or railing shall be adjudged unsafe by the city services commission, the owner thereof shall be notified without delay and shall replace the same with a safe and proper platform, grate or railing forthwith. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 28) (A0173-12)

Section 17-12 Selling articles or goods in public ways.
(a) No person shall, without a permit from the Chief of Police, sell in a public way or from any building, any goods or articles to any person on such way.

(b) No person shall place or permit to remain on a public way for more than ten (10) minutes any goods or articles of which he is the owner or in charge.

(c) No person shall stand in a roadway for purpose of soliciting a ride, employment or business from the occupant of any vehicle.

(d) No person shall stand in a roadway for purpose of soliciting contributions from the occupant of

any vehicle without first obtaining a permit from the Chief of Police.

(1) Said permits shall be limited to:

a. A veterans' organization chartered by the Congress of the United States;

b. A church or religious organization;

c. A fraternal or fraternal benefit society;

d. An educational or charitable organization;

e. A civic or service club; or

f. Other clubs or organizations operated exclusively and for non-profit purpose.

(2) Said organizations shall have been organized and operating in Everett; and have evidence of their non-profit IRS status.

(3) Said organization shall provide the Chief of Police with the locations, dates and times of the solicitations; and in the case of Youth Organizations, a plan for adequate adult supervision.

(e) No person shall stand directly in a lane of moving traffic on any street or roadway and stop or attempt to stop and engage any person in any vehicle for the purpose of soliciting contributions; or sell or attempt to sell anything to any person in any vehicle; or hand or attempt to hand to any person in any vehicle any circular, advertisement, handbill or any political campaign literature, or any sample, souvenir or gift; or in any other manner, in an attempt to interfere with the normal flow of traffic for any other similar purpose. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 30; (A0398-06)(A0556-06)

Cross reference(s)--Licenses and business regulations, Ch. 12.

Section 17-13 Raising or lowering merchandise over streets.
No person shall raise into, or lower from, the second or any higher story of a building, over any portion of a public way, any article of merchandise, except in accordance with a permit from the city services commission, and such person shall execute a bond to the city in such a sum as the city services commission may prescribe. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 31) (A0173-12)

Section 17-14 Washing vehicles in streets prohibited.
No person shall wash any vehicle in any public way in the city. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 36)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 17-15 Signs, awnings, canopies, etc.
(a) No person shall place or maintain any sign, awning, or canopy, that projects more than 12 inches over the public way without first obtaining a license from the city council. (A0173-12)

(1) Such license may contain terms and conditions as the city council may require. (A0173-

12)

(2) The person so placing or maintaining the same shall also conform to any directions given by the city services commission and/or the Inspector of Buildings. The property owner where such sign, awning, or canopy is to be located shall execute a bond to the city in such a sum as the city council may prescribe. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 39) (A0173-12)

Section 17-15.5 Protective barrier and grates.

(a) No person shall place or maintain a protective barrier or grate on any window or entrance in a building without first obtaining a license from the city council. (A0173-12)

(b) Such license may contain terms and conditions as the city council may require. (A0173-12)

(c) No license shall be granted unless approval has been received from the fire chief or his designee.

(d) The person or persons so placing and or maintaining the same shall also conform to any directions given by the city services commission and or the inspector of buildings. (A0173-12)

(e) The property owner where such barrier or grate is to be located shall execute a bond to the city in such a sum as the city council may prescribe. (Ord. of 8-19-96(2); A0173-12)

Section 17-16 Moving buildings.

No person shall move a building in a public way without a license from the city council, to be granted upon such terms as in its opinion public safety may require, and such person shall execute a bond to the city in such a sum as the city council may prescribe. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 40) (A0173-12)

Cross reference(s)--Buildings and building regulations, Ch. 4; traffic and motor vehicles, Ch. 18.

State law reference(s)--Permission to move buildings, M.G.L. c. 85, § 18; cutting of wires in order to move buildings, M.G.L. c. 166, § 39.

Section 17-17 Sidewalk construction--Supervision, materials, etc.

Every sidewalk ordered to be constructed or completed within the city shall be built or completed under the direction of the city services commission. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 44) (A0173-12)

Section 17-18 Obstructing sidewalks and public ways.

No person shall stand on any sidewalk or public way in such a manner as to obstruct free passage for pedestrians or vehicles. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 49)

Section 17-19 STREETS, TEMPORARY BLOCKING OF.

(a) Purpose. The purpose of this section is to provide for the temporary blocking of city streets, highways and roads in a safe manner to allow neighborhoods to have neighborhood block parties, celebrations, graduation parties, or other like events.

(b) Definitions. As used in this chapter, the following terms shall have the meanings indicated:

(1) PARTY—A neighborhood block party, celebration or event but shall not include a garage sale, yard sale, bazaar, rummage sale or other similar activity having the principal purpose as fundraising for an individual or organization, nor shall it include a political meeting or rally, carnival or theatrical or musical performances, such as rock concerts or similar events.

(2) STREET—A city street, highway or road.

(c) Permit required; application.

(1) Any person, before blocking or barricading a road in the City of Everett for purposes of holding a block party, celebration, graduation party, or other like event, shall obtain a permit from the City Clerk or his designee.

(2) The City Clerk or his designee shall be authorized, with the further approval of the Chief of Police, the Fire Chief and the Director of City Service or their designees, to issue a permit for the temporary blocking of a street for the purpose of holding a party. Such permit shall allow the temporary blocking of a road on one (1) particular date only, and during a specified time period which shall be of a single duration. An application for such permit shall be filed with the City Clerk or his designee at least fourteen (14) days before the commencement of such party. Such application shall contain the following information:

a. The name and address of applicant.

b. Declaration of approval signed by at least seventy-five percent (75%) of the residents of the proposed block;

c. The name of the street or streets and the description of the portions thereof to be blocked; major arteries and bus routes exempted.

d. A description of the specific party to be held.

e. The date and the hours thereof; holidays and weekends only.

(3) The specific nature of the form of the permit shall be determined by the City Clerk or his designee.

(d) Determination of approval or disapproval of permit application. The permit shall be granted by the City Clerk or his designee upon determining that the permit bears the signature of the Chief of Police, the Fire Chief, and the Director of City Services or their designees and that the party is consistent with the provisions of this section and all applicable sections of the Revised Ordinances of the City of Everett. The permit shall be denied if it is not signed by the Chief of Police, the Fire Chief, and the Director of City Services or their designees or if either finds that blocking the street or portion thereof on the date requested in the application will unduly interfere with the flow of vehicular traffic or upon determining that the party is not consistent with the provisions of this section and all applicable sections of the Revised Ordinances of the City of Everett. The City Clerk shall advise the applicant, in writing, of the reason for denial of the application.

(e) Duration of permit; time limitations. A permit issued pursuant to this chapter shall be valid only for the date and hours specified thereon, which shall not be before 8:00 a.m. or after 10:00 p.m.

(f) Cleanup required. The applicant shall be responsible for the removal of litter, debris and other materials from the street or portion thereof used for the party that is attributable to or caused by the party.

(g) Blocking of roads.

(1) Prior to the commencement of the time for which the road is to be blocked, the Director of City Services or his designee shall cause the street or portion thereof to be blocked by devices of his choice to motor vehicles except authorized emergency or hazard vehicles, as the same are defined in this Chapter and by Massachusetts General Law, and to provide detour signs for vehicular traffic. No other person shall in any manner block or place barricades in the road.

(2) A street, or portion thereof, blocked off for a party shall not be obstructed by picnic tables and shall not be obstructed by other obstacles which cannot be readily moved to allow emergency or hazard vehicles to enter in response to an emergency.

(3) The City Clerk or his designee shall notify the Department of City Services, the Everett Police Department and Everett Fire Department of the date and time of the road blocking at the time the permit is issued by telephone call followed by written confirmation.

(h) Limitation on number of permits issued. No more than two (2) permits shall be granted by the City Clerk in any calendar year for the same neighborhood.

(i) Alcohol consumption prohibited. No alcoholic beverages shall be consumed on the public way, streets or sidewalks.

(j) Liaison Assigned, police detail.

(1) The Chief of Police or his designee may assign an on-duty uniformed police officer as a liaison to said function. Assigned officer may monitor function via unannounced observations of function.

(2) The Chief of Police reserves the right to request that a paid detail be provided for functions involving over fifty (50) people.

(k) Liability. The persons, organization or association to whom the permit is issued shall be liable for all losses, damages or injuries sustained by any person, whether a participant or spectator at the block party or recreational event, whether or not said losses, damages or injuries arise by reason of the negligence of the person, persons or organization to whom such permit shall have been issued. The Office of the City Solicitor shall require the applicant to enter into a hold-harmless agreement, which agreement shall provide that the applicant shall agree to save and hold the City harmless of and from any and all obligations and liabilities which may arise from the temporary

street closing which represents the subject matter of the application. The applicant shall further agree as part of these provisions to hold harmless the City and to defend at his own cost and expense any claims or lawsuits instituted by third parties, which obligations or liabilities might otherwise exist or be asserted against the City. The Office of the City Solicitor shall further have the option to require that, prior to the issuance of a permit or commencement of the temporary street closing for commercial advertising purposes or profit, the applicant submit evidence of liability insurance covering damages to property and injuries to members of the general public arising out of the temporary street closing in such amounts as may be determined by the Office of the City Solicitor.

(l) Penalties for offenses. Any person, firm or corporation who shall violate any provision of this chapter shall be subject to a penalty under section 1-8, in addition to any and all applicable state and local fines. Each day's continued violation shall constitute a separate offense.

Section 17-20--17-50 Reserved.

ARTICLE II. EXCAVATIONS

Section 17-51 Permits, applications, fees, fines and insurance.

(a) Permits.

(1) No person shall break or dig up the ground or pavement in any street, sidewalk, or way without first obtaining a permit from the city services commission, in writing, for such periods of time, and under such limitations and restrictions, issued by the city services commission. The permit shall state the times and dates on which work may be done. (A0173-12)

(2) Permits shall be issued only upon the following conditions:

a. Payment of a non-refundable application fee of fifty dollars ($50.00).

b. Presentation of a performance or payment bond of five thousand dollars ($5,000.00) for each street opening permit; or guarantee thereof.

c. Presentation of a certificate of insurance evidencing one million dollars ($1,000,000.00) of general liability insurance naming the city on its face or evidence of self-insurance.

d. Any city services activities shall be exempt from the permit, fee, fine, bond and insurance requirements. (A0173-12)

(3) No permit shall be issued to break any pavement structure of a street, sidewalk or any way which is five (5) years or less in age; provided that the city services commission may issue a permit where, in the opinion of its director, the immediate health, safety, or convenience of the public requires that the street, sidewalk, or way, be opened. The age of any pavement structure shall be determined from the date of the final acceptance of its construction, reconstruction, or repair. The permittee shall be required to replace the pavement shall be required to replace the pavement structure to its original state. (A0173-12)

(4) Prior to the commencement of work, the permittee shall notify the city services department who shall notify the police and fire department of the person in charge of such work who may be contacted after regular working hours. (A0173-12)

(5) Any permit may be revoked or cancelled by the city services commission at any time whenever the permittee fails to comply with any terms or conditions under which the permit was granted or when, in the opinion of the city services commission, the public health, safety, welfare, or convenience requires such revocation. (A0173-12)

(6) Any person who opens an excavation without a permit shall be subject to cancellation of existing permits, refusal or future permits, license revocation and fined in accordance with chapter 1, section 8 of the revised ordinances of the city.

(7) The permittee shall comply with the provisions of this section and all other city ordinances. Failure to comply shall result in the revocation of the permit.

(b) Notification.

(1) Dig Safe and M.W.R.A. shall be properly informed by the permittee in advance of all intended excavations.

(2) The city service commission shall be notified at least seventy-two (72) hours prior to the commencement of any work. (A0173-12)

(c) Construction procedures.

(1) All construction procedures shall meet or exceed current Massachusetts Highway Department Standard Specifications for Highways and Bridges.

(2) The street or sidewalk shall only be disturbed within the area requiring excavation for repair, replacement, or new installation. When the opening occurs within two (2) feet of the curb and/or edge of the hardened surface, the paved area between the excavation and the curb or edge shall be removed prior to the temporary repair.

(3) In the back fill process, the back fill shall be comprised of a suitable material and is subject to the approval of an authorized representative of the city services commission. (A0173-12)

(4) The area abutting the excavated area shall then be cut back in straight lines, with ninety (90) degree angles at the point of intersection, six (6) to twelve (12) inches to a depth exposing the undisturbed gravel base.

The vertical face of the pavement cuts shall be thoroughly cleaned, particularly at the corners.

Utility structures shall be leveled to the adjacent surfaces and shall be the responsibility of the appropriate utility.

The excavation site shall be maintained in a clean and safe condition at all times. Sidewalks

and streets shall be cleaned at the end of each working day. Traffic shall be opened at the end of each working day unless the city services commission, or its executive director, determines that it is not in the interest of public convenience. Access to properties along the street is to be maintained at the end of each working day, and during the time that work is not being performed at each property. (A0173-12)

(5) All surplus or unacceptable excavated material shall be removed from the job site immediately. The removal and disposal of materials including pavement shall be the responsibility of the permittee. This shall be achieved in such a manner to minimize interferences with pedestrian and vehicular traffic.

(6) The permittee shall be liable for the condition of the street and sidewalk openings and protection thereof.

Other than while work is actually being performed, all open ditches shall be protected by back filling or steel plating or as otherwise required by the executive director of city services.

The excavation shall be properly secured to insure the safety to the traveling public and immediately reported to the city service commission. Temporary patching shall be done by the permittee or their contracted representative and shall be the financial responsibility of the permittee. The permittee's barricade or safety device shall be immediately removed from the vicinity of the patched area upon completion of the temporary bituminous patching application.

Permanent bituminous patching shall be completed no later than ninety (90) days from the date of temporary patching unless waived in writing by the executive director of city services. (A0173-12)

(7) The permittee shall be responsible for any settlement in or adjacent to the original excavated area.

(8) In the event of an improperly prepared excavation including those left with unacceptable back fill material or insufficient pavement depth, the trench shall be re-excavated and prepared correctly by the permittee. Under the above conditions, the permittee may be subject to permit cancellation, inspection fees, fines in accordance with chapter 1-8 of the revised ordinances and loss of deposit.

(9) All street and sidewalk excavations shall be made permanent by a method deemed appropriate by the city services commission and shall be the financial responsibility of the permittee. (A0173-12)

(10) The completion of a permanent restoration shall not alleviate the permittee from the responsibility for the condition of street and sidewalk openings for a period of one year from the date of the final accepted permanent repair. Permanent bituminous patching shall be completed no later than ninety (90) days from the date of temporary patching unless waived in writing by the executive director of city services. (A0173-12)

(d) Emergency procedures.

(1) For any public utility, the permit and notification provisions contained herein shall be waived for any excavation or groundbreaking undertaken in response to an emergency event or events. An emergency event is one, which, in the judgment of the utility, requires immediate action to restore service to customers or to protect the immediate health, safety, or convenience of the community. Such decisions shall be made consistent with and in accordance with generally accepted utility industry standards.

(2) In the event of an emergency, the utility shall exercise best efforts to notify the police department and the city services commission as soon as practicable prior to or immediately after undertaking any work that would otherwise require a permit hereunder. After any emergency, the utility shall submit to the city services commission a report of actions taken and work performed during the emergency and such work shall comply with the construction provisions herein. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 9) (Ord. of 12-5-94; A0173-12)

Section 17-52 Restoration of pavement, etc.

(a) Any person who shall break or dig up the ground or pavement of any street or public way shall restore the same to proper condition to the satisfaction of the city services commission. (A0173-12)

(b) Any person who shall break or dig up the ground or pavement of any street or public way, other than municipal employees, in which requires overnight protection of open or covered areas, must leave their name and telephone number on site and visible so they may be contacted in the event of an emergency. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 10; Ord. of 6-3-91(1))

Section 17-53 Temporary filling.

All excavations on sidewalks and streets shall be temporarily filled immediately upon completion of work and permanently filled and properly patched subject to the approval of the city services commission. (Ord. of 11-23-87; A0173-12)

Section 17-54 Surety bond required.

Before granting any permit under the provisions of this article, the city services commission shall require that the applicant execute a bond to the city in such a sum as the city services commission may prescribe, to save the city harmless from any damages that may arise from such digging up of the way, and to insure the carrying out of the provisions of this article. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 11) (A0173-12)

Section 17-55 Protection of public.

Where the flow of pedestrian and/or vehicular traffic will be impeded or rerouted by any work coming under the provisions of this article, the holder of the permit shall procure at his expense sufficient police detail furnished by the police department as the regulations of the chief of police or his duly authorized agent may require. When a permit is issued by the city services commission for a street opening, the city services commission and the petitioner shall notify the chief of police immediately. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 11) (A0173-12)

Section 17-56 Emergency Phone Numbers.

Any utility company and/or contractors opening or doing work on streets in the City of Everett, requiring overnight protection of open or covered areas, must leave their name and telephone number on site and visible so that they may be contacted in the event of an emergency. (Ord.6-3-91)

Section 17-57 Trench Cut Cost Recovery Fee.

(a) PURPOSE OF TRENCH CUT COST RECOVERY FEE. Excavations in paved streets owned and maintained by the City degrade and shorten the life of the surface of the streets, and this degradation increases the frequency and cost to the public of necessary resurfacing, maintenance and repair. These excavations cause degradation of the streets even where the excavations are refilled and repaired in conformity with applicable standards and requirements. It is appropriate that entities responsible for excavating into the City's right of way bear the burden of the resulting cost of this degradation and shortened life of the surface rather than the taxpayers of the City. In addition, establishment of a trench cut cost recovery fee will create an incentive for utilities to coordinate excavations in the streets. This Ordinance shall not be construed to relieve those excavating into the City right of way of the obligation to fill, repair and properly maintain the location of the excavation.

(b) DEFINITIONS.

(1) "Applicant" shall mean any owner or duly authorized agent of such owner, who has submitted an application for a permit to excavate.

(2) "City street" shall mean any Public right of way which has been accepted, or is hereafter accepted by the City of Everett.

(3) "Department" shall mean the Department of City Services.

(4) "Director" shall mean the Director of City Services or his/her designee.

(5) "Excavation" shall mean any opening in the surface or subsurface of the public right of way.

(6) "Facility" or "Facilities" shall mean any and all cables, cabinets, ducts, conduits, converters, equipment, drains, handholds, manholes, pipes, pipelines, splice boxes, surface location markers, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an owner or person, that are located or are proposed to be located in the public right of way.

(7) "Owner" shall mean any person, including any agency, department, who owns any facility or facilities that are or are proposed to be installed or maintained in the public right of way.

(8) "Permit" or "permit to excavate" shall mean a permit to perform an excavation as it has been approved or may be amended or renewed by the Department.

(9) "Person" shall mean any natural person, corporation, partnership, or any governmental

agency, including any agency, Department, or subdivision of the County, the state of Massachusetts, or United States of America.

(10) "Public right of way" shall mean the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, lanes, places, roads, sidewalks, streets, and ways within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the Department of City Services.

(11) "Trench Cut Recovery Fee" is a fee, the amount of which shall be set at One Thousand dollars ($1,000.00) per one hundred (100) square feet or any portion of one hundred square feet of surface area that is excavated.

(12) "Trench Influence Area" shall mean an area three and one-half feet adjacent to the edge of trench where the excavation occurs.

(c) PAYMENT OF TRENCH CUT COST RECOVERY FEE. No person shall excavate in a Public right of way without, in addition to all other requirements of this Ordinance, having first paid to the City a "Trench Cut Cost Recovery Fee." The amount of this Trench Cut Cost Recovery Fee may be modified from time to time by an Order passed by the Everett City Council with the approval of the Mayor. The a "Trench Cut Cost Recovery Fee" is in addition to any other applicable fees or charges.

(d) VARIANCE FROM PAYMENT OF TRENCH CUT COST RECOVERY FEE. Any person subject to the Trench Cut Cost Recovery Fee may request that the Director waive the requirement of payment of the Trench Cut Cost Recovery Fee due to individual circumstances that demonstrate, on a case-by-case basis, that the amount of the fee is not reasonably related to the projected impact of the proposed excavation.

(e) EXCEPTIONS.

(1) Excavations in City streets scheduled for pavement structural improvements within two years of the date of excavation shall be exempt from the Trench Cut Cost Recovery Fee.

(2) No Trench Cut Cost Recovery Fee shall be charged for underground utility district projects initiated by the City, or utility line relocations necessitated by City street work projects or by street discontinuances.

(3) No Trench Cut Cost Recovery Fee shall be charged for excavations performed by or for the city services department. (A0173-12)

(4) No Trench Cut Cost Recovery Fee shall be charged with respect to excavation in a sidewalk or a concrete street.

(f) PAVEMENT LIFE PERFORMANCE WARRANTY

(1) In lieu of paying a Trench Cut Cost Recovery Fee , a Person who is a public agency, who is a publicly regulated utility company, or who has a valid franchise agreement with the

City or is statutorily exempt from franchise requirements shall provide a written pavement life performance warranty in a form acceptable to the City. The warranty shall provide that in the event that subsurface material or pavement over or within the Trench Influence Area becomes depressed, broken, or otherwise fails at any time after the excavation (or joint operation excavation) has been completed, that Person shall repair or restore such condition at the direction of the Director of City Services.

(2) In the event that a Person who is a public agency, a publicly regulated utility company, or who has a valid franchise agreement with the City or who is statutorily exempt from franchise requirements fails or refuses to provide a written pavement life performance warranty, such Person shall pay the Trench Cut Cost Recovery Fee set forth in this Ordinance.

(3) Should a Person who has entered a written pavement life performance warranty with the City fail to repair, replace or restore a Public right of way in accordance with the terms of the warranty, the City may cause the repair to be made and charge the amount of the repair costs to the Person. After three failures to make repair on any warranted trenches citywide within any twenty-four (24) month period, the Director may, at Director's discretion, terminate the Pavement Life Performance Warranty Agreement with the Person and thereafter require the Person to pay the Trench Cut Cost Recovery Fee.

(4) Written notice of the decision of the Director to terminate a Pavement Life Performance Warranty Agreement shall be mailed to the Person who entered the Agreement, and the termination shall take effect upon mailing. The Person may, within sixty (60) days after mailing of the written notice of termination, request the Director to reconsider the decision to terminate the Agreement and to renew the Agreement by submitting a written statement, executed by the Person or by a duly authorized agent for the Person, stating the reasons that the Agreement should not be terminated, and reaffirming the Person's agreement to be bound by the terms of the Pavement Life Performance Warranty Agreement as amended if the Agreement is renewed. The Director shall consider the materials which are timely submitted by the Person, and such other information and material as the Director may in his discretion permit, and shall respond in writing within thirty (30) calendar days after receipt of the timely request by:

a. granting the request to renew the Agreement,

b. denying the request to renew the Agreement, or

c. requesting such additional information or documentation as the Director find relevant to evaluation of the request.

(5) Pavement life warranty agreements are not transferable or assignable.

(g) REPAIR OF SUNKEN PAVEMENT OVER EXCAVATION.

(1) If the subsurface materials or pavement over or within the Trench Influence Area becomes depressed or broken at any time, the Person shall, within fourteen (14) days of

mailing of written notice from the Director, immediately inspect the depressed or broken area to ascertain the cause of the failure. The Person shall make repairs to the installation or backfill and have the pavement restored in the manner and within the time period specified by the Director. A Trench Cut Cost Recovery Fee shall not be charged for work performed under this Section.

(2) If the pavement is not restored as specified by the Director, unless delayed by conditions beyond the Person's control, the Director may cause the work to be done after giving the Person twenty-four hours final notice. The Person shall thereafter, upon written demand by Director, pay the City an amount calculated by multiplying the number of square feet of pavement restored by the Square Foot Trench Repair Reimbursement Fee. The Person shall remain responsible for any future repairs of that portion of pavement over the excavation that was repaired by the County.

(h) PROTEST OF TRENCH CUT COST RECOVERY FEE--CLAIMS FOR REFUND--APPEALS

(1) Any person required to pay a Trench Cut Cost Recovery Fee pursuant to this Ordinance who desires to protest or otherwise challenge the imposition or amount of the fee shall tender to the City payment in full of the fee when due, accompanied by a written notice to the Director of City Services containing the following information:

a. A statement that the required payment is tendered under protest; and

b. A description of the factual and legal basis for the protest in writing.

(2) Any person required to pay a Trench Cut Cost Recovery Fee pursuant to this Ordinance, and who has complied with the fee protest provisions of Subsection (a) of this Section, may submit a claim for refund of the fee in the manner set forth within thirty (30) days of payment of the Trench Cut Cost Recovery Fee. In evaluating the claim, the Director shall consider whether the claimant has established: (i) the claimant's excavation will not degrade and shorten the life of the surface of the street(s), (ii) that the degradation of the street(s) will not increase the frequency and cost to the public of necessary resurfacing, maintenance and repair of the street(s); (iii) that the imposition or amount of the Trench Cut Cost Recovery Fee required of the claimant is unlawful for another reason.

(3) The validity or amount of a Trench Cut Cost Recovery Fee shall not be contested in any action or proceeding unless the action or proceeding is commenced within ninety (90) days after a claim is filed and denied.

(4) The Director of City Services shall maintain a file for all refunds and the reason for the refund. A copy of the refund files shall be submitted to the City Auditor yearly or when requested by the City Auditor.

(i) UTILITY MASTER PLANS.

(1) Any utility owning, operating or installing in a Public right of way facilities providing water, sewer, gas, electric, communication, video or other utility services, shall prepare and

submit to the Director a utility master plan, in a format specified by the Director, that shows the location of the utility's existing facilities in Public rights of way, and shows all of the utility's planned major utility work in Public rights of way for the next year. Utilities shall submit an initial utility master plan no later than one hundred eighty (180) days after the effective date of this ordinance. Thereafter, each utility shall submit annually, on the first regular business day of August, a revised and updated utility master plan. A utility may extend its deadline to submit its utility master plan by a period not to exceed fifteen (15) days by submitting written notice to the Director of the delay and identifying the reasons for the delay. As used in this subsection, the term "planned major utility works" refers to any and all future excavations planned by the utility when the utility master plan or update is submitted that will affect any Public right of way for more than fifteen (15) days, provided that the utility shall not be required to show future excavations planned to occur more than a year after the date that the utility master plan or update is submitted.

(2) The Director shall make all utility master plans submitted in accordance with subsection (a) of this section, available for public inspection.

(3) Prior to applying for an excavation permit, any person planning to excavate in the Public rights of way shall review the utility master plans and the City's repaving plan on file with the Director and shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to, and avoid undue disruption and interference with the use of Public rights of way.

(j) MORATORIUM

(1) Excavation in newly renovated Public right of ways is prohibited for three (3) years after filing of a notice of completion or acceptance of a new street or structural overlay of an entire street except as follows:

a. Emergency which endangers life or property;

b. Repair or modification to prevent interruption of essential utility services;

c. Relocation work that is mandated by State or Federal legislation;

d. Service for buildings or parcels where no other reasonable means of providing service exists, as determined by the Director;

e. In a Public right of way that the City has scheduled for overlay or reconstruction within two years after the date of excavation due to failure of the original pavement;

f. Other situations deemed by the Director to be in the best interest of the general public.

(2) Where a permit is issued to excavate during the three (3) year period after filing of a notice of completion or acceptance of a new street or structural overlay of an entire street, payment of the Trench Cut Cost Recovery Fee will be required regardless of whether the

Person has executed a pavement life performance warranty.

(3) The Moratorium in subsection (a) shall not apply if the structural overlay was completed prior to the effective date of this Ordinance.

(k) COORDINATION WITH CITY

(1) Prior to applying for an excavation permit in the Public rights of way, the City shall review on behalf of the Applicant the City's anticipated repaving plans and the utility master plans on file with the Director. The Applicant shall coordinate, to the extent practicable, with the utility and street work shown on such plans to minimize damage to, and avoid undue disruption and interference with the Public rights of way. Such coordination shall include:

a. Whenever two or more persons have proposed a major excavation in the same general location, they shall meet and confer with the City regarding whether it is feasible to conduct a joint operation excavation. If the persons select a single contractor to do the joint work then the Director may direct that only a single Trench Cut Cost Recovery Fee shall be charged, except that no fee shall be charged if any of the Persons conducting a joint operation excavation possesses a valid performance warranty agreement with the City.

(2) To avoid future excavations and to reduce the number of street excavations, telecommunication companies shall be requested, when practical, to install spare conduits.

(3) In order to encourage coordination of excavation and pavement scheduling and planning between the City and excavators, the City shall update at least annually its anticipated repaving plans. The anticipated repaving plans shall also identify the Public rights of way which are then subject to the Moratorium provisions, and the Moratorium expiration date for each such right of way. A copy of the anticipated repaving plans shall be available for review at the Department of City Services by any interested Person.

(l) CREATION OF TRENCH CUT COST RECOVERY FEE FUND. There is hereby created and established the "Trench Cut Cost Recovery Fee Fund." The Fund is a restricted fund, and all funds deposited into the Trench Cut Cost Recovery Fee Fund shall be used solely for the purpose of street surfacing, resurfacing, repair and reconstruction.

(m) DEPOSIT OF MONEYS. All funds received pursuant to this Ordinance shall be placed in the Trench Cut Cost Recovery Fee Fund. All interest and other earnings from monies placed in the fund shall be credited to the fund and shall be used for the purposes stated above.

(n) EXPENDITURE OF FUNDS. Funds maintained in the Trench Cut Cost Recovery Fee Fund shall only be appropriated by an Order of the Everett City Council, with the approval of the Mayor for the maintenance, rehabilitation, resurfacing administration and protection of the Public right of way that have been excavated after the effective date of this ordinance, and for refunds of fees approved by the Director of City Services. Monies not expended from the fund in any fiscal year shall not revert to the General Fund, but shall remain in the Trench Cut Cost Recovery Fee Fund.

(o) SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Everett hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional. (A0065-06)

Section 17-58--17-80 Reserved.

ARTICLE III. USE OF PUBLIC WAYS DURING CONSTRUCTION, RECONSTRUCTION OF BUILDINGS*

Section 17-81 Permit required.

(a) Every person intending to erect or repair any building upon land abutting on any public way in the city, and desiring to use any portion of the public way in connection therewith, shall make application to the city services commission for a permit so to do. (A0173-12)

(b) Any person excavating land or any person in charge of such excavation and any owner of land that has been excavated shall erect safety barriers around such excavation. After such person has been notified, in writing, by the inspector of buildings stating that in his opinion such excavation continues to constitute a hazard to public safety, such person shall immediately take whatever measures prescribed by the inspector of buildings. Penalty for violation for this provision shall be in accordance with section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 12)

Section 17-82 Surety bond required.

Before granting a permit under the provisions of this article, the city services commission shall require that the applicant execute a bond to the city in such a sum as the city services commission may prescribe, to save the city harmless from any damages that may arise from such use of the public way, and to insure the carrying out of the provisions of this article. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 13) (A0173-12)

Section 17-83 Allotment of portions of public way.

The city services commission shall have full power and authority to allot for the use of the public way by persons erecting or repairing buildings, such portion of the public way adjoining the land as it shall deem necessary, and for such time and under such limitations and restrictions as it may deem proper for public convenience and as may be required by ordinance. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 14) (A0173-12)

Section 17-84 Revocation of permit.

Any permit granted pursuant to this article may be revoked by the city services commission at any time when the holder thereof fails to comply with any rule or regulation under which it is granted or with the city ordinances, or when, in the opinion of the city services commission, the public good requires such revocation. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 15) (A0173-12)

Section 17-85 Use of unallotted portions of public way; removal of rubbish, etc.

(a) No part of a public way, other than that part so allotted shall be used for depositing materials for work to be done, or receiving rubbish arising from such work. Immediately after the expiration of the time fixed, and at such other times as the city services commission may direct, the person so building or repairing shall remove all rubbish or other substances resulting from such work. (A0173-12)

(b) In case of neglect or refusal of such person to remove such rubbish the same shall be removed at their expense by the city services commission, and such person shall be liable to a fine in accordance with section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 16) (A0173-12)

Section 17-86 Repairs of vehicles.

(a) No part of a public way shall be used for the routine repair of motor vehicles.

(b) Any person found in violation of this section shall be fined in accordance with section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 16A)

Cross reference(s)--Traffic and motor vehicles, Ch. 18.

Section 17-87 Barrier required; lighting.

Whenever a permit is granted under the provisions of this article the portion of a public way thereby allotted shall be enclosed with a sufficient barrier, which shall be maintained during the whole time for which the occupation of such portion of the public way continues. Sufficient lights shall be fixed to some parts of such barrier, or in some other proper manner, and lights shall be kept lighted from the beginning of twilight through the whole of every night during such occupation. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 17)

Section 17-88 Passageway for pedestrians required.

Whoever is duly permitted to occupy a part of a public way while erecting or repairing a building, or making an excavation, or for any other purpose, shall provide a safe and convenient passage for pedestrians around or over the obstructions so caused which shall meet the approval of the city services commission. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 18) (A0173-12)

Section 17-89 Exhibition of permit.

Every person granted a permit under the provisions of this chapter shall exhibit his permit for such occupation at all times when requested by the city services commission or any agent thereof, or by a police officer. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 20) (A0173-12)

ARTICLE IV. NEWSRACKS

Section 17-90 Definitions.

When used in this ordinance, unless the context otherwise requires, the following terms shall have the following meanings:

(a) Director" shall mean the Director of City Services Department of the City of Everett.

(b) Newsrack" shall mean any type of self-service device for the vending or free distribution of newspapers, periodicals, or printed material of whatever nature.

(c) Certificate of Compliance" shall mean the Certificate of Compliance issued by the Director in accordance with the provisions of this ordinance.

(d) Certificate Holder" shall mean the holder of a Certificate of Compliance issued by the Director in accordance with the provisions of this ordinance.

(e) Operator" shall mean any natural person or other legal entity including, but not limited to, corporations, partnerships, joint ventures and the like who either own, operate or otherwise are in control of the newsrack.

(f) Public Way" shall mean any public highway, private way laid out under authority of statute, way dedicated to public use, or way under control of a body having like power.

Section 17-91 Certificate of Compliance.

(a) Requirement. No person shall place, affix, erect, constitute or maintain a newsrack in or on any part of a public way without first obtaining a certificate of Compliance from the Director in accordance with the provisions of this ordinance.

(1) The Certificate of Compliance must be renewed annually by application to the Director.

(b) Issuing Authority. The Director shall be the issuing authority of the application process and administration of this ordinance.

(c) Approving Authority. The approving authority shall be the Director. The Director or his/her designee shall review and approve for compliance with Section 17-91, entitled Certificate of Compliance, Section 17-93, entitled Standards for Placement, and Section 17-96, entitled Installation, Maintenance and Delivery Time.

(d) Application Process.

Applicants must complete a written application on a form provided by the Director.

(e) Application. The application shall describe in sufficient detail, the number, location and type of newsracks for which the Certificate of Compliance is sought and shall contain the following:

(1) the name, address and telephone number of the applicant who is the owner/operator or other person who is the principal responsible person in charge of the newsrack(s); and

(2) the name, address and telephone number of the natural person (if different from the applicant) whom the city may notify and/or contact at any time concerning the applicant's newsracks. This person would be responsible for receiving complaints and notices of violations when a Certificate of Compliance is issued and for providing information relating to the application during the application process; and

(3) the number of newsracks and a written description specifying the proposed approximate location of each; and

(4) a certificate of insurance naming the City of Everett as an additional insured in an

amount sufficient to indemnify the city and hold it harmless from any and all claims or judgments for personal or bodily injury, including death, or property damage and from costs and expenses to which the city may be subjected or which it may suffer or incur by reason of design, placement, installation, operation or maintenance of any of the applicant's newsracks. Reasonable evidence of self-insurance may be substituted by the applicant for the certificate of insurance. Insurance under this section shall run continuously with the presence of the applicant's newsrack in the City of Everett public ways and any termination or lapse of such insurance shall be a violation of this ordinance, subject to appropriate remedy under Section 17-94 of this ordinance; and

(5) a certification from the applicant stating that the proposed location for all of the newsracks listed in the application are in compliance with the provisions of this ordinance.

(f) Issuance of a Certificate of Compliance

(1) Upon a finding by the Director that the applicant is in compliance with the provisions of this ordinance, the Director shall issue a partial Certificate of Compliance for installation by the applicant.

(2) The Director shall issue a partial Certificate of Compliance upon a finding that of the proposed newsrack locations are in compliance with the provisions of this ordinance.

(3) Issuance of a Certificate of Compliance or a partial certificate of compliance shall designate the applicant to be the certificate holder.

(4) The Director shall issue a Certificate of Compliance within ten day of the Director's receipt of the completed application.

(5) Proposed locations shall be approved by the Director on a first-come first-serve basis and no preference shall be given to applicants who might have had newsracks in a particular location prior to the effective date of this ordinance.

(g) Denial of Certificate of Compliance. If an application for a newsrack location is denied,

(1) the Director shall notify the applicant within ten days of the Director's receipt of the completed application,

(2) the Director shall state the specific reason for denial'

(3) the applicant may reapply for a substitute alternative location without having to pay an additional application fee, and

(4) the applicant may appeal with thirty (30) days of such denial by requesting in writing to the Director an appearance before the city council to review such denial, (A0173-12)

a. the appeal shall be heard within twenty (20) days of receipt of the appeal, and

b. the decision on the appeal shall be sent to the applicant with five (5) days after the

hearing.

(h) The Director reserves the right to order by written notice to the certificate holder that newsracks be removed from an approved location, either temporarily or permanently, in the interests of public safety.

Section 17-92 Fees.

(a) Certificate of Compliance. There shall be a Certificate of Compliance fee in the amount of two hundred dollars ($200.00) paid to the city. The fee shall be due upon initial application and upon each annual renewal.

(b) Additional Certificate of Compliance. If at any time after the Director has issued a Certificate of Compliance, a certificate holder proposes to install additional newsracks, then the provision of Section 17-91 are to be repeated. Additional Certificate of Compliance fees shall be in accordance with paragraph (a) of this section, except that the Certificate fee is waived if previously paid.

(c) Annual Fee. In addition to the Certificate of Compliance fee, an annual fee of twenty-five dollars ($25.00) per newsrack authorized shall be paid to the city to offset the city's cost of monitoring compliance with this ordinance.

(d) Where the Director has required newsracks to be set in corrals, or at hitching posts pursuant to Section 17-93, additional fees shall be imposed by the Director on certificate holders to offset the city's costs for each corral or hitching post used by such certificate holder.

Section 17-93 Standards for Placement of Newsracks.

(a) No person shall place, cause to be placed, or maintain a newsrack on any public way or sidewalk:

(1) within five feet (5') of a handicapped access ramp;

(2) within or overhanging the roadway;

(3) within six inches (6") of a curb;

(4) within five feet (5') of a curb return of any marked crosswalk;

(5) within five feet (5') of any fire hydrant or hose connection;

(6) within three feet (3') of any manhole, service gate, valve cover, sewer gate or other access panel or cover located in a public way or sidewalk;

(7) within five feet (5') of a driveway;

(8) immediately adjacent to a designated loading zone, a handicapped parking space, a zone reserved for emergency vehicles;

(9) so as to reduce the width of a sidewalk to less than four feet (4') for the passage of travelers unless the width of the sidewalk is otherwise reduced to less than four feet (4'), as

determined by the Director, in which case the newsrack may be installed as to avoid further reducing the width of the sidewalk;

(10) so as to impede egress from legally parked motor cars;

(11) so as to impede the operation of standard sidewalk snowplows in use by the City of Everett except where said sidewalk snowplows would be otherwise impeded, as determined by the Director;

(12) within four feet (4') of the door of any building measured in a line perpendicular from the horizontal line made by the door when closed;

(13) so as to create an imminent danger of harm to persons or property as demonstrated by specific facts;

(14) directly abutting a public flowerbed, memorial or sculpture;

(15) to a city city-owned tree, traffic control device, police or fire call box;

(16) directly in front of and on the same side of the street as any parcel zoned solely for residential use as defined in the City of Everett Zoning Ordinances, except designated bus stops and MBTA railroad platforms, crossings and parking lots. This restriction shall not apply to parcels zoned for a mixed residential and business use;

(17) in a manner that violates any provision of state or federal law.

(b) Newsracks may be secured to one another provided that they are no more than six inches apart and provided that the newsracks are aligned in a row that is parallel to the nearest curb line.

(1) Individual newsracks shall be installed parallel to the nearest curb line.

(2) Newsracks may be clustered back to back to form two rows provided that the rows are parallel to the nearest curb line and further provided that the newsracks otherwise comply with the provisions of the ordinance.

(c) Newsracks may only be attached or secured to city owned property with the express permission of the Director and then, only if the newsrack is otherwise in compliance with the provisions of this ordinance.

(d) Newsracks shall not exceed the following dimensional requirements:

(1) Height: four and one-half feet (4'6") from the ground;

(2) Width: two feet (2'); and

(3) Length: two feet (2').

(e) Newsracks shall be contracted and maintained so that they do not constitute a hazard or safety problem for travelers and others using the sidewalks and public ways. They shall be

maintained in good repair and clean and safe condition and shall be removed if their use is discontinued.

(f) No newsrack shall bear any advertising other than that directly relating to the printed matter dispensed by the newsrack.

(1) A newsrack may dispense more than one publication (printed matter) if it is published by the owner of the newsrack or an affiliate thereof, and

(2) the newsrack may bear advertising directly related to each publication dispensed by the news rack.

Section 17-94 Enforcement Procedures.

(a) Any newsrack which does not have a Certificate of Compliance issued or for which an Application is not pending review or whose placement is not in compliance with the standards set forth in Section 17-93, may be removed by the Director after ten (10) days written notice to the owner thereof unless same is brought into compliance before the expiration of the ten (10) day period.

(b) Enforcement of the provisions of this ordinance shall be carried out by the Director. Upon a determination that a violation of any provision of this ordinance exists, the Director shall notify the certificate holder of the violation via first class mail. If the Director is without knowledge of the address of the owner of the newsrack, he shall be entitled to rely on whatever information is on the outside thereof, if any.

(1) The notice shall include:

a. the date and location of the incident or other cause giving rise to the incident;

b. a brief and concise statement of the facts causing the violation; and

c. notice to inform the certificate holder that at the expiration of ten (10) days from the receipt of the violation notice, the newsrack will be removed by the Director, unless the violation is corrected.

(c) Upon removal of the newsrack, the Director shall send, by first class mail, written notice of such removal to the certificate holder.

(d) Notwithstanding the provisions of the foregoing paragraphs, the Director may: order the immediate removal of any newsrack(s) that the Director determines presents an imminent threat or peril to public safety, provided the certificate holder shall be notified of such removal as soon as practicable thereafter, and further provided that any newsracks so removed shall be stored for a period of thirty (30) days in order to allow the certificate holder to retrieve the newsrack. If the Director removes a newsrack under this paragraph (d) that does not have a certificate of compliance, the Director may dispose of the newsrack at the end of the thirty (30) day period.

(e) Except as provided in section 17-94 (e), part 3, the Director may remove and store at the

owner's expense any newsrack(s) that remains in violation for more than thirty (30) days after the date for compliance specified in section 17-94 (b)(1)c. provided that the Director shall give written notice to the owner stating:

(1) the date the newsrack was removed;

(2) the reasons for removal;

(3) the storage location; and

(4) the procedure for claiming the machine.

(f) The owner of a newsrack may avoid removal of the newsrack by:

(1) correcting the violation and so informing the Director; or

(2) making a written request for a hearing on the violation before the Director prior to the date set for compliance in which case the newsrack may remain in place pending the Director's decision on the matter. Said hearing shall be held no later than ten (10) days after receipt of a written request for a hearing and a decision shall be rendered with ten (10) days thereafter.

(g) If maintenance, repair or construction of a public way, sidewalk or public or private property in or adjacent to the public way cannot be accomplished without the removal of a newsrack, the Director shall give written and/or telephone notice to the certificate holder ordering removal of the newsrack provided that said notice shall specify the reason for the removal and the date of notice.

(1) If the Director determines that delay would cause unreasonable risk of harm to persons or property or would cause a delay in the maintenance, repair or construction work, the Director may remove the newsrack.

Section 17-95 Fees for Removal and Storage.

(a) A newsrack removed pursuant to this ordinance may be retrieved by the certificate holder at any time with thirty (30) days of its removal upon payment of a removal fee of twenty-five dollars ($25.00) plus a storage fee of five dollars ($5.00) per day, to a maximum combined removal and storage fee of one hundred dollars ($100.00).

(b) After thirty (30) days, any newsracks removed by the Director pursuant to Section 17-94 of this ordinance shall be deemed "abandoned property and become the property of the City of Everett.

(c) Failure of a certificate holder to retrieve a newsrack within the specified thirty (30) day period shall not operate to dismiss any fees owed to the city for removal and storage of such newsrack(s). Unpaid fees accrued pursuant to this section shall be considered a debt payable to the city.

Section 17-96 Advertising.

It shall be unlawful for any operator to use a newsrack for advertising or publicity purposes than that dealing with the display, sale or purchase of the publications dispensed therein.

Section 17-97 Installation and Maintenance.
Newsracks shall be of sturdy material and installed or otherwise placed and maintained by the certificate holder in accordance with the following provisions:

(a) Each newsrack shall prominently display the name, address and phone number of a person or entity responsible for the newsrack.

(b) Each newsrack shall be:

(1) installed or placed on pavement in an upright, sufficiently weighted and secure position;

(2) of a type that completely enclosed, with a self closing door that is either self-latching or otherwise requires manual or mechanical release at each use;

(3) maintained in a state of good repair and in neat and clean condition;

(4) maintained in a condition that is free of accumulations of outdated printed materials, trash, rubbish or debris; and

(5) handicapped accessible, as defined by the state Architectural Access Board at 521 CMR.

(c) Each newsrack shall be regularly serviced so that:

(1) it is kept reasonably free of graffiti;

(2) it is kept reasonably free of chipped, faded, peeling and cracked paint in the visible painted areas thereof;

(3) it is kept reasonably free of rust and corrosion in the visible unpainted metal areas thereof;

(4) the clear glass or plastic parts thereof, if any, through which the printed materials are being dispensed are not broken and are reasonably free of tears, peeling or fading; and

(5) the structural parts of the newsrack are not broken or unduly misshapen.

Section 17-98 Severability.
The provisions of this ordinance shall be severable and if any section, part or position hereof shall be held invalid for any reason by any court, the decision of such court shall not affect or impair any remaining section, part or portion thereof. (Ord. of 01-31-2003)

Section 17-99 Temporary Repairs on Private Ways.
The City Services Department of the City of Everett is authorized, in accordance with MGL (a) Chapter 40, Section 6N, to make temporary repairs on private ways which have been open to public use for six years or more only upon the following terms and conditions:

(1) A petition signed by the abutters of no less than fifty per cent of the linear footage of

such way must be forwarded to the Director of City Services requesting such repairs.

(2) The Director of City Services must be satisfied that the repairs requested are required by public necessity.

(3) Such temporary repairs shall be limited only to the filling in of holes and depressions with sand, gravel, cinders, or other suitable materials and shall not include construction, reconstruction, drainage, or resurfacing of such ways.

(4) The City shall be held harmless on account of any damages caused by such repairs by agreement executed by the abutters who petitioned therefor.

(5) That any repairs made hereunder shall not have the effect of making Massachusetts General Laws, Chapter 84, Section 25, applicable to such ways.

(6) Notwithstanding Sections 1 through 4 above, the Director of City Services is hereby authorized in his/her discretion to make such repairs to private ways as he or she may from time to time deem appropriate to the public interests or for the sake of public safety.

Chapter 18.
TRAFFIC AND MOTOR VEHICLES*

ARTICLE I. IN GENERAL

Section 18-1 Definitions.
The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) Bus stop means an area in the roadway set aside for the boarding of or alighting from and the parking of buses.

(b) Crosswalk means that portion of a roadway ordinarily included within the prolongation or connection of curb lines and property lines at intersections or at any portion of a roadway clearly indicated for pedestrian crossing by lines on the road surface or by other markings or signs.

(c) Emergency vehicle means vehicles of the fire department, police vehicles, ambulance and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the police or fire departments.

(d) Funeral means any procession of mourners, properly identified as such, accompanying the remains of a human body.

(e) Heavy commercial vehicle means a vehicle having a carrying capacity of more than two (2) tons.

(f) Intersection means the area embraced within the extensions of the lateral curb lines, or, if none, then the lateral boundary lines, of intersecting ways as defined in section 1 of chapter 90 of the General Laws, including divided ways. The provisions of this chapter governing and restricting the movement of vehicles at and near intersecting ways shall apply at any place along any way at which drivers are to be controlled by traffic control signals, whether or not such place is an intersection as herein defined.

(g) Lane means a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

(h) Officer means any person who has police powers to act within the jurisdiction of the city.

(i) Official street marking means any painted line, marking or marker placed in or upon any way by authority of these ordinances and which complies with the standards of the state department of public works.

(j) Official traffic signals means all signals, conforming to the standards as prescribed by the state department of public works.

(k) Official traffic signs means all signs, markings and devices, other than signals, not inconsistent with these ordinances, and which conform to the standards prescribed by the state department of public works.

(l) Parking means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

(m) Pedestrian means any person afoot or riding on a conveyance by human power, except bicycles or tricycles.

(n) Railroad crossing means any intersection of ways with a railroad right-of-way.

(o) Roadway means that portion of a street or highway between the regularly established curb lines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

(p) Rotary traffic means the counter-clockwise operation of a vehicle around an object or structure.

(q) Safety zone means any area or space set aside within a roadway for the exclusive use of pedestrians and which has been indicated by signs, lines or markings, conforming to the standards of the state department of public works.

(r) Service zone means an area in the roadway set aside for the accommodation of commercial and transient vehicular traffic.

(s) Sidewalk means that portion of a street or highway set aside for pedestrian travel.

(t) Street or highway means the entire width between property lines of every way open to the use of the public for purposes of travel.

(u) Taxicab stands means an area in the roadway in which certain taxicabs are required to park while waiting to be engaged.

(v) Traffic means pedestrians, ridden or herded animals, vehicles, or other conveyances either single or together, while using any street or highway for the purpose of travel.

(w) Traffic control area means any area along any way, other than an intersecting way, at which drivers are to be controlled by traffic control signals.

(x) Traffic control signal means any device using colored lights which conforms to the standards as prescribed by the state department of public works, whether manually, electrically or mechanically operated, by which traffic may be alternately directed to stop and to proceed.

(y) Traffic island means any area or space set aside, within a roadway, which is not intended for use by vehicular traffic. U-turn means the turning of a vehicle by means of a continuous left turn whereby the direction of such vehicle is reversed.

(z) Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including bicycles when the provisions of these rules are applicable to them, except other devices moved by human power or used exclusively upon

stationary rails or tracks and devices which derive their power for operation from stationary overhead wires. (Rev. Ords. 1976, T.O. Art. I)

Cross reference(s)--Definitions and rules of construction generally, § 1-3.

State law reference(s)--Definitions for state vehicle law, M.G.L. c. 90, § 1.

Section 18-2 Owner prima facie responsible for violations.
If any vehicle is found upon any street or highway in violation of any provisions of this chapter and the identity of the driver cannot be readily determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violations. (Rev. Ords. 1976, T.O. Art. IX, § 2)

Section 18-3 Penalties.
Any person convicted of a violation of any provision of this chapter or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding twenty dollars ($20.00) for each offense. (Rev. Ords. 1976, T.O. Art. IX, § 3)

Section 18-4 Enforcement generally.
It shall be the duty of the chief of police to enforce the provisions of this chapter. Such officers as may be designated by him are hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with the provisions of these ordinances, provided that in the event of a fire or other emergency to expedite traffic or safeguard pedestrians, officers of the police or fire departments may direct traffic, as conditions may require, notwithstanding the provisions of this chapter. (Rev. Ords. 1976, T.O. Art. X, § 1)

Section 18-5 Temporary closure of streets.
The chief of police is hereby authorized to close, temporarily, any street or highway in an impending or existing emergency, or for any lawful assemblage, demonstration or procession, provided there is reasonable justification for the closing of such street. (Rev. Ords. 1976, T.O. Art. X, § 2)

Section 18-6 Exemptions.
The provisions of this chapter shall not apply to persons actually engaged in work upon a street or highway closed to travel, or under construction or repair, to officers when engaged in the performance of public duties, nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of this chapter. These exemptions shall not, however, protect the driver of any vehicle from the consequences of a reckless disregard of the safety of others. (Rev. Ords. 1976, T.O. Art. X, § 4)

State law reference(s)--Operation of emergency vehicles, M.G.L. c. 89, § 7B.

Section 18-7 Obedience to police.
Drivers of vehicles shall comply with any lawful or reasonable order, signal or direction of any police officer. (Rev. Ords. 1976, T.O. Art. X, § 5)

Section 18-8 Restrictions on driving vehicles on sidewalks.
No person shall drive a motor vehicle, other than a wheelchair of a disabled person, on any sidewalk nor any part of any public way commonly used for foot travel, except when crossing at a permanent or temporary driveway. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 37)

Section 18-9 Driving over sidewalks, edgestones to deliver merchandise.
Nothing in this chapter shall be construed to prevent driving across any sidewalk for the purpose of delivering or receiving materials ; provided, that where it becomes necessary to drive over an unlowered edgestone, the person so driving shall furnish plank or other protection so as to prevent injury to the edgestone and sidewalk. No person shall drive, under any circumstances, any vehicle over or across any edgestones or sidewalk, except where the edgestone is lowered, with a load exceeding five thousand (5,000) pounds. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 38)

Cross reference(s)--Licenses and business regulations, Ch. 12; streets and sidewalks, Ch. 17.

Section 18-10 Abandonment of vehicles on public or private ways.
(a) No person shall abandon on any public or private way, public or private land, a motor vehicle, tank or other receptacle which contains or has contained petroleum or any of its by-products that might endanger the life or property of others.

(b) Whoever violates the provisions of this section shall be fined in accordance with section 1-8. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 50)

Section 18-11 Zones of quiet.
(a) All of the territory within two hundred (200) feet of the premises of each hospital in this city is hereby created and established as a zone of quiet. The city services commission is authorized to erect and maintain in a conspicuous manner within this area such signs and markings as are necessary to designate it as a zone of quiet. (A0173-12)

(b) The city services commission may temporarily establish a zone of quiet upon any street where a person is seriously ill, if requested to do so by the written statement of a registered physician certifying to its necessity. Such temporary zone of quiet shall embrace all territory within a radius of two hundred (200) feet of the building occupied by the person named in the request of such physician. Such temporary zone of quiet shall be identified by the city services commission by placing at a conspicuous place in the street a sign or marker bearing the words “Zone of Quiet.” (A0173-12)

(c) No person operating a motor vehicle within any designated and posted zone of quiet shall sound the horn or other warning device of such vehicle except in an emergency. (Rev. Ords. 1976, T.O. Art. IV, § 2)

Section 18-12 School traffic regulations.
The city shall establish school zones for school traffic regulations according to Chapter 85, Section 2, and Chapter 90, Section 17. (Ord. of 8-19-96(3))

Section 18-13--18-40 Reserved.

ARTICLE II. TRAFFIC SAFETY and PARKING COMMISSION

Section 18-41 Organization, Term of Chairperson, Compensation.
There is hereby established a fully empowered Traffic Safety and Parking Commission. The membership to consist of the Chief of Police, Chief of the Fire Department, executive director of city services and the City Engineer, or their designees, and six (6) community representatives, one qualified elector from each of the wards of the city, said representatives to be appointed by the Mayor, subject to confirmation by the City Council. Community representatives shall serve a term for a period of three years or until a successor is appointed and qualified. All members shall serve without compensation. The Commission shall elect a chairperson and a secretary, who shall serve at the pleasure of the Commission. (Ord. of 6-11-97; A0150-09: A0173-12)

Section 18-42 Meetings, officers.
The Commission shall hold regular meetings as may be necessary or expedient. A majority of the Commission shall constitute a quorum for the purpose of transacting the business of the Commission. (Ord. of 6-11-97)

Section 18-43 Record of proceedings kept by secretary, filing.
The secretary of the Commission shall keep a record of all proceedings, resolutions, findings, determinations and transactions of the Commission, which records shall be a public record, and a copy of which record shall be filed with the City Clerk and the Office of the City Council. (Ord. of 6-11-97)

Section 18-44 Powers and duties.
(a) The Commission shall regulate all matters pertaining to traffic, safety and parking of motor vehicles generally; but not limited to:

(1) the parking of motor vehicles on public streets and in public lots and areas;

(2) the establishment of metered zones;

(3) the monitoring of the condition and maintenance of free or metered parking spaces;

(4) the setting of rates per hour per space to be paid for the metered parking spaces, and the permissible time for parking in any parking space;

(5) the rental of off-street spaces;

(6) the review of the design and improvement of any public street or parking lot, including lighting and traffic flow and landscaping;

(7) the authorizing of posting of signs giving notice of parking regulations;

(8) the recommending of the purchase and monitoring of the installation of parking meters.

(9) to designate disabled and or veteran's parking spaces on public ways in accordance with Section 18-145 of the Everett Revised Ordinances only upon a favorable recommendation of the Everett Disability Commission. (A0150-09)

Section 18-45 Repealed by A0150-09.

Section 18-46 Testing, temporary regulations.
The Traffic Safety and Parking Commission may when public convenience or necessity requires, test under actual conditions and for a period not to exceed thirty (30) days, temporary traffic regulations on ways within this City. (Ord. of 11-23-98)

Section 18-47--18-60 Reserved.

ARTICLE III. TRAFFIC SIGNS, SIGNALS AND MARKINGS*

Section 18-61 Generally.
The city services commission shall place and maintain all official traffic signs, markings and safety zones. The Building Department's Wire Division shall place and maintain all official traffic signals. All signs, signals, markings and safety zones shall conform to the standards of the state department of public works. (Rev. Ords. 1976, T.O. Art. III, § 1) (A0173-12)

Section 18-62 Display of unauthorized devices prohibited.
It shall be unlawful for any person to place or maintain or to display upon or in view of any street any unofficial sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic sign, signal, marking or device, or which attempts to direct the movement of traffic or which hides from view any official sign or signal. The city services commission is hereby empowered to remove or cause to be removed every such prohibited sign, signal, marking or device. Who ever violates the provisions of this shall be fined in accordance with section 1-8. (Rev. Ords. 1976, T.O. Art. III, § 2) (A0173-12)

Section 18-63 Interference with devices prohibited.
Any person who willfully defaces, injures, moves, obstructs or interferes with any official traffic sign, signal or marking shall be liable to a fine in accordance with section 1-8. (Rev. Ords. 1976, T.O. Art. III, § 3)

Section 18-64 Location of bus stops, taxicab stands and service zones.
The location of all bus stops, taxicab stands and service zones shall be specified by the city council, and, in the case of each, the city council shall designate who may use them as such. (Rev. Ords. 1976, T.O. Art. III, § 4) (A0173-12)

Section 18-65 Official Instructions.
Drivers of vehicles shall obey the instructions of any official traffic control signal, sign, marking or marker, unless otherwise directed by a police officer. (Rev. Ords. 1976, T.O. Art. III, § 5)

Section 18-66--18-80 Reserved.

ARTICLE IV. OPERATION OF VEHICLES

Section 18-81 Drive within marked lanes.
When any roadway has been divided into lanes, a driver of a vehicle shall drive so as to be entirely

within a single lane and shall not move from the lane in which he is driving until he has first ascertained if such movement can be made with safety. (Rev. Ords. 1976, T.O. Art. VIII, § 1)

Section 18-82 Use right lane.
Upon all roadways, the driver of a vehicle shall drive in the lane nearest the right side of the roadway when such lane is available for travel, except when overtaking another vehicle or when preparing for a left turn. (Rev. Ords. 1976, T.O. Art. VIII, § 2)

Section 18-83 Overtaking restricted generally.
The driver of a vehicle shall not overtake and pass a vehicle proceeding in the same direction unless there is sufficient clear space ahead on the right side of the roadway to permit the overtaking to be completed without impeding the safe operation of any vehicle ahead. (Rev. Ords. 1976, T.O. Art. VIII, § 3)

State law reference(s)--Passing, M.G.L.A. c. 89, § 2.

Section 18-84 Driver to give way to overtaking vehicle.
The driver of a vehicle when about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle, on suitable and audible signal being given by the driver of the overtaking vehicle, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Rev. Ords. 1976, T.O. Art. VIII, § 4)

Section 18-85 Obstructing traffic.
(a) No person shall drive, stop or stand a vehicle in such a manner as to obstruct unnecessarily the normal movement of traffic upon any street or highway. Officers are hereby authorized to require any driver who fails to comply with this section to drive to the side of the roadway and wait until such traffic as has been delayed has passed.

(b) No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk and on the right half of the roadway to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Rev. Ords. 1976, T.O. Art. VIII, § 5)

Section 18-86 Following too closely.
The driver of a vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard to the speed of such vehicle and the traffic upon and condition of the street or highway. (Rev. Ords. 1976, T.O. Art. VIII, § 6)

Section 18-87 Separation of slow vehicles.
Upon roadways less than twenty-seven (27) feet wide and upon which vehicular traffic is permitted to operate in both directions, the driver of any slow moving vehicle when traveling outside of a business or residential district shall not follow another slow moving vehicle within two hundred (200) feet, but this shall not be construed to prevent such slow moving vehicle from overtaking and passing another slow-moving vehicle. This section shall not apply to funerals or other lawful processions. (Rev. Ords. 1976, T.O. Art. VIII, § 7)

Section 18-88 Care in starting, stopping, turning or backing.
The driver of any vehicle before starting, stopping, turning from a direct line or backing shall first see that such movement can be made in safety. If the operation of another vehicle should be affected by a stopping or turning movement, the driver of such vehicle shall be given a plainly visible signal as required by section 18-89. (Rev. Ords. 1976, T.O. Art. VIII, § 8)

State law reference(s)--Stopping and turning, M.G.L.A. c. 90, § 14B.

Section 18-89 Stopping and turning signal.
(a) Any signal herein required shall be given sufficient time in advance of the movement indicated to give ample warning to any person who may be affected by such movement, and shall be given either by means of the hand and arm in the manner specified, or by a suitable mechanical or electrical device, except that when a vehicle is so constructed or loaded as to prevent the hand and arm signal from being made or from being visible both to the front and rear, the signal shall be given by a suitable device.

(b) Hand and arm signals required herein shall be made as follows:

(1) An intention to stop or decrease speed shall be indicated by extending the arm horizontally and downward to the left of and beyond the side of the vehicle.

(2) An intention to turn to the left shall be indicated by extending the arm horizontally to the left of and beyond the side of the vehicle.

(3) An intention to turn to the right shall be indicated by extending the arm horizontally and upward to the left of and beyond the side of the vehicle. (Rev. Ords. 1976, T.O. Art. VIII, § 9)

Section 18-90 Obedience to traffic control signals.
Colors and arrow indications in traffic control signals shall have the commands ascribed to them in this section, and no other meanings, and every driver of a vehicle shall comply therewith, except when otherwise directed by an officer or by a lawful traffic regulating sign (other than a stop sign), signal, or device, or except as provided in section 18-184(b). In no case shall a driver enter or proceed through an intersection without due regard to the safety of other persons within the intersection, regardless of what indications may be given by traffic control signals.

(a) Green. While the green lens is illuminated, drivers facing the signal may proceed through the intersection, but shall yield the right-of-way to pedestrians and vehicles lawfully within a crosswalk or the intersection at the time such signal was exhibited. Drivers of vehicles making a right or left turn shall yield the right of way to pedestrians crossing with the flow of traffic.

(b) Right, left and vertical green arrows. When a right, green arrow is illuminated, drivers facing such signal may turn right. When a left, green arrow is illuminated, drivers facing such signal may turn left. When a vertical green arrow is illuminated, drivers facing such signal may go straight ahead. When a green arrow is exhibited, together with a red or yellow lens, drivers may enter the intersection to make the movement permitted by the arrow, but shall yield the right-of-way to vehicles and pedestrians proceeding from another direction on a green indication.

(c) Yellow. While the yellow lens is illuminated, waiting drivers shall not proceed, and any driver approaching the intersection or a marked stop line, shall stop at such point unless so close to the intersection that a stop cannot be made in safety; provided, however, that if a green arrow is illuminated at the same time, drivers may enter the intersection to make the movement permitted by such arrow.

(d) Red. Operation of a vehicle facing a circular red signal shall:

(1) Stop at a clearly marked stop line, or if none, before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as allowed by chapter 89, section 8, of the General Laws.

(2) No driver of a vehicle facing a circular red signal indication shall make a right turn where official traffic signs are installed and maintained prohibiting such turn at certain designated intersections. A schedule of intersections where such turns are permitted is on file in the city clerk's office.

(e) Red and yellow. While the red and yellow lenses are illuminated together, drivers shall not enter the intersection and during such time the intersection shall be reserved for the exclusive use of pedestrians.

(f) Flashing red. A flashing red lens shall indicate those intersections at which a driver is required by law to stop before entering.

(g) Flashing yellow. A flashing yellow lens shall indicate the presence of a hazard and drivers may proceed only with caution.

(h) Flashing green. A flashing green lens shall indicate an intersection or pedestrian crosswalk in use or subject to use by entering or crossing traffic. Drivers may proceed only with caution and shall be prepared to comply with a change in the signal to a red or red and yellow indication. (Rev. Ords. 1976, T.O. Art. VIII, § 11; Ord. of 6-9-80)

Section 18-91 Left turns prohibited.
No driver of a vehicle shall make a left turn on certain streets and a schedule of such streets is on file in the city clerk's office. (Rev. Ords. 1976, T.O. Art. VIII, § 12)

Section 18-92 Obedience to throughway stop signs.
(a) In accordance with the provisions of chapter 89, section 9, of the General Laws, certain streets or parts of streets are hereby declared to be throughways and a schedule of such streets is on file in the city clerk's office.

(b) Every driver of a vehicle approaching an intersection of a way with a lawful throughway, where there exists facing him a sign bearing the words "Through Traffic Stop," such sign being in accordance with the requirements of the department, shall, before proceeding through the intersection, bring such vehicle to a complete stop at such point as may be marked by a sign or line, or, if a point is not so marked, then at a place between the stop sign and the nearer line of the

intersection. In case of a line of two (2) or more vehicles approaching such stop sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device. (Rev. Ords. 1976, T.O. Art. VIII, § 13)

Section 18-93 Obedience to isolated stop signs.

(a) Every driver of a vehicle approaching an intersection of ways where there exists facing him an official sign, bearing the word “stop” and authorized by this section, such sign conforming, apart from this regulation, to the standards of the State Department of Public Works, shall, bring such vehicle to a complete stop at such point as may be clearly marked by a sign or line, or, if a point is not so marked, then at a place between the stop sign and the nearer line of the street intersection. In the case of a line of two (2) or more vehicles approaching such stop sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by a lawful traffic regulating sign, signal or device, except as provided in section 18-184(c).

(b) In accordance with the foregoing, the erection and maintenance of an official stop sign or signs are authorized so as to face certain streets and a schedule of such stop signs is on file in the city clerk’s office. (Rev. Ords. 1976, T.O. Art. VIII, § 14)

Section 18-94 One-way streets.

Upon certain streets or parts of streets, vehicular traffic shall move only in the direction indicated and a schedule of such streets is on file in the city clerk’s office. (Rev. Ords. 1976, T.O. Art. VII, § 1)

Section 18-95 Rotary traffic.

Within the areas bounded by certain streets, vehicular traffic shall move only in a rotary counter-clockwise direction and a schedule of such streets is on file in the city clerk’s office. (Rev. Ords. 1976, T.O. Art. VII, § 2)

Section 18-96 Backing and U-turns Prohibited.

No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which such vehicle is headed or traveling on certain streets and a schedule of such streets is on file in the city clerk’s office. (Rev. Ords. 1976, T.O. Art. VIII, § 10)

Section 18-97 Keep to the right of roadway division.

Upon such roadways as are divided by a parkway, grass plot, reservation, viaduct or by any structure or area drivers shall keep to the right of such a division except when otherwise directed by an officer, signs, signals or markings. (Rev. Ords. 1976, T.O. Art. VIII, § 15)

Section 18-98 Operation at underpass or overpass and at intersections with islands.

At any junction of crossings of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands,

drivers of vehicles shall proceed only as indicated by official signs, signals or markings. (Rev. Ords. 1976, T.O. Art. VIII, § 16)

Section 18-99 Driving on road surfaces under construction or repair.
No operator shall enter upon the road surface of any street or highway or section thereof, when, by reason of construction, surface treatment, maintenance or the like, or because of some unprotected hazard such road surface is closed to travel, and one (1) or more signs, lights or signals have been erected to indicate that the road surface of the highway is not to be used, or, when so advised by an officer, watchman, member of a street or highway crew, or employee of the city, either audibly or by signal. (Rev. Ords. 1976, T.O. Art. VIII, § 17)

Section 18-100 No driving through safety zones.
It shall be unlawful for the driver of a vehicle, except on signal from a police officer, to drive the same over or through a safety zone. (Rev. Ords. 1976, T.O. Art. VIII, § 20)

Section 18-101 Emerging from alley or private driveway.
The operator of a vehicle emerging from an alley, driveway or a garage shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alleyway or driveway. (Rev. Ords. 1976, T.O. Art. VIII, § 24)

Section 18-102 Vehicle operation at crosswalks.
(a) When traffic control signals are not in place or not in operation the driver of a vehicle, which for the purpose of this article shall include bicycles, shall yield the right-of-way, slowing down or stopping if need be so to yield, to a pedestrian crossing the roadway within the marked crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is travelling or when the pedestrian approaches from the opposite half of the roadway to within five (5) feet of that half of the roadway upon which the vehicle is travelling.

(b) No operator of a vehicle shall pass any other vehicle which has been stopped at a marked crosswalk to permit a pedestrian to cross a way. (Rev. Ords. 1976, T.O., Art. VIII, § 25)

Section 18-103 Obedience to yield signs.
(a) Every driver of a vehicle or other conveyance approaching an intersection of ways, where there exists facing him an official sign bearing the word “Yield”, such sign conforming to the standards of the State Department of Public Works, shall surrender to oncoming traffic his right to enter the intersection until such time as he has brought his vehicle or other conveyance to a complete stop at a point between the yield sign and the nearer line of the street intersection; provided, however, that this requirement to stop before entering the intersection shall not apply when a driver approaching a yield sign can enter the intersection in safety without causing interference to approaching traffic.

(b) This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device or as provided in section 18-184(c).

(c) In accordance with the foregoing, the erection and maintenance of official yield signs are authorized so as to face certain streets and a schedule of such streets is on file in the city clerk’s

office. (Rev. Ords. 1976, T.O., Art. VIII, § 26)

Section 18-104 Motorized Scooters.

(a) No person shall operate a motorized scooter defined as a vehicle with a low powered combustible fluid engine geared to the rear wheel, that typically has two wheels with a low floorboard between them, is steered by a handlebar, and is propelled by pushing one foot against the ground while resting the other on the footboard; a motorized skateboard or other similar motorized vehicle, including but not limited to mini-motorcycles, on any public way, sidewalk, playground, or on any property owned by the City of Everett. Any small motorcycle that goes over 35 MPH, and is 3 feet off the ground, has to be registered with the Registry of Motor Vehicles.

(b) The following vehicles shall be exempt from the provisions of this section:

(1) Vehicles licensed by the Commonwealth of Massachusetts as motor vehicles.

(2) Vehicles used by handicapped persons, and

(3) Landscaping equipment.

(c) Any person violating the provisions of this section shall be punished by a fine of one hundred dollars ($100.00).

(d) If a minor child is found to be in violation of this ordinance, his or her parent or guardian will be responsible for payment of the fine imposed. (Ord of 7-10-2003)(09/21/2004)

Section 18-105--18-130 Reserved.

ARTICLE V. PARKING, STOPPING AND STANDING*

DIVISION 1. GENERALLY

Section 18-131 General prohibitions.

No person shall stand, park or allow, permit or suffer any vehicle registered in his or her name, to stand or park in any of the following places

(a) Within an intersection.

(b) Upon any sidewalk.

(c) Upon any crosswalk.

(d) Upon any way in such a manner as to impede the removal or plowing of snow or ice.

(e) Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within twelve (12) inches of the curb or edge of the roadway, except upon those streets that are designated as one-way streets. On such one-way streets, vehicles shall be parked in the direction in which such vehicle is moving and with both wheels within twelve (12) inches of the curb. This shall not apply to streets or parts of streets where angle parking is required by these regulations.

(f) Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least ten (10) feet wide for passing traffic.

(g) Upon any street or highway within ten (10) feet of a fire hydrant.

(h) Upon or in front of any private road or driveway.

(i) Upon any street or highway within twenty (20) feet of an intersecting way, except alleys.

(j) Within fifteen (15) feet of the wall of a fire station or directly across the street from such station, provided signs are erected informing the driver of such restrictions.

(k) Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.

(l) On the roadway side of any vehicle stopped or parked at the edge of the curb of a street in such a manner as to constitute double line or multiple line parking.

(m) On any part of any way under the control of the City of Everett in such a manner as to obstruct any curb designed for use by handicapped persons as a means of egress to a street or public way, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person. (Ord. of 06-03-2002)

(n) As posted upon any roadway, during specified hours and day designated for the cleaning of the roadway.

(1) Parking shall be prohibited from April 1 through November 30, between the hours of 4:00 A.M. and 7:00 A.M. for the purpose of cleaning the roadway on the following main streets except for those vehicles otherwise legally parked which have handicap placards, and handicap plates, and are parking in approved handicapped parking spots, in accordance with the law:

a. Broadway, entire

b. Main Street, entire

c. Elm Street, entire

d. Ferry Street, entire

e. Chelsea Street, entire

f. School Street, Norwood Street to Corey Street

g. Norwood Street, Liberty Street to Broadway (A0323-12)

(2) On other streets throughout the City, parking shall be prohibited from 8:00 A.M. to 12:00 P.M. on the side of the street scheduled and posted except for those vehicles otherwise legally parked which have handicap placards, and handicap plates, and are parking in

approved handicapped parking spots, in accordance with the law. (Ord. of 10-28-2002, A0323-12)

(3) Vehicles found in violation pay twenty-five dollars ($25.00) and will be towed at the expense of the owner. (Rev. Ords. 1976, T.O. Art. V, § 1; Ord. of 10-22-85; Ord. of 8-26-96(2); Ord. of 5-5-99)

Section 18-132 Temporary parking prohibitions.
The chief of police is hereby authorized to prohibit, temporarily, parking on any street or highway, or part thereof, in an impending or existing emergency, or for a lawful assemblage, demonstration or procession. The chief of police may suspend all parking restrictions for the purpose of street cleaning, street and sidewalk repair and snow removal, provided there is reasonable justification for such prohibition and suspension. (Rev. Ords. 1976, T.O. Art. X, § 3)

Section 18-133 Prohibited on certain streets.
Parking is prohibited at all times on certain streets and a schedule of such streets is on file in the city clerk's office and such prohibited parking may be restricted for certain hours of the day and such prohibited parking may be restricted for certain days of the week. (Rev. Ords. 1976, T.O. Art. V, § 2)

Section 18-134 Prohibited during certain hours on certain streets.
No person shall park a vehicle between the hours of 3:00 p.m. and 7:00 p.m. for longer than forty-five (45) minutes of any day, except Sundays and public holidays, on certain streets and a schedule of such streets is on file in the city clerk's office. (Rev. Ords. 1976, T.O. Art. V, § 3)

Section 18-135 Prohibited at safety zones.
No person shall park a vehicle within twenty (20) feet of either end of a safety zone which is located within thirty (30) feet of the curb or edge of the roadway. (Rev. Ords. 1976, T.O. Art. V, § 4)

Section 18-136 Bus stops.
(a) No person shall park a vehicle other than a bus in a bus stop.

(b) No person shall park a bus upon any street within a business district at any place other than a bus stop, when a nearby bus stop is available for use. (Rev. Ords. 1976, T.O. Art. V, § 5)

Section 18-137 Taxicab stands.
(a) No person shall park a vehicle other than a taxicab upon any street within a business district in any taxicab stand.

(b) No person shall park a taxicab upon any street within a business district at any place other than the taxicab stand or stands designated for the use of his taxicab, except while engaged or while waiting for an opportunity to use a taxicab stand designated for his use. (Rev. Ords. 1976, T.O. Art. V, § 7; Ord. of 5-12-86(2))

Section 18-138 Service zones in Metered and Non-Metered Areas.
No person shall park a vehicle upon any street in any service zone for a period of time longer than fifteen (15) minutes except that commercial vehicles actually engaged in loading and unloading may

park for a period of time not exceeding one-half hour, and such service zones may be restricted for certain hours of the day, and such service zone my be restricted for certain days of the week. (Rev. Ords. 1976, T.O. Art. V, § 8)(Ord. of 01-12-98)(Ord. of 12-11-2000)

Section 18-138.5 Loading Zones.

(a) No person shall park a vehicle upon any street in any loading zone during the time designated except commercial vehicles actually engaged in loading and unloading.

(b) Loading zones located in metered areas shall take precedence over parking meters.

(1) Parking meters shall not be in effect during the time the loading zone is in effect.

(2) The time that any loading zone shall be in effect shall be no longer than two (2) hours at any one time.

(3) The time the loading zone is in effect shall be clearly posted on a sign(s) for the loading zone.

(c) A copy of said loading zones shall be kept on file in the Office of the City Clerk. (Ord. of 04-08-2003)

Section 18-139 Time limited in designated places.

(a) No person shall park a vehicle for longer than one (1) hour at any time between 10:00 a.m. and 8:00 p.m. of any day except Sundays and public holidays on certain described streets or parts thereof and a schedule of such streets is on file in the city clerk's office.

(b) No person shall park a vehicle for longer than one (1) hour at any time between 7:00 a.m. to 8:00 p.m. of any day, except Sundays and public holidays, on certain streets and a schedule of such streets is on file in the city clerk's office.

(c) No person shall park a vehicle for longer than one (1) hour of any day at any time, except Sundays and public holidays, on certain streets and a schedule of such streets is on file in the city clerk's office.

(d) No person shall park any vehicle or trailer that has six (6) wheels or more, or any truck with a capacity of one ton or over, at any time, on any public way, in a dwelling or apartment zone or in a municipal parking lot, between the hours of 11:00 p.m. to 8:00 a.m and at any time on Sundays and Holidays. There is excepted from the above provision between the hours of 11:00 p.m. to 8:00 a.m., commercial vehicles or trailers parked for the purpose of deliveries or pick-ups, provided such deliveries or pickups do no exceed one hour. (Ord. of 03-03-03)

(1) No person shall park any commercial, taxi, livery, dealer (plates) and repair plated vehicles with four (4) wheels for a period of more than twenty-four (24) hours Monday through Friday on any public, or part of a public way, in a dwelling or apartment zone, municipal parking lot or in a service zone. (Ord. of 05-29-01)

(e) No person shall park any vehicle, which is not, according to the records kept by the Registry

of Motor Vehicles, validly registered in the City of Everett, at any time, on any public or part of a public way, or in a municipal parking lot, between the hours of 11 p.m. and 8 a.m. Vehicles, registered outside of the City of Everett, parking for the purpose of deliveries or pick-ups are exempt from this ban, provided, however, that such deliveries and pick-ups do not exceed one hour. Any person violating this subsection shall be subject to a $25.00 fine.

(1) The purpose of the amendment is to prohibit vehicles not registered in the City of Everett from parking overnight, on any public way or part of a public way, or in a municipal parking lot.

(2) The use of the Everett City Hall Parking Lot during non-business hours is hereby restricted to those automobiles having a valid Everett Residential Parking Sticker and all other automobiles subject to a $25.00 parking ticket. (Rev. Ords. 1976, T.O. Art. V, § 9, Ord. of 6-22-87; Ord. of 4-21-92; Ord. of 6-8-92(2); Ord. of 10-2-95) (Ord of 03/05/2004) (Ord of 06-24-2004)(A0214-06)

Section 18-140 Angle parking.

(a) The Traffic, Safety and Parking Commission shall determine upon what streets angle parking shall be required, and shall post sign on such streets.

(b) Upon those streets which have been signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such official signs. (Rev. Ords. 1976, T.O. Art. V, § 10)

Section 18-141 Parking vehicles for sale prohibited.

(a) It shall be unlawful for any person to park upon a street or highway any vehicle displayed for sale.

(b) It shall be unlawful for any person to offer for sale, upon private property not licensed for the sale of motor vehicles, any vehicle not currently or previously registered at that address. (Rev. Ords. 1976, T.O. Art. V, § 11; Ord. of 04-22-02)

Cross reference(s)--Licenses and business regulations, Ch. 12.

Section 18-142 Parking of vehicles bearing political signs.

The parking of any vehicle bearing a political sign of any description at any entrance to a designated polling place during the hours such polling place is open for any city, state, federal or special election; shall be in accordance with M.G.L. c. 54, Section 65. (Rev. Ords. 1976, Pt. 2, Ch. 17, § 49A)

Section 18-143 Odd and even all night parking.

(a) Whenever the chief of police declares that a parking ban is in effect as a result of weather conditions that threaten to constitute a traffic hazard, motor vehicles shall only park on the odd-numbered side of the street in odd-numbered years and on the even-numbered side in the even-numbered years.

(b) Notification to the general public of the parking ban and its termination shall be given by the chief of police in such a manner as he may prescribe and announce.

(c) This section shall not apply to any street on which parking is now prohibited on one or both sides of a street, at any time, and shall not apply to those streets designated as snow emergency arteries in the city, as defined in chapter 18, section 18-144 of the ordinances of the city.

(d) Any vehicle found to be in violation of this section shall be subject to the penalties as provided by section 18-146, parking fines, and subject to towing as provided by division 2, section 18-161 through section 18-166.

(e) This section shall be in effect from November 1st through March 31st. The side of the street on which motor vehicles will park in accordance with subsection (a) will be the year subsequent to the November when said ban is declared. (C0068-11) (Rev. Ords. 1976, T.O. Art. V, § 12; Ord. of 10-26-92(2); Ord. of 12-27-93; Ord. of 12-12-96) (C0068-11)

Section 18-144 Emergency or Weather Parking Limitations.

(a) Whenever a Federal, State, or City emergency situation exists, and whenever impending weather conditions threaten to constitute a traffic hazard impairing transportation, the movement of food and fuel supplies, medical care, fire, health and police protection, and other vital facilities of the city, the chief of police shall announce such emergency, then, any and all of the following parking prohibitions shall become effective at the time designated.

(b) No driver shall stop, stand or park any vehicle within the limits of certain traffic arteries or parts thereof, provided that this section shall not apply to passenger vehicles stopped temporarily during the actual receiving or discharging passengers nor to commercial vehicles stopped temporarily during the actual loading or unloading of materials. The schedule of streets designated as emergency arteries is on file in the city clerk's office.

(c) Vehicles to be Cleaned Within Forty-Eight Hours of the End of a Declared Snow Emergency. The owner of any vehicle parked along a public way within the City of Everett shall, within a forty-eight hours following the termination of a declared snow emergency, clean said vehicle of all snow. (Rev. Ords. 1976, T.O. Art. 5A, § 2A) (A0035-11)

Section 18-145 Parking in handicapped or disabled veteran's space.

(a) No person shall leave an unauthorized vehicle within parking space designated for use by disabled veterans or handicapped persons in a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees.

(b) An individual may apply for an area to be designated for disabled and/or veteran's parking on a public way, on the form that has been approved by the Traffic Commission. (Ord. Of 6-27-97; 10-29-2005)

(c) Each application shall be accompanied by an affidavit; the form of the affidavit shall be approved by the disability commission.

(d) Each affidavit so received by the Traffic Commission shall be referred to the Disability

Commission for its recommendation before a vote is taken by the Traffic Commission. (Ord. of 2-24-86, Ord. of 6-3-91; Ord. of 6-3-91(2); Ord. of 4-25-94; Ord. of 10-28-96; Ord. Of 6-27-97; 11-29-2005)

Cross reference(s)--Disability Commission, § 2-271 et seq.

State law reference(s)--Handicapped Person & Disabled Veterans parking spaces, M.G.L. Chapter 40 Section 21 (cl. 23 et seq).

Section 18-146 Parking fees.

(a) Parking fee zones are hereby established, and are defined as those legal parking spaces, except handicapped spaces, located on a street or part of a street, or in a municipal lot or parking facility, named on a list entitled “parking fee zones” which accompanies and is hereby declared to be part of this section. A copy of this list shall be available for public inspection in the office of the city clerk.

(b) Vehicles parked in a parking fee zone shall be in an area corresponding to a parking fee device, or in an area designated by marked lines.

(c) Between the hours of 8:00 am and 6:00 pm Monday through Saturday, except legal holidays on which city hall is closed a parking fee of $.25/30 minutes on streets and $.25/hour in municipal lots and parking facilities shall be charges for all vehicles parking in a parking fee zone. (Ord of 05-05-2005)

(d) Limited time parking restrictions of two (2) hours on streets and ten (10) hours in municipal lots and parking facilities and 15 minutes in service zones shall apply to vehicles parked in a parking fee zone.

(e) Limited time parking restrictions and parking fees shall be designated on a parking fee device, or by signage if payment is rendered to a device, or person, serving multiple parking spaces.

(f) No person shall tamper with, break, destroy, or vandalize a parking fee device. This shall include the deposit or insertion into a parking fee device any material other than the coins required for payment of a parking fee. Any person violating the provisions of this subsection shall be subject to a fine in accordance with the provisions of section 1-8.

Section 18-147 Parking fines.

Any person violating any provision of an ordinance, regulating the parking of motor vehicles in the city shall be fined in accordance with the schedule on file in the City Clerk’s Office.

(1) Group A.

a. Parking overtime at night.

(2) Group B.

b. Overtime parking, except at a meter.

c. Wrong direction parking.

d. Not parking within a designated area.

e. Nonpayment of parking fee.

f. Failure to comply with provisions of ordinances relative to parking fees and parking zones.

(3) Group C.

a. Parking in a restricted area.

b. Parking within twenty (20) feet of an intersection.

c. Parking on a crosswalk.

d. Parking double.

e. Parking in front of a driveway or private way.

f. Interfering with free flow of traffic.

g. Parking in a taxi cab stand more than fifteen (15) minutes.

h. Parking more than twelve (12) inches away from curb.

i. Parking on sidewalk.

j. Parking so as not to leave a ten-foot unobstructed lane.

k. Parking so as to impede street cleaning.

l. Commercial vehicles parking overtime at night and on Sundays (over a ton vehicles only).

m. Resident parking only.

n. Parking any truck or trailer with six (6) wheels or more between the hours of 11:00 P.M. to 8:00 A.M., upon any public way or on any municipal parking lot.

o. Snow emergency main arteries.

p. Obstructing snow removal.

q. Parking or stopping at a bus stop.

(4) Group D.

a. Handicapped and disabled veteran parking violation. (C0256-07)

b. Parking within ten (10) feet of a fire hydrant or within any designated fire lane. (Rev. Ords. 1976, T.O., Art. 5A, § 3; Ord. of 8-26-76; Ord. of 8-23-82; Ord. of 8-23-93; Ord. of 06-03-2002)(C0256-07)

DIVISION 2.

Section 18-148 Designation of Residential Parking Sticker Area.

(a) The Traffic, Safety and Parking Commission shall designate areas as residential parking sticker areas in which only vehicles displaying a valid residential parking sticker or visitor permit may be parked.

(b) Definition of Residential Parking Sticker Area: Residential Parking Sticker Area shall mean any area designated by the Traffic Safety and Parking Commission for residential parking. Areas may be designated for residential parking in any area regardless of zoning. The Resident Parking Sticker program will be in effect in designated business areas from 1:00 AM to 6:00 AM and designated residential areas from 12:00 AM to 6:00 AM, Monday through Friday. Sunday and Holidays are excluded.

Section 18-149 Citywide Resident Sticker Regulations:.

The Parking Clerk shall oversee the resident sticker program. The program requires that residents, who own a vehicle, and individuals moving into the City of Everett with a vehicle, register their vehicle in the City or have their registration changed to read that the vehicle is principally garaged in Everett.

(a) Resident Parking Stickers shall be valid for one year. The location for the distribution of the Resident Sticker shall be the Office of the Everett Parking Clerk; the specific date(s) for the annual distribution will be announced in the local newspapers and Everett Cable 16 to alert Everett residents. No more than one residential parking sticker shall be issued per motor vehicle.

(b) A vehicle on which is displayed a valid residential parking sticker in the designated location on the vehicle shall be permitted to stand, park or stop on all City streets and City owned parking lots, including the parking lots at the former Hale, Lewis and Horace Mann Schools' located on Glendale Street, Floyd Street, Derne Street and the Everett City Hall Parking Lot respectively. The provisions of this ordinance establishing a residential parking sticker area shall not relieve any person from the duty to observe other and more restrictive provisions of other ordinances prohibiting or limiting the stopping, standing or parking or vehicles at specific times.

(c) There shall be no fee for Resident Parking Stickers. A new resident moving into Everett must obtain a residential parking sticker. In addition, any Everett resident having been issued a new registration or purchasing a new vehicle with the same registration must obtain a new resident parking sticker. The method of payment shall be cash or money order. No checks will be accepted. (C0021-15)

(d) A residential parking sticker shall not guarantee or reserve a parking space.

(e) The following vehicles are not eligible under this ordinance:

(1) Vehicles with six wheels or more as described in Section 18-139(d) of these Ordinances.

(2) Any bus that exceeds 25 feet in length.

(3) Vehicles exceeding twenty-two feet in length.

(4) Taxicab and vehicles bearing livery plates.

(5) Vehicles not displaying a resident parking sticker that are being repaired or awaiting owner pick-up during the designated residential sticker hours.

(6) Any trailer whether or not attached to a vehicle with a resident parking sticker. (A0086-07)

(7) Recreational vehicles and campers. (A0341-08)

Section 18-150 Applying for a Resident Sticker.

(a) Each applicant shall submit proof of residency and current motor vehicle registration issued by the Commonwealth of Massachusetts Registry of Motor Vehicles affirming that the City of Everett is the applicants' residence or that the vehicle is principally garaged in the City of Everett.

(b) Any two of the following documents will be accepted as proof of residency;

(1) A valid drivers license with correct address;

(2) A valid motor vehicle registration with correct address;

(3) A real estate tax statement, municipal water bill or utility bill; with the applicant's name.

(4) Such other proof acceptable to the Office of the Parking Clerk.

(c) The Parking Clerk shall insure that all residents have paid their excise tax and parking tickets.

(d) Once proof of residency and payment of excise tax and parking tickets is assured by the Parking Clerk, the Resident Parking Sticker shall be issued.

(e) The resident sticker shall be affixed to the windshield in front of the rearview mirror in a manner as not to interfere with the vision of the operator.

(f) A replacement residential parking sticker will not be issued without the return of the original sticker and/or fragments of the original sticker. The fee for a replacement sticker is $10.00. The method of payment shall be cash or money order. No checks will be accepted.

Section 18-150.1 Visitor Placard.

(a) Only one qualified member per household, who provides proper identification, may purchase one visitor placard at the Office of the Everett Parking Clerk. The placard fee shall be as follows: $10.00 for a seven day placard, $15.00 for a 14-day placard, $20.00 for a 21-day placard, and $25.00 for a 30-day placard. The method of payment shall be cash or money order. No checks will be accepted. Once purchased, the placard becomes the responsibility of the household. The

resident should be vigilant to safeguard it from theft and loss.

(b) Visitor placards cannot be used on any vehicle owned and operated by the resident of the household or on a vehicle excluded in the ordinance as stated in section 18-149e.

(c) Placard shall be displayed hanging from the rearview mirror while the vehicle is parked, with printing facing forward.

Section 18-150.2 Special Placard.
(a) Subject to the following circumstance, a special visitor placard may be purchased for a fee of $100.00. The method of payment shall be cash or money order. No checks will be accepted.

(1) A business who has employees that are required to work beyond the start time of the resident sticker program.

(2) A student who rents an apartment while attending an area school.

(3) A resident in accordance with the Parking Clerk's list of exceptions.

(b) Once a special placard is purchased, it is the responsibility of the person issued the placard to be vigilant to safeguard the placard from theft and loss.

(c) Placards shall be displayed hanging from the rear view mirror while the vehicle is parked.

Section 18-150.3 Placard Replacement.
A replacement placard shall cost $50.00. The method of payment shall be cash or money order. No checks will be accepted.

Section 18-151 Sticker and Permit Fees.
The Parking Clerk, with the approval of the Everett City Council and the Mayor, shall determine the fee for a residential parking sticker, visitor placards, special placard, and the replacement of such, due to damage or loss.

Section 18-152 Penalty Provision.
(a) It shall be unlawful and a violation of these regulations for any person to park, stand or stop a vehicle on any street or parking lot covered by this ordinance without a valid residential parking sticker, visitor placard or special placard. Said violation shall be punishable by a fine as prescribed in Section 18-147 of the Revised Ordinances.

(b) It shall be unlawful and a violation of these regulations for a person to falsely represent themselves as eligible for a residential parking sticker or to furnish false information to the Parking Clerk or designee. Such violation shall be punishable by a fine of $300.00.

(c) It shall be unlawful and a violation of these regulations for a person holding a valid residential parking sticker to permit the use of such sticker on a vehicle other than that for which the sticker was issued. Such violation shall be punishable by a fine of $300.00.

(d) It shall be unlawful and a violation of these regulations for a person to copy, produce or

otherwise use a facsimile or counterfeit a residential parking sticker. Such violation shall be punishable by a fine in accordance with Chapter 1, Section 8 of the Revised Ordinances of the City of Everett.

Section 18-153 Revocation of Stickers and Permits.
(a) The Parking Clerk is authorized to revoke the residential parking sticker or visitor placard or special placard of any person found in violations or these regulations and, upon written notification thereof, the person shall surrender the sticker or placard to the Office of the Everett Parking Clerk.

(b) Residential parking stickers will automatically be revoked if the resident ceases to qualify under Section 18-150.

(c) If the parking sticker or placard is found on a vehicle other than the one so designated at the time of issuance, or the registration number on the parking sticker is different that the one on the vehicle, then the parking sticker or placard shall be automatically revoked for the remaining period of the issue year.

Section 18-154 Public Notification.
The public shall be notified in one or all of the following methods:

(a) Street Signs

(b) Local Newspaper (one ad/paper)

(c) Everett Cable Television (channel 16)

(d) Reverse 911 calls to listed telephone numbers

Section 18-155 Severability.
The provisions of this Ordinance shall be severable and if any section, part or portion hereof shall be held invalid for any reason by any court, the decision of such court shall not affect or impair any remaining section, part or portion thereof. (Ord. of 3-18-2005; C0267-06)

Section 18-156--18-160 Reserved.

Section 18-161 PARKING STICKERS in METERED AREAS.
In order to more efficiently regulate parking in the City of Everett and to more effectively collect fees for parking at metered spaces with the city, the Parking Clerk is hereby authorized to administer a program through which eligible individuals, as defined below, may purchase parking stickers from the Parking Clerk for a fee. Vehicles bearing a current, valid sticker would be exempt from parking meter fees in designated areas for each month for which a parking sticker is purchased and affixed to the vehicle. This ordinance shall become effective July 2, 2001.

Section 18-162 Definitions.
(a) Parking stickers: a device that will be affixed, in an area on the vehicle designated by the Parking Clerk, to the vehicle of an eligible person. Said parking stickers will bear the emblem of the Parking Clerk and the registration number of the vehicle to which it is affixed. Said parking stickers

will not be transferable or assignable.

(b) Eligible persons: the following persons are eligible to purchase parking stickers:

(1) Residents of the City of Everett, with proof of residency,

(2) Owners of businesses located within the City of Everett,

(3) Persons employed by businesses located within the City of Everett, with proof of employment,

(4) Persons employed by the City of Everett.

(c) Vehicles

(1) The following vehicles are not eligible under this Ordinance:

a. Vehicles that have a carrying capacity of more than one ton,

b. buses,

c. truck tractors,

d. vehicles that exceed twenty feet in length,

e. vehicles bearing LV (livery plates) license plates.

(2) Eligible vehicles shall:

a. Have a valid vehicle registration and be insured,

b. Have no unpaid parking violations,

c. Have no unpaid vehicle excise tax.

Section 18-162.5 Towing of Repeatedly Tagged Vehicles.
If any person shall have failed to appear in accordance with three (3) or more parking violation notices, notwithstanding any notification to the Registrar of Motor Vehicles, the parking clerk shall notify the registered owner of said motor vehicle and the Chief of Police or his designee that the vehicle in said multiple violations should be removed and stored at the expense of the registered owner of said vehicle until such time as the matter has been disposed of in accordance with the law. (Ord. of 06-16-2003)(A0080-08)(A0081-08)

Section 18-163 Fees.
(a) The fee for a parking sticker for metered areas shall be determined by the Parking Clerk with approval of the Everett City Council and the Mayor.

(b) Parking stickers will be issued for not less than one (1) month and for not more than one (1) year.

Section 18-164 Certain areas excluded.

(a) Parking stickers will not be valid in metered service zone areas,

(b) The Parking Clerk shall determine metered areas in which the parking stickers are not valid. Metered areas that are excluded for use by vehicles with parking stickers shall be signed to indicate such.

(c) A list of areas excluded for use shall be kept on file at the Office of the Parking Clerk. (Ord. of 5-2-2001)

Section 18-165--18-166 Reserved.

DIVISION 3. TOWING AND STORAGE

Section 18-167 Generally.

Vehicles found in violation of the provisions of this chapter except those specifically exempt by law shall be removed to a convenient place in accordance with the procedures set forth in this ordinance. The owner of any vehicle removed or towed away under the provisions of this section shall also be subject to the penalties provided by section 18-146. (Rev. Ords. 1976, T.O. Art. 5A, § 5)

Section 18-168 Authorization of police.

(c) The moving or towing of any vehicle under the provisions of this article shall be by and at the direction of the chief of police or such other officer of the rank of sergeant or higher as he may from time to time designate to remove to some convenient place, through the agency of a person or persons in the employ of the police department of the city, any vehicle, except a vehicle owned by the Commonwealth of Massachusetts or a political subdivision thereof or by the United States or disabled veteran and bearing a distinctive number plate authorized by M.G.L. c. 90 § 2, parked or standing on any part of such street, way, road or parkway in such a manner as to impede in any way the plowing or removal of snow or ice or in violation of any rule or regulation adopted under this chapter which prohibits the parking or standing of all vehicles on such part at such times and recites that whoever violates it shall be subject to punishment by fine, and may impose liability for the reasonable cost of such removal and of the storage charges, if any, resulting therefrom, upon the owner of such vehicles.

(d) The police shall tow any vehicle involved in an arrest of an individual for Operating Under the Influence pursuant to M.G.L. C. 90, § 24.

(1) No motor vehicle impounded pursuant to an arrest for Operating Under the Influence may be released before the expiration of twelve (12) hours following the arrest. (Rev. Ords. 1976, T.O. Art. 5A, § 2; Ord. of 9-9-96)(Ord. 04-18-2003)

Section 18-169 Towing of repeatedly tagged motor vehicles.

If any person shall have failed to appear in accordance with three (3) or more parking violation notices, notwithstanding any notification to the registrar of motor vehicles, the parking clerk shall notify the registered owner of said motor vehicle and the chief of police or his designee that the

vehicle in said multiple violations should be removed and stored at the expense of the registered owner of said vehicle until such time as the matter has been disposed of in accordance with the law. No vehicle shall be removed or stored until and unless the registered owner of said vehicle shall have received ten-days notification by registered mail of said person's failure to appear on three (3) or more parking violation notices and that the registered vehicle may be removed and stored without further notice. The ten-day notification shall be ten (10) calendar days from the date of the postmark of the notification. It shall be sufficient for the purposes of such notice for the parking clerk in the case of vehicles registered in other states to mail notice to the registrar of motor vehicles or like officer of said jurisdiction. (Ord. of 11-12-96)(A0081-08)

Section 18-170 Removal of Certain Motor Vehicles from Public or Private Property.

(a) No person shall place upon public ways or upon public property any type of motor vehicle, as defined in the General Laws, Chapter 90, Section 1, including, but not limited to, automobiles, buses, trailers, motorcycles, and all vehicles constructed and designed for propulsion by power other than muscular power, for purposes of abandonment or discontinuance of use.

(b) No person shall place upon private ways or upon private property any type of motor vehicle, as defined in the General Laws, Chapter 90, Section 1, including, but not limited to automobiles, buses, trailers, motorcycles, and all vehicles constructed and designed for propulsion by power other than muscular power, for purposes of abandonment or discontinuance of use for more than five days, including those vehicles discontinued for seasonal storage – not to exceed six consecutive discontinued months without a permit issued by the Everett Police Department. Such permit shall only be granted upon such proof to the satisfaction of the Police Chief that the presence of such vehicle does not endanger the safety or health of residents at or in the area of said locus. The Police Chief shall make inquiry of the Building Inspector, City Clerk, Fire Chief and the Department of Health to verify if storage of a motor vehicle and/or gasoline storage is a permitted use according to applicable zoning and building code laws for said locus; if not, the owner shall also be required to obtain such permits as may be required by the Building Inspector or City Clerk and verify if storage of a motor vehicle and/or gasoline storage is permitted use according to applicable zoning and building code laws for said locus; if not, the owner shall also be required to obtain such permits as may be required by the Building Inspector or City Council. Upon failure to obtain a permit, after five days written notice to the owner of the locus by the Police Chief and/or Building Inspector, said vehicle may be ordered towed and stored at the expense of the owner of the locus; and an application for criminal complaint may be sought as allowed by law. Persons presently allowing or permitting such a motor vehicle to remain upon their property at the time of passage of this ordinance, shall be granted an additional five days (10 days total) written notice to remove the same.

(c) Failure to attach registration plates and current registration sticker to and/or register as required by law, a motor vehicle, as described above, for more than 72 continuous hours shall create a presumption that the same has been abandoned or its use discontinued by its owner, unless the motor vehicle's use has been discontinued for the purpose of seasonal storage with the intent of continued use within six months time, in which case the owner must obtain the permit so outlined in Section (b). After reasonable efforts to contact the owner to remove the same without

success, the said vehicle may be towed and stored at the expense of the owner, upon request of the Police Chief, Fire Department, the executive director of city services, Building Inspector or other authorized representative of the City of Everett. When an abandoned, unattended, wrecked, burned, or other vehicle creating a traffic hazard because of its position on a public way or because its physical appearance is causing the impeding of traffic, immediate removal may be authorized by order of the Police or Fire Chief. (A0173-12)

(d) In the event a vehicle is towed at the request of a representative of the City of Everett, and it is determined that said vehicle is worth less than the cost of removal and storage and expenses incident to the disposition of the same by advertising and public sale, said motor vehicle may be disposed of as refuse.

(e) A log shall be kept of vehicles towed as provided by Chapter 18, Article V, Division 2 of these Ordinances and a copy of said log shall be available as a public record.

(f) The rights, powers, and duties set forth in the Ordinance may be exercised in addition to and in conjunction with any applicable civil or criminal Massachusetts General Laws, as amended relating to removal or abandoned motor vehicles, whether registered or unregistered.

(g) No persons shall place, stop, or park upon a private way, without the written permission of all lawful owners abutting thereto, any registered or unregistered motor vehicle so as to impede, hinder, obstruct, block, or delay police, fire or emergency vehicles from egress or ingress. In the event the Police or Fire Chief determines that a vehicle is creating a danger to health and safety as a result of it being placed, stopped, or parked upon a private way, the said vehicle may be towed and stored, as set forth above. Further an application for criminal complaint may be sought as allowed by law.

(h) At any time before a motor vehicle is sold at public sale or disposed of as provided herein, the owner or person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle will be released to the owner or other person under this section until all towing charges, storage charges and fines, if any, have been paid.

(i) Whoever violates this Ordinance shall be punished by fine in accordance with Chapter 1, Section 1-8 of the Revised Ordinances of the City of Everett, as most recently amended. (Ord. of 06-26-2001) NOTE: Moved from 12-11 Business Regulations

Section 18-171 Towing and storage fees.
Unless otherwise provided by ordinance, the owner of a vehicle shall be liable for the cost of removal, and for the storage resulting therefrom, not more than the maximum rate established by the Department of Public Utilities, under the authority of M.G.L. Chapter 159B Section 6B. (Ord. of 5-6-96)

Section 18-172 Damages during removal or storage.
The contractor shall be liable to the owner of any vehicle removed under this article for any damages arising out of negligence caused to a vehicle in the course of removal and storage. (Rev.

Ords. 1976, T.O. Art. 5A, § 4)

Section 18-173 Official traffic signs.
The provisions of section 18-144 shall be effective only during such time as a sufficient number of official traffic signs bearing the legend “TOW ZONE NO PARKING DURING SNOW EMERGENCY” are installed, erected, maintained and located so as to be visible to approaching drivers. (Rev. Ords. 1976, T.O. Art. 5A, § 7)

Section 18-174 Record of towed vehicles.
The police department shall keep a record of all vehicles towed or removed under the provisions of this article. Such record shall be retained for one (1) year and shall contain the following information:

(a) The registration of the vehicle.

(b) The location from which it was towed, date and time.

(c) The location to which it was towed.

(d) The fee charged for towing and storage.

(e) Name of towing contractor, if any.

(f) Name and rank of officer who authorized towing. (Rev. Ords. 1976, T.O. Art. 5A, § 8)

State law reference(s)--Vehicles Parked In Violation Of The Law M.G.L. c. 40, § 22D.

Section 18-175--18-180 Reserved.

ARTICLE VI. PROCESSIONS

Section 18-181 When permit required.
No funeral, procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army or Navy, the military forces of the Commonwealth, and the forces of the police and fire departments shall occupy, march or proceed along any way except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply. (Rev. Ords. 1976, T.O. Art. VI, § 1)

Section 18-182 Exclusion of heavy and commercial vehicles.
(a) No vehicles used or designed for the transportation of goods, wares or merchandise shall enter or pass over any of certain designated streets or parts of streets. The schedule of such streets is on file in the city clerk’s office.

(b) The restrictions contained in subsection (a) of this section shall not apply to:

(1) Emergency vehicles such as vehicles of the fire and police departments, ambulances, emergency vehicles of federal, state and municipal departments and emergency vehicles of public service corporations when responding to an emergency.

(2) Vehicles for the collection or delivery of goods, wares or merchandise from or to premises on such streets or on connecting streets not otherwise accessible.

(3) Vehicles used in connection with the construction, reconstruction, or repair of such streets, the water supply system, the sewers or drains, or the lines, pipes or conduits of any telephone, telegraph, gas or electric company therein.

(4) Any motor vehicle which, with its load, if any, weighs less than thirteen (13) tons and has no trailer attached.

(c) Procedure

(1) Any member of the City Council may introduce No Heavy Trucking legislation to their body where it shall be immediately referred to the Traffic Commission. (A0173-12)

(2) The Traffic Commission shall refer the legislation to the following departments for the designated reports mentioned hereafter; said reports shall be submitted to the Traffic Commission no later than sixty (60) days from the date of the request:

a. Police Department - The Chief of Police shall produce a report indicating a traffic count of all vehicles using the street in question.

1. The count shall consist of one-hour segments indicating a count of commercial vehicles with a carrying capacity of 2.5 tons or more, and all other vehicles.

2. The count although preferred to be a consecutive twenty-four hour count, may consist of several two-hour segments totaling eight hours.

b. Engineering Department - The Engineering Department shall:

Produce a map of the area showing the excluded route marked in red and the alternate route marked in green;

1. Report on the proximity of probable alternate route or routes to the proposed excluded route; and

2. Indicate the additional distance to be traveled by excluded vehicles using the alternative route or routes.

c. City Services Department - The City Services Department shall issue a report indicating the physical characteristics; i.e., length, width, type and condition of surface and sidewalks.

d. Building Department - The Building Department shall prepare a report indicating the types of buildings or property abutting the excluded streets and alternate routes.

e. Wire Department - The Wire Department shall prepare o report indicating all types of traffic controls existing on the proposed excluded street and the alternate routes.

(3) The Traffic Commission shall produce a written statement as to the need for such exclusion in the City of Everett and shall forward the same along with all reports and surveys to the local Massachusetts Highway Department and the City Clerk. (Rev. Ords. 1976, T.O. Art. VI, §§ 2, 3)(Ord. of 6-19-2001, A0519-06) (A0150-09)

Section 18-183 Rights and duties of drivers in funerals or other processions.
(a) Each driver in a funeral or other procession shall keep as near to the right edge of the roadway as is feasible and shall follow the vehicle ahead as closely as is practicable and safe.

(b) At an intersection where a traffic control signal is operating, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop for a red or red and yellow indication.

(c) At an intersection where a lawful stop sign exists, the driver of the first vehicle in a funeral or other procession shall be the only one required to stop before proceeding through the intersection. (Rev. Ords. 1976, T.O. Art. VIII, § 22)

Section 18-184 Transportation of Waste Matter, Sewage.
(a) No person, other than employees of the City of Everett or of a contractor acting for the City of Everett while engaged in public work for the City of Everett, shall transport or carry waste matter, originating outside the City of Everett, in upon or through any street in the City of Everett.

(b) The phrase “waste matter”, as used in this paragraph, shall be construed to include raw sewage, catch basin waste, industrial wastes, and any other waste that is the result of the processing of hazardous materials or the collection, treatment, or disposal of sewage.

(c) Violation of this section shall result in a fine of $300.00 (three hundred dollars) and each incident shall constitute a distinct and separate violation. (Ordinance of 12-04-2006 C0398-06)

Section 18-185--18-200 Reserved.

ARTICLE VII. PEDESTRIAN CONTROL*

Section 18-201 Crossing ways or roadways.
Pedestrians shall obey the directions of police officers directing traffic and whenever there is an officer directing traffic, or a traffic control signal within three hundred (300) feet of a pedestrian, no pedestrian shall cross a way or roadway except within the limits of the marked crosswalk at the signalized location and as provided in this chapter. For the purpose of these regulations, a marked crosswalk shall only be construed to be that area of a roadway reserved for pedestrian crossing located between two (2) solid white reflectorized twelve-inch pavement markings in rural areas or markings not less than six (6) inches wide in urban areas, such markings or lines being no less than six (6) feet apart. (Rev. Ords. 1976, T.O. Art. XI, § 1)

Section 18-202 Obedience to traffic control signals.
Traffic control signal color indications and legends shall have the commands ascribed to them in this section and no other meanings, and every pedestrian shall comply therewith, except when otherwise directed by an officer.

(1) Red and yellow or the word “Walk.” Whenever the red and yellow lenses are illuminated together or the single word “Walk” is illuminated, pedestrians facing such indication may proceed across the roadway and in the direction of such signal only.

(2) Red alone or “Don’t Walk.” Whenever the words “Don’t Walk” or any indication other than red and yellow shown together are illuminated in a traffic control signal where pedestrian indications are provided, pedestrians approaching or facing such indication shall wait on the sidewalk, edge of roadway or in the pedestrian refuge area of a traffic island and shall not enter upon or cross a roadway until the proper indication is illuminated in the traffic control signal, but any pedestrian who has partially completed his crossing on the walk indication shall proceed or return to the nearest sidewalk or safety island on the yellow indication, the red indication or when the words “Don’t Walk” are illuminated by rapid intermittent flashes.

(3) Green alone. At traffic control signal locations where no pedestrian indication is given or provided, pedestrians facing the signal may proceed across the roadway within any marked crosswalk in the direction of the green indication.

(4) Yellow alone, red alone or flashing “Don’t Walk.” Pedestrians approaching or facing a yellow, red or flashing “Don’t Walk” illuminated indication shall not start to cross a roadway.

(5) Flashing red, yellow or green. At any traffic control signal location where a flashing red, flashing yellow or flashing green indication is being given facing a crosswalk, pedestrians shall actuate, where provided, the pedestrian signal indication and cross the roadway only on the red-yellow or “Walk” indication when such indication is in operation. If no pedestrian signal is provided, pedestrians shall cross within crosswalks with due care. (Rev. Ords. 1976, T.O. Art. XI, § 3)

Section 18-203 Care for blind, other pedestrians.

The provisions of this article shall in no way abrogate the provisions of chapter 90, sections 14 and 14A, of the General Laws which provides “Precautions for Safety of Other Travelers” and for the “Protection of Blind Persons Crossing Ways.” Furthermore, notwithstanding the provisions of this article, every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian upon the roadway and shall give warning by sounding the horn when necessary and shall exercise proper precautions which may become necessary for safe operation. (Rev. Ords. 1976, T.O. Art. XI, § 5)

Section 18-204 Actuation of signals.

(a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.

(b) At a traffic control signal location, pedestrians shall yield the right-of-way to vehicles of a

funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed at which time pedestrians shall then cross the roadway only as provided in this article.

(c) It shall be unlawful for any person to actuate a pedestrian control signal unless a crossing of the roadway is intended. (Rev. Ords. 1976, T.O. Art. XI, §§ 2, 4)

Section 18-205 Exemptions.
The provisions of this article shall not apply to pedestrians actually engaged in work upon a roadway closed to travel or under construction or repair, to municipal, state, federal or public service corporation employees while in the performance of their duties, to officers engaged in the performance of their public duties or to pedestrians acting in an emergency when such emergency necessitates departure from any part of this article. (Rev. Ords. 1976, T.O. Art. XI, § 7)

Section 18-206 Penalties.
Any person who violates the provisions of this article which deal with the proper use of ways by pedestrians shall be punished as provided in chapter 90, section 18A, of the General Laws. (Rev. Ords. 1976, T.O. Art. XI, § 8)

Chapter 19.
VETERANS' SERVICES

Section 19-1 Commissioner of veterans' services.

(a) The mayor shall appoint a commissioner of veterans' services in accordance with chapter 115, section 10, of the General Laws. This appointment shall be in accordance with Section 10-5(c) of the Charter. (A0173-12)

(b) The commissioner of veterans' services shall perform all the duties incumbent upon him under the provisions of chapter 115 of the General Laws and all amendments and additions thereto insofar as the same may be applicable to his department. (Rev. Ords. 1976, Pt. 2, Ch. 15, §§ 9, 10)

Cross reference(s)--Officers and employees, § 2-31 et seq.

Chapter 20.
WATER*

Section 20-1 City service commission; Powers, Duties generally.

(a) The care and management of the water department of the city shall be under the charge and control of the city services commission. (A0173-12)

(b) Duties. The city services commission shall distribute and control the use of the water furnished to the city and shall install and maintain water meters in accordance with the M.G.L. The city services commission shall lay and install pipes, hydrants, and other fixtures and appliances necessary or proper for supplying water within the city, and shall keep and maintain the pipes and other waterworks under their charge in good condition and repair. The city services commission shall keep an account of all tools, pipes, and all materials and property belonging to the water department. The city services commission shall enforce such ordinances, rules, or regulations pertaining to the water department as may be adopted by the city council. (A0173-12) (Ord. of 12-28-87, §§ 1, 2)

Cross reference(s)—--City services commission, § 2-176 et seq.-

Section 20-2 Determination of water rates.

(a) The city services commission shall establish a water rate as a fixed sum per one hundred (100) cubic feet of water used by every person to whom the city furnishes water. For purposes of this section “person” shall include, but shall not be limited to, a trust, a realty trust, tenants in common, tenants by the entirety, joint tenants, or any other entity or form of ownership by which real property is held. (A0173-12)

(b) The city services commission shall send notice of such water rates as established to the mayor, the clerk of the city council, the city clerk, and the treasurer-collector, and shall cause notice of such water rates to be published in a newspaper of general circulation within the city. The water rates as established shall be billed to every person subject to the provisions of this chapter. (A0173-12) (Ord. of 12-28-87, § 3)

Section 20-3 Determination and collection of water bills.

(a) The city services commission or their designated representative is hereby authorized, directed, and empowered to determine and render bills for the water rates against every person subject to the provisions of this chapter, at the rates authorized. (A0173-12)

(b) The revenues collected as a result of water rates shall be reserved exclusively for the purpose of paying the city’s water charges assessed by the Massachusetts Water Resources Authority (MWRA), and for other expenses incurred to maintain, repair, and improve the city’s water system.

(c) The city treasurer-collector is hereby authorized, directed, and empowered to collect any sums so determined and billed, enjoying all powers delegated to him by general law, special law or ordinance. (A0173-12)

(d) The city services commission may make abatement of water charges for sufficient cause.

(A0173-12) (Ord. of 12-28-87, § 4)

Section 20-4 Promulgation of regulations, fees or conditions by the city services commission.

The city services commission is authorized and directed to promulgate such regulations, service fees or conditions as may be required to effect compliance with federal or state requirements, or to otherwise provide adequate funding, management oversight and supervision of the water system of the city. (Ord. of 12-28-87, § 5; A0173-12)

Section 20-5 Records; annual report to mayor.

The city services commission shall keep in suitable books a list of the names of all persons to whom water service is supplied, the name of the street and the number, and shall make an annual report, as requested, to the mayor relative to their activities during the preceding fiscal year. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 6) (A0173-12)

Section 20-6 Application for permanent service.

(a) Generally. Applications for the installation of water service must be made in person by the owner or authorized agent of the premises to be supplied.

(b) Forms, deposits. If the city services commission installs such water service they shall furnish the applicant with a statement of the estimated cost of making such connections, which must be paid in advance. Any amounts so paid in excess of the actual cost will be refunded to the applicant, and any amount due by reason of the cost exceeding the estimate must be paid by the applicant before service commences. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 18, §§ 7, 8)

Section 20-7 Water used for temporary purposes.

(a) Water for temporary purposes shall be furnished only on application of the owner or authorized agent of the location for which water is to be used, and must be paid for in advance and a written permit obtained.

(b) The water shall be used for no other purpose than that stated in the permit, and upon any violation of this rule, the water service shall be discontinued and shall not be restored except as provided in this chapter. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 11)

Cross reference(s)--Buildings and building regulations, Ch. 4.

Section 20-8 Forfeiture of deposit.

The city services commission may declare forfeited any deposit made for water by any person committing a violation of the rules and regulations of this chapter. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 12) (A0173-12)

Section 20-9 Notice of termination of service.

Before shutting off water in any section of the city, the city services commission shall, except in case of an emergency, notify the water users to be affected thereby. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 13) (A0173-12)

Section 20-10 Limitations upon opening fire hydrants.
No person, without previous permission in writing from the city services commission or its duly authorized agent, shall unscrew the cap of or open any hydrant attached to the water system; nor leave a fire hydrant open for a longer time than the city services commission may stipulate; nor use the water for other purposes than that for which such permission is granted. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 14) (A0173-12)

Cross reference(s)--Fire prevention and protection, Ch. 8.

Section 20-11 Requirements for service pipes.
The water service pipe and appurtenances thereto shall be as prescribed by the city services commission and in conformity with the American Water Works Association standards. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 15) (A0173-12)

Section 20-12 Regulations considered part of contract.
The provisions of sections 20-13 to 20-19 shall be considered a part of the water contract with every person to whom water is furnished, and every such person shall be bound thereby. Whenever any such regulation is violated, the water may be shut off, and service shall not be restored except as provided in this chapter. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 16)

Section 20-13 Maintenance of pipes; allowing waste.
The person to whom water service is furnished shall keep the service pipes within his premises, in good order and repair, and protected from frost. The person to whom water service is furnished shall not allow the water to leak away or run to waste. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 17)

Section 20-14 Changes in pipes and fixtures; concealing purpose for which water used; right of entry.
(a) The person to whom water service is furnished shall not make any change in the pipes prior to the meter unless such change is approved by the city services commission. (A0173-12)

(b) Such person shall not conceal the purpose for which the water is used. Such person shall allow the city services commission and its authorized agents to enter the premises supplied with water for the purpose of examining the fixtures, ascertaining the quantity of water used, the manner of use, and whether there is any unnecessary waste. (A0173-12) (Rev. Ords. 1976, Pt. 2, Ch. 18, § 18)

Section 20-15 Meters and Meter Testing.
(a) Furnishing of Meters and Meter Size. For residential and non-residential buildings, the City Services Commission (Commission) shall furnish at its expense meters and all automatic reading devices, up to and including two inches in size, along with the necessary bushings and couplings to attach to the plumbing. The owner shall furnish at its expense meters three inches in size or larger, except that the replacement of any such meter shall be at the Commission's expense. The size of the meter required shall be subject to the approval of the Commission.

(b) Ownership. All meters, once installed, become the property of the Commission, except that the Commission may refuse to take ownership of a meter which is improperly installed or which is

the wrong type or size for the premises in question. Where a meter is improperly installed or is the wrong type or size, the owner shall be required to furnish a meter approved by the Commission prior to the commencement or let on of water service. The Commission has the right to change the size of the meter without charge to the owner. However, all costs and expense associated with the installation of a meter outside of normal business hours shall be borne by the owner.

(c) Installation of Meters. The Commission shall, at its expense, install all meters up to and including two inches in size. Prior to installation of the meter, the owner shall at its expense complete the plumbing so that the premises are ready for meter installation. If plumbing work is necessary to make the premises meter-ready, the Commission will provide plumbing specifications to enable the owner to prepare the premises for meter installation. The plumbing shall be completed in a manner that permits installation of the meter closest to the point of entry of the water service pipe. All meters three inches in size and larger and automatic reading devices shall originally be installed by the owner at its expense and inspected by the Commission. The Commission shall at its expense replace such meters and automatic reading devices. All meters and meter installations shall conform to the Commission's Design Criteria and comply with these Regulations. Meters three inches in size and larger shall be the turbine or compound type as determined by the Commission and shall be installed with a strainer of the same manufacturer and with a 1-inch tap for meter testing by the Commission.

(d) Location of Meters. All meters shall be installed within an owner's building as close to the public water supply main as possible in an ample and suitable space free from exposure to freezing unless otherwise directed by the Commission. This space shall at all times be unobstructed and accessible to the Commission for reading, testing, inspection and maintenance purposes.

(e) Outside Meter-Reading Devices or Automatic Reading Devices. The Commission may install a device on the inside or outside of a building in a conveniently accessible location to enable routine meter readings without internal access to the owner's building. A device on a two-inch or smaller water supply line shall be installed at the Commission's expense. Devices installed on meters three inches or larger shall be approved by the Commission and installed by the owner at its expense. The Commission shall subsequently maintain and replace such devices at its expense.

(f) Right to Enter Premises. In accordance with the Massachusetts General Laws Chapter 165 Section 11 D, the Commission may enter premises to install, examine, calibrate, repair, test or remove meters and automatic reading devices.

(f) Meter Testing. The Commission may subject all meters to periodic tests. The Commission may at any time test, repair or replace any meter at its option and expense. An owner may request that the Commission test his or her meter.

(g) Meter Tampering. No person shall bypass, tamper with or prevent a meter from registering water consumption, and such acts shall be subject to the penalties stated in Massachusetts General Laws Chapter 165 Section 11 and to such other penalties as the Commission may adopt.

(h) Meter Replacement or Repair. The Commission maintains an annual meter installation and maintenance program. Upon notification that a meter is broken or missing, the Commission will

install a new meter, provided that the premises are meter-ready. The replacement of a frozen meter or a meter that is lost in service shall be at the owner's expense. If plumbing work is necessary to make the premises meter-ready, the Commission will provide plumbing specifications to enable the owner to prepare the premises for meter installation. (C0028-11)

Section 20-16 Turning on, shutting off service restricted.
No person, except a duly authorized agent of the city services commission, shall be allowed to turn on or shut off the water service. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 21) (A0173-12)

Section 20-17 Water mains in private ways.
Applications for water mains in private ways must be accompanied by a grant of lawful rights and easements therein to the city. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 24)

Section 20-18 Grounds for termination of service.
The water service or water supply of any person who neglects or refuses to comply with the provisions of this chapter shall be discontinued, and in addition thereto such person shall be liable to a fine in accordance with Section 1-8 of these Revised Ordinances. (Rev. Ords. 1976, Pt. 2, Ch. 18, § 25) (A0173-12)

Section 20-19 Water supply emergency.
(a) Authority. This section is adopted by the City of Everett under its home rule powers, and its police powers to protect public health and welfare.

(b) Purpose. The purpose of this section is to protect, preserve, and maintain the public health, safety and welfare whenever there is in force a state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the City of Everett or by the Department of Environmental Protection and included in the city's plan approved by Department of Environmental Protection to abate the emergency.

(c) Definitions. For the purpose of this section:

(1) Enforcement authority shall mean the city services commission, the board of health and the police department. (A0173-12)

(2) State of water supply emergency shall mean a state of water supply emergency declared by the Department of Environmental Protection pursuant to General Laws, Chapter 21G and Chapter 111, section 160, or by the Governor.

(d) Rules. The following shall apply to all users of water supplies supplied by the City of Everett:

(1) Following notification by the city of the existence of a state of water emergency, no person shall violate any provision, condition, requirement or restriction included in a plan approved by the Department of Environmental Protection which has as its purpose the abatement of a water supply emergency.

(2) Notification of any provision, restriction, requirement, or condition with which users of water supplied by the city are required to comply to abate a situation of water emergency shall

be sufficient for purposes of this section if it is published in a newspaper of general circulation within the city or by such other notice as is reasonably calculated to reach and inform all users of the city supply.

(e) Penalty. Any person or entity who violates this section shall be liable to the city in the amount of fifty dollars ($50.00) for the first violation and one hundred dollars ($100.00) for each subsequent violation which shall inure to the city.

(1) Fines shall be recovered by indictment or complaint before the district court.

(2) Each separate instance of noncompliance following the issuance of any warning or citation pursuant to this section shall constitute a separate violation. (Ord. of 2-20-90, §§ 1--6)

Editor's note--An ordinance adopted Feb. 20, 1990, amended Ch. 18 of the Revised Ordinances, 1976, by the addition of § 26, said provisions being included in this volume as § 20-19.

Chapter 21.
WEIGHTS AND MEASURES*

ARTICLE I. IN GENERAL

Section 21-1 Establishment of city scales.
The mayor and city council shall establish as many scales as may be necessary for the public good and convenience. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 5) (A0173-12)

Section 21-2 Fee for weighing on city scales.
The fees for weighing on the city scales shall be as established by ordinance and shall be on file in the City Clerk's office. However, no fee shall be charged for weighing done on account of the city, the division of standards of the Commonwealth, or the registry of motor vehicles of the Commonwealth. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 6)

Section 21-3 Disposition of fees by weigher.
Each weigher at the city scales shall pay over to the inspector of weights and measures all fees collected pursuant to section 21-2. The inspector of weights and measures shall pay over to the city treasurer all fees received by him, accompanied by a statement of the purpose for which they were received, taking the treasurer's receipt thereof. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 7)

Section 21-4 Fees for testing, sealing, adjusting or condemning a weights and measures device.
The fees for testing, sealing, adjusting or condemning a weights and measures device shall be established by ordinance and shall be on file in the City Clerk's office. (Ord. of 12-12-88(2) (C0114-06)

Section 21-5--21-20 Reserved.

ARTICLE II. INSPECTOR

Section 21-21 Duties generally.
The inspector of weights and measures shall have general charge and supervision of all the public scales of the city and the care and custody of the standards and property of the department of weights and measures and shall annually, as requested, present to the mayor a report of all matters pertaining to his department, together with an inventory of all property of the city in his charge. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 1)

Section 21-22 Special police officer, etc.; compensation.
For the purpose of enforcing the laws relative to weights and measures upon the highway and for the suppression of fraud in the use of false measures, the inspector of weights and measures and his deputies shall be special police officers and public weighers without pay. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 2)

Cross reference(s)--Special police, § 14-10.

Section 21-23 Disposition of money received.

The inspector of weights and measures shall pay over to the city treasurer, monthly, all moneys received by him, accompanied by a statement of the purpose for which they were received, taking the treasurer's receipts therefor. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 3)

Section 21-24 Monthly report to city auditor.

The inspector of weights and measures shall report to the city auditor once in every month all amounts received and paid to the city treasurer on account of fees. (Rev. Ords. 1976, Pt. 2, Ch. 19, § 4)

Chapter 22.
ADMINISTRATIVE LEGISLATION

ARTICLE I. CODE OF ETHICS

(C0219-14)

Section 22-1 Definitions.

(a) “Municipal employee”, a person performing services for, or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent or consulting basis.

(b) “Massachusetts Conflict of Interest Law”, Massachusetts General Law, Chapter 268A, inclusive of all sections, as constructed; for the purposes of this section, the Massachusetts Conflict of Interest Law shall include all amendments and technical changes made to M.G.L., Chapter 268A by the Commonwealth of Massachusetts until the expiration or repeal of this section; Massachusetts Conflict of Interest Law shall further include, with full and binding effect, any advisory opinions, ruling, regulations adopted by the Massachusetts State Ethics Commission.

Section 22-2 Purpose.

(a) The purpose of this article is to ensure that private financial interests and personal relationships of municipal employees do not conflict with their public obligation to act objectively and with integrity. This article is written to prevent municipal employees from becoming involved in a situation which could result in or give the appearance of unethical or illegal behavior. This article restricts what municipal employees may do on the job, after hours and after leaving public service.

(b) It is essential for the continued well-being of the city that its citizens have full confidence in the integrity of its municipal employees. The city desires to promote such confidence by demanding the highest standards of ethical conduct for each municipal employee. It is required that municipal employees conduct themselves in such a way that their behavior, both in practice and appearance, conforms to the highest standards of ethical conduct.

Section 22-3 Conduct of municipal employees.

(a) All municipal employees, as defined by Section 22-1: Definitions, shall abide by all provisions of the Massachusetts Conflict of Interest Law in the performance of their respective duties and thereafter as applicable; all municipal employees shall complete such disclosures as required and appropriate by the Massachusetts Conflict of Interest Law and file such disclosures with their appointing authorities.

(b) All disclosures shall be made available for inspection by the public upon request.

Section 22-4 Reporting, continuing education.

(a) The city solicitor, working in collaboration with any and all personnel necessary, shall report to the State Ethics Commission any suspected or confirmed violations of the Massachusetts Conflict of Interest Law;

(b) The city solicitor shall report annually to the mayor, the president of the city council and the chairman of the school committee initiatives undertaken to provide continuing education to all municipal employees regarding their responsibilities and obligations under the Massachusetts Conflict of Interest Law and this section.

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. 0f 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 b 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, of 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 o 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, solders 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 theron 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 form 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 be 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 wen 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:

Required Width of Court

No. of stories	Residential Use		Nonresidential Use	
Above the bottom	Outer	Inner	Outer	Inner
Of the court	(feet)	(feet)	(feet)	(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 of 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	1 space for each 2

	Centers, Halfway Houses and Hospitals	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, of 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 sings 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 shinning 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 toe 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. 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 included 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 routs 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 an 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 lest 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 lest 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 an Maine and Boston an 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, renter 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 of 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 an 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 premised 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 simited 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 of 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 filled, 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 undr 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 an d 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. Chapter119, 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 lest 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-man 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 there-under, 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 excepted 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 §53G. 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
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
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	-	SP	-	-	-	-		R

stations for automobile or light truck, but not including gasoline stations								
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
Heavy manufacturing providing there is no outside storage work and there is no emissions of noxious odors, smoke or noise,	-	SP	-	-	-	-		R

and no vibration discernible on the exterior of the building.								
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure.	-	Y	-	-	-	SP		R
Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	SP	-	-	-	-		R

Storage and sale of building materials or machinery.	-	SP	-	-	-	-		
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials	-	Y	-	-	SP	SP		R
Warehouse, Distribution	-	SP	-	-	-	SP		
Wholesale	-	SP	-	-	-	-		R
Accessory uses								
Central heating or cooling plant	Y	Y	Y	Y	Y	Y		R
Electric car charging station	Y	Y	Y	Y	Y	Y		R
Home Occupation	-	-	Y	Y	Y	Y		R
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	SP	-	-	Y	Y		R
Limo service / driving service	Y	Y	-	-	Y	-		R
Meeting and conference space	Y	Y	-	-	Y	-		R
Offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display	Y	Y	Y	Y	Y	Y		R

or advertising except for a small professional name plate.								
Parking (surface lot) accessory to any permitted Principal Use (ten or fewer spaces)	Y	Y	Y	Y	Y	Y		R
Parking (surface lot) accessory to any permitted Principal Use (greater than ten spaces)	Y	Y	SP	SP	SP	SP		R
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
Temporary parking facility accessory to construction activities on another lot(s) within the LBEDD; provided, that such use may not exceed thirty-six (36) months in duration and must be operated by the entity undertaking such construction.	Y	Y	Y	Y	Y	Y	Y	R

Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, for a period of more than seven (7) days in any year.	-	-	SP	SP	-	SP		R
Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, providing that such sale not continue for a period of more than seven (7) days in any year.	-	-	Y	Y	-	SP		R
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	SP	Y	-	-	SP	SP		R
Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	-	-	-	-		R
Exempt								

Agriculture, horticulture or floriculture and the expansion or Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y		R
Municipal use such as library, fire station, park, and soldiers' and sailors' memorial building.	Y	Y		Y	Y	Y		R
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y		R
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y		R
School, except private vocational school	Y	Y	Y	Y	Y	Y		R
Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing	Y	Y	Y	Y	Y	Y		R

temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months.								
Prohibited Uses								
Adult Bookstore [2]	-	-	-	-	-	-	-	n/a
Adult Club [2]	-	-	-	-	-	-	-	n/a
Adult Theater [2]	-	-	-	-	-	-	-	n/a
Adult Video Store [2]	-	-	-	-	-	-	-	n/a
Body Art / Tattoo Studio	-	-	-	-	-	-	-	n/a
Body Piercing Studio [2]	-	-	-	-	-	-	-	n/a
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Check-Cashing Establishment [2]	-	-	-	-	-	-	-	n/a
Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Fortune Teller [2]	-	-	-	-	-	-	-	n/a
Freight or Trucking Terminal	-	-	-	-	-	-	-	n/a
Gas stored in quantities exceeding five	-	-	-	-	-	-	-	n/a

hundred (500) cubic feet; or 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.								
Gun Shop	-	-	-	-	-	-	-	n/a
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	-	-	-	-	-	-	-	n/a

enclosed storage of coal, coke, sand or similar materials.								
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	-	-	-	-	-	-		n/a

the exterior of the building.								
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.								

(C0370-16)

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 Polyethlene; 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 premised 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 an 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)

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. 0f 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 b 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, of 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 o 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, solders 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 theron 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 form 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 be 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 wen 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:

Required Width of Court

No. of stories	Residential Use		Nonresidential Use	
Above the bottom	Outer	Inner	Outer	Inner
Of the court	(feet)	(feet)	(feet)	(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 of 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	1 space for each 2

	Centers, Halfway Houses and Hospitals	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, of 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 sings 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 shinning 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 toe 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. 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 included 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 routs 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 an 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 lest 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 lest 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 an Maine and Boston an 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, renter 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 of 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 an 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 premised 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 simited 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 of 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 filled, 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 undr 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 an d 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. Chapter119, 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 lest 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-man 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 there-under, 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 excepted 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 §53G. 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
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
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	-	SP	-	-	-	-		R

stations for automobile or light truck, but not including gasoline stations								
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
Heavy manufacturing providing there is no outside storage work and there is no emissions of noxious odors, smoke or noise,	-	SP	-	-	-	-		R

and no vibration discernible on the exterior of the building.								
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure.	-	Y	-	-	-	SP		R
Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	SP	-	-	-	-		R

Storage and sale of building materials or machinery.	-	SP	-	-	-	-		
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials	-	Y	-	-	SP	SP		R
Warehouse, Distribution	-	SP	-	-	-	SP		
Wholesale	-	SP	-	-	-	-		R
Accessory uses								
Central heating or cooling plant	Y	Y	Y	Y	Y	Y		R
Electric car charging station	Y	Y	Y	Y	Y	Y		R
Home Occupation	-	-	Y	Y	Y	Y		R
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	SP	-	-	Y	Y		R
Limo service / driving service	Y	Y	-	-	Y	-		R
Meeting and conference space	Y	Y	-	-	Y	-		R
Offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display	Y	Y	Y	Y	Y	Y		R

or advertising except for a small professional name plate.								
Parking (surface lot) accessory to any permitted Principal Use (ten or fewer spaces)	Y	Y	Y	Y	Y	Y		R
Parking (surface lot) accessory to any permitted Principal Use (greater than ten spaces)	Y	Y	SP	SP	SP	SP		R
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
Temporary parking facility accessory to construction activities on another lot(s) within the LBEDD; provided, that such use may not exceed thirty-six (36) months in duration and must be operated by the entity undertaking such construction.	Y	Y	Y	Y	Y	Y	Y	R

Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, for a period of more than seven (7) days in any year.	-	-	SP	SP	-	SP		R
Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, providing that such sale not continue for a period of more than seven (7) days in any year.	-	-	Y	Y	-	SP		R
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	SP	Y	-	-	SP	SP		R
Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	-	-	-	-		R
Exempt								

Agriculture, horticulture or floriculture and the expansion or Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y		R
Municipal use such as library, fire station, park, and soldiers' and sailors' memorial building.	Y	Y		Y	Y	Y		R
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y		R
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y		R
School, except private vocational school	Y	Y	Y	Y	Y	Y		R
Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing	Y	Y	Y	Y	Y	Y		R

temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months.								
Prohibited Uses								
Adult Bookstore [2]	-	-	-	-	-	-	-	n/a
Adult Club [2]	-	-	-	-	-	-	-	n/a
Adult Theater [2]	-	-	-	-	-	-	-	n/a
Adult Video Store [2]	-	-	-	-	-	-	-	n/a
Body Art / Tattoo Studio	-	-	-	-	-	-	-	n/a
Body Piercing Studio [2]	-	-	-	-	-	-	-	n/a
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Check-Cashing Establishment [2]	-	-	-	-	-	-	-	n/a
Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Fortune Teller [2]	-	-	-	-	-	-	-	n/a
Freight or Trucking Terminal	-	-	-	-	-	-	-	n/a
Gas stored in quantities exceeding five	-	-	-	-	-	-	-	n/a

hundred (500) cubic feet; or 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.								
Gun Shop	-	-	-	-	-	-	-	n/a
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	-	-	-	-	-	-	-	n/a

enclosed storage of coal, coke, sand or similar materials.								
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	-	-	-	-	-	-		n/a

the exterior of the building.								
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.								

(C0370-16)

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 Polyethlene; 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 premised 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 an 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)

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. 0f 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 b 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, of 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 o 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, solders 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 theron 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 form 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 be 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 wen 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:

Required Width of Court

No. of stories	Residential Use		Nonresidential Use	
Above the bottom	Outer	Inner	Outer	Inner
Of the court	(feet)	(feet)	(feet)	(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 of 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	1 space for each 2

	Centers, Halfway Houses and Hospitals	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, of 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 sings 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 shinning 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 toe 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. 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 included 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 routs 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 an 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 lest 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 lest 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 an Maine and Boston an 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, renter 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 of 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 an 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 premised 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 simited 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 of 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 filled, 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 undr 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 an d 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. Chapter119, 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 lest 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-man 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 there-under, 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 excepted 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 §53G. 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
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
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	-	SP	-	-	-	-		R

stations for automobile or light truck, but not including gasoline stations								
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
Heavy manufacturing providing there is no outside storage work and there is no emissions of noxious odors, smoke or noise,	-	SP	-	-	-	-		R

and no vibration discernible on the exterior of the building.								
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure.	-	Y	-	-	-	SP		R
Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	SP	-	-	-	-		R

Storage and sale of building materials or machinery.	-	SP	-	-	-	-		
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials	-	Y	-	-	SP	SP		R
Warehouse, Distribution	-	SP	-	-	-	SP		
Wholesale	-	SP	-	-	-	-		R
Accessory uses								
Central heating or cooling plant	Y	Y	Y	Y	Y	Y		R
Electric car charging station	Y	Y	Y	Y	Y	Y		R
Home Occupation	-	-	Y	Y	Y	Y		R
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	SP	-	-	Y	Y		R
Limo service / driving service	Y	Y	-	-	Y	-		R
Meeting and conference space	Y	Y	-	-	Y	-		R
Offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display	Y	Y	Y	Y	Y	Y		R

or advertising except for a small professional name plate.								
Parking (surface lot) accessory to any permitted Principal Use (ten or fewer spaces)	Y	Y	Y	Y	Y	Y		R
Parking (surface lot) accessory to any permitted Principal Use (greater than ten spaces)	Y	Y	SP	SP	SP	SP		R
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
Temporary parking facility accessory to construction activities on another lot(s) within the LBEDD; provided, that such use may not exceed thirty-six (36) months in duration and must be operated by the entity undertaking such construction.	Y	Y	Y	Y	Y	Y	Y	R

Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, for a period of more than seven (7) days in any year.	-	-	SP	SP	-	SP		R
Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, providing that such sale not continue for a period of more than seven (7) days in any year.	-	-	Y	Y	-	SP		R
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	SP	Y	-	-	SP	SP		R
Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	-	-	-	-		R
Exempt								

Agriculture, horticulture or floriculture and the expansion or Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y		R
Municipal use such as library, fire station, park, and soldiers' and sailors' memorial building.	Y	Y		Y	Y	Y		R
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y		R
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y		R
School, except private vocational school	Y	Y	Y	Y	Y	Y		R
Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing	Y	Y	Y	Y	Y	Y		R

temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months.								
Prohibited Uses								
Adult Bookstore [2]	-	-	-	-	-	-	-	n/a
Adult Club [2]	-	-	-	-	-	-	-	n/a
Adult Theater [2]	-	-	-	-	-	-	-	n/a
Adult Video Store [2]	-	-	-	-	-	-	-	n/a
Body Art / Tattoo Studio	-	-	-	-	-	-	-	n/a
Body Piercing Studio [2]	-	-	-	-	-	-	-	n/a
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Check-Cashing Establishment [2]	-	-	-	-	-	-	-	n/a
Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Fortune Teller [2]	-	-	-	-	-	-	-	n/a
Freight or Trucking Terminal	-	-	-	-	-	-	-	n/a
Gas stored in quantities exceeding five	-	-	-	-	-	-	-	n/a

hundred (500) cubic feet; or 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.								
Gun Shop	-	-	-	-	-	-	-	n/a
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	-	-	-	-	-	-	-	n/a

enclosed storage of coal, coke, sand or similar materials.								
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	-	-	-	-	-	-		n/a

the exterior of the building.								
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.								

(C0370-16)

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 Polyethlene; 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 premised 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 an 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)

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. 0f 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 b 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, of 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 o 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, solders 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 theron 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 form 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 be 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 wen 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:

Required Width of Court

No. of stories	Residential Use		Nonresidential Use	
Above the bottom	Outer	Inner	Outer	Inner
Of the court	(feet)	(feet)	(feet)	(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 of 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	1 space for each 2

	Centers, Halfway Houses and Hospitals	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, of 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 sings 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 shinning 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 toe 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. 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 included 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 routs 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 an 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 lest 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 lest 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 an Maine and Boston an 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, renter 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 of 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 an 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 premised 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 simited 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 of 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 filled, 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 undr 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 an d 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. Chapter119, 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 lest 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-man 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 there-under, 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 excepted 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 §53G. 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
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
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	-	SP	-	-	-	-		R

stations for automobile or light truck, but not including gasoline stations								
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
Heavy manufacturing providing there is no outside storage work and there is no emissions of noxious odors, smoke or noise,	-	SP	-	-	-	-		R

and no vibration discernible on the exterior of the building.								
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure.	-	Y	-	-	-	SP		R
Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	SP	-	-	-	-		R

Storage and sale of building materials or machinery.	-	SP	-	-	-	-		
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials	-	Y	-	-	SP	SP		R
Warehouse, Distribution	-	SP	-	-	-	SP		
Wholesale	-	SP	-	-	-	-		R
Accessory uses								
Central heating or cooling plant	Y	Y	Y	Y	Y	Y		R
Electric car charging station	Y	Y	Y	Y	Y	Y		R
Home Occupation	-	-	Y	Y	Y	Y		R
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	SP	-	-	Y	Y		R
Limo service / driving service	Y	Y	-	-	Y	-		R
Meeting and conference space	Y	Y	-	-	Y	-		R
Offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display	Y	Y	Y	Y	Y	Y		R

or advertising except for a small professional name plate.								
Parking (surface lot) accessory to any permitted Principal Use (ten or fewer spaces)	Y	Y	Y	Y	Y	Y		R
Parking (surface lot) accessory to any permitted Principal Use (greater than ten spaces)	Y	Y	SP	SP	SP	SP		R
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
Temporary parking facility accessory to construction activities on another lot(s) within the LBEDD; provided, that such use may not exceed thirty-six (36) months in duration and must be operated by the entity undertaking such construction.	Y	Y	Y	Y	Y	Y	Y	R

Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, for a period of more than seven (7) days in any year.	-	-	SP	SP	-	SP		R
Sale of used household goods by residential occupants on their premises, normally referred to as garage sales, providing that such sale not continue for a period of more than seven (7) days in any year.	-	-	Y	Y	-	SP		R
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	SP	Y	-	-	SP	SP		R
Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	-	-	-	-		R
Exempt								

Agriculture, horticulture or floriculture and the expansion or Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y		R
Municipal use such as library, fire station, park, and soldiers' and sailors' memorial building.	Y	Y		Y	Y	Y		R
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y		R
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y		R
School, except private vocational school	Y	Y	Y	Y	Y	Y		R
Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing	Y	Y	Y	Y	Y	Y		R

temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months.								
Prohibited Uses								
Adult Bookstore [2]	-	-	-	-	-	-	-	n/a
Adult Club [2]	-	-	-	-	-	-	-	n/a
Adult Theater [2]	-	-	-	-	-	-	-	n/a
Adult Video Store [2]	-	-	-	-	-	-	-	n/a
Body Art / Tattoo Studio	-	-	-	-	-	-	-	n/a
Body Piercing Studio [2]	-	-	-	-	-	-	-	n/a
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Check-Cashing Establishment [2]	-	-	-	-	-	-	-	n/a
Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-	-	n/a
Fortune Teller [2]	-	-	-	-	-	-	-	n/a
Freight or Trucking Terminal	-	-	-	-	-	-	-	n/a
Gas stored in quantities exceeding five	-	-	-	-	-	-	-	n/a

hundred (500) cubic feet; or 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.								
Gun Shop	-	-	-	-	-	-	-	n/a
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	-	-	-	-	-	-	-	n/a

enclosed storage of coal, coke, sand or similar materials.								
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	-	-	-	-	-	-		n/a

the exterior of the building.								
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.								

(C0370-16)

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 Polyethlene; 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 premised 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 an 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)

PART I
EVERETT CITY CHARTER

Approved 11/8/2011

ARTICLE 1
INCORPORATION; SHORT TITLE; DEFINITIONS

Section 1-1: INCORPORATION

The inhabitants of the city of Everett, as such, shall have, exercise and enjoy all the rights, powers, privileges and immunities, and shall be subject to all the duties and obligations pertaining to and incumbent upon the said city as a municipal corporation and as a body corporate and politic.

Section 1-2: SHORT TITLE

This act shall be known and may be cited as the City of Everett Home Rule Charter.

Section 1-3: DIVISION OF POWERS

The administration of the fiscal, prudential and municipal affairs of Everett, with the government thereof, shall be vested in an executive branch headed by a mayor and a legislative branch consisting of a city council. The legislative branch shall never exercise any executive power, and the executive branch shall never exercise any legislative power.

Section 1-4: POWERS OF THE CITY

Subject only to express limitations on the exercise of any power or function by a municipal government in the constitution or General Laws of the commonwealth, it is the intention and the purpose of the voters of Everett through the adoption of this charter to secure for themselves and their government all of the powers it is possible to secure as fully and as completely as though each such power were specifically and individually enumerated herein.

Section 1-5: CONSTRUCTION

The powers of the city of Everett under this charter are to be construed liberally in favor of the city, and the specific mention of any particular power is not intended to limit the general powers of the city as stated in section 14.

Section 1-6: INTERGOVERNMENTAL RELATIONS

Subject only to express limitations in the constitution or general laws of the commonwealth, Everett may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with the commonwealth or any of its agencies or political subdivisions, or with the United States government or any of its agencies.

Section 1-7: DEFINITIONS

Unless another meaning is clearly apparent from the manner in which the word or phrase is used, the following words and phrases as used in this charter shall have the following meanings:

(1) "Charter", this charter and any adopted amendments to it.

(2) "City", the city of Everett.

(3) "City agency", any multiple member body, any department, division, or office of the city of

Everett.

(4) "City officer", when used without further qualification or description, shall mean a person having charge of an office or department of the city who in the exercise of the powers or duties of that position exercises some independent statutory authority.

(5) "Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

(6) "Full city council", "full school committee" "full multiple member body", the entire authorized membership of the city council, school committee or other multiple member body notwithstanding any vacancy which might exist.

(7) "general laws", laws enacted which apply alike to all cities and towns, to all cities, or to a class of 2 or more cities, or to a class of cities and towns of which Everett is a member.

(8) "General Laws", the General Laws of the Commonwealth of Massachusetts, a codification and revision of statutes enacted on December 22, 1920, and including all amendments thereto subsequently adopted.

(9) "Initiative measure", a measure proposed by the voters through the initiative process provided under this charter.

(10) "Local newspaper", a newspaper of general circulation within Everett, with either a weekly or daily circulation.

(11) "Majority vote", when used in connection with a meeting of a multiple member body shall mean a majority of those present and voting, unless another provision is made by ordinance or by its own rules, provided however that General Law provisions related to any vote to meet in "executive session" shall always require a majority of members of the body.

(12) "Measure", an ordinance, resolution, order or vote passed by the city council, or a resolution, order or vote passed by the school committee, as the case may be.

(13) "Multiple member body", any council, commission, committee, sub- committee or other body consisting of 2 or more persons whether elected, appointed or otherwise constituted, but not including the city council, the school committee or an advisory committee appointed by the mayor.

(14) "Organization or reorganization plan", a plan submitted by the mayor to the city council which proposes a change in the organization or the administrative structure of the city administration or organization, or a change in the way in which a municipal service or services are delivered.

(15) "Quorum", a majority of all members of a multiple member body unless some other number is required by law or by ordinance.

(16) "Referendum measure", a measure adopted by the city council or the school committee that is protested under the referendum procedures of this charter.

(17) “Remove from the city”, when a person ceases to be domiciled within the territorial limits of the city.

(18) "Voters", registered voters of the city of Everett.

ARTICLE 2
LEGISLATIVE BRANCH

Section 2-1: COMPOSITION, TERM OF OFFICE

(a) Composition - There shall be a city council of 11 members which shall exercise the legislative powers of the city. 5 of these members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. 6 of these members, to be known as ward councilors, shall be domiciled in the ward from which elected but shall be nominated and elected by and from the voters at large; 1 such ward councilor to be elected from each of the 6 wards into which the city is divided under section 7-7.

(b) Term of Office - The term of office for all councilors shall be for 2 years each, beginning on the first Monday in the January succeeding their election, except when said first Monday falls on a legal holiday, in which event on the following day, no later than eight o'clock in the evening, and until their successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of councilor-atlarge. A ward councilor must be a voter domiciled in the ward from which election is sought. If a ward councilor or a councilor-at-large removes from the city during the term for which elected, such office shall immediately be deemed vacant and filled in the manner provided in section 2-11. A ward councilor who removes from the ward from which elected who remains a resident of the city may continue to serve during the term for which elected.

Section 2-2: PRESIDENT

(a) Election and Term - As soon as practicable after the councilors-elect have been qualified following each biennial election, as provided in section 9-11, the members of the city council shall elect from among its members a president who shall serve for 1 year. The method of election of the president shall be prescribed within the rules of the city council.

(b) Powers and Duties - The president shall preside at all meetings of the city council, regulate its proceedings and shall decide all questions of order. The president shall appoint all members of all committees of the city council, whether special or standing. The president shall have the same powers to vote upon all measures coming before the city council as any other member of the city council. The president shall perform any other duties consistent with the office that may be provided by charter, by ordinance or by other vote of the city council.

Section 2-3: PROHIBITIONS

(a) Holding Other City Office or Position - No member of the city council shall hold any other city office or city employment. No former member of the city council shall hold any compensated appointed city office or appointed city employment until 1 year following the date on which the former member's service on the city council has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as a member of the city

council from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other municipal position until at least 1 year following the termination of service as a member of the city council.

(b) Interference with Administration - No city council or any member of the city council shall give orders or directions to any officer or employee of the city appointed by the mayor, either publicly or privately.

(c) Felony Conviction – Any person who has been finally convicted of a state or federal felony shall not be eligible to petition for, or serve in, any elective or appointive office or position under the city. Any councilor who has been finally convicted of a state or federal felony shall be deemed to have vacated said office and shall be disqualified from serving in any other elective or appointive office or position under the city.

Section 2-4: COMPENSATION; EXPENSES

(a) Compensation - The members of the city council shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of councilors shall be effective unless it shall have been adopted by a 2/3 vote of the full city council during the first 18 months of the term for which the city council is elected and unless it provides that the salary increase is to take effect upon the organization of the city government following the next municipal election. No member of the city council shall be eligible to participate in the city's group health or life insurance programs. Subject to appropriation, council members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties.

Actual and necessary expenses shall be defined within the council's rules and regulations.

Section 2-5: GENERAL POWERS

Except as otherwise provided by general law or by this charter, all powers of the city shall be vested in the city council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the city by law.

Section 2-6: EXERCISE OF POWERS; QUORUM; RULES

(a) Exercise of Powers - Except as otherwise provided by general law or by this charter, the legislative powers of the city council may be exercised in a manner determined by it.

(b) Quorum - The presence of 6 members shall constitute a quorum for the transaction of business. Except as otherwise provided by general law or by this charter, the affirmative vote, taken by roll call vote, of 8 members shall be required to adopt an appropriation order. Except as otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a majority of the full city council shall be required to adopt any ordinance.

(c) Rules of Procedure - The city council shall from time to time adopt rules regulating its procedures, which shall be in addition to the following:

(i) Regular meetings of the city council shall be held at a time and place fixed by ordinance. All regular meetings of the city council shall provide for a period of public comment, provided however, the city council may promulgate rules that regulate such period of public comment as deemed appropriate.

(ii) Special meetings of the city council shall be held at the call of the president or at the call of any 5 or more members, by written notice delivered in hand or to the place of residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the president shall be judge, this notice shall be delivered at least 48 weekday hours in advance of the time set for such meeting. A copy of the notice to members shall immediately be posted in accordance with law.

(iii) All sessions of the city council and of every committee or subcommittee of the council shall at all times be open to the public unless another provision is made by law.

(iv) A full, accurate, up-to-date account of the proceedings of the city council shall be kept by the city clerk, which shall include a record of each vote taken, and which shall be made available with reasonable promptness following each meeting. Unless otherwise provided by law, the minutes of any executive session shall be made available as soon as their publication would not defeat the lawful purposes of the executive session.

Section 2-7: ACCESS TO INFORMATION

(a) In General - The city council may make investigations into the affairs of the city and into the conduct and performance of any city agency.

(b) City Officers, Members of City Agencies, Employees - The city council may require any city officer, member of a city agency or city employee to appear before it to give any information that the city council may require in relation to the municipal services, functions, powers, or duties which are within the scope of responsibility of that person and within the jurisdiction of the city council.

(c) Mayor - The city council may require the mayor to provide specific information to it on any matter within the jurisdiction of the city council. The city council may require the mayor to appear before it, in person, to provide specific information on the conduct of any aspect of the business of the city. The mayor may bring to such meeting any city officer or employee the mayor may deem necessary to assist in responding to the questions posed by the city council.

(d) Notice - The city council shall give a minimum of 7 days' notice to any person it may require to appear before it under the provisions of this section. The notice shall include specific questions on which the city council seeks information, and no person called to appear before the city council under this section shall be required to respond to any question not relevant or related to those presented in advance and in writing.

Section 2-8: APPOINTMENTS OF THE CITY COUNCIL

(a) City Clerk and Assistant City Clerk – The city council shall, by a majority vote of the full city council, appoint a city clerk and an assistant city clerk each of whom shall serve for 5 year terms. Any vacancy in the office of city clerk or assistant city clerk shall be filled in a like manner for the remainder of the expired term. The city clerk and the assistant city clerk shall receive such compensation as the city council may from time to time determine. The city council shall have charge and control over of the office of city clerk. The city clerk shall keep full and accurate records of the doings of the city council and perform such other duties as prescribed by the general laws, by this charter or by ordinance. In the absence of the city clerk, the assistant city clerk shall perform the duties of the city clerk and shall perform such other duties as prescribed by the city clerk or by ordinance.

(b) Clerk of Committees - The city council shall biennially in January of the year following a municipal election vote, by a majority vote of the full city council, elect a clerk of committees, who shall hold office for 2 years, from no later than the first day of March in the year of his election, and until a successor is qualified, unless sooner removed. The clerk of committees shall receive such compensation as the city council may from time to time determine. The clerk of committees shall keep full and accurate records of the doings of the several committees of the city council, and shall perform such other duties as may be required of the clerk of committees by the city council. Subject to appropriation, the city council may employ such other staff as it deems necessary.

Section 2-9: ORDINANCES AND OTHER MEASURES

(a) Measures- No measure, except resolutions and other votes constituting ordinary, routine matters, shall be passed finally on the date on which they are introduced, except in the case of an emergency. Except as otherwise provided by the charter, every adopted measure shall become effective at the expiration of 30 days after adoption or at any other date specified therein. No ordinance shall be amended or repealed except by another ordinance adopted in accordance with the charter, or as provided in the initiative and referendum procedures.

(b) Emergency Measures- An emergency measure shall be introduced in the form and manner prescribed for measures generally except that it shall be plainly designated as an emergency measure and shall contain statements after the enacting clause declaring that an emergency exists and describing its scope and nature in clear and specific terms. A preamble which declares and defines the emergency shall be separately voted on and shall require the affirmative vote of 2/3 of the full city council. An emergency measure may be passed with or without amendment or rejected at the meeting at which it is introduced. No measure making a grant, renewal or extension, whatever its kind or nature, or a franchise or special privilege shall be passed as an emergency measure, and except as provided by the laws of the Commonwealth, no such grant, renewal or extension shall be made otherwise than by ordinance. An emergency measure shall become effective upon adoption or at such later time as it may specify.

(c) Charter Objection- On the first occasion that the question on adoption of a measure is put to the city council, if a single member objects to the taking of the vote, the vote shall be postponed until the next meeting of the city council whether regular or special. If 2 members shall object, such postponement shall be until the next regular meeting; but for an emergency measure at least 4 members, in all, must object. This procedure shall not be used more than once for any matter bearing a single docket number notwithstanding any amendment to the original matter. A charter objection shall have privilege over all motions but must be raised prior to or at the call for a vote by the presiding officer and all debate shall cease.

Section 2-10: CITY COUNCIL CONFIRMATION OF CERTAIN APPOINTMENTS

The mayor shall submit to the city council the name of each person the mayor desires to appoint to any city office as a department head or as a member of a multiple-member body, but not including any position which is subject to the civil service law. The city council may refer each name submitted to it to a standing committee of the council which shall review each candidate for appointment and may make a recommendation to the full city council not less than 7 nor more than 45 days after the referral. The committee may require any person whose name has been referred to it to appear before the committee, or before the city council, to give any information relevant to the appointment that the committee, or the city council, may require. Appointments made by the mayor shall become effective on the forty-fifth day after the date on which notice of the proposed appointment was filed with the city clerk unless approved or rejected by the city council within the 45 days.

Section 2-11: FILLING OF VACANCIES

If a vacancy occurs in the office of city councilor, whether by failure to elect or otherwise, the remaining councilors shall, within 30 days following the date of such vacancy, act to fill said vacancy. The city council shall fill the vacancy for the remainder of the unexpired term by choosing the defeated candidate receiving the most votes for said seat from the last regular city election; provided, however, that said defeated candidate shall have received at least 20 percent of the total ballots cast for the particular seat being vacated. For the purpose of this section, the 20 percent minimum threshold shall be calculated as a ratio of ballots cast for the particular office being vacated to votes obtained by said defeated candidate. If there was no other candidate for said office or said defeated candidate shall not have received at least 20 percent of the total ballots cast, the city council shall at its discretion choose an individual, who may be the defeated candidate, from among the voters entitled to vote for such office to serve for the remainder of the unexpired term. In such an instance, the city clerk shall post notice of the vacancy at least 14 days prior to the meeting at which the council shall act to fill the vacancy. Any person so chosen shall take the oath of office and commence to serve forthwith. Persons serving as councilor under this section shall not be entitled to have the words “candidate for re-election” printed against their names on the election ballot. No vacancy shall be filled, in the manner herein provided, if a regular city election is to be held within 90 days following the date the vacancy is declared to exist.

ARTICLE 3
EXECUTIVE BRANCH SECTION

Section 3-1: MAYOR: QUALIFICATIONS; TERM OF OFFICE; COMPENSATION; PROHIBITIONS

(a) Mayor, Qualifications - The chief executive officer of the city shall be a mayor, elected by and from the voters of the city at large. Any Everett voter domiciled in the city shall be eligible to hold the office of mayor.

(b) Term of Office - The term of office of the mayor shall be 4 years beginning on the first Monday in the January succeeding his election, except when said first Monday falls on a legal holiday, in which event on the following day, no later than eight o'clock in the evening, and until his successor has been qualified.

(c) Compensation - The city council shall, by ordinance, establish an annual salary for the mayor. No ordinance increasing the salary of the mayor shall be effective unless it shall have been adopted by a 2/3 vote of the full city council during the first 18 months of the term for which the city council is elected and unless it provides that the salary increase is to take effect upon the organization of the city government following the next municipal election. Subject to appropriation, the mayor shall be entitled to reimbursement of his actual and necessary expenses incurred in the performance of his duties.

(d) Prohibitions - The mayor shall hold no other city office or city employment for which a salary or other emolument is payable from the city treasury. No former mayor shall hold any compensated appointed city office or city employment until 1 year following the date on which the former mayor's city service has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as mayor from returning to the same office or other position of city employment held at the time the position was vacated, if such position exists, but no such person shall be eligible for any other municipal position until at least 1 year after the termination of service as mayor. This prohibition shall not apply to persons covered under the leave of absence provisions of the civil service law.

(e) Felony Conviction – Any person who has been finally convicted of a state or federal felony shall not be eligible to petition for or serve in any elective or appointive office or position under the city. Any mayor who has been finally convicted of a state or federal felony shall be deemed to have vacated said office and shall be disqualified from serving in any other elective or appointive office or position under the city.

Section 3-2: EXECUTIVE POWERS; ENFORCEMENT OF ORDINANCES

The executive powers of the city shall be vested solely in the mayor and may be exercised by the mayor either personally or through the several city agencies under the general supervision and control of the office of the mayor. The mayor shall cause the charter, the laws, the ordinances and

other orders for the government of the city to be enforced, and shall cause a record of all official acts of the executive branch of the city government to be kept. The mayor shall exercise general supervision and direction over all city agencies, unless otherwise provided by law or by this charter. Each city agency shall furnish to the mayor, immediately upon request, any information, materials or otherwise as the mayor may request and as the needs of the office of mayor and the interest of the city may require. The mayor shall supervise, direct and be responsible for the efficient administration of all city activities and functions placed under the control of the mayor by law or by this charter. The mayor shall be responsible for the efficient and effective coordination of the activities of all agencies of the city and for this purpose shall have authority, consistent with law, to call together for consultation, conference and discussion at reasonable times all persons serving the city, whether elected directly by the voters, chosen by persons elected directly by the voters, or otherwise. The mayor shall be, by virtue of the office, a member of every appointed multiple member body of the city. The mayor shall have a right, as an ex officio member, to attend any meeting of any appointed multiple member body of the city, at any time, including executive sessions, to participate in the discussions, to make motions and to exercise every other right of a regular member of such body, but not including the right to vote.

Section 3-3: APPOINTMENTS BY THE MAYOR

The mayor shall appoint, subject to the confirmation of such appointments by the city council under section 2-10, all city officers and department heads and the members of multiple-member bodies for whom no other method of appointment or selection is provided by law or this charter, excepting only persons serving under the school committee, and persons serving under the city council. All appointments to multiple-member bodies shall be for terms established under section 5-1. Upon the expiration of the term of any member of a multiple member body, a successor shall be appointed in like manner. The mayor shall fill any vacancy for the remainder of the unexpired term of any member of a multiple member body. All persons classified as department heads shall, subject to the consent of the mayor, appoint, promote and discipline all assistants, subordinates and other employees of the agency for which that person is responsible. All appointments and promotions made by the mayor shall be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

Section 3-4: TEMPORARY APPOINTMENTS TO CITY OFFICES

Whenever a vacancy, either temporary or permanent, occurs in a city office and the needs of the city require that the vacancy be filled, the mayor may designate the head of another city agency or a city officer or city employee or some other person to perform the duties of the office on a temporary basis until the position can be filled as otherwise provided by law or by this charter. No city officer or city employee shall receive dual compensation for holding a temporary appointment. The mayor shall file a certificate in substantially the following form, with the city clerk, whenever a person is designated under this section: I designate (name of person) to perform the duties of the

office of (designate office in which vacancy exists) on a temporary basis until the office can be filled by (here set out the regular procedure for filling the vacancy, or when the regular officer shall return). I certify that said person is qualified to perform the duties which will be required and that I make this designation solely in the interests of the city of Everett. (signed) Mayor Persons serving as temporary officers under this section shall have only those powers of the office essential to the performance of the duties of the office during the period of the temporary appointment. Notwithstanding any general or special law to the contrary, no temporary appointment shall be for more than 90 days, but not more than two 30-day extensions of a temporary appointment may be made when a permanent vacancy exists in the office.

Section 3-5: COMMUNICATIONS; SPECIAL MEETINGS

(a) Communications to the City Council - The mayor shall, from time to time, by written communications, recommend to the city council for its consideration such measures as, in the judgment of the mayor, the needs of the city require. The mayor shall, from time to time, by written communication, but no less than quarterly, keep the city council fully informed of the financial and administrative condition of the city and shall specifically indicate in such reports any financial or administrative issues facing the city.

(b) Special Meetings of the City Council - The mayor may at any time call a special meeting of the city council, for any purpose, by causing a notice of the meeting to be delivered in hand or to the place of business or residence of each member of the city council. This notice shall, except in an emergency of which the mayor shall be the sole judge, be delivered at least 48 weekday hours in advance of the time set and shall specify the purpose or purposes for which the meeting is to be held. A copy of each such notice shall be posted in accordance with law.

Section 3-6: APPROVAL OF MAYOR, EXCEPTION (VETO)

Every order, ordinance or vote adopted or passed by the city council relative to the affairs of the city, except resolutions, the selection of city officers or employees by the city council and any matters relating to the internal affairs of the city council, shall be presented to the mayor for approval. If the mayor approves of the measure, the mayor shall sign it within 10 days; if the mayor disapproves of the measure, the mayor shall return the measure within 10 days, with the specific reason or reasons for such disapproval attached to it, in writing, to the city council. The city council shall enter the objections of the mayor on its records, and not sooner than 10 days, nor later than 30 days from the date of its return to the city council, shall again consider the same measure. If the city council, notwithstanding the disapproval by the mayor, shall again pass the order, ordinance or vote by a 2/3 vote of the full council, it shall then be deemed in force, notwithstanding the failure of the mayor to approve it. If the mayor has neither signed a measure nor returned it to the city council within 10 days following the date it was presented to the mayor, the measure shall be deemed approved and in force.

Section 3-7: TEMPORARY ABSENCE OF THE MAYOR

(a) Acting Mayor - Whenever, by reason of sickness, absence from the city or other cause, the mayor shall be unable to perform the duties of the office, the president of the city council shall be the acting mayor. Should the president of the city council be unable or unwilling to serve, the city council shall forthwith elect 1 of its members to serve as acting mayor.

(b) Powers of Acting Mayor - The acting mayor shall have only those powers of the mayor that are essential to the conduct of the business of the city in an orderly and efficient manner and on which action may not be delayed. The acting mayor shall have no authority to make any permanent appointment or removal of any individual from city service unless the disability or absence of the mayor shall extend beyond 60 days, nor shall an acting mayor approve or disapprove of any measure adopted by the city council unless the time within which the mayor must act would expire before the return of the mayor. During any period in which any member of the city council is serving as acting mayor, that councilor shall not vote as a member of the city council.

Section 3-8: DELEGATION OF AUTHORITY BY MAYOR

The mayor may authorize any subordinate officer or employee of the city to exercise any power or perform any function or any duty which is assigned by this charter, or otherwise, to the mayor, and the mayor may rescind or revoke any such authorizations previously made, but all acts performed under any such delegation of authority during a period of authorization shall be and remain the acts of the mayor. Nothing in this section shall be construed to authorize a mayor to delegate his power of appointment to any city office or employment or to sign or return measures approved by the city council.

Section 3-9: VACANCY IN OFFICE OF MAYOR

(a) Special Election - If a vacancy in the office of mayor occurs during the first 2 years of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, incapacity, or otherwise, the city council shall immediately, in the manner provided in section 7-1, order a special election to be held within 90 days following the date the vacancy is created, to fill the vacancy for the balance of the then unexpired term. If a regular city election is to be held within 120 days following the date the vacancy is created a special election need not be held and the position shall be filled by vote at such regular election.

(b) President of City Council To Serve As Acting Mayor - If a vacancy in the office of mayor occurs in the third or fourth year of the term for which the mayor is elected, whether by reason of death, resignation, removal from office, or otherwise, the president of the city council shall become the acting mayor. Upon the qualification of the president of the city council as the acting mayor, under this section, a vacancy shall exist in that seat on the city council which shall be filled in the manner provided in section 2-11. A president serving as acting mayor under this subsection, who subsequently stands for office as mayor shall not be entitled to have the words "candidate for re-election" printed against their name on the election ballot.

(c) Powers, Term of Office - The mayor elected under Section 3-9(a) or the acting mayor

designated under Section 3-9 (b) shall have all the powers of the mayor. A person elected under subsection (a), shall serve for the balance of the term unexpired at the time of election to the office. A person chosen under subsection (b), shall serve until the time of the next regular election at which time the person elected to fill the office for the ensuing term of office shall serve, in addition, for the balance of the then unexpired term.

ARTICLE 4
SCHOOL COMMITTEE SECTION

Section 4-1: SCHOOL COMMITTEE

(a) Composition, Term of Office - There shall be a school committee which shall consist of 9 members. Three of these members, to be known as school committee members-at-large, shall be nominated and elected by and from the voters at large. Six of these members, to be known as ward school committee members, shall be domiciled in the ward from which elected but shall be nominated and elected by and from the voters at large; 1 such ward school committee member to be elected from each of the 6 wards into which the city is divided under section 7-7. The mayor shall serve as an ex-officio non- voting member of the school committee.

(b) Term of Office - The term of office for school committee members shall be for 2years each beginning on the first Monday in the January succeeding their election, except when said first Monday falls on a legal holiday, in which event on the following day, no later than eight o'clock in the evening, and until their successors have been qualified.

(c) Eligibility - Any voter shall be eligible to hold the office of school committee member-at-large. A ward school committee member must be a voter domiciled in the ward from which election is sought. If a ward school committee member or a school committee member-at-large removes from the city during the term for which elected, such office shall immediately be deemed vacant and filled in the manner provided in section 4-6. A ward school committee member who removes from the ward from which elected who remains a resident of the city may continue to serve during the term for which elected.

Section 4-2: SCHOOL COMMITTEE CHAIR

(a) Election and Term - As soon as practicable after the school committee members-elect have been qualified following each biennial city election, as provided in section 9-11, the school committee shall organize by electing 1 of the persons elected to the office of school committee member to serve as school committee chair.

(b) Powers and Duties - The school committee chair shall preside at all meetings of the school committee, regulate its proceedings and decide all questions of order. The school committee chair shall appoint all members of all sub-committees of the school committee, whether special or standing. The school committee chair shall have the same powers to vote upon all measures coming before the school committee as any other member of the school committee. The school committee chair shall perform such other duties consistent with the office as may be provided by this charter or by vote of the school committee.

(c) School Committee meetings – Except in the case of an emergency or in the event of a joint meeting, the school committee shall not meet on the same date as a regular city council meeting.

Section 4-3: PROHIBITIONS

(a) Holding Other City Office or Employment - No member of the school committee shall hold any other city office or city employment for which a salary or other emolument is payable from the city treasury. No former member of the school committee shall hold any compensated appointed city office or city employment until 1 year following the date on which the member's service on the school committee has terminated. This provision shall not prevent a city officer or other city employee who has vacated a position in order to serve as a member of the school committee from returning to the same office or other position of city employment held at the time the position was vacated, but no such person shall be eligible for any other municipal position until at least 1 year following the termination of service as a member of the school committee.

(b) Felony Conviction – Any person who has been finally convicted of a state or federal felony shall not be eligible to petition for or serve in any elective or appointive office or position under the city. Any school committee member who has been finally convicted of a state or federal felony shall be deemed to have vacated said office and shall be disqualified from serving in any other elective or appointive office or position under the city.

Section 4-4: COMPENSATION; EXPENSES

The members of the school committee shall receive such salary for their services as may from time to time be set by ordinance. No ordinance increasing the salary of school committee members shall be effective unless it shall have been adopted by a 2/3 vote of the full city council during the first 18 months of the term for which the school committee is elected and unless it provides that the salary increase is to take effect upon the organization of the city government following the next municipal election. No member of the school committee shall be eligible to participate in the city's group health or life insurance programs. Subject to appropriation, school committee members shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their duties. Actual and necessary expense shall be defined in the school committee's rules and regulations.

Section 4-5: POWERS AND DUTIES

The school committee shall have all powers which are conferred on school committees by general laws and such additional powers and duties as may be provided by the charter, by ordinance, and/or otherwise and not inconsistent with the grant of powers conferred by general laws. The powers and duties of the school committee shall include the following:

(1) To elect a superintendent of the schools who shall be charged with the administration of the school system, subject only to policy guidelines and directives adopted by the school committee and, upon the recommendation of the superintendent, to establish and appoint assistant or associate superintendents as provided in by law.

(2) To make all reasonable rules and regulations for the management of the public school system and for conducting the business of the school committee as may be deemed necessary or desirable.

(3) To adopt and to oversee the administration of an annual operating budget for the school department, subject to appropriation by the city council. The school committee shall have general charge and superintendence of all school buildings and grounds and shall furnish all school buildings with proper fixtures, furniture and equipment. The school committee shall provide ordinary maintenance of all school buildings and grounds; unless a central municipal maintenance department which may include maintenance of school buildings and grounds is established in accordance with law. Whenever the school committee shall determine that additional classrooms are necessary to meet the educational needs of the community, at least 1 member of the school committee, or a designee of the school committee, shall serve on the agency, council or committee to which the planning or construction of such new, remodeled or renovated school building is delegated.

Section 4-6: FILLING OF VACANCIES

(a) Runner-Up to Fill Vacancy - If a vacancy occurs in the office of school committee member, whether by failure to elect or otherwise, the remaining school committee members shall, within 30 days following the date of such vacancy, act to fill said vacancy. The school committee shall fill the vacancy for the remainder of the unexpired term by choosing the defeated candidate receiving the most votes for said seat from the last regular city election; provided, however, that said defeated candidate shall have received at least 20 percent of the total ballots cast for the particular seat being vacated. For the purpose of this section, the 20 percent minimum threshold shall be calculated as a ratio of ballots cast for the particular office being vacated to votes obtained by said defeated candidate. Any person so chosen shall take the oath of office and commence to serve forthwith. Persons serving as school committee member under this section shall not be entitled to have the words “candidate for re- election” printed against their names on the election ballot. No vacancy shall be filled, in the manner herein provided, if a regular city election is to be held within 90 days following the date the vacancy is declared to exist.

(b) Filling of Vacancies By City Council and School Committee - Whenever a vacancy shall occur in the office of school committee member and there is no available candidate to fill the vacancy in the manner provided in section 4-6 (a), the president of the city council shall, within 30 days following the date of the vacancy, call a joint meeting of the city council and the school committee to act to fill the vacancy. Persons elected to fill a vacancy by the city council and school committee shall serve only until the next regular election at which time the vacancy shall be filled by the voters and the person chosen to fill the vacancy shall immediately be sworn and shall serve for the remainder of the unexpired term in addition to the term for which elected. Persons serving as school committee members under this section shall not be entitled to have the words "candidate for reelection" printed against their names on the election ballot.

ARTICLE 5
ADMINISTRATIVE ORGANIZATION

Section 5-1: ORGANIZATION OF CITY AGENCIES

The organization of the city into operating agencies for the provision of services and the administration of the government may be accomplished only through an administrative order submitted to the city council by the mayor. No administrative order may originate with the city council. The mayor may, subject only to express prohibitions in a general law or this charter, propose to reorganize, consolidate or abolish any city agency, in whole or in part, or to establish such new city agencies as is deemed necessary, but no function assigned by this charter to a particular city agency may be discontinued or assigned to any other city agency unless this charter specifically so provides. The mayor may from time to time prepare and submit to the city council administrative orders that establish operating divisions for the orderly, efficient or convenient conduct of the business of the city. These administrative orders shall be accompanied by a message of the mayor which explains the benefits expected to ensue and advises the city council if any provision of an administrative order shall require amendments, insertions, revisions, repeal or otherwise of existing ordinances. Whenever the mayor proposes an administrative order, the city council shall hold one or more public hearings on the proposal giving notice by publication in a local newspaper, which notice shall describe the scope of the proposal and the time and place at which the public hearing will be held, not less than 7 nor more than 14 days following said publication. An organization or reorganization plan shall become effective at the expiration of 60 days following the date the proposal is submitted to the city council unless the city council shall, by a majority vote, within such period vote to disapprove the plan. The city council may vote only to approve or to disapprove the plan and may not vote to amend or to alter it.

Section 5-2: MERIT PRINCIPLES

All appointments and promotions of city officers and employees must be made on the basis of merit and fitness demonstrated by examination, past performance or by other evidence of competence and suitability. Each person appointed to fill an office or position shall be a person especially fitted by education, training and previous work experience to perform the duties of the office or position for which chosen.

ARTICLE 6
FINANCE AND FISCAL PROCEDURES

Section 6-1: FISCAL YEAR

The fiscal year of the city shall begin on the first day of July and shall end on the last day of June, unless another period is required by general law.

Section 6-2: ANNUAL BUDGET POLICY

The mayor shall call a joint meeting of the city council and school committee, to include the superintendent of schools, before the commencement of the budget process to review the financial condition of the city, revenue and expenditure forecasts, and other relevant information prepared by the mayor in order to develop a coordinated budget.

Section 6-3: SUBMISSION OF OPERATING BUDGET; BUDGET MESSAGE

At least 45 days before the beginning of the fiscal year, the mayor shall submit to the city council a proposed operating budget for all city agencies, which shall include the school department, for the ensuing fiscal year with an accompanying budget message and supporting documents. The budget message submitted by the mayor shall explain the operating budget in fiscal terms and in terms of work programs for all city agencies. It shall outline the proposed fiscal policies of the city for the ensuing fiscal year, describe important features of the proposed operating budget and include any major variations from the current operating budget, fiscal policies, revenues and expenditures together with reasons for these changes. The proposed operating budget shall provide a complete fiscal plan of all city funds and activities and shall be in the form the mayor deems desirable. The school budget, as adopted by the school committee shall be submitted to the mayor at least 30 days before the submission of the proposed operating budget to the city council. The mayor shall notify the school committee of the date by which the proposed budget of the school committee shall be submitted to the mayor. The mayor and the superintendent of schools shall coordinate the dates and times of the school committee's budget process under the General Laws.

Section 6-4: ACTION ON THE OPERATING BUDGET

(a) Public Hearing - The city council shall publish in at least 1 newspaper of general circulation in the city a notice of the proposed operating budget as submitted by the mayor. The notice shall state (1) the times and places where copies of the entire proposed operating budget are available for inspection by the public, and (2) the date, time and place not less than 14 days after its publication, when a public hearing on the proposed operating budget will be held by the city council.

(b) Adoption of the Budget - The city council shall adopt the proposed operating budget, with or without amendments, within 45 days following the date the proposed budget is filed with the city clerk. In amending the proposed operating budget, the city council may delete or decrease any amounts except expenditures required by law, but except on the recommendation of the mayor, the city council shall not increase any item in or the total of the proposed operating budget, unless otherwise authorized by the general laws. If the city council fails to take action on any item in the

proposed operating budget within 45 days after its receipt, that amount shall, without any action by the city council, become a part of the appropriations for the year, and be available for the purposes specified.

Section 6-5: CAPITAL IMPROVEMENT PROGRAM

(a) Submission - The mayor shall submit a capital improvement program to the city council at least 120 days before the start of each fiscal year. The capital improvement program shall include:

(1) a clear and concise general summary of its contents;

(2) a list of all capital improvements proposed to be undertaken during the next ensuing 5 years, with supporting information as to the need for each capital improvement;

(3) cost estimates, methods of financing and recommended time schedules for each improvement; and,

(4) the estimated annual cost of operating and maintaining each facility and piece of major equipment involved. This information is to be annually revised by the mayor with regard to the capital improvements still pending or in the process of being acquired, improved or constructed.

(b) Public hearing - The city council shall publish in at least one newspaper of general circulation in the city a notice stating: (1) the times and places where entire copies of the capital improvements program are available for inspection by the public; and, (2) the date, time and place not less than fourteen days after such publication, when a public hearing on said plan will be held by the city council.

(c) Adoption - At any time after the public hearing but before the first day of the last month of the current fiscal year, the city council shall by order adopt the capital improvements program with or without amendment, provided that each amendment must be voted separately and that any increase in the capital improvements program as submitted must clearly identify the method of financing proposed to accomplish such increase.

Section 6-6: INDEPENDENT AUDIT

The city council shall annually provide for an outside audit of the books and accounts of the city to be conducted by a certified public accountant, or a firm of certified public accountants, which has no personal interest, direct or indirect, in the fiscal affairs of the city or any of its officers. The mayor shall annually provide to the city council a sum of money sufficient to satisfy the estimated cost of conducting the audit as presented to the mayor, in writing, by the city council. The award of a contract to audit shall be made by the city council on or before September 15 of each year. The clerk of committees shall coordinate the work of the individual or firm selected. The report of the audit shall be filed in final form with the city council not later than March 1 in the year following its award.

Section 6-7: EXPENDITURES IN EXCESS OF APPROPRIATIONS

Except as otherwise may be provided by law, no official of the city of Everett shall knowingly and intentionally expend in any fiscal year any sums in excess of the appropriations, awards, grants or gifts, duly made in accordance with law, or involve the city in any contract for the future payment of money in excess of these appropriations, awards, grants or gifts. It is the intention of this section that section 31 of chapter 44 of the General Laws shall be strictly enforced. Any official who violates this section shall be personally liable to the city for any amounts so expended to the extent that the city does not recover these amounts from the person to whom the sums were paid.

ARTICLE 7
ELECTIONS

Section 7-1: PRELIMINARY ELECTION FOR MAYOR

A preliminary election for the purpose of nominating candidates for mayor shall be held on the third Tuesday in September in each odd- numbered year in which a mayor is to be elected, but the city clerk may, with the approval of the city council, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday. Whenever a special election to fill a vacancy in the office of mayor is to be held, a preliminary election shall be conducted, if necessary, 28 days before the date established for the special election.

Section 7-2: PRELIMINARY ELECTION FOR CITY COUNCIL AND SCHOOL COMMITTEE

A preliminary election for the purpose of nominating candidates for city councilors and school committee members who are to be elected shall be held on the third Tuesday in September in each odd-numbered year in which a city councilor or school committee member is to be elected, but the city clerk may, with the approval of the city council, reschedule this election to the fourth Tuesday to avoid a conflict with any civil or religious holiday.

Section 7-3: PRELIMINARY ELECTION PROCEDURES

(a) Signature Requirements - The number of signatures of voters required to place the name of a candidate on the official ballot to be used at a preliminary election shall be as follows: for the office of mayor not less than 500 such certified signatures, provided, however, that at least 25 signatures must be certified from each ward; for the office of councilor-at-large, ward councilor, school committee member at large or ward school committee member, not less than 250 such certified signatures. Signatures of voters shall be made on a form prescribed by the registrars of voters and shall be made available no earlier than April 2 in each preliminary election year. Said forms must be submitted to the city clerk on or before 4 o'clock in the afternoon on the forty-fifth day prior to the declared date of such preliminary election. An individual may appear on the ballot for only one office at any preliminary, regular or special election.

(b) Ballot Position - The order in which names of candidates for each office appear on the ballot shall be determined by a drawing, by lot, conducted by the city clerk at least 40 days before the preliminary election. Such drawing shall be open to the public.

(c) Determination of Candidates - The 2 persons receiving at a preliminary election the highest number of votes for nomination for an office shall, except as provided by subsection (d) of this section, be the sole candidates for that office whose names shall be printed on the official ballot to be used at the regular or special election at which such office is to be voted upon, and no acceptance of a nomination shall be necessary to its validity. If 2 or more persons are to be elected to the same office at such regular or special city election, the several persons equal in number to twice the number so to be elected receiving at such preliminary election the highest number of votes for nomination for that office shall, except as provided by subsection (d) of this section, be

the sole candidates for that office whose names shall be printed on the official ballot. If the preliminary election results in a tie vote among candidates for nomination receiving the lowest number of votes which, but for said tie vote, would entitle a person receiving the same to have their name printed on the official ballot for the election, all candidates participating in said tie vote shall have their names printed on the official ballots, although in consequence thereof there shall be printed on such ballots the names of candidates exceeding twice the number to be elected.

(d) Condition Making Preliminary Unnecessary - If at the expiration of the time for filing statements of candidates to be voted for at any preliminary election not more than twice as many such statements have been filed with the city clerk for an office as are to be elected to such office, the candidates whose statements have thus been filed shall be deemed to have been nominated to said office, and their names shall be voted on for such office at the succeeding regular or special election, as the case may be, and the city clerk shall not print said names upon the ballot to be used at said preliminary election and no other nomination to said office shall be made. If in consequence it shall appear that no names are to be printed upon the official ballot to be used at any preliminary election in any ward or wards of the city, no preliminary election shall be held in any such ward or wards.

Section 7-4: REGULAR ELECTION

The regular city election shall be held on the first Tuesday following the first Monday in November in each odd-numbered year.

Section 7-5: BALLOT POSITION, REGULAR ELECTION

The order in which names of candidates for each office appear on the ballot for each office shall be determined by a drawing, by lot, conducted by the city clerk no later than 7 days after the certification of the preliminary election results. Such drawing shall be open to the public.

Section 7-6: NON-PARTISAN ELECTIONS

All elections for city offices shall be non-partisan, and election ballots shall be printed without any party mark, emblem, or other political designation.

Section 7-7: WARDS

The territory of the city shall be divided into 6 wards by the city clerk so established as to consist of as nearly an equal number of inhabitants as it is possible to achieve based on compact and contiguous territory, bounded as far as possible by the center line of known streets or ways or by other well-defined limits. Each such ward shall be composed of voting precincts established in accordance with general laws. The city council shall from time to time, but at least once in each 10 years, review these wards to insure their uniformity in number of inhabitants.

Section 7-8: APPLICATION OF STATE GENERAL LAWS

Except as otherwise expressly provided in this charter and authorized by law, all city elections shall be governed by the laws of the Commonwealth relating to the right to vote, the registration of

voters, the nomination of candidates, voting places, the conduct of preliminary, regular and special elections, the submission of charters, charter amendments and other propositions to the voters, the counting of votes, the recounting of votes, and the determination of results.

ARTICLE 8
CITIZEN PARTICIPATION MECHANISMS

Section 8-1: FREE PETITION

The city council or the school committee shall hold a public hearing and act with respect to every petition which is addressed to it, which is signed by 100 or more voters, and which seeks the passage of a measure. The hearing shall be held by the city council or the school committee and the action by the city council or the school committee shall be taken not later than 6 weeks after the petition is filed with the city clerk or the secretary of the school committee.

Hearings on 2 or more petitions filed under this section may be held at the same time and place. The city clerk or the secretary of the school committee shall mail notice of the hearing to the 10 persons whose names appear first on the petition at least 7 days before the hearing. Notice, by publication, of all such hearings shall be at public expense.

Section 8-2: CITIZEN INITIATIVE MEASURES

(a) Commencement - Initiative procedures shall be started by the filing of a proposed initiative petition with the city clerk or the secretary of the school committee. The petition shall be addressed to the city council or to the school committee, shall contain a request for the passage of a particular measure which shall be set forth in full in the petition, and shall be signed by at least 250 voters. At least 25 signatures must be certified from each ward.

The petition shall be accompanied by an affidavit signed by 10 voters and containing their residential address stating they will constitute the petitioners committee and be responsible for circulating the petition and filing it in proper form.

(b) Referral to City Solicitor - The city clerk or the secretary of the school committee shall, immediately following receipt of a proposed petition, deliver a copy of the petition to the city solicitor. The city solicitor shall, within 15 days following receipt of a copy of the petition, in writing, advise the city council or the school committee whether the measure as proposed may lawfully be proposed by the initiative process and whether, in its present form it may be lawfully adopted by the city council or the school committee. If the opinion of the city solicitor is that the measure is not in proper form, the reply shall state the reasons for this opinion, in full. A copy of the opinion of the city solicitor shall also be mailed to the person designated as clerk of the petitioners committee.

(c) Submission to City Clerk - If the opinion of the city solicitor is that the petition is in a proper form, the city clerk shall provide blank forms for the use of subsequent signers, and shall print at the top of each blank form a fair, concise summary of the proposed measure, as determined by the city solicitor, together with the names and addresses of the first 10 voters who signed the originating petition. Within 30 days following the date the blank forms are issued by the city clerk, the petitions shall be returned and filed with the city clerk signed by at least 10 percent of the total number of voters as of the date of the most recent city election. Signatures to an initiative petition

need not all be on 1 paper, but all papers pertaining to any one measure shall be fastened together and shall be filed as a single instrument, with the endorsement on it of the name and residence address of the person designated as filing the same. With each signature on the petition there shall also appear the street and number of the residence of each signer. Within 10 days following the filing of the petition, the registrars of voters shall ascertain by what number of voters the petition has been signed, and what percentage that number is of the total number of voters as of the date of the most recent regular city election. The registrars of voters shall attach to the petition a certificate showing the results of its examination and shall return the petition to the city clerk, or the secretary of the school committee, depending on how the petition is addressed. A copy of the registrars of voters' certificate shall also be mailed to the person designated as clerk of the petitioners committee.

(d) Action on Petitions - Within 30 days following the date a petition has been returned to the city clerk or the secretary of the school committee, and after publication under subsection (f), the city council or the school committee shall act with respect to each initiative petition by passing it without change, by passing a measure which is stated to be in lieu of the initiative measure, or by rejecting it. The passage of a measure which is in lieu of an initiative measure shall be deemed to be a rejection of the initiative measure. If the city council or the school committee fails to act with respect to any initiative measure which is presented to it within 30 days following the date the measure is returned to it, the measure shall be deemed to have been rejected on the thirtieth day. If an initiative measure is rejected, the city clerk or the secretary of the school committee shall promptly give notice of that fact to the person designated as the clerk of the petitioners committee, by certified mail.

(e) Supplementary Petitions - Within 60 days following the date an initiative petition has been rejected, a supplemental initiative petition may be filed with the city clerk or the secretary of the school committee, but only by persons constituting the original petitioners committee. The supplemental initiative petition shall be signed by a number of additional voters which is equal to at least 5 per cent of the total number of voters as of the date of the most recent city election, and the signatures on the initial petition filed under subsection (c), and the signatures on the supplemental petition filed under this subsection, taken together, shall contain the signatures of at least 15 percent of the total number of voters in the city. If the number of signatures to this supplemental petition is found to be sufficient by the city clerk, the city council shall call a special election to be held on a date fixed by it not less than 35 nor more than 90 days following the date of the certificate of the city clerk that a sufficient number of voters have signed the supplemental initiative petition and shall submit the proposed measure, without alteration, to the voters for determination, but if any other city election is to be held within 120 days following the date of the certificate, the city council may omit the calling of such special election and cause the question to appear on the election ballot at the approaching election for determination by the voters.

(f) Publication - The full text of any initiative measure which is submitted to the voters shall be

published in at least 1 newspaper of general circulation in the city not less than 7 nor more than 14 days preceding the date of the election at which the question is to be voted upon. Additional copies of the full text shall be available for distribution to the public in the office of the city clerk.

(g) Form of Question - The ballots used when voting on a measure proposed by the voters under this section shall contain a question in substantially the following form: Shall the following measure which was proposed by an initiative petition take effect? (Here insert a fair, concise summary prepared by the petitioners, and approved by the city solicitor.)

o YES o NO

(h) Time of Taking Effect - If a majority of the votes cast on the question is in the affirmative, the measure shall be deemed to be effective immediately, unless a later date is specified in the measure.

Section 8-3: CITIZEN REFERENDUM PROCEDURES

(a) Petition, Effect on Final Vote - If, within 21 days following the date on which the city council or the school committee has voted finally to approve of any measure, a petition signed by a number of voters equal to at least 12 per cent of the total number of voters as of the date of the most recent regular city election and addressed to the city council or to the school committee as the case may be, protesting against the measure or any part of it is filed with the secretary of the school committee or city clerk, the effective date of such measure shall be temporarily suspended. The school committee or the city council shall immediately reconsider its vote on the measure or part of it, and, if the measure is not rescinded, the city council shall provide for the submission of the question for a determination by the voters either at a special election which it may call at its convenience, or within such time as may be requested by the school committee, or at the next regular city election, but pending this submission and determination, the effect of the measure shall continue to be suspended.

(b) Certain Initiative Provisions to Apply - The petition described in this section shall be termed a referendum petition and the applicable provisions of section 8-2 as they relate to the filing and certification of signatures shall apply to such referendum petitions, except that the words "measure or part thereof protested against" shall be deemed to replace the word "measure" and the word "referendum" shall be deemed to replace the word "initiative". The measure or part protested against shall be null and void unless a majority of those voting on the question shall vote in favor of the measure or part protested against at the election.

Section 8-4: INELIGIBLE MEASURES

None of the following shall be subject to the initiative or the referendum procedures:

(1) proceedings relating to the internal organization or operation of the city council or of the school committee;

(2) an emergency measure adopted under the charter;

(3) the city budget or the school committee budget as a whole;

(4) any appropriation for the payment of the city's debt or debt service;

(5) an appropriation of funds to implement a collective bargaining agreement; (6) proceedings relating to the appointment, removal, discharge, employment, promotion, transfer, demotion, or other personnel action;

(7) any proceedings repealing or rescinding a measure or part of it which is protested by referendum procedures;

(8) any proceedings providing for the submission or referral to the voters at an election; and

(9) resolutions and other votes constituting ordinary, routine matters not suitable as the subject of a referendum petition.

Section 8-5: RECALL

(a) Application - Any holder of an elected office in the city, with more than 6 months remaining in the term of office for which the officer was elected, may be recalled therefrom by the voters of the city in the manner provided in this section. No recall petition shall be filed against an officer within 6 months after taking office.

(b) Recall Petition - A recall petition may be initiated by the filing of an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall, provided that the affidavit is signed by at least 250 voters for any officer. The city clerk shall thereupon deliver to said voters making the affidavit, copies of petition blanks demanding such recall, copies of which printed forms the city clerk shall keep available. Such blanks shall be issued by the city clerk, with signature and official seal attached thereto. They shall be dated, shall be addressed to the city council and shall contain the names of all the persons to whom they are issued, the number of blanks so issued, the name of the person whose recall is sought, the office from which removal is sought and the grounds of recall as stated in the affidavit. A copy of the petition shall be entered in a record book to be kept in the office of the city clerk. Said recall petition shall be returned and filed with the city clerk within 28 days after the filing of the affidavit, and shall have been signed by at least 20 percent of the voters of the city. The city clerk shall forthwith submit the petition to the registrars of voters, and the registrars shall, within 5 working days, certify thereon the number of signatures which are names of voters.

(c) Recall Election - If the petition shall be found and certified by the city clerk to be sufficient, the city clerk shall submit the same with such certificate to the city council within 5 working days, and the city council shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within 5 days thereafter, order an

election to be held on a date fixed by them not less than 64 days and not more than 90 days after the date of the city clerk's certificate that a sufficient petition has been filed; provided, however, that if any other city election is to occur within 150 days after the date of the certificate the city council shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall not proceed as provided in this section.

(d) Office Holder - The incumbent shall continue to perform the duties of the office until the recall election. If said incumbent is not recalled, the incumbent shall continue in office for the remainder of the unexpired term subject to recall as before. If recalled, the officer shall be deemed removed and the office vacant. The vacancy created thereby shall be filled in accordance with the provisions of Articles 2, 3 and 4 of this charter for filling vacancies in such office. A person chosen to fill the vacancy caused by such recall shall hold office until the next regular city election. Should the person be a candidate in the subsequent election, he or she will not be allowed to have "candidate for re- election" appear on the ballot at such election.

(e) Ballot Proposition - The form of the question to be voted upon shall be substantially as follows: "Shall [here insert the name and title of the elective officer whose recall is sought] be recalled?" Yes No If a majority of the votes cast upon the question of recall is in the affirmative, such elected officer shall be recalled.

(f) Repeat of Recall - In the case of an officer subjected to a recall election and not recalled thereby, no recall petition shall be filed against such officer until at least 270 days after the election at which the officer's recall was submitted to the voters of the city.

(g) Office Holder Recalled - No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against such person, shall be appointed to any city office or position of employment within 2 years after such recall or such resignation.

Section 8-6: REQUIRED VOTER PARTICIPATION

For any measure to be effective under initiative procedure and for any measure to be declared null and void under any referendum procedure, and for any recall election, at least 20 percent of the voters as of the most recent regular city election must vote at an election that includes on the ballot submission of one or more initiative, referendum or recall questions to the voters.

Section 8-7: SUBMISSION OF OTHER MATTERS TO VOTERS

The city council may of its own motion, and shall, at the request of the school committee if a measure originates with that body and pertains to affairs under its jurisdiction, submit to the voters at any regular city election for adoption or rejection any measure in the same manner and with the same force and effect as are hereby provided for submission by petitions of voters.

Section 8-8: CONFLICTING PROVISIONS

If 2 or more measures passed at the same election contain conflicting provisions, only the one receiving the greatest number of affirmative votes shall take effect.

ARTICLE 9
GENERAL PROVISIONS

Section 9-1: CHARTER CHANGES

This charter may be replaced, revised or amended in accordance with any procedure made available under the state constitution, or by statutes enacted in accordance with the state constitution.

Section 9-2: SEVERABILITY

The provisions of this charter are severable. If any provision of this charter is held invalid the other provisions shall not be affected by this holding. If the application of this charter, or any of its provisions, to any person or circumstance is held invalid, the application of the charter and its provisions to other persons and circumstances shall not be affected thereby.

Section 9-3: SPECIFIC PROVISION TO PREVAIL

To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

Section 9-4: RULES AND REGULATIONS

A copy of all rules and regulations adopted by any city agency shall be placed on file in the office of the city clerk and shall be available for review by any person who requests such information at any reasonable time. Unless an emergency exists as determined by the mayor, no rule or regulation adopted by any city agency shall become effective until 5 days following the date it is so filed.

Section 9-5: PERIODIC REVIEW OF ORDINANCES

Not later than the first day of July, at 10 year intervals, in each year ending in a 5, the mayor and city council shall provide for a review to be made of the ordinances of the city for the purpose of preparing a proposed revision or recodification of them, without substantive change. This review shall be made by a special committee to consist of 9 members, 6 of whom shall be appointed by the city council president and 3 of whom shall be appointed by the mayor. At least 2 of the persons appointed by the city council president shall be members of the city council and all of the remaining members shall be voters of the city. The special committee shall file its report with the city clerk not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the city council agenda for action before the fifteenth day of June in that year and if not so scheduled by the city clerk the matter shall come before the city council for action at its next meeting held following the fifteenth day of June, and no other business shall be in order until the report has been acted upon, by roll call vote. The city solicitor shall serve as an advisor to the special committee. A revision, recodification or republication of the ordinances shall be made at 10 year intervals. Copies of the revision, recodification or republication shall be made available to the public at a cost not to exceed the actual cost of the reproduction. In each year between these reenactments, an annual supplement shall be printed which shall contain all ordinances and amendments to ordinances adopted in the

preceding year.

Section 9-6: PERIODIC REVIEW OF CHARTER

Not later than the first day of July, at 10 year intervals, in each year ending in a 4, the mayor and city council shall provide for a review to be made of the city charter. This review shall be made by a special committee to consist of 9 members. Four members shall be appointed by the city council president, 2 of whom shall be members of the city council and 2 of whom shall be voters of the city but shall not be elected or appointed officers or employees of the city. Five members shall be appointed by the mayor, all of whom shall be voters of the city but shall not be elected or appointed officers or employees of the city. The special committee shall file its report with the city clerk, not later than the first day of May in the year following the year in which the committee is appointed. The recommendations of the special committee shall appear on the city council's agenda for action before the fifteenth day of June in that year and if not so scheduled by the city clerk the matter shall come before the city council for action at its next meeting held following the fifteenth day of June, and no other business shall be in order until such report has been acted upon, by roll call vote.

Section 9-7: UNIFORM PROCEDURES GOVERNING MULTIPLE-MEMBER BODIES

(a) Meetings - All appointed multiple member bodies of the city shall meet regularly at the times and places that they by their own rules prescribe. Special meetings of any multiple member body shall be held on the call of the chairman or by one-third of the members of the body by written notice delivered in hand or to the place of residence of each member at least 48 hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the notice shall also be posted in accordance with law. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public.

(b) Rules and Journals - Each appointed multiple member body shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. These rules and journals shall be a public record, and certified copies shall be placed on file in the office of the city clerk and in the Everett Public Library.

(c) Voting - If requested by any member, any vote of any appointed multiple member body shall be taken by a call of the roll and the vote of each member shall be recorded in the journal, but if the vote is unanimous, only that fact need be recorded.

(d) Quorum - A majority of the members of an appointed multiple member body shall constitute a quorum. Unless some other provision is made by the multiple member body's own rules while a quorum is present, except on procedural matters, a majority of the full membership of the body shall be required to vote on any matter representing an exercise of the powers of the multiple member body, and that General Law provisions related to any vote to meet in "executive session" shall always require a majority of members of the body.

Section 9-8: NUMBER AND GENDER

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender shall include the feminine gender.

Section 9-9: REFERENCES TO GENERAL LAWS

All references to General Laws contained in the charter refer to the General Laws of the Commonwealth of Massachusetts and are intended to refer to and to include any amendments or revisions to such chapters or sections or to the corresponding chapters and sections of any rearrangement, revision or recodification of such statutes enacted or adopted subsequent to the adoption of this charter.

Section 9-10: COMPUTATION OF TIME

In computing time under this charter the day of the act or event after which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period shall be extended to the next day which is not a Saturday, Sunday or legal holiday. When the period of time designated is less than 7 days, intermediate Saturdays, Sundays and legal holidays shall not be included, when the period is 7 days or more, every day shall be counted.

Section 9-11: OATH OF OFFICE OF MAYOR, CITY COUNCIL, AND SCHOOL COMMITTEE

A mayor-elect (as applicable), the city council-elect, and the school committee members-elect shall, on the first Monday in the January of each even-numbered year, except when said first Monday falls on a legal holiday, in which event on the following day, no later than eight o'clock in the evening, meet and be sworn to the faithful discharge of their duties. The oath may be administered by the city clerk, the assistant city clerk, or by any person qualified to take oaths or affirmations. A certificate that the oath or oaths have been taken shall be entered in the journal of the city council. In case of the absence of the mayor- elect or any members-elect of the city council or school committee on the day the oath of office is administered, the oath may at any time thereafter be administered to those persons by the city clerk, the assistant city clerk or by any person qualified to take oaths or affirmations. A certificate of each oath subsequently taken shall be entered in the journal of the city council. After the oath has been administered to the city council members present, they shall organize by electing from among their number a person to serve as the president as provided in section 2-2. The member senior in years of continuous service on the city council shall preside during this election. If 2 or more members are equally senior in continuous years of service on the city council, the member senior both in continuous years of service and age shall preside. After the oath has been administered to the school committee members present, they shall organize by electing from among their number a person to serve as the chair, as provided in section 4-2. The member senior in years of continuous service on the school committee shall preside during the election. If 2 or more members are equally senior in continuous years of service on the school committee the member senior both in continuous years of service and age shall preside.

Section 9-12: CERTIFICATE OF ELECTION OR APPOINTMENT

Every person who is elected, including those elected by the city council, or appointed to an office of the city, shall receive a certificate of such election or appointment from the city clerk. Except as otherwise provided by law, every person who is elected, including those elected by the city council, or appointed to an office of the city before performing any act under this appointment or election, shall take and subscribe to an oath to qualify to enter upon the duties. A record of this oath shall be kept by the city clerk.

Section 9-13: LIMITATION ON OFFICE HOLDING

Unless otherwise allowed by law or this charter, no person shall simultaneously hold more than 1 full-time city office or position of employment. Any hours worked in any part-time position shall not be the same or otherwise conflict with the hours worked in a full-time position.

Section 9-14: ENFORCEMENT OF CHARTER PROVISIONS

It shall be the duty of the mayor to see that the charter is faithfully followed and complied with by all city agencies and city employees. Whenever it appears to the mayor that any city agency or city employee is failing to follow any provision of this charter the mayor shall, in writing, cause notice to be given to that agency or employee directing compliance with the charter. If it shall appear to the city council that the mayor personally is not following the provisions of the charter the city council shall, by resolution, direct the attention of the mayor to those areas in which the city council believes there is a failure to comply with charter provisions. The procedures made available in chapter 231A of the General Laws may be used to determine the rights, duties, status or other legal relations arising under this charter, including any question of construction or validity which may be involved in such determination.

ARTICLE 10
TRANSITIONAL PROVISIONS

Section 10-1: CONTINUATION OF EXISTING LAWS

All general laws, special laws, city ordinances, and rules and regulations of or pertaining to Everett, including special acts creating regional entities and arrangements of which the city is a member, that are in force when this charter takes effect, and not specifically or by implication repealed by this charter, shall continue in full force and effect until amended or repealed, or rescinded by law, or until they expire by their own limitation. In any case in which the provisions of this charter are found to be inconsistent with the provisions of any general or special law that would otherwise be applicable, the provisions of this charter shall be deemed to prevail. Every inconsistency between the prior law and this charter shall be decided in favor of this charter.

Section 10-2: CONTINUATION OF GOVERNMENT AND ADMINISTRATION

All city agencies shall continue to perform their duties until re-elected, reappointed, or until successors to their respective positions are duly appointed or elected, or until their duties have been transferred and assumed by another city agency.

Section 10-3: TRANSFER OF RECORDS AND PROPERTY

All records, property and equipment whatsoever of any city agency, or part thereof, the powers and duties of which are assigned in whole or in part to another city agency, shall be transferred immediately to that agency.

Section 10-4: EFFECT ON OBLIGATIONS, TAXES, ETC.

All official bonds, recognizances, obligations, contracts, and other instruments entered into or executed by or to the city before the adoption of this charter, and all taxes, assessments, fines, penalties, forfeitures, incurred or imposed, due or owing to the city, shall be enforced and collected, and all writs, prosecutions, actions and causes of action, except as otherwise provided in this charter, shall continue without abatement and remain unaffected by the charter; and no legal act done by or in favor of the city shall be rendered invalid by reason of the adoption of this charter.

Section 10-5: DISPOSITION OF CERTAIN SPECIAL LAWS

(a) Certain Special Laws Recognized and Retained – The following special acts are hereby retained: Chapter 417 of the Acts of 1991 relative to the police chief; Chapter 86 of the Acts of 1933 relative to the fire chief, Chapter 33 of the Acts of 1989 relative to the auditor, Chapter 73 of the Acts of 1982 relative to the development and financial corporation and Chapter 133 of the Acts of 1990 relative to the economic development and industrial corporation, Chapter 308 of the Acts of 1988 relative to licensing of establishments with pool tables; Chapter 318 of the Acts of 1988 relative to a general liability insurance fund; Chapter 423 of the Acts of 2002 relative to retiree health insurance; Chapter 60 of the Acts of 1939 relative to the laying out of public ways; and Chapter 24 of the Acts of 2008 relative to special police officers.

(b) Certain Special Laws Recognized and Retained, in part - The following special acts relating to the organization of the city's government are recognized and retained in part as follows: so much of Chapter 432 of the Acts of 1962 creating a purchasing department; Chapter 453 of the Acts of 1990 relative to the board of park commissioners, Chapter 115 of the Acts of 2001 providing for an Executive Director of City Services, and Chapter 332 of the Acts of 2010 creating an inspectional services department. These acts shall remain in effect only until such time as the mayor may act to modify provisions contained in these acts pursuant to Article 5 of this charter.

(c) Certain special laws recognized and retained with respect to incumbents in office at the time of charter adoption -Incumbents now serving in the offices of building inspector pursuant to Chapter 518 of the Acts of 1920, the city engineer pursuant to Chapter 136 of the Acts of 1927, the Director of Veterans' Services (Commissioner of Soldier's Relief and State and Military Aid) pursuant to Chapter 92 of the Acts of 1932 , the city clerk and assistant city clerk pursuant to Chapter 8 of the Acts of 1926, and the treasurer pursuant to Chapter 166 of the Acts of 1947 shall have all the rights afforded by these acts, but upon the vacating of office by the incumbents by resignation, retirement, or other cause, such offices will be subject to the city's charter provisions relating to appointment, and the city's personnel policies and procedures.

(d) Certain Borrowing Authorizations, Retained - The following special acts which authorized the city to borrow certain sums of money, for certain purposes, are hereby recognized and retained: Chapter 455 of the Acts of 1998; and Chapter 309 of the Acts of 2002.

(e) Certain Other Obsolete Special Laws Repealed – The following acts hereby stand repealed: Chapter 355 of the Acts of 1892, Chapter 366 of the Acts of 1896, and Chapter 152 of the Acts of 1902 of or relating to the city's charter; Chapter 260 of the Acts of 1917, Chapter 57 of the Acts of 1933, and Chapter 161 of the Acts of 1934 relating to preliminary elections; Chapter 183 of the Acts of 1918 relating to vacancies; Chapter 349 of the Acts of 1928 and Chapter 288 of the Acts of 2002 relating to the mayor's term; Chapter 361 of the Acts of 1930 relating to biennial municipal elections; Chapter 135 of the Acts of 1933 and Chapter 64 of the Acts of 1935 relating to the municipal inaugural; Chapter 525 of the Acts of 1943 and Chapter 146 of the Acts of 1990 relating to the school committee; Chapter 259 of the Acts of 1949 relating to office-holding; and Chapter 308 of the Acts of 1977 relating to initiative petition.

Section 10-6: TIME OF TAKING EFFECT

This charter shall take effect upon its ratification by the voters and in accordance with the following schedule:

(1) All city officers and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the ratification by the voters of the home rule charter.

(2) The first election of officers under this charter shall be held on the first Tuesday following

the first Monday in November 2013 for the purpose of electing a mayor, a city council and members of the school committee. A preliminary election for the purpose of nominating candidates to be elected shall be held on the third Tuesday of September 2013, if necessary, as provided in Article 7 of this charter.

(3) On the first Monday in January 2014 the persons elected as mayor, city council members, and school committee members shall be sworn to the faithful performance of their duties.

(4) Not later than 30 days following the date of the ratification of this charter by the voters, the city clerk shall give to each member of the General Court who represent any part of Everett a copy of the vote ratifying this charter.

(5) Immediately after the election at which this charter is adopted, the board of aldermen shall appoint 4 persons to a committee, at least one of which shall be a member of the charter commission elected in November 2009, to begin a review of the city ordinances for the purpose of preparing such revisions and amendments as may be needed or necessary to bring them into conformity with the provisions of this charter and to fully implement the provisions of this charter. The city clerk shall be the fifth member and chair of this committee. The committee shall submit a report, with recommendations, within 1 year following its creation and may submit interim reports with recommendations at any time. The city solicitor, or special counsel appointed for this express purpose, shall serve as an advisor to the committee.

(6) No later than September 2014, the mayor shall promulgate a series of administrative orders providing for the organization of city government into operating agencies in accordance with section 5-1.

(7) Forthwith following the 2013 municipal election, the persons elected as members of the city council shall meet for the sole purpose of reviewing and revising policies and procedures, rules, or interim rules that will govern the conduct of the business of the city council until such time following the taking of the oath of office when the city council adopts permanent rules. Such meetings shall be called by the council member-elect most senior in age and shall be open to the public, although the business of any such meetings shall be confined to the topics identified here. The city clerk shall serve as an advisor to the city council-elect in this endeavor.

(8) As soon as practical following the election at which this charter is adopted, the city clerk and the registrars of voters shall, using existing precinct boundary lines and voting places, divide the city into 6 equal voting districts, or, as nearly equal as may be, using such existing precinct lines. At the first municipal election held in the odd numbered year following adoption of this charter, until the city has been reapportioned, as provided in Massachusetts General Laws, chapter 54, 1 ward councilor shall be elected from each such ward, based on the city's

most recent reapportionment pursuant to Massachusetts General Laws, chapter 54, and 5 councilors shall be elected from the city at large.

(9) Until such time as another salary is established in accordance with the provisions of this charter, the initial salaries for the mayor and for a school committee member shall be the same amount established for those offices at the time of the municipal election next following the election at which this charter is adopted. Until such time as another salary is established in accordance with the provisions of this charter, the initial salary for a city councilor shall be the same amount established for the board of aldermen at the time of the municipal election next following the election at which this charter is adopted.

(10) No later than May 1, 2014, the city council shall promulgate an ordinance providing for a code of conduct and a code of ethics applicable to all appointed and elected officials and employees of the city.

(11) The mayor and the board of aldermen and common council, in office at time this charter is adopted, and the mayor and successor city council elected pursuant to this charter, shall have the authority to adopt measures that clarify, confirm, or extend any of the transitional provisions in order that such transition may be made in the most expeditious manner possible.

(12) So much of this charter as is possible shall take effect following its adoption by the voters. Provisions relating to the election of the city council shall take effect for the municipal election next following the adoption of this charter. Upon taking of office, such council shall operate pursuant to the provisions of Article 2 of this charter.