

# CITY OF EVERETT



# ZONING ORDINANCE

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## **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

(Ord. Of 4-29-91) (Ord. Of 10-22-1999)(Ord. of 9-23-2004)

The boundaries of each of these districts are hereby established as indicated on a map Entitled "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 be 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.**

- (1) 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.
- (2) 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.
- (3) 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)
- (4) 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)
- (5) 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)
- (6) 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)
- (7) 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)
- (8) With reference to the provisions of section 29, Chapter 93, General Laws, no billboard, sign or other advertising device, subject to the rules and regulations of the Commonwealth of Massachusetts, Outdoor Advertising Board, shall be erected or maintained in any district. This restriction shall not apply to such billboards, signs, or other advertising devices, in existence on January 1, 1985, and for which licenses have been issued by said outdoor advertising board in accordance with the provisions of Chapter 93 and Chapter 93D, General Laws. (Ord. Of 6-29-87; Ord. 4-29-91)

- (9) 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 Public Works 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)
- (10) 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 Public Works 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)
- (11) Providing the total floor area for any building located in more than one zoning district does not exceed the total of the floor areas for each separate zone, then the building shall not be required to comply with the floor area ratio of the individual zone providing furthermore that the building complies with all other dimensional requirements within each zone in which it is located. (Ord. of 4-29-91)
- (12) 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)
- (13) 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)
- (14) 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)
- (15) 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)

- (16) 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)
- (17) 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 Board of Alderman for less than four (4) motor vehicles. The Board of Alderman is the licensing authority.
- (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 Board of Alderman shall be conducted on the licensed premises except for a first class motor dealers license.

**(End of Section)**

### **SECTION 3B. AUTOBODY SHOPS**

- (a) Definition. Autobody shall mean motor vehicles, and shall include, but limited to automobiles, trucks, buses and motorcycles.
- (b) The Board of Alderman is the licensing authority.
- (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 Board of Alderman shall be conducted on the licensed premises except for a first class motor dealers license.

**(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 Board of Alderman is the licensing authority.
- (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 Board of Alderman shall be conducted on the licensed premises except for a first class motor dealers license.

**(End of Section)**

#### **SECTION 4. DWELLING DISTRICTS.**

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

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

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

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

(Ord. of 4-29-91)

- (2) The offices of a doctor, dentist or other member of a recognized profession, teacher or musician residing on the premises; provided there is no display or advertising except for a small professional name plate.
- (3) Customary home occupations, such as dressmaking or millinery or the leasing of rooms or the taking of boarders, conducted by owner occupants only; provided there is no display or advertising visible from outside, except for an announcement card or sign of not more than two, (2) feet square area, and that such uses be confined to not over one-third of the total floor area occupied by each family.
- (4) Schools, except private vocational schools, public libraries, fire stations, art museums, churches, parish houses and Sunday School buildings, membership clubs and social and recreational buildings and premises, park, water supply reservations, soldiers and sailors memorial buildings, except those chief activity of which is one customarily carried on as a gainful business.
- (5) Real estate signs, referring only to the premises or tract on which they are located, and having an area not exceeding eight, (8) square feet.
- (6) Truck gardens and greenhouses, provided that any greenhouse heating plant shall be distant not less than twenty, (20) feet from any street or lot line.
- (7) Hospitals, not for the insane or feeble-minded; provided that no building be within thirty (30) feet of any street or lot line.
- (8) Public or charitable institutional buildings not of a correctional nature, providing that no building thereon be within thirty, (30) feet of any street or lot line.
- (9) Railroad or street railroad passenger stations or rights-of-way including customary accessory services therein; not including switching, storage, or freight yards or sidings.

- (10) Cemeteries, including any crematory therein, which is not within a distance of thirty feet of any street or lot line.
- (11) Telephone central buildings without garages or yards for service or storage.
- (12) A garage in which no business, service or industry is conducted is permitted but only on the same lot with a principal building to which it is accessory. On any such lot, such garage space may be provided for two (2) motor vehicles, and for one (1) additional motor vehicle for each two thousand (2,000) square feet by which the area of the lot exceeds three thousand (3,000) square feet. However, garage space for one (1) motor vehicle may be provided in any case for each family for which residence is arranged on the lot. Not more than one (1) such vehicle shall be a commercial vehicle, and it shall not exceed two and one-half, (2 ½) tons capacity. In such a garage, space shall not be leased to non-residents for a commercial vehicle, nor for more than one (1) vehicle of any kind for each resident on the lot. Such a conforming garage may be erected on the lot previous to the erection of a principal building on the same lot but where thus erected earlier than the principal building the garage shall be so placed on the lot as not to prevent the eventual practicable and conforming location of the principal building. Community or group garages: which may be permitted on the otherwise vacant lot, shall only be permitted in the Dwelling District upon the grant of a Special Permit by the Zoning Board of Appeals. There shall be no service for gain to other the owners or tenants of such garages. No such garage shall conduct a repair shop.  
(Ord. of 4-29-91)
- (13) Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture. (Ord. of 4-29-91)
- (14) Temporary mobile home placed on the site of a residence destroyed by fire or other holocaust, for the purpose of providing temporary shelter while the residence is being rebuilt, but not to exceed twelve (12) months.  
(Ord. of 4-29-91)
- (15) The following uses shall only be permitted in the Dwelling District upon the grant of a Special Permit by the Zoning Board of Appeals:
- A. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production. The Zoning Board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good.
  - B. Community or group garages which may be permitted on an otherwise vacant lot. There shall be no service for gain to other than the owners or tenants of such garages. No such garages shall conduct a repair shop.

- (16) Open-air markets of any type shall be prohibited. The sale of used household goods by residential occupants on their premises, normally referred to as garage sales, shall be allowed providing that such sale not continue for a period of more than seven (7) days in any year, except by Special Permit of the Zoning Board of Appeals.  
(Ord. of 4-29-91)
- (17) Conversion of Dwelling. No new dwelling unit created by the conversion of an existing dwelling shall be permitted unless the requirements of minimum lot area and off street parking are satisfied for all dwelling units in existence and proposed in the dwelling after the conversion or enlargement. (Ord. 02-046 of Oct. 22, 2003)

**(b) Dimensional Requirements.**

**(1) Frontage:**

- a. 50 (Fifty) Feet minimum  
Residential lots in existence prior to the passage of this ordinance shall be exempt from The frontage requirement in this ordinance for a period of five (5) years from the date of passage of this ordinance, but shall conform to the requirements in effect prior to passage of this ordinance (Note: 30 feet Minimum)  
(Ord. of 6-29-87; Ord. of 7/16/2002 Ord. 11/13/2007)

**(2) Lot Area:**

- a. Single Family Dwelling ---5500 Square Feet
- b. Two Family Dwelling-----7000 Square Feet  
Residential lots in existence prior to the passage of this ordinance shall be exempt from the lot size in this ordinance for a period of five (5) years from the date of passage of this ordinance, but shall conform to the requirements in effect prior to passage of this ordinance (Note: 30 feet Minimum)  
(Please note former requirements)
  - a. Single family dwelling---2800 square feet minimum
  - b. Two family dwelling-----3200 square feet minimum

- c. 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
    - 1. 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 (5000) square feet per unit for all units in excess of ten (10) units.  
(Ord of 6-29-87)
  - (2) All other residential: Floor area ratio, 1 to 1 maximum (Ord. of 6-29-87)
  - (3) All other uses: Floor area ratio, 1 to 1 maximum (Ord. of 6-29-87)
  - (4) Height:  
Four, (4) stories, not to exceed sixty, (60) feet maximum. Penthouses shall not be subject to four-story limitations provided the total height of the building including penthouses

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

- (5) Front Yard:
  - a. Twenty (20) feet minimum of which ten (10) feet shall be used for landscaping.
  - b. Corner lots, seven (7) feet minimum on one (1) side of corner. (Ord. of 6-29-87)
  
- (6) Side Yard:
  - a. Ten (10) feet minimum up to and including three (3) stories and forty-five (45) feet in height.
  - b. Twelve (12) feet minimum for four (4) stories and over forty-five (45) feet in height. (Ord. of 6-29-87)
  
- (7) Rear Yard:

Twenty-five,(25) feet minimum.  
(Ord. of 6-29-87)
  
- (8) Accessory Building:

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

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

**(End of Section)**

## **SECTION 6. BUSINESS DISTRICTS.**

- (a) Uses. In any business district, as indicated on the Zoning map, buildings and premises may be used in any part for any purpose herein before permitted in any dwelling or apartment district and also for any store or stand or other structure where goods are sold or service rendered, primarily at retail, also for any public building, places of amusement or assembly, restaurant, bank or office, also for any stable, garage or filling station under limitations hereinafter prescribed.
- (1) Wholesale merchandising incidental and subordinate to a primary retail business shall be permitted.
  - (2) Manufacturing, producing, processing, fabricating, printing, converting, altering, finishing or assembling is permitted to cover on all floors together not more than one-half the area of the lot or on a scale requiring not more than a total of five (5) horsepower or steam pressure in excess of fifteen (15) pounds gauge pressure, and no use prohibited in section 7 below shall be permitted.
  - (3) Gas shall not be stored in quantities exceeding five hundred (500) cubic feet; nor in quantities exceeding fifty (50) cubic feet if the pressure is greater than one hundred (100) pounds per square inch; or within ten (10) feet of any street line or party lot line, except in the case of gas contained or generated in fire extinguishers.
  - (4) No junk yard is permitted.
  - (5) The operation of electric lighting and power stations, gas works and steam laundries, and any use prohibited in industrial districts is not permitted.
  - (6) No public garage shall use machinery except as an incidental accessory to automobile storage not shall it have any part of its shop on the first floor within twenty (20) feet of any entrance or exit for vehicles. No commercial work on motor vehicles shall be done out of doors, except that emergency repairs may be made in a public street in the case of a breakdown.
  - (7) There shall be no door or driveway for vehicles in connection with any public garage within fifty, (50) feet of any dwelling or apartment district boundary line, nor shall any filling station or gas pump be located within such distances. No gasoline filling appliance shall be located within ten (10) feet of any street line or of any other property line unless it is within a building.
  - (8) Special Exception:  
The intent of this paragraph is to provide by special exception granted by the City Council, a mixture of residential apartments: retail trade and services, offices, off street parking, and accompanying accessory uses all within one structure that normally would be in harmony with the general purpose and intent of the requirements of the Business District except building height and area.

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

Uses specifically prohibited:

- a. Manufacturing and industrial.
- b. Wholesale and warehousing.
- c. Salvage and junk operations.

- (9) The following uses shall only be permitted in the business District upon the grant of a Special Permit by the Zoning board of Appeals:
  - a. Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production. The Zoning Board of Appeals may grant such permit provided that it finds that the proposed accessory use does not substantially derogate from the public good.
- (10) Open air markets of any type, unless already regulated by City Ordinance, shall be prohibited except by Special Permit of the Zoning Board of Appeals. Open air markets which have been granted a Special Permit by the Zoning Board of Appeals shall be required to provide adequate parking, as outlined and required in Section 17, within five hundred (500) feet of the location of the market if the market is to remain open for a period in excess of one (1) day. (Ord. 4-29-91)

(b) Dimensional Requirements.

(1) Frontage:

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

(2) Lot Area:

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

(3) Height:

- a. Four (4) stories, not to exceed sixty-five (65) feet maximum, but not applicable to church spires, belfries, cupolas, chimneys, radio and flag poles and gas holders, which shall not exceed thirty-three (33) percent of the floor area of the first floor, and

provided that such church spires, belfries, cupolas, chimneys, radio and flag poles and gas holders shall not be more than fifty (50) percent higher than the average height of the roof of the main structure. (Ord. of 6-29-87; Ord. of 4-11-88)

- b. Domes, ornamental towers, observation towers, water towers, hose towers, penthouses, head houses, water tanks and scenery lofts may be built within the sixty-five (65) height and shall not be considered a story provided they do not exceed thirty-three (33) percent of the floor area of the first floor.

(4) Front Yard:

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

(5) Side Yard:

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

(6) Rear Yard:

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

(7) Accessory buildings:

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

(8) Corner Lot:

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

(9) In-ground swimming pools:

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

**(End of Section)**

## **SECTION 7. INDUSTRIAL DISTRICTS.**

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

- (1) Uses which produce offensive odors, emissions, fumes, gases, or smoke, which produce noise or vibrations which are discernible beyond the limits of the property lines or which produce dust or waste on the exterior of the building.
- (2) Expansion of existing bulk storage or processing plants involving the use of flammable liquids, gases or solids, except upon the grant of a Special License by the Board of Aldermen.
- (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 Board of Aldermen.

(Ord. of 4-29-91)

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

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

(b) Dimensional Requirements:

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

- (2) Lot Area:
  - a. 4 to 1 maximum floor area ratio.(Ord. of 6-29-91)

- (3) Height:

Six (6) stories, not to exceed one hundred (100) feet maximum. The height of church spires, belfries, cupolas, chimneys, and gasholders shall be limited to a maximum of one

hundred fifty (150) feet. Domes, ornamental towers, observation towers, water towers, hose towers, penthouses, head houses, water tanks and scenery lofts which do not occupy an area exceeding twenty-five (25) percent of the floor area of the first story shall not be subject to any height limitations. (Ord. of 6-29-87; Ord. of 4-11-88; Ord. of 4-29-91)

(4) Front Yard:

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

(Ord. of 6-29-87; Ord. of 4-29-91)

(5) Side Yard:

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

(Ord. of 6-29-87)

(6) Rear Yard:

- a. None required except for residential uses.
- b. Residential –Twenty (25) feet minimum.

(Ord. of 6-29-87)

(7) Accessory Buildings:

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

(Ord. of 6-29-87)

(8) Corner Lot:

Seven (7) feet required on one (1) side

(Ord. of 6-29-87)

(9) In-ground Swimming Pools:

Six (6) feet minimum from any lot lines

(Ord. of 6-29-87)

**(End of Section)**

**SECTION 8. COURTS.**

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.

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

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

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

(a) 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 (3) 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 than 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.**

1. 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:

- (a) To hear and decide appeals in accordance with M.G.L., Chapter 40A, Section 8.
- (b) To hear and decide applications for Special Permits upon which the board is empowered to act under this Ordinance.

- (c) 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.
  - (d) To hear and decide appeals from decisions of a Zoning Administrator, if any, in accordance with M.G.L., Chapter 40A, section 13.
2. Associate members of the Board of Appeals may be selected and appointed by the mayor in the manner established by Section 11,1. Above.
  3. In exercising the powers granted by this section, a Board of Appeals may, in conformity with the provisions of M.G.L., Chapter 40A, make orders or decisions, reverse or affirm in whole or in part, or modify any orders or decisions, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
  4. 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 TRAILORS AND MOBILE HOMES.**

1601. 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.

1602. **Definitions.** 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.

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

1603. **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.

1604 (a). **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.

1604 (b). **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.

1604 (c). No such parking or storing as provided in paragraphs 1604 (a) and 1604 (b) shall be permitted for a period in excess of eight (8) months in any twelve (12) month period.

1605. 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.

1606. Whoever violates any of the provisions of this section shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense and to a like penalty for each day's continuance of such violation.

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

**(End of Section)**

**SECTION 17. OFF-STREET PARKING.**

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

1. One and two family dwellings-----2 spaces per dwelling unit.
2. Multifamily dwellings-----2 spaces per dwelling unit.
3. Hotels, Motels, Lodging Houses, Rehabilitation Centers,  
Halfway Houses and Hospitals----- 1 space for each 2 beds
4. Nursing Homes, Rest Homes and Dormitories-----1 space for each 4 beds.
5. Restaurants-----1 space for each 4 seats.
6. Cocktail Lounge-----1 space for each 3 seats.
7. Places of Assembly.  
Schools, Auditoriums Museums, Theaters and Cinemas 1 space for each room plus 1  
space for each 3 persons designated for the largest single room occupancy.
- 7A Places of Assembly:  
Churches, Synagogues and other Places of Assembly used as Places of Worship- 1 space  
for each room plus 1 space for each space for every 5 persons designated for the largest  
single room occupancy
8. Office Use-----1 space for each 500 gross square feet of use.
9. Retail Use-----1 space for each 300 gross square feet of use.
10. Industrial-----1 space for each 1,000 square feet of use.
11. Warehouse-----1 space for each 3,000 gross square feet of use.
12. Quick Service,  
Fast Food, Drive-In Establishments—1space for each 40 gross square feet of floor  
Area.
13. Public Assisted Elderly and Handicapped Housing-----0.5 spaces per unit.  
(Ord. of 6-29-87)

- (B) Where there is more than one (1) use in a building, parking shall be required in accordance with the provisions for each use, and the total number of spaces shall be based on the sum of spaces for all such uses. (Ord. of 6-29-87)
- (C) No permit shall be issued by the inspector of buildings for the erection of a new building or structure subject to paragraph (A) or (B) of this section, or the substantial alteration or change of use of any building or structure which would result in said building or structure being subject to paragraph (A) or (B) of this section, unless the plans show the specific locations and size of the off street parking facilities to be provided in accordance with said paragraphs (A) or (B) of this section. (Ord. of 6-29-87)
- (D) Any existing business or industrial use which was previously in compliance with the requirements of the building zone ordinance for use and for parking shall not be subject to these requirements for parking, including any change of use to a use which also would be allowed in the same district.
- (E) In the event of the enlargement of a building or structure existing on the effective date of this ordinance, the regulation set forth in this section shall apply only to the area added and shall not apply to the existing portions of such buildings provided that the use of these portions remain unchanged.
- (F) Buildings in existence or for which building permits have been issued on the effective date of this ordinance shall not be subject to these parking requirements as long as the use of such buildings remain unchanged. However, any parking facilities thereafter established to serve such buildings may not in the future be reduced below the requirements specified in paragraph (A) or (B). One and two family dwellings constructed prior to 1988 shall not be subject to these requirements so long as the use remains unchanged. However, any driveway constructed thereafter to serve such building shall be designed so that no vehicle shall be parked closer to the street line than the existing building. (Ord. of 5-15-2000)
- (G) Where the computation of required parking spaces results in a fractional number, only the fraction of one-half (1/2) or more shall be counted as one (1).
- (H) Required off street parking facilities shall be provided on the same lot as the principal building they are required to serve with the exception that (in the case of new buildings) the required parking facilities may be provided on lots the entire area of which is located not more than two hundred (200) feet away from the building to be served providing such lots are located in a similar zoning district as the building to be served or a less restricted district.
- (I) Each required car space shall be not less than 9 feet in width and 18 feet in length exclusive of drives and maneuvering space, and the total area of any parking facility for more than five (5) cars shall average two hundred seventy-five (275) square feet per car. No driveways or curb cuts shall exceed thirty, (30) feet in width.  
(Ord. 01-046/2001)

- (J) Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle. The Board of Appeals, however, may by special permit modify this requirement and the dimensional requirements of paragraph (I) of this section, where a parking facility is under full-time attendant supervision.
- (K) Parking facilities shall be designed so that no vehicles shall be parked nearer to any street lines than the minimum specified building setback for the Zoning District in which the parking facility is located.
- (L) All properties which abut such parking lots shall be protected from headlight glare by either:
1. A strip at least four (4) feet wide, densely planted with shrubs or trees which are at least four (4) feet high at the time of planting and which are of a type may be expected to form a year round dense screen at least six (6) feet high within three (3) years, or
  2. A wall, barrier, or fence of uniform appearance at least five (5) feet high, but not more than six (6) feet above finish grade, or above the roof level if on a roof. Such wall, barrier or fence may be opaque or perforated, provided that not more than fifty (50) percent of the face open.
  3. Such screening shall be maintained in good condition at all times, and shall not be permitted to exceed six (6) feet in height. Such wall, barrier or fence shall have no signs attached thereto or painted thereon other than those permitted in the district.
- (M) No parking stall shall be located within eight (8) feet of any window of habitable rooms in the basement or first story level of any building.
- (N) Off-street parking facilities as regulated by this section shall not be used for automobile sales, gasoline sales, dead storage, repair work (except emergency repairs), dismantling or servicing of any kind, and any lighting that is provided shall be installed in a manner that will prevent direct light from shining onto any street or adjacent property. Such facilities shall be designed and used so that as not to constitute a nuisance, or a hazard, or an unreasonable impediment to traffic.
- (O) The design of parking lots for the parking of more than five (5) vehicles shall be submitted to the inspector of buildings for review and approval and shall be subject to the following requirements:
1. All plans shall be drawn to scale and show the existing and proposed lot contours, numbered parking spaces, loading docks, proposed method of ingress and egress, driveways and aisles, curb cuts existing and proposed, lighting, drainage, landscaping, setbacks, berms, curbing, fences and walkways and surface finish.
  2. The site shall be designed to drain surface water away from the site through approved catch basins and other approved means to prevent drainage onto other properties.
  3. The inspector of buildings shall examine the plans with respect to access, drainage, capacity, circulation, safety to pedestrians and vehicles using the facility and the adjoining street.
  4. Except for one and two family dwellings, parking shall be designed so that it is not necessary to drive over sidewalks or curbs or to back into the street or driveway.

5. All parking areas shall have an access road with a minimum of eighteen (18) feet to Allow ingress and exiting at same time.

(P) Applications for more than eight (8) new parking spaces shall be subject to the approval by the Planning Board and the following requirements:

1. Applications shall be filed in accordance with the procedures of Section 19, (B) A. through H.
2. In addition to the requirements of Section 19, (B), A. through H., 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 Alderman and City Council, but under no circumstances may the total period of extension exceed two (2) years.
  3. No building permit shall be issued within the Interim Overlay District without Site Plan approval by the Planning Board in accordance with section 19 of the Everett Building Zone Ordinance.
- (D) **Use restrictions.** A building permit shall not be issued for any of the following uses within the interim overlay district:
1. Power, gas or fuel generating facilities.
  2. Open lot storage, handling or hauling of used materials including, but not limited to building materials, metal junk, scrap, paper, rags or motor vehicles.
  3. Industrial operations, either outside or inside the building, which produce outside noxious odors, smoke, steam, or other emissions, or which produce industrial noise or require excessive use of large trucks or trailers or transfer of large amounts of industrial materials.
  4. Open lot or enclosed storage of coal, coke, sand or similar materials.
  5. Service stations, auto, truck or bus repair, auto, truck body repair, car washes, automobile, truck or bus service, motor freight terminal, truck showrooms or agencies for the sale of new or used trucks.
  6. Storage and sale of building materials or machinery.

7. Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.

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

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

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

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

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

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

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

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

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

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

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

1. Wall signs: Individual wall signs identifying on-site tenants shall not exceed one hundred twenty (120) square feet in area on any wall and the total area of all wall signs on a building shall not exceed three hundred and sixty (360) square feet in area.
  2. Free standing signs: Free standing signs identifying on-site tenants shall be not more than a total of twenty-four (24) square feet in area, shall set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed four (4) feet.
  3. Sign restrictions:
    - a. No sign within the overlay district shall have moving parts or flashing or alternating lighting.
    - b. No sign shall be attached to or located above any roof surface.
  4. Accessory signs: Accessory signs required to provide directions or information shall not exceed six (6) square feet in area and may be located on walls or at grade, in accordance with the provisions of this section.
- (J) **Exceptions.** The following shall be exempt from the applications of this section
1. Repairs to existing structures.
  2. Reconstruction in accordance with the building zone ordinance of any structure damaged by casualty.
  3. Any plan which received, prior to the date of adoption of this section, preliminary subdivision approval from the planning board and/or for which an application for a special permit or variance was filed, provided that such special permit or variance is granted by the zoning board of appeals as the result of such application.
  4. Construction or renovation of any dwelling units subsidized by the federal or state government for low or moderate income persons including the state chapter 667 program for the elderly, the state chapter 689 program for the disabled persons, the state chapter 705 programs for families, the State Housing Assistance for Rental Production (SHARP) Program, The State Tax Exempt Local Loans to Encourage Rental Housing (TELLER) Program, the State Home Ownership Opportunity Program, and any other federal, state, county or municipal programs which may be utilized for the production of, or restoration of housing for low or moderate income persons under the provisions of chapter 121B of the Massachusetts General Laws or other statute, regulation or by-law.
- (K) **Severability.** If any provisions of Section 18 is determined to be unenforceable or is found to be in conflict with State or Federal law, then that provision shall be severed from this section and the remaining portions shall remain in full force. (Ord. of 6-29-87)

**(End of Section)**

## SECTION 19 SITE PLAN REVIEW.

- (a) **Purpose.** For the purposes of protecting and promoting the health, safety, convenience and general welfare of the inhabitants of the city, promoting acceptable site planning practices and standards within the City of Everett and ensuring compliance with good zoning practices, notwithstanding any other provision of this ordinance to the contrary, no structure or premises exceeding five thousand (5,000) square feet in nonresidential gross building area or containing four (4) or more residential dwelling units shall be constructed, reconstructed, enlarged, altered or used, except in accordance with a site plan submitted to and approved by the planning board in accordance with the request of this section.
- (b) Any application for approval of a site plan review under this section shall be accompanied by **twelve (12)** copies of a site plan, which shall be at a scale to be established by the planning board and, according to the size of the development, shall include **twelve (12)** copies of all information required for a definitive plan. The plan shall contain the following information:
- (1) Location and dimensions of all buildings and other construction;
  - (2) Location and dimensions of all parking areas, loading areas, walkways and driveways;
  - (3) Location and dimensions of internal roadways and accessways to adjacent public roadways;
  - (4) Location and type of external lighting;
  - (5) Location, type, dimensions and quantities of landscaping and screening;
  - (6) Location and dimensions of utilities, gas, telephone, electrical, communications, water, drainage, sewer and other waste disposal;
  - (7) Location of snow storage areas;
  - (8) Location of all existing natural features, including ponds, brooks, streams and wetlands;
  - (9) Topography of the site, with two-foot contours;
  - (10) Conceptual drawings of buildings to be erected, including elevations, showing architectural styles.

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

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

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

- (20) Adequacy of the parking facilities and number of parking spaces proposed for each development;
- (21) Adequacy of loading facilities;
- (22) Adequacy of traffic circulation system;
- (23) Adequacy of access points and 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 and from parking areas and structures;
  - (31) Adequacy of protection or enhancement of natural areas;
  - (32) Compatibility of the architecture of structures with the architecture of surrounding or nearby buildings.
- (c) The Planning Board shall, within seven (7) days after receipt of said application transmit one (1) copy of said application and plans to the inspector of buildings, city engineer, board of health, conservation commission and director of community development, who may at their discretion investigate the application and report in writing their recommendations to the planning board. The planning board shall not take final action on such plan until it has received a report thereon from the inspector of buildings, city engineer, board of health and conservation commission or until thirty-five (35) days have elapsed after distribution of such application without submission of a report. Notice of the filing of the application shall be given to the city clerk, fire department, police department, superintendent of streets and school department and further notice shall be given as required by the planning board, and a public hearing shall be held within sixty-five (65) days after filing of an application in accordance with Massachusetts General Laws, Chapter 40A.
- (d) Failure of the planning board to take final action upon an application within ninety (90) days, following the date of the final public hearing shall be deemed to be a grant of the approval applied for.
- (e) After a notice and public hearing as set forth above, the planning board, by a two-thirds (2/3) vote, may approve the plan provided that:
- (1) The proposed development shall properly screen itself, its buildings, structures and other construction with vegetative landscaping, earth berms, fencing or other appropriate screening as determined by the planning board.
  - (2) To protect the quality of the surrounding area and environment, if such surrounding area is residential in nature, is land reserved for conservation use or is land which the board determines to be appropriate for such a requirement, a buffer zone shall exist along the property line within which no construction or destruction of land shall take place. The size of such zone shall be determined by the planning board according to the size of the proposed development, the land uses of the surrounding area, the aesthetic aspects of the development, and all impacts of the proposed development upon such surrounding areas which can be alleviated through such a buffer zone.

- (3) In specific instances where the planning board deems such to be appropriate, it shall assess the compatibility of the architecture of a proposed development with the architecture of the surrounding structures and land uses and may request alterations to the architecture of such proposed development to ensure compatibility.
- (4) The planning board may, in appropriate cases as it determined, impose further restrictions upon the development or parts thereof as a condition to granting the approval and may waive any defined restrictions.
  
- (f) In exercising its jurisdiction, the planning board shall conform to all requirements of procedure applicable under Massachusetts General Laws, Chapter 40A, as amended, and the Everett Zoning Ordinance.
  
- (g) Any approval granted hereunder shall lapse within two (2) years if substantial construction thereof has not commenced by such date except for good cause.
  
- (h) Site Plan Review Fee: A fee of \$1,500.00 or \$.10/square foot, whichever is greater, will be imposed for site plan review.

**(End of Section)**

## **SECTION 20. BUSINESS LIMITED DISTRICT IDENTIFICATION.**

### **Business Limited District:**

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.

### **Business Limited District.**

- (a) **Uses.** In any Business Limited District, as indicated on the zoning map, no building, structure or premises shall be used and no building or structure shall be erected which is intended or designed to be used except as provided herein:
1. Residential uses limited to multifamily dwellings, hotels and motels.
  2. Research and development facilities except those associated with the emission of noxious odors, smoke, steam or produce excessive noise.
  3. Retail uses where goods are sold or services rendered primarily at retail.
  4. Offices and banks.
  5. Restaurants, including fast food, provided that there are no drive through facilities.
  6. Auto showrooms for the sale and service facilities, which are associated with the sales facilities in the same building, by Special Permit.

**(b) Dimensional Requirements.**

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

**(c) Landscaping Requirements.**

1. There shall be an area of landscaping required along the lot line at least ten (10) feet in depth as measured from the street to the rear of the lot, with landscaping provided in accordance with Section 20, (c), 3.
2. There shall be an area of landscaping required along the rear lot line at least five (5) feet in depth measured from the rear lot line toward the front of the lot, with landscaping provided in accordance with Section 20, (c) 3. or a substantial opaque fence six (6) feet in height.
3. Landscaping shall consist of trees or shrubs at least three (3) feet in height when planted covering at least sixty (60) percent of the landscaping area with the remaining forty (40) percent planted at any height.

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

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

(e) **Sign Requirements.** Signs within the Business Limited District shall be subject to the following requirements:

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

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

**(End of Section)**

## **SECTION 21. INDUSTRIAL LIMITED DISTRICT IDENTIFICATION.**

### **Industrial Limited District**

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

### **Industrial Limited District**

- (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 or federal agency as a bank, savings and loan association, or credit union.
- 9) Tattoo Studio. A business that marks the skin with any indelible design, letter, scroll figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or

under the skin with 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 premises of any federally licensed firearms dealer where the primary business or commercial enterprise conducted on the premises is the purchase or sale of firearms or firearm ammunition.

## **B. Definitions:**

- 1) **Adult Bookstore-** an establishment having as a substantial or significant portion of its stock in trade books, magazines, and other matter which are distinguished as characterized by their emphasis depicting or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.
- 2) **Adult Club-** an establishment having as a form of entertainment nude dancing and/or persons performing in a state of nudity or distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.
- 3) **Adult Theater** – an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.
- 4) **Adult Video Store** – an establishment having as a substantial or significant portion of its stock in videos and other matter which are distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31. **Adult Paraphernalia Store** – an establishment having as a substantial or significant portion of its stock in devices, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, section 31.
- 5) **Fortune Teller(s)** – person(s) who for a fee engage in the telling of fortunes, forecasting of futures, or reading the past, by means of any occult, psychic power, faculty, force, clairvoyance, artomancy, psychometry, phrenology, spirits, tea leaves, tarot cards, scrying, coins, sticks, dice, sand, coffee grounds, crystal gazing or other such reading, or through mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mindreading, telepathy or other craft, art, science, talisman, charm, potion, magnetism, magnetized article or substance, or by any such similar thing or act. It shall also include effecting spells, charms, or incantations, or placing, or removing curses or advising the taking or administering of what are commonly called love powders or potions in order, for example, to get or recover property, stop bad luck, give good luck, put bad luck on a person or animal, stop or injure the business or health of a person or shorten a person's life, obtain success in business, enterprise, speculation and games of chance, win the affection of a person, make one person marry or divorce another, induce a person to make or alter a will, tell where money or other property is hidden, make a person to dispose of property in favor of another, or other such similar activity. Fortunetelling shall also include pretending to

perform these actions

**C. Adult Use Restrictions**

1. Adult Bookstores, Adult Clubs, Adult Theaters, Adult Video Stores, Fortune Tellers and Adult Paraphernalia Stores, Pawn Shops, Body Piercing Studios, Check Cashing Establishments, Tattoo Studios and Gun Shop may not be located:
  - a) Within one thousand (1,000) feet of each other;
  - b) Within five hundred (500) feet of the nearest lot line of:
    1. a Residential District, or
    2. 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 but not limited to pedestrian walkways.

**D. Applications, Special Permits**

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

- 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.**

1. Location: Illuminated portable signs shall be prohibited in the following districts:
  - A. Dwelling
  - B. Apartment
  - C. Business Limited
  - D. Industrial Limited.
2. 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.
3. In the industrial district, illuminated portable signs, not to exceed 6' x3' x5' high, shall be allowed provided that not sign shall be located within three hundred (300) feet of a dwelling, apartment, business limited, industrial limited district or any business used for the following purposes: hospitals, nursing homes, schools, cemeteries, religious worship, or residential. (Ord. of 4-29-91)

**(End of Section)**

**SECTION 23. BUILDING DEPARTMENT FEE SCHEDULE.**

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

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

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

**BUILDING DEPARTMENT FEE SCHEDULE**

<b><u>Application</u></b>	<b><u>Fee</u></b>
<b>1: Construction, Alteration, Repairs, Demolition &amp; Reconstruction of a Building or structure.....</b>	<b>\$15/\$1,000 of estimated costs Minimum Fee \$40.00</b>
<b>2: Woodstoves.....</b>	<b>\$40.00</b>
<b>3. Demotion of Buildings:</b>	
<b>1 &amp; 2 Motor Vehicle Garages.....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$40.00</b>
<b>All other Structures.....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$40.00</b>
<b>4. Moved Buildings: .....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$40.00</b>
<b>5. Amendments to Plans: .....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$40.00</b>
<b>6. Wall Signs and Projection Signs: .....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$40.00</b>
<b>7. Free Standing Ground Signs: .....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$100.00</b>
<b>8. Roof Signs: .....</b>	<b>\$15/\$1,000 of Estimated Cost, Minimum of \$100.00</b>

- 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 FEE'S**

**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. REFRIGIRATION 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**

### **1.0 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.

### **1.0 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.

### **1.0 Regulations:**

- 1.1 The overlay district shall be in effect for a period of five (5) years from the date of adoption.
- 1.2 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.
- 1.3 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.
- 1.4 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.

### **1.0 Use Restrictions:**

*The following uses shall be permitted within the Overlay District:*

- 1.1 Communications Infrastructure
- 1.2 Industrial Uses related to research and development facilities.
- 1.3 Offices.
- 1.4 Research and Development Facilities whose principle uses are related to telecommunications, electronics, engineering, and physics.
- 1.5 Retail Sales and Services.
- 1.6 Financial Institutions.
- 1.7 Telecommunications Facilities.
- 1.8 Medical research and Development Institutions.

- 1.9 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:*

- 1.10 Trailer Parks.
- 1.11 Animal processing.
- 1.12 Food processing.
- 1.13 Excavating and mining.
- 1.14 Gasoline stations and motor vehicle facilities.
- 1.15 Recycling stations.
- 1.16 Entertainment facilities.
- 1.17 Warehousing, except as permitted in connection with an Industrial use allowed under section 4.0-2 above.
- 1.18 Trucking terminals and free standing product distribution centers.

## **5.0 Dimensional Requirements:**

- 5.1 Floor Area Ration (FAR). The maximum FAR shall be 0.50.
- 5.2 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.
- 5.3 Minimum Open Space. The minimum open space shall be 40 %.
- 5.4 Maximum Lot Coverage. No more than 60 % of the total lot may be covered by structures, buildings, parking facilities and other impervious surfaces.
- 5.5 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.

## **6.0 Exceptions.**

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

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

**7.0 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.

**8.0 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

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

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

### **2. Definitions.**

- a. 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.
- b. Medical Center:  
An institution providing varied medical services, including but not limited to ambulatory care. Routine 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.

### **6. Restrictions.**

A Substance Abuse Treatment Center shall 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:
  1. A residential District, or
  2. 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.
- 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 established/establishment licensed under the provisions of Massachusetts General Laws, Chapter 138, Section 12;
- f. Adjacent properties shall be adequately protected from noise, odors and unsightly appearances;
- g. 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.

**4. THE APPLICATION FOR SPECIAL PERMIT MUST INCLUDE THE FOLLOWING INFORMATION:**

- a. Name and address of the legal owner of the establishment;
- b. Name and address of all persons having a lawful equity, or security interest in the establishment;
- c. 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;
- d. Proposed security precautions; and
- e. The number of employees;
- f. No Special Permit shall be issued under this section to any person convicted of violating M.G.L. Chapter 119, Section 63.

**7. 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 Board of Alderman of the City of Everett.

- 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 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 Special 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 M.G.L. 40A, Section 11 and by mailing to the parties in interest.
- d. 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.
- e. 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

### **River Front Overlay District.**

The overlay district shall be bounded as follows:

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

(370.00) feet behind the house's on Kelvin Street to the Revere Beach parkway and then turning and running along the Revere Beach parkway in a westerly direction to the point of beginning.

(a) **Definitions.**

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

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

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

(c) **Dimensional Requirements.**

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

**(d) Landscaping Requirements.**

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

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

1. There shall be no parking allowed within the front yard set back.
2. Please see Section 17 Off-Street Parking for parking requirements based on use.

**(f) Sign Requirements.** Signs within the River Front Overlay District shall be subject to the following requirements:

1. Wall signs shall be limited to individual signs identifying on-site tenants and each shall not exceed fifty (50) square feet in area on any wall and the total area of all wall signs on a building shall not exceed one hundred fifty (150) feet in area.
2. Free Standing Signs: Free standing signs identifying on-site tenants shall not be more than a total of fifty (50) square feet in area, shall be set back at least ten (10) feet from any lot line, and the total height above grade shall not exceed six (6) feet.
3. Sign Restrictions:
  - a. No sign in the Riverfront Overlay District shall have moving parts or flashing or alternating lighting.
  - b. No sign shall be attached to or located above any roof surface.
4. Accessory Signs: Accessory signs required to provide directions or information (i.e.: exit signs hours of operation) shall not exceed six (6) square feet in area and may be located on walls or at grade in accordance with provisions of this section.

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

**(End of section)**

**SECTION 27**  
**MATERIALS RECOVERY FACILITIES, INCINERATORS, LANDFILLS, JUNK**  
**YARDS AND FACILITIES, AND TRANSFER STATIONS**

**1. 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.

**2. 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.

### **3. Restrictions**

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

- i.** Within one thousand (1,000) feet of each other;
- ii.** 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;
- iii.** Within one thousand (1,000) feet of a non-profit educational use, museum or library;
- iv.** Within one thousand (1,000) feet of a park or playground;
- v.** Within one thousand (1,000) feet of any waterway, as that term may be defined by Massachusetts General Laws, within the City of Everett;
- vi.** Adjacent properties shall be adequately protected from noise, odors and unsightly appearances; and
- vii.** 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.

### **4. 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 Board of Aldermen of the City of Everett shall constitute the Special Permit Granting Authority.

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

- i.** 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;
- ii.** 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;
- iii.** 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;

- iv. 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
- v. 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 ORDINANCE.**

**SECTION 1. PURPOSE**

**A.** The harmful impacts of soil erosion and sedimentation are:

1. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
2. Contamination of drinking water supplies;
3. Alteration or destruction of aquatic and wildlife habitat;
4. Flooding; and,
5. Overloading or clogging of municipal catch basins and storm drainage systems.

**B. The objectives of this bylaw are to:**

1. Protect water resources;
2. Require practices that eliminate soil erosion and sedimentation and control the volume and rate of storm water runoff resulting from land disturbance activities;
3. Promote infiltration and the recharge of groundwater;
4. 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;
5. 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;
6. Comply with state and federal statutes and regulations relating to storm water discharges; and,
7. Establish Everett's legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

**SECTION 2. 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 stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the City of Everett.

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

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

**PRE-CONSTRUCTION:** All activity in preparation for construction.

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

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

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

**SEDIMENTATION:** The process or act of deposition of sediment.

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

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

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

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

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

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

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

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

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

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

### **SECTION 3. 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

### **SECTION 4. 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.

### **SECTION 5. RESPONSIBILITY FOR ADMINISTRATION**

**A.** 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.

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

(1) such action is allowed by federal, state and local statutes and/or regulations,

(2) is in the public interest, and

(3) is not inconsistent with the purpose and intent of this Ordinance.

**C.** 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.

## **SECTION 6. PERMITS and PROCEDURE**

**A.** 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:

1. A completed Application Form with original signatures of all owners;
2. A list of abutters, certified by the Assessors Office;
3. Three (3) copies of the Erosion and Sediment Control Plan as specified in Section VI of this bylaw;
4. Payment of the application and review fees; and,
5. One (1) copy each of the application Form and the list of abutters filed with the Town Clerk.

**B. 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.

**C. 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

**D. 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

**E. Information requests.** The applicant shall submit all additional information requested by The Board prior to issuance of a decision on the application.

**F. Action by The Board The Board may:**

1. 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;
2. 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;

**3.** 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.

**G. 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.

**H. 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.

**I. 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.

## **SECTION 7. EROSION AND SEDIMENT CONTROL PLAN**

**A.** 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.B. below.

**B.** The design requirements of the Erosion and Sediment Control Plan are:

- 1.** Minimize total area of disturbance;
- 2.** Sequence activities to minimize simultaneous areas of disturbance;
- 3.** Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
- 4.** Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
- 5.** Divert uncontaminated water around disturbed areas;

6. Maximize groundwater recharge;
7. Install, and maintain all Erosion and Sediment Control measures in accordance with the manufacturers specifications and good engineering practices;
8. Prevent off-site transport of sediment;
9. 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);
10. 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;
11. 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;
12. 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;
13. Properly manage on-site construction and waste materials; and
14. Prevent off-site vehicle tracking of sediments.

**C. Erosion and Sedimentation Control Plan Content. The Plan shall contain the following information:**

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan;
2. Title, date, north arrow, names of abutters, scale, legend, and locus map;
3. Location and description of natural features including:
  - (a) 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;
  - (b) 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;

(c) 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.

4. Lines of existing abutting streets showing drainage and driveway locations and curb cuts;

5. Existing soils, volume and nature of imported soil materials

6. Topographical features including existing and proposed contours at intervals no greater than two (2) feet with spot elevations provided when needed;

7. 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;

8. Drainage patterns and approximate slopes anticipated after major grading activities (Construction Phase Grading Plans);

9. 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;

10. Path and mechanism to divert uncontaminated water around disturbed areas, to the maximum extent practicable;

11. Location and description of industrial discharges, including stormwater discharges from dedicated asphalt plants and dedicated concrete plants, which are covered by this permit;

12. Storm water runoff calculations in accordance with the Department of Environmental Protection's Storm water Management Policy;

13. Location and description of and implementation schedule for temporary and permanent seeding, vegetative controls, and other stabilization measures;

14. 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;

15. A description of provisions for phasing the project where one acre of area or greater is to be altered or disturbed;

16. Plans must be stamped and certified by a qualified Professional Engineer registered in Massachusetts or a Certified Professional in Erosion and Sediment Control and

17. Such other information as is required by The Board.

## **SECTION 8. INSPECTION AND SITE SUPERVISION**

### **A. 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.

### **B. 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:

1. Erosion and sediment control measures are in place and stabilized;
2. Site Clearing has been substantially completed;
3. Rough Grading has been substantially completed;
4. Final Grading has been substantially completed;
5. Close of the Construction Season; and
6. Final Landscaping (permanent stabilization) and project final completion.

### **C. 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.

### **D. 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.

## **SECTION 9. 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.

## **SECTION 10. 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.

## **SECTION 11. ENFORCEMENT**

**A. 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.

### **B. Orders**

**1.** 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:

- a) 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;
- b) Maintenance, installation or performance of additional erosion and sediment control measures;
- c) Monitoring, analyses, and reporting
- d) Remediation of erosion and sedimentation resulting directly or indirectly from the land-disturbing activity.

**2.** 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.

**3.** 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.

**C. 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.

**D. 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.

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

**F. 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.

## **SECTION 12. 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.

## **SECTION 13. 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 APPLICATION

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.**

### **SECTION 1. PURPOSE**

**A.** 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;

1. Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater,
2. Contamination of drinking water supplies,
3. Erosion of stream channels;
4. Alteration or destruction of aquatic and wildlife habitat; and
5. 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.

#### **B. The objectives of this Ordinance are:**

1. 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;
2. To protect groundwater and surface water from degradation;
3. To promote groundwater recharge;
4. (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;
5. To ensure adequate long-term operation and maintenance of structural storm water best management practices so that they work as designed;
6. To comply with state and federal statutes and regulations relating to storm water discharges; and
7. To establish the City of Everett's legal authority to ensure compliance with the provisions of this Ordinance through inspection, monitoring, and enforcement.

## **SECTION 2. 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 Storm water Management Permit. See Section 7.

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

**TSS:** Total Suspended Solids.

### **SECTION 3. 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.

### **SECTION 4. APPLICABILITY**

- A.** 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:

1. Land disturbance associated with construction or reconstruction of structures;
2. 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.
3. Paving or other change in surface material causing a significant reduction of permeability or increase in runoff;
4. Construction of a new drainage system or alteration of an existing drainage system or conveyance serving a drainage area of one or more acres
5. 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.

#### **B. Exemptions**

1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
2. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling
3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
4. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
5. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section 4 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.

### **SECTION 5. ADMINISTRATION**

**A. 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.

**B. 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.

## **SECTION 6. PERMITS and PROCEDURE**

- A. 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:
1. A completed Application Form with original signatures of all owners;
  2. A list of abutters, certified by the Assessors Office;
  3. Three (3) copies of the Storm water Management Plan and project description as specified in Section 7.A.;
  4. Three (3) copies of the Operation and Maintenance Plan as required by Section 8 of this bylaw;
  5. 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
  6. Payment of the application and review fees.
- B. 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
- C. 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.
- D. 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 Stormwater 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.
- E. 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.
- F. Actions. The Boards action, rendered in writing, shall consist of:**
1. Approval of the Storm water Management Permit Application based upon determination that the proposed plan meets the Standards in Section 7 and will adequately protect the water resources of the community and is in compliance with the requirements set forth in

this Ordinance;

2. 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 7 and adequately protect water resources, set forth in this Ordinance
  3. 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 7 or adequately protect water resources, as set forth in this Ordinance.
- G.** 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.
- H. 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 7.B. and accepted construction practices, The Board may require that an amended application be filed and a public hearing held.
- I. 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.

## **SECTION 7. STORMWATER MANAGEMENT PLAN**

- A.** 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:
1. A locus map,
  2. The existing zoning, and land use at the site,
  3. The proposed land use,
  4. The location(s) of existing and proposed easements,
  5. The location of existing and proposed utilities,
  6. The site's existing & proposed topography with contours at 2 foot intervals,
  7. The existing site hydrology,
  8. A description & delineation of existing storm water conveyances, impoundments, and

wetlands on or adjacent to the site or into which storm water flows.

9. A delineation of 100-year flood plains, if applicable
10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for storm water retention, detention, or infiltration.
11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each,
12. A drainage area map showing pre and post construction watershed boundaries, drainage area and storm water flow paths,
13. A description and drawings of all components of the proposed drainage system including:
  - a. locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization,
  - b. all measures for the detention, retention or infiltration of water,
  - c. all measures for the protection of water quality,
  - d. the structural details for all components of the proposed drainage systems and storm water management facilities,
  - e. notes on drawings specifying materials to be used, construction specifications, and typicals, and
  - f. expected hydrology with supporting calculations.
14. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable,
15. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization,
16. A maintenance schedule for the period of construction, and
17. Any other information requested by the Board.

## **B. Standards**

Projects shall meet the Standards of the Massachusetts Storm water Management Policy, which are as follows:

1. 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.
2. Storm water management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates.
3. 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 pre-development or existing site conditions, based on soil types.
4. 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:
  - a. Suitable nonstructural practices for source control and pollution prevention and implemented;
  - b. Storm water management best management practices (BMPs) are sized to capture the

prescribed runoff volume; and  
c. Storm water management BMPs are maintained as designed.

5. 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.
6. 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.
7. 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.
8. Erosion and sediment controls must be implemented to prevent impacts during disturbance and construction activities.
9. 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.

### **C. 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.

## **SECTION 8. 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:

**A.** The name(s) of the owner(s) for all components of the system

**B.** Maintenance agreements that specify:

1. The names and addresses of the person(s) responsible for operation and maintenance
2. The person(s) responsible for financing maintenance and emergency repairs.
3. A Maintenance Schedule for all drainage structures, including swales and ponds.
4. A list of easements with the purpose and location of each.
5. The signature(s) of the owner(s).

**C. Storm water Management Easement(s).**

1. Storm water management easements shall be provided by the property owner(s) as necessary for:
  - a. access for facility inspections and maintenance,
  - b. preservation of storm water runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event.
  - c. direct maintenance access by heavy equipment to structures requiring regular cleanout.
2. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
3. Storm water management easements are required for all areas used for off-site storm water control, unless a waiver is granted by the Board.
4. Easements shall be recorded with the Middlesex Registry of Deeds prior to issuance of a Certificate of Completion by the [Board].

**D. Changes to Operation and Maintenance Plans**

1. The owner(s) of the storm water management system must notify The Board of changes in ownership or assignment of financial responsibility.
2. 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.

## **SECTION 9. 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 10 and issued a Certificate of Completion.

## **SECTION 10. INSPECTIONS**

The Board shall inspect the project site at the following stages:

- A.** Initial Site Inspection: prior to approval of any plan.
- B.** Erosion Control Inspection: to ensure erosion control practices are in accord with the filed plan.
- C.** Bury Inspection: prior to backfilling of any underground drainage or storm water conveyance structures.
- D.** 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.

## **SECTION 11. WAIVERS**

- A.** The Board may waive strict compliance with any requirement of this Ordinance or the rules and regulations promulgated hereunder, where:
  - 1. such action is allowed by federal, state and local statutes and/or regulations,
  - 2. is in the public interest, and
  - 3. is not inconsistent with the purpose and intent of this Ordinance.
- B.** 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.
- C.** All waiver requests shall be discussed and voted on at the public hearing for the project.
- D.** 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.

## **SECTION 12. 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.

## **SECTION 13. ENFORCEMENT**

**A.** 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.

### **B. Orders**

- 1.** 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:
  - a.** cease and desist from construction or land disturbing activity until there is compliance with the Ordinance and the storm water management permit;
  - b.** repair, maintain; or replace the storm water management system or portions thereof in accordance with the operation and maintenance plan.
  - c.** perform monitoring, analyses, and reporting;
  - d.** remediate adverse impact resulting directly or indirectly from malfunction of the storm water management system.
- 2.** 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 Everett may, at its option, undertake such work, and the property owner shall reimburse the City of Everett's expenses.
- 3.** 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.

**C. 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.

**D 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

**F. 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.

**SECTION 14. 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)**

# BUILDING ZONE ORDINANCE

## AMEDMENTS

Ordinance # and Year	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)
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
.....1991	April 29, 1991	Rewrite of several sections, and create new sections "20 Business Limited District", "Section 21 Industrial Limited District".
464..1994	February 16, 1995	Insert new Sections "3A 2 <sup>nd</sup> Class Motor Dealer", "Section 3B Auto Body Shops", "Section 3C Auto Repair Shops".
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 8 1/2 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 , 2011	Add New Section 29 Governing Post-Construction Storm water Managements of New Developments and Redevelopments.