



**AGENDA PACKET**

**CITY COUNCIL'S COMMITTEE ON LEGISLATIVE AFFAIRS & ELECTIONS  
MONDAY, SEPTEMBER 23, 2024 6:00 PM**

**EVERETT CITY HALL, 484 BROADWAY, CITY COUNCIL CHAMBERS, 3RD FLOOR  
EVERETT, MA 02149**

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## AGENDA

### CITY COUNCIL'S COMMITTEE ON LEGISLATIVE AFFAIRS & ELECTIONS MONDAY, SEPTEMBER 23, 2024 6:00 PM

EVERETT CITY HALL, 484 BROADWAY, CITY COUNCIL CHAMBERS, 3RD FLOOR  
EVERETT, MA 02149

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#### ROLL CALL

#### PLEDGE OF ALLEGIANCE

#### UNFINISHED BUSINESS

1. **C0137-24** Ordinance/s/ Councilor Katy L. Rogers

An ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf

2. **C0259-24** Ordinance/s/ Councilor Katy L. Rogers

An ordinance pertaining to trees in the City of Everett

3. **C0260-24** Ordinance/s/ Councilor Robert J. Van Campen, as President

An ordinance proposing the addition of two new sections to Appendix A – Zoning of the Revised Ordinances of the City of Everett: Section 37 – Master Planned Development and Section 38 - Everett Docklands Innovation District (“EDID”)

4. **C0302-24** Order/s/ Councilor Robert J. Van Campen, as President

An order requesting the confirmation of the appointment of Mirlande Felissaint as Director of Elections/Registrar for a for a term ending January 5, 2026

#### ADJOURNMENT

[www.cityofeverett.com](http://www.cityofeverett.com)

(All agendas and reports can be obtained on City of Everett Website)

Respectfully submitted:

***Michael J. Mangan***

Legislative Aide  
Everett City Council Office



C0137-24

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**To:** Mayor and City Council

**From:** Councilor Katy L. Rogers

**Date:** April 8, 2024

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**Agenda Item:**

An ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf

**Background and Explanation:**

We recently learned Everett Stadium is due for upgraded turf. The School Committee expressed concerns about artificial turf. It would be beneficial for the city to have a standard in place regarding the use of organic grass so this issue does not have to recur per venue. The City of Everett was recently offered assistance with a new artificial turf. In an effort to exemplify sustainability, it is my hope we can write a letter to the sponsor asking for their consideration in assisting with an organic grass field

**Attachments:**

*This fact sheet introduces some of the considerations that are relevant to evaluating natural grass and artificial turf playing surfaces. For more of TURI's research on artificial turf and natural grass, see [www.turi.org/artificialturf](http://www.turi.org/artificialturf).*

### Principles of toxics use reduction

TURI's work is based on the principles of toxics use reduction (TUR). The TUR approach focuses on identifying opportunities to reduce or eliminate the use of toxic chemicals as a means to protect human health and the environment. Projects to reduce the use of toxic chemicals often have additional benefits, such as lower life-cycle costs.

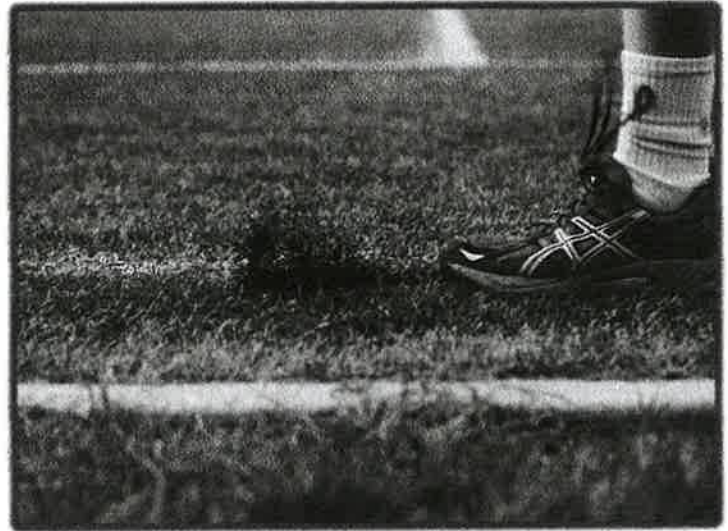
### Children's environmental health

People of all ages benefit from a safe and healthy environment for work and play. However, special concerns exist for children. Children are uniquely vulnerable to the effects of toxic chemicals because their organ systems are developing rapidly and their detoxification mechanisms are immature. Children also breathe more air per unit of body weight than adults, and are likely to have more hand-to-mouth exposure to environmental contaminants than adults.<sup>1</sup> For these reasons, it is particularly important to make careful choices about children's exposures.

### Artificial turf and chemicals of concern

Artificial turf has several components, including drainage materials, a cushioning layer, synthetic grass carpet (support and backing materials and synthetic fibers to imitate grass blades), and infill that provides cushioning and keeps grass carpet blades standing upright. Here, we briefly review issues related to chemicals in synthetic grass carpet and infills.

**Crumb rubber infill made from recycled tires.** Crumb rubber made from recycled tires is widely used as infill. This material is also referred to as styrene butadiene rubber (SBR), or as tire crumb. Many peer-reviewed studies have examined the chemicals present in tire crumb. Tire crumb contains a large number of chemicals, many of which are known to be hazardous to human health and the environment. These include polyaromatic hydrocarbons (PAHs); volatile organic compounds (VOCs); metals, such as lead and zinc; and other chemicals.<sup>2-5</sup> Some of the chemicals found in tire crumb are known to cause cancer.<sup>6-8</sup> Because of the large number of chemicals present in the infill, as well as the health effects of individual chemicals, crumb rubber made from recycled tires is the option that likely presents the most concerns related to chemical exposures.



**Other synthetic infills.** Other synthetic materials used to make artificial turf infill include ethylene propylene diene terpolymer (EPDM) rubber, thermoplastic elastomers (TPE), waste athletic shoe materials, and acrylic-coated sand, among others. These materials also contain chemicals of concern, although the total number of chemicals and/or the concentration of chemicals of concern may be lower in many cases.<sup>5</sup> For more information on chemicals in these materials, see TURI's report, *Athletic Playing Fields: Choosing Safer Options for Health and the Environment*.<sup>9</sup>

**Mineral-based and plant-derived materials.** Other materials used as infill can include sand, zeolite, cork, coconut hulls, walnut shells, olive pits, and wood particles, among other materials. These materials are likely to contain fewer hazardous chemicals than tire crumb, but many of the materials have not been well characterized or studied thoroughly.<sup>5</sup> Some plant-based materials may raise concerns related to allergies or respirable fibers. In addition, zeolite and sand can pose respiratory hazards. Exposure to some types of zeolites may be associated with increased risk of developing mesothelioma, a type of cancer.<sup>10,11</sup> Using zeolite can be considered a regrettable substitution. For sand, it is important to understand the source and type of the material; industrial sand that is freshly fractured or that has been highly processed to contain very small particles can be a respiratory hazard when inhaled.<sup>5</sup>

**Synthetic grass carpet.** Toxic chemicals such as lead are also found in the artificial grass blades in some cases.<sup>6,7</sup> Recent research has identified per- and poly-fluoroalkyl substances (PFAS) in some artificial turf carpet materials. PFAS are a group of chemicals that are highly persistent in the environment. PFAS do not break down under normal environmental conditions, and some can last in the

environment for hundreds of years or longer. As a result, introducing these chemicals into the environment has lasting consequences. Health effects documented for some PFAS include effects on the endocrine system, including liver and thyroid, as well as metabolic effects, developmental effects, neurotoxicity, and immunotoxicity. For more information, see TURI's fact sheet, "Per- and Poly-fluoroalkyl Substances (PFAS) in Artificial Turf Carpet."<sup>12</sup>

## Artificial turf and heat stress

In sunny, warm weather, artificial turf can become much hotter than natural grass, raising concerns related to heat stress for athletes playing on the fields. Elevated surface temperatures can damage equipment and burn skin, and can increase the risk of heat-related illness.<sup>13</sup> Heat-related illness can be a life-threatening emergency. Experts note that athletic coaches and other staff need to be educated about heat-related illness and understand how to prevent it, including cancelling sport activities when necessary.<sup>14,15</sup>

Research indicates that outdoor synthetic turf reaches higher temperatures than natural grass, regardless of the infill materials or carpet fiber type.<sup>13</sup> The Penn State Center for Sports Surface Research measured surface temperature for infill alone, artificial grass fibers, and a full synthetic turf system. The study included several types and colors of infill and fibers. They found that all the materials reached high temperatures than grass when heated indoors (with a sun lamp), or outdoors.

Irrigation can lower field temperature for a short time. A Penn State study found that frequent, heavy irrigation reduced temperatures on synthetic turf, but temperatures rebounded quickly under sunny conditions.<sup>16</sup> Other studies found similar results.<sup>17</sup>

**Approaches to determining safe temperatures for recreational field spaces.** Several methods are available for measuring heat in a play area. It is sometimes necessary to use more than one method in order to determine whether conditions are safe for exercise or play.

One heat metric, Wet Bulb Globe Temperature (WBGT), takes into account ambient air temperature, relative humidity, wind, and solar radiation from the sun. WBGT can help to guide precautions such as rest, hydration breaks, and cancellation of sports activities. However, WBGT may does not take account of field surface temperature.

Another approach is to measure the temperature of the playing field surface itself. One researcher has noted that artificial turf surface temperatures are not captured by either a heat advisory or by wet bulb temperature, and that "elevated risk of heat stress can stem from infrared heating from the ground, regardless of the air temperature." Thus, the researcher suggests, greater caution regarding heat is needed when athletes are playing on artificial turf, "even if the air temperature is not at an otherwise unsafe level."<sup>18</sup>

WBGT is used as the basis for a heat policy adopted by Massachusetts Interscholastic Athletic Association (MIAA) in 2019. This policy requires schools to select a method to monitor heat during all sports related activities, and modify activities as needed to protect student athletes.<sup>19</sup> The MIAA policy does not provide guidelines based on the type of playing surface, and does not take account of surface temperature specifically.

The school board of Burlington, MA has taken additional steps to protect student athletes by ensuring that both WBGT and surface temperature are taken into account.<sup>20</sup> Burlington's policy, "Utilizing Artificial Turf in the Heat," requires use of an infrared heat gun to determine field surface temperature. The policy includes information about the conditions under which athletes may use artificial turf fields and the conditions under which their activities must be moved to grass fields. For example, the policy states that if the National Weather Service issues a Heat Advisory, artificial turf cannot be used for physical education if the air temperature is higher than 85 degrees with humidity 60 percent or more. Under these conditions, only a grass surface may be used. The policy also lays out criteria to be taken into account in determining activity levels. For example, when air temperature is below 82 degrees, activities are permitted on artificial turf up to a surface temperature of 120 degrees, with three water breaks per hour. Above this surface temperature, activities must be moved to a grass field.

## Injuries

Studies show variable outcomes in the rates and types of injuries experienced by athletes playing on natural grass and on artificial turf.<sup>6,21,22</sup> Among recent studies and reviews of studies, several suggest an increase in foot and/or ankle injuries on artificial turf as compared with natural grass<sup>23-25</sup>; several find no difference<sup>26</sup>; and one suggests a possibly lowered risk on artificial turf.<sup>27</sup> All of these studies recommend further evaluation of this question.

One particular concern is increased rates of turf burns (skin abrasions) associated with playing on artificial turf. For example, a study by the California Office of Environmental Health Hazard Assessment found a two- to three-fold increase in skin abrasions per player hour on artificial turf compared with natural grass turf.<sup>6</sup> The study authors noted that these abrasions are a risk factor for serious bacterial infections, although they did not assess rates of these infections among the players they studied.

## Environmental concerns

Environmental concerns include loss of wildlife habitat, migration of synthetic particles into the environment, and contaminated stormwater runoff. A study by the Connecticut Department of Environmental Protection identified concerns related to a number of chemicals in stormwater runoff from artificial turf fields. They noted high zinc concentrations in



stormwater as a particular concern for aquatic organisms. They also noted the potential for leaching of high levels of copper, cadmium, barium, manganese and lead in some cases. The top concerns identified in the study were toxicity to aquatic life from zinc and from whole effluent toxicity (WET).<sup>28</sup> WET is a methodology for assessing the aquatic toxicity effects of an effluent stream as a whole.<sup>29</sup> In addition, scientists have raised concerns about the contribution of artificial turf materials to microplastic pollution.<sup>30-32</sup>

### **Safer alternative: organically managed natural grass**

Natural grass fields can be the safest option for recreational space, by eliminating many of the concerns noted above. Natural grass can also reduce overall carbon footprint by capturing carbon dioxide. Grass fields may be maintained organically or with conventional or integrated pest management (IPM) practices. Organic turf management eliminates the use of toxic insecticides, herbicides and fungicides.

Organic management of a recreational field space requires a site-specific plan to optimize soil health. Over time, a well-maintained organic field is more robust to recreational use due to a stronger root system than that found in a conventionally managed grass field. Key elements of organic management include the following.<sup>33</sup>

- **Field construction:** Construct field with appropriate drainage, layering, grass type, and other conditions to support healthy turf growth. Healthy, vigorously growing grass is better able to out-compete weed pressures, and healthy soil biomass helps to prevent many insect and disease issues.
- **Soil maintenance:** Add soil amendments as necessary to achieve the appropriate chemistry, texture and nutrients to support healthy turf growth. Elements include organic fertilizers, soil amendments, microbial inoculants, compost teas, microbial food sources, and topdressing as needed with high-quality finished compost.
- **Grass maintenance:** Turf health is maintained through specific cultural practices, including appropriate mowing, aeration, irrigation, and over-seeding. Trouble spots are addressed through composting and re-sodding where necessary. Aeration is critical because it makes holes in the soil that allow more air, water and nutrients to reach the roots of the grass and the soil system. Stronger roots make the grass better able to naturally fend off weeds and pests. Aeration also breaks up areas of compacted soil.

**Massachusetts communities investing in organic grass fields.** In Massachusetts, the city of [Springfield](#) and the town of [Marblehead](#) have both been successful in managing athletic fields organically. These communities' experiences are documented in case studies.<sup>34,35</sup> In addition, the Field Fund in Martha's Vineyard has invested in organic maintenance of a number of athletic fields and has documented the process at [www.fieldfundinc.org](http://www.fieldfundinc.org).

### **Installation and maintenance costs: comparing artificial turf with natural grass**

In analyzing the costs of artificial vs. natural grass systems, it is important to consider full life-cycle costs, including installation, maintenance, and disposal/replacement. Artificial turf systems of all types require a significant financial investment at each stage of the product life cycle. In general, the full life cycle cost of an artificial turf field is higher than the cost of a natural grass field.

Cost information is available through university entities, turf managers' associations, and personal communications with professional grounds managers. Information is also available on the relative costs of conventional vs. organic management of natural grass.

**Installation.** According to the Sports Turf Managers Association (STMA), the cost of installing an artificial turf system may range from \$4.50 to \$10.25 per square foot. For a football field with a play area of 360x160 feet plus a 15-foot extension on each dimension (65,625 square feet), this yields an installation cost ranging from about \$295,000 to about \$673,000. These are costs for field installation only, and full project costs may be higher. Costs for a larger field would also be higher.

In one site-specific example, information provided by the town of Natick, Massachusetts shows that the full project budget for the installation in 2015 of a new artificial turf field (117,810 square feet), along with associated landscaping, access and site furnishings, totaled \$1.2 million.<sup>36</sup>

For natural grass, installation of a new field may not be necessary. For communities that do choose to install a new field, costs can range from \$1.25 to \$5.00 per square foot, depending on the type of field selected. For the dimensions noted above, this would yield an installation cost ranging from about \$82,000 to about \$328,000.<sup>37</sup> However, in many cases communities are simply able to improve existing fields.

**Maintenance.** Maintenance of artificial turf systems can include fluffing, redistributing and shock testing infill; periodic disinfection of the materials; seam repairs and infill replacement; and watering to lower temperatures on hot days. Maintenance of natural grass can include watering, mowing, fertilizing, replacing sod, and other activities. Communities shifting from natural grass to artificial turf may need to purchase new equipment for this purpose. According to STMA, maintenance of an artificial turf field may cost about \$4,000/year in materials plus 300 hours of labor, while maintenance of a natural grass field may cost \$4,000 to \$14,000 per year for materials plus 250 to 750 hours of labor.<sup>37</sup>

Springfield, MA manages 67 acres of sports fields, park areas, and other public properties organically. Field management costs in 2018, including products, irrigation maintenance, and all labor costs, were just under \$1,500 per acre across all of the properties.<sup>34</sup>

**Natural grass maintenance: Conventional vs. organic costs.** Organic turf maintenance can be cost-competitive with conventional management of natural grass. One study found that once established, an organic turf management program can cost 25% less than a conventional turf management program.<sup>38</sup>

**Disposal/replacement.** Artificial turf requires disposal at the end of its useful life. STMA estimates costs of \$6.50 to \$7.80 per square foot for disposal and resurfacing.<sup>37</sup> Those estimates yield \$426,563–\$511,875 for a 65,625 square foot field and \$552,500–\$663,000 for an 85,000 square foot field.

Disposal is an increasing source of concern. Used synthetic turf is projected to produce between 1 million and 4 million tons of waste over the next decade, but there is a lack of plans or guidance for its disposal.<sup>39,40</sup> In most cases it cannot be completely recycled, and disposing of it in landfills is expensive and not an industry best practice, according to one article.<sup>39</sup> Used turf that is dumped illegally near a body of water can attract pests, and piles can pose a fire risk.<sup>39</sup>

**Life-cycle costs.** In 2008, a Missouri University Extension study calculated annualized costs for a 16-year scenario. The calculation included the capital cost of installation; annual maintenance; sod replacement costing \$25,000 every four years for the natural fields; and surface replacement of the synthetic fields after eight years. Based on this calculation, a natural grass soil-based field is the most cost effective, followed by a natural grass sand-cap field, as shown in the table below.<sup>41</sup> Another study, conducted by an Australian government agency, found that the 25-year and 50-year life cycle costs for synthetic turf are about 2.5 times as large as those for natural grass.<sup>42</sup>

**Table 1: Comparison of life-cycle costs**

Field type	16-year annualized costs
Natural soil-based field	\$33,522
Sand-cap grass field	\$49,318
Basic synthetic field	\$65,849
Premium synthetic field	\$109,013

Source: Brad Fresenburg, "More Answers to Questions about Synthetic Fields – Safety and Cost Comparison." University of Missouri.

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#2-C0137-24

Government Operations, Public Safety & Public Service Committee  
May 9, 2024

The Committee on Government Operations, Public Safety & Public Service met on Thursday, May 9, 2024 at 6pm in City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Stephanie Martins, presiding and Councilors Peter Pietrantonio and Holly Garcia. Members absent was Councilor Guerline Alcy Jabouin.

Communication received from Councilor Guerline Alcy Jabouin that she was unable to attend due to a prior commitment.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance requiring all playing fields in Everett to use environmentally sustainable organic grass instead of artificial turf. .

Councilor Katy Rogers, the Sponsor was invited but was not present informing the Committee that she was unaware that her item was on tonight's agenda.

The Committee was informed by the Clerk that if the intent was to make this an Ordinance then the matter should be referred to the Legislative Affairs Committee. Councilor Pietrantonio mentioned this days working for the City in caring for the grass in the City's public facilities and noted that it was a lot of work to care and maintain the grass remarking that is was not a fun job. He felt that turf was a good thing and didn't think it would make sense to rip up existing turf areas to replace with natural grass. Councilor Garcia agreed and mentioned the upkeep required to care for grass fields and suggested looking at other alternatives that would be better for the environment and health. Chairperson Martins suggested postponing until Councilor Rogers had an opportunity to discuss her intentions, but Councilor Pietrantonio noted that he was in opposition to the proposal and requested that the matter be referred back to Sponsor.

The Committee voted 2 to 1 with Chairperson Martins opposed: To report back to the City Council with a recommendation to refer back to Sponsor.

Respectfully Submitted,

John W. Burley  
Clerk of Committees

#1- C0137-24

Legislative Affairs & Election Committee  
June 13, 2024

The Committee on Legislative Affairs & Elections met on Thursday, June 13, 2024 at 6pm in the City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Michael Marchese, presiding, Councilors Stephanie Smith, Katy Rogers and Robert Van Campen, as ex-officio. Member absent was Councilor Stephanie Martins who was away and unable to attend.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance requiring playing fields in Everett to use environmentally sustainable organic grass.

David Flood, Legislative Research Specialist was also present.

Councilor Rogers informed the Committee that her intent was to create an Ordinance as she mentioned heat stress, injuries and environmental concerns as the major issues related to artificial surfaces on playing fields and the need to replace with organic grass. Councilor Rogers noted that she planned to meet with the Conservation Agent to assist in shaping an Ordinance. Chairman Marchese indicated that he would like to hear the pro's and con's on this proposal. Councilors Smith and Van Campen suggested that the Sponsor meet with the Conservation Agent, City Solicitor and City Council Legislative staff to draft a proposal that the Committee would be able to review at the next meeting.

The Committee voted: to grant further time.

Respectfully Submitted,

John W. Burley  
Clerk of Committees

AN ORDINANCE TO PROMOTE THE USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES AND FUTURE DEVELOPMENTS

WHEREAS: the City of Everett recognizes the importance of providing safe, sustainable, and environmentally friendly public spaces for its residents

WHEREAS: natural grass offers several advantages over synthetic turf, including but not limited to:

- Safety: Studies have shown that athletes and students are less prone to injury when playing on natural grass compared to synthetic turf
- Environmental Benefits: Natural grass contributes to cleaner air, absorbs water, and plays a critical role in reducing flooding in urban areas
- Temperature Regulation: Natural grass sustains a cooler temperature, making public spaces more comfortable and reducing heat island effects in the city
- Economic Considerations: While synthetic turf has a limited lifespan and requires costly replacement, natural grass offers a more durable and cost-effective alternative over time
- Health Concerns: Synthetic turf is made from materials that may contain harmful chemicals, including those derived from used tires, posing potential health risks to the community

WHEREAS: surrounding urban communities in Massachusetts have begun transitioning back to natural grass, recognizing its long-term benefits to both public health and the environment

WHEREAS: environmental groups such as The Mystic River Watershed have advocated for the use of natural grass in private developments, aligning with broader efforts to promote sustainability and environmental stewardship

WHEREAS: the Everett School Committee has unanimously agreed that natural grass is a safer option than synthetic turf for school facilities

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EVERETT, MASSACHUSETTS:

Section 1: Replacement of Existing Turf

- The City of Everett shall replace existing synthetic turf with natural grass on an as-needed basis only, specifically upon the expiration of the natural lifespan of the current synthetic turf.

Section 2: Future Developments

- All future developments of public spaces, including but not limited to sports fields, parks, and school grounds, shall consist of natural grass unless permission is granted by the City Council based on specific criteria that demonstrates an extraordinary need for an alternative environmentally sustainable turf.

Section 3: Implementation

- The City shall coordinate with relevant departments, including the Department of Public Works and the Parks and Recreation Department, to establish an appropriate plan for the phased replacement of existing synthetic turf with natural grass.

Section 4: Community Involvement and Transparency

- The City shall engage with local environmental groups and the public to ensure community involvement and transparency in the process of transitioning from synthetic turf to natural grass.

Effective upon approval of council and Mayor

#1- C0137-24

Legislative Affairs & Election Committee  
September 9, 2024

The Committee on Legislative Affairs & Elections met on Monday, September 9, 2024 at 6pm in the City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Michael Marchese, presiding, Councilors Stephanie Smith, Katy Rogers and Stephanie Martins.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance requiring playing fields in Everett to use environmentally sustainable organic grass.

David Flood, Legislative Research Specialist provided the Committee with an updated copy of the proposed Ordinance on the subject matter and suggested that the phrase “used in public spaces” be inserted in Section 17-140. Councilor Rogers, the Sponsor, noted that she had added a provision under Section 17-141 that would allow alternative environmentally sustainable turf if permission granted by the City Council. She stated that the intent is not to dig up current fields now but only upon the expiration of the natural lifespan of the current synthetic turf. Councilor Smith remarked that she liked the durability the synthetic turf offers the City and would recommend that the City keep synthetic turf as synthetic turf and keep grass turf as grass turf. Councilor Smith informed the Committee that she spoke to the Director of Parks and was told that the man hours would be substantial if synthetic turf was replaced with grass. Councilor Martins asked what the advantage of replacing synthetic turf with grass and Council Rogers mentioned heat stress, injuries and environmental concerns as the major issues related to artificial surfaces on playing fields and the need to replace with organic grass. Councilor Smith suggested removing City Council permission from Section 17-141 since she felt that members of the City Council were not experts in making these types of decisions. Councilor Rogers indicated that she was willing to make some amendments to Ordinance that would also include adding Director of Park Department. The Committee recommended that the matter be granted further time so that the Sponsor could meet with Mr. Flood to finalize the inclusion of amendments mentioned as well as to meet with the City Solicitor and Director of Parks to determine if any further changes are needed.

The Committee voted: to grant further time.

Respectfully Submitted,

John W. Burley  
Clerk of Committees

**ENROLLED ORDINANCE**

*PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.*

ENROLLED: MM/DD/2024

DATE OF PROPOSED ORDAINMENT: MM/DD/2024



**CITY COUNCIL..... No. C0137-24**

IN THE YEAR TWO THOUSAND AND TWENTY-FOUR

**AN ORDINANCE TO PROMOTE THE USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES AND FUTURE DEVELOPMENTS**

Councilor /s/ Councilor Katy L. Rogers

**Whereas:** The City of Everett recognizes the importance of providing safe, sustainable, and environmentally friendly public spaces for its residents; and

**Whereas:** Natural grass offers several advantages over synthetic turf, including but not limited to:

- Safety: Studies have shown that athletes and students are less prone to injury when playing on natural grass compared to synthetic turf
- Environmental Benefits: Natural grass contributes to cleaner air, absorbs water, and plays a critical role in reducing flooding in urban areas
- Temperature Regulation: Natural grass sustains a cooler temperature, making public spaces more comfortable and reducing heat island effects in the city
- Economic Considerations: While synthetic turf has a limited lifespan and requires costly replacement, natural grass offers a more durable and cost-effective alternative over time
- Health Concerns: Synthetic turf is made from materials that may contain harmful chemicals, including those derived from used tires, posing potential health risks to the community; and

**Whereas:** Surrounding urban communities in Massachusetts have begun transitioning back to natural grass, recognizing its long-term benefits to both public health and the environment: and

**Whereas:** Environmental groups such as The Mystic River Watershed have advocated for the use of natural grass in private developments, aligning with broader efforts to promote sustainability and environmental stewardship: and

**Whereas:** The Everett School Committee has unanimously agreed that natural grass is a safer option than synthetic turf for school facilities.



Now, therefore, by the authority granted to the City Council of the City of Everett, Massachusetts to make and amend ordinances:

**Be it Ordained** by the City Council of the City of Everett, Massachusetts that Article V of Chapter 17 of the Revised Ordinances of the City of Everett shall be amended by adding a new Division 4 as follows:

**DIVISION 4. USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES**

***Section 17-140 Replacement of existing turf***

The City of Everett shall replace existing synthetic turf with natural grass on an as-needed basis only, specifically upon the expiration of the natural lifespan of the current synthetic turf.

***Section 17-141 Future developments***

All future developments of public spaces, including but not limited to sports fields, parks, and school grounds, shall consist of natural grass unless permission is granted by the city council based on specific criteria that demonstrates an extraordinary need for an alternative environmentally sustainable turf.

***Section 17-142 Implementation***

The city shall coordinate with relevant departments, including the department of public works and the parks and recreation department, to establish an appropriate plan for the phased replacement of existing synthetic turf with natural grass.

***Section 17-143 Community involvement and transparency***

The city shall engage with local environmental groups and the public to ensure community involvement and transparency in the process of transitioning from synthetic turf to natural grass.

***Secs. 17-144-17-149 Reserved***

This ordinance shall take effect upon passage by the City Council and subsequent approval by His Honor the Mayor.

A true copy attest



*Sergio Cornelio*

Sergio Cornelio, City Clerk

**ENROLLED ORDINANCE**

**PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.**

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**CITY COUNCIL..... No. C0137-24**

**IN THE YEAR TWO THOUSAND AND TWENTY-FOUR**

**AN ORDINANCE TO PROMOTE THE USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES AND FUTURE DEVELOPMENTS**

**WHEREAS: ~~the~~Councilor /s/ Councilor Katy L. Rogers**

**Whereas: The** City of Everett recognizes the importance of providing safe, sustainable, and environmentally friendly public spaces for its residents; **and**

**WHEREAS: ~~natural~~Whereas: Natural** grass offers several advantages over synthetic turf, including but not limited to:

- **-Safety:** Studies have shown that athletes and students are less prone to injury when playing on natural grass compared to synthetic turf
- **-Environmental Benefits:** Natural grass contributes to cleaner air, absorbs water, and plays a critical role in reducing flooding in urban areas
- **-Temperature Regulation:** Natural grass sustains a cooler temperature, making public spaces more comfortable and reducing heat island effects in the city
- **-Economic Considerations:** While synthetic turf has a limited lifespan and requires costly replacement, natural grass offers a more durable and cost-effective alternative over time
- **-Health Concerns:** Synthetic turf is made from materials that may contain harmful chemicals, including those derived from used tires, posing potential health risks to the community; **and**

**WHEREAS: ~~surrounding~~Whereas: Surrounding** urban communities in Massachusetts have begun transitioning back to natural grass, recognizing its long-term benefits to both public health and the environment: **and**

~~WHEREAS: environmental~~ **Whereas: Environmental** groups such as The Mystic River Watershed have advocated for the use of natural grass in private developments, aligning with broader efforts to promote sustainability and environmental stewardship: and

~~WHEREAS: the~~ **Whereas: The** Everett School Committee has unanimously agreed that natural grass is a safer option than synthetic turf for school facilities.

~~NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF EVERETT, MASSACHUSETTS:~~

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**DIVISION 4. USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES**

***Section 1: ~~17-140~~ Replacement of ~~Existing Turf~~ existing turf***

-The City of Everett shall replace existing synthetic turf with natural grass on an as-needed basis only, specifically upon the expiration of the natural lifespan of the current synthetic turf.

***Section 2: ~~17-141~~ Future ~~Developments~~ developments***

-All future developments of public spaces, including but not limited to sports fields, parks, and school grounds, shall consist of natural grass unless permission is granted by the ~~City Council~~ city council based on specific criteria that demonstrates an extraordinary need for an alternative environmentally sustainable turf.-

***Section 3: ~~17-142~~ Implementation***

-The ~~City~~ city shall coordinate with relevant departments, including the ~~Department~~ department of ~~Public Works~~ public works and the ~~Parks~~ parks and ~~Recreation Department~~ recreation department, to establish an appropriate plan for the phased replacement of existing synthetic turf with natural grass.

***Section 4: ~~17-143~~ Community ~~Involvement~~ involvement and ~~Transparency~~ transparency***

-The ~~City~~ city shall engage with local environmental groups and the public to ensure community involvement and transparency in the process of transitioning from synthetic turf to natural grass.

Effective ~~Secs. 17-144-17-149~~ Reserved

This ordinance shall take effect upon passage by the City Council and subsequent approval of council and by His Honor the Mayor.



A true copy attest

*Sergio Cornelio*

Sergio Cornelio, City Clerk

**ENROLLED ORDINANCE**

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**CITY COUNCIL..... No. C0137-24**

IN THE YEAR TWO THOUSAND AND TWENTY-FOUR

**AN ORDINANCE TO PROMOTE THE USE OF NATURAL GRASS IN PLACE OF  
SYNTHETIC TURF IN CITY FACILITIES AND FUTURE DEVELOPMENTS**

Councilor /s/ Councilor Katy L. Rogers

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**DIVISION 4. USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES**

***Section 17-140 Replacement of existing turf***

The City of Everett shall only replace existing synthetic turf used in public spaces with natural grass:

- (a) Upon the expiration of the natural lifespan of the current synthetic turf;
- (b) With the approval of the city's parks' department; and
- (c) With the approval of the city council.

***Section 17-141 Future developments***

All future developments of public spaces, including but not limited to sports fields, parks, and school grounds, shall consist of natural grass unless permission is granted by city's parks' department and the city council based on specific criteria that demonstrates an extraordinary need for an alternative environmentally sustainable turf.

***Section 17-142 Implementation***

The city shall coordinate with relevant departments, including the department of public works and the parks and recreation department, to establish an appropriate plan for the phased replacement of existing synthetic turf with natural grass.

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***Secs. 17-144-17-149 Reserved***

This ordinance shall take effect upon passage by the City Council and subsequent approval by His Honor the Mayor.

A true copy attest





A handwritten signature in black ink, reading "Sergio Cornelio". The signature is written in a cursive style with a prominent initial 'S'.

Sergio Cornelio, City Clerk

**ENROLLED ORDINANCE**

*PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.*

ENROLLED: MM/DD/2024

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**CITY COUNCIL..... No. C0137-24**

IN THE YEAR TWO THOUSAND AND TWENTY-FOUR

**AN ORDINANCE TO PROMOTE THE USE OF NATURAL GRASS IN PLACE OF SYNTHETIC TURF IN CITY FACILITIES AND FUTURE DEVELOPMENTS**

Councilor /s/ Councilor Katy L. Rogers

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- ~~(a)~~ Upon the expiration of the natural lifespan of the current synthetic turf;
- ~~(b)~~ With the approval of the city's parks' department; and
- ~~(a)(c)~~ With the approval of the city council.

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A true copy attest



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Sergio Cornelio, City Clerk



C0259-24

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**To:** Mayor and City Council  
**From:** Councilor Katy L. Rogers  
**Date:** July 22, 2024

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**Agenda Item:**

City of Everett tree ordinance

**Background and Explanation:**

The City of Everett is dedicated to enhancing its urban tree canopy, which will improve the environment, esthetics, and quality of life for its residents. The benefits include energy conservation, air quality improvement, storm runoff reduction, micro-climate control, wind speed reduction, noise pollution reduction, wildlife habitat provision, aesthetic enhancement, property value protection, and public space definition.

**Attachments:**

Katy Rogers &lt;katyforeverett@gmail.com&gt;

7/16/2024 6:48 PM

# Everett Tree Ordinance

To Michael Mangan &lt;michael.mangan@ci.everett.ma.us&gt; • david\_flood@comcast.net

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## City of Everett Tree Ordinance

**BACKGROUND:** The City of Everett is dedicated to enhancing its urban tree canopy, which will improve the environment, aesthetics, and quality of life for its residents. The benefits include energy conservation, air quality improvement, storm runoff reduction, microclimate control, wind speed reduction, noise pollution reduction, wildlife habitat provision, aesthetic enhancement, property value protection, and public space definition.

### ORDINANCE:

#### 1. Urban Canopy Preservation and Expansion

- Preserve existing trees and promote new tree planting.
- Ensure the city remains a Tree City USA by maintaining a tree department, having a city tree ordinance, spending at least \$2 per capita on urban forestry, and celebrating Arbor Day.
- Adhere to the “right tree, right place” philosophy for long-term success.

#### 2. Tree Protection and Replacement

- Protect Public Shade Trees as defined by M.G.L. c. 87.
- Encourage private property owners to plant trees within their lot's setback area.
- Allow the Tree Warden or authorized organizations to plant trees in public rights-of-way or within the setback from such rights-of-way.

#### 3. Tree Removal and Mitigation

- Require a Tree Permit for any project impacting Significant Trees, Public Trees, or Public Shade Trees.
- A Mitigation Plan is required for any tree removal, detailing replacement trees and, if necessary, mitigation payments to the Tree Replacement Fund.

#### 4. Definitions

- Key terms include Aggregate Diameter, Caliper, Certified Arborist, DBH, Lot, Mitigation Payment, Mitigation Plan, Pruning Standards, Public Shade Tree, Public Tree, Replacement Caliper, Replacement Trees, Remove, Significant Tree, Tree Permit, Tree Protection Plan, Tree Protection Zone, Tree Replacement, Tree Replacement Fund, Tree Survey, Tree Warden.

#### 5. Tree Warden Responsibilities

- Oversee all trees within public rights-of-way and on city property.
- Develop an annual work plan for tree maintenance, replacements, plantings, and removals.
- Grant or deny permits, coordinate with city departments, and enforce the ordinance.

#### 6. Tree Survey and Permit Requirements

- A Tree Survey is required for projects needing a Building Permit, Special Permit, or Site Plan Review.



- Tree Permits are required for any project that may impact Significant Trees, Public Trees, or Public Shade Trees.

**7. Enforcement and Penalties**

- Violations of the ordinance will result in fines up to \$300 per day, mandatory tree replacement, or mitigation payments.
- Unauthorized tree removal will incur significant penalties based on the tree's DBH.

**8. Tree Replacement Fund**

- Established for the sole purpose of supporting tree planting and maintenance throughout the city.

**Severability**

- If any provision of this ordinance is found invalid, the remaining sections shall remain in effect.

**Effective Date**

- This ordinance takes effect immediately upon passage and publication as provided by law.

**BACKGROUND:** This ordinance was created in collaboration on with the City of Everett arborist and is being presented upon his suggestions

## City Of Everett Tree Ordinances

### Intent and Purpose

1. The City of Everett is committed to investing in its urban tree canopy. To that end, these ordinances shall guide the City in the preservation of existing trees, the promotion of new tree planting and in community engagement with our urban canopy. Development of the City's urban canopy will serve to improve the environment, the aesthetics and the quality of life in the City of Everett and for its residents. The numerous functions of a well-developed urban tree canopy include;
  - a. Conserving energy, and combating heat island effect by providing shade and evaporative cooling through transpiration,
  - b. Improving local and global air quality by absorbing carbon dioxide, ozone, particulate matter, and producing oxygen,
  - c. Reducing storm runoff, flooding and soil erosion,
  - d. Providing microclimate control,
  - e. Reducing wind speed and directing air flow,
  - f. Reducing noise pollution,
  - g. Providing habitat for birds, small mammals, and other wildlife,
  - h. Enhancing visual and aesthetic qualities that attract visitors and businesses,
  - i. Providing natural privacy among neighbors,
  - j. Protecting and increasing real property values,
  - k. Contributing to the definition of public spaces and creating civic identity and responsibility.
  
2. The provisions of this ordinance reinforce, enhance, and expand existing legal vehicles to ensure that future development and public policy adequately preserve, protect, and provide for replacement of Public Trees and Public Shade Trees as well as increasing the total tree inventory.
  
3. The City resolves to plant more trees and in greater variety in order to compensate for past tree losses, the length of time required for a tree to achieve maturity and to provide resiliency through biodiversity. The City will adhere to "right tree, right place" philosophy to ensure that all new trees are planted and maintained to ensure long term success into maturity.
  
4. This ordinance:
  - a. Ensures that The City of Everett sustains its designation as Tree City USA by meeting or exceeding the four core standards of sound urban forestry management;
    - i. Maintaining a tree department,
    - ii. Having a City tree ordinance,
    - iii. Spending at least \$2.00 per capita on urban forestry,
    - iv. Celebrating Arbor Day.
  - b. Protects and preserves Public Shade Trees pursuant to M.G.L. c. 87.

- c. Encourages private property owners to plant or to accept a tree from the City to be planted within the setback area of their lot instead of in the tree lawn or tree pit, if the Tree Warden so recommends.
- d. Allows the Tree Warden, or a private organization acting with the written consent of the Tree Warden, to plant trees acquired with public or private funds in the public rights-of-way or within the setback from such public rights-of-way with acceptance by the property owner for the purpose of improving, protecting, shading, or ornamenting the land.

## Definitions

1. "Aggregate Diameter": The combined DBH (diameter at breast height) of multiple tree trunks growing from the same root system shall be considered to be the DBH of the tree in the case of any tree where more than one stem originates below 54.5 feet from the ground.
2. "Caliper": A measurement of the tree trunk diameter used when any tree is less than 6" and is a measurement of the diameter of the tree trunk at 12 inches above the ground. Caliper measurement is typically used when purchasing new trees.
3. "Certified Arborist": An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
4. "DBH (diameter at breast height)": The diameter of a tree trunk measured in inches at a height of 4.5 feet above the ground. For multiple trunk trees, DBH is the aggregate diameter of the trunks.
5. "Lot": A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.
6. "Mitigation Payment." A payment to be paid to the Tree Replacement Fund associated with the removal of applicable Significant Trees, Public Trees or Public Shade Trees that have not been replaced with Replacement Trees in accordance with the mitigation requirements established in this Ordinance. The Mitigation Payment shall be in accordance with the City of Everett's most recent tree planting costs in consideration of two (2) times or more, the total DBH or Caliper of trees Removed.
7. "Mitigation Plan": A document to be provided where any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed from a Lot, stating;
  - a. Why any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed from a Lot,
  - b. A description of the Replacement Tree proposed to replace any applicable Significant Tree, Public Tree or Public Shade Tree to be Removed,
  - c. The Mitigation Payment, if required.
8. "Pruning Standards": Standards for pruning of trees as defined in the ANSI A300 Tree Care Standards and any future amendments or revisions to the same.
9. "Public Shade Tree": A tree located in the public way, as defined in M.G.L. c. 87, Sec. 5.
10. "Public Tree": Any tree located on land owned completely by the City of Everett. This does not include any tree that fits the definition of a Public Shade Tree under M.G.L. c. 87.

11. "Replacement Caliper": The caliper for applicable Significant Trees, Public Trees and Public Shade Trees planted in replacement for Removed trees shall be at least two (2) times the DBH or aggregate diameter whichever is greater, of the tree Removed.
12. "Replacement Trees." A tree or trees to be planted to replace applicable Significant Trees, Public Trees or Public Shade Trees to be Removed from the Lot. The approval of the Tree Warden will be required if Replacement Trees are to be placed on other Lots. Replacement Trees shall continue to be identified as such for a period of ten (10) years.
13. "Remove (including removing and removal)": Cutting down any applicable Significant Tree, Public Tree or Public Shade Tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of an applicable Significant Tree, Public Tree or Public Shade Tree, including, but not limited to, excessive or improper pruning.
14. "Significant Tree": Any tree six (6) inches DBH or larger which is on a Lot. This does not include any tree that fits the definition of a Public Tree under this ordinance or any tree that fits the definition of a Public Shade Tree under M.G.L. c. 87.
15. "Tree Permit": A document signed and certified by the Tree Warden required to be issued for any project requiring a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, where any applicable Significant Tree, Public Tree or Public Shade Tree may be damaged or disturbed as a result of a project on the lot. A Tree Permit shall also be required for any project that requires or may result Removal, damage or disturbance including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone or other means to any Public Trees or Public Shade Trees and their Tree Protection Zone.
16. "Tree Protection Plan": A document designed by a Certified Arborist and approved by the Tree Warden which shall include the following information;
  - a. Drawings of Tree Protection measures,
  - b. The location on the Lot of all applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone ,
  - c. An indication of which applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means,
  - d. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed, the Tree Protection Plan shall include the location of any applicable Significant Tree, Public Tree and Public Shade Tree, and their Genus, Species, Height and DBH or Caliper,
  - e. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed, the Tree Protection Plan shall include the location of Replacement Tree or trees and their Genus, Species, Height and DHB or Caliper.
  - f. A schedule for planting the proposed Replacement Tree or trees,
  - g. In the event that any applicable Significant Tree, Public Tree or Public Shade Tree is proposed to be Removed and an inadequate number of Replacement Trees are proposed to be planted, a Mitigation Plan shall be included in the Tree Protection Plan,

- h. Such other conditions as specified by the Tree Warden pursuant to applicable regulations.
- 17. "Tree Protection Zone": The area surrounding a tree which must remain as undisturbed as possible so as to prevent damage or removal of the tree. Including but not limited to the area where roots critical to the vigor and structure of the tree are located. The size and shape of a Tree Protection Zone shall be defined by a Certified Arborist, shall adhere to the ANSI A300 Tree Care Standards and be approved by the Tree Warden.
- 18. "Tree Replacement": The Tree Warden shall require the replacement of any Removed applicable Significant Tree, Public Tree or Public Shade Tree, which shall be planted by the applicant or their contractors under the supervision of a Certified Arborist and subject to approval by the Tree Warden.
- 19. "Tree Replacement Fund": Payments required by this ordinance for planting at the same site or at another location shall be deposited into this fund.
- 20. "Tree Survey": A document designed by a Certified Arborist and approved by the Tree Warden which shall include the location, Genus, Species, Height and DBH of all Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone on a Lot and those trees that have been Removed from a Lot within one year prior to the submission of a Tree Survey. If applicable; a Tree Survey shall include a Tree Protection Plan and a Mitigation Plan. A Tree Survey shall be required for any project requiring any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19. A Tree Survey shall also be required for any project that requires or may result in any Public Trees or Public Shade Trees being Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
- 21. "Tree Warden": The individual who holds this title shall be an arborist certified by the Massachusetts Arborists Association (MAA), The International Society of Arboriculture or any successor of either organization. The duties and responsibilities of the Tree Warden shall conform to M.G.L. c. 87 and shall include other responsibilities described in this ordinance.

## Compliance with state law

- a. Nothing in this ordinance shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing municipal or state law.

## Tree Replacement Fund

- b. There is hereby established a Tree Replacement Fund which shall be held by the City Treasurer in an account and administered in accordance with applicable provisions of the Massachusetts General Laws. Any payments into the Tree Replacement Fund shall be deposited in said Fund and shall be used solely for the purpose of supporting tree planting and maintenance throughout the entire City.

## Applicability

- c. The terms and provisions of this ordinance shall be administered by the Tree Warden and shall apply to any applicable Significant Tree and to any Public Tree or Public Shade Tree and their Tree Protection Zone located within the City of Everett.

## Tree Warden

1. The Tree Warden shall be a Certified Arborist by the Massachusetts Arborist's Association, The International Society of Arboriculture, or any successor of either organization.
2. The duties and responsibilities of the Tree Warden shall conform to M.G.L.A. c. 87 and shall include, but not be limited to, the following and as may be further specified in this ordinance;
  - a. Care and control of all trees within public rights-of-way and care and control of all trees on City property,
  - b. Development of an annual work plan, using the tree inventory as a resource, for systematic tree maintenance, replacements, plantings, and removals for each fiscal year. The plan shall include locations of work, designated work to be accomplished, and resources including funds required,
  - c. Posting notices and holding public hearings for the removal of Public Trees and Public Shade Trees as required by M.G.L. c. 87 and this ordinance,
  - d. Expending funds appropriated for planting trees on land within public rights-of-way, City owned property and in the setback of a Lot with the express approval of the Owners,
  - e. Granting or denying permits and attaching thereto reasonable conditions required under this ordinance,
  - f. Working in conjunction with other City departments to seek grants or other assistance concerning the preservation, maintenance and planting of trees in City,
  - g. Development of rules, regulations, tree inventories, manuals, and other data, in conjunction with other City departments, to carry out the purposes and intent of this ordinance,
  - h. Supervising the planting and care of City trees to ensure that such planting and care meets the criteria of these ordinances and the ANSI A300 Tree Care Standards,
  - i. Ensuring the regular maintenance of and updating of the City of Everett's Tree Inventory to track removal and replacement of trees in order to replace lost trees in an orderly fashion,
  - j. Appointment of designee to serve in the absence of the Tree Warden,
  - k. Coordinate with any private organization that creates a program for the planting or pruning of Public Trees and Public Shade Trees on City property, in the public rights-of-way or within the setbacks with the express approval of the Owners,
  - l. With authorization by the council, undertaking other responsibilities consistent with the purposes and intent of this ordinance,
  - m. Enforcement of this ordinance.

## Tree Survey

1. A Tree Survey Shall be required in the case of any project that requires any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3, or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19. The application for any Building Permit, a Special Permit or a Site Plan Review shall include a tree survey which shall first have been submitted to the Tree Warden not less than twenty-one (21) days prior to the submission of the application for a, Building Permit, Special Permit or Site Plan Review.
2. A Tree Survey shall also be required for any project that requires or may result in any Public Trees or Public Shade Trees being Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
3. A Tree Survey shall include the location, Genus, Species, Height, DBH and Tree Protection Zone of all Significant trees, Public trees and Public Shade trees that will be Removed, damaged, or disturbed, including through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone by any project requiring any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19.

## Tree Permits

1. A Tree Permit shall be required in the case of any project where any applicable Significant Tree or Public Tree or Public Shade Tree will be Removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone,
2. No Tree Permit Application fee shall be charged,
3. If applicable, a Tree Permit application shall be submitted concurrently with a Tree Survey in accordance with this ordinance and if applicable, a Mitigation Plan and a Tree Protection Plan,
4. The Tree Warden shall review applications for Tree Permits in accordance with the provisions of this ordinance and with any rules or regulations promulgated hereunder,
5. The Tree Warden shall date stamp or otherwise record the date of filing of each application for a Tree Permit,
6. The Tree Warden shall complete the review of each Tree Permit application relating wholly to Significant Tree Removal no later than ten (10) business days after the submission of a completed application to the Tree Warden,
7. Upon the issuance of a Tree Permit, the Tree Warden may prescribe in writing such protective measures for existing trees, as they deem necessary. The Tree Warden shall make a determination that the prescribed protective measures have been adequately provided before any disturbance of the site related to the permitted activity may begin,
8. In the case of any project which requires any Building Permit, a Special Permit per The City of Everett Code of Ordinances, Division IV Sec. 3 or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, the Owner of the Lot shall be required to commit to comply with all provisions of the Tree Permit and if applicable, the provisions of the Mitigation Plan, the Tree Protection Plan and other provisions of this Chapter and regulations promulgated hereunder in the application for requires any Building Permit, a Special Permit per The City of

Everett Code of Ordinances, Division IV Sec. 3, or a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19,

9. If applicable, the Tree Warden shall report whether the Tree Permit was granted or denied to the Planning Board or the Director of Inspectional Services within the same ten (10) business days. If the Planning Board or the Director of Inspectional Services receives no such report about a Tree Permit for the property within the above-stated time period, the Planning Board or Director of Inspectional Services shall accept a Building Permit, Special Permit or Site Plan Review application without that report,
10. In the case of a project where a Tree Permit allows for the Removal of an applicable Significant Tree, a Public Tree or a Public Shade Tree, Tree Warden shall keep a record of the type and size of tree Removed, the reason for the removal, photographs of the tree documenting the reason for removal, the date, the contractors, and the name and address of the property owner,
11. Any Tree Permit issued by the Tree Warden shall be valid for 90 days from issuance. The Tree Warden, following an email or written request by the applicant, may extend the length of the permit for any length of time, as they deem necessary and appropriate,
12. A Tree Permit may be suspended or revoked at any time by the Tree Warden upon written notice to the permit holder that the permit holder has failed to comply with either this ordinance or the conditions of the Tree Permit. The written notice shall be sent by certified mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the non-compliance and apply for a renewal of the Tree Permit upon compliance, where practicable.

## Mitigation Plan

1. In the case of any project which requires a Tree Permit and where a Tree Survey identifies a Tree Removal, A Mitigation Plan will be required for all Trees Removed,
2. The Mitigation Plan shall be designed and certified by a Certified Arborist,
3. The Mitigation Plan shall be subject to approval by the Tree Warden,
4. If applicable a Mitigation Plan shall be submitted concurrently with an application for a Tree Permit. A Mitigation Plan shall include;
  - a. Why any Tree is proposed to be Removed from a Lot,
  - b. A description of the Replacement Tree proposed to replace any tree to be Removed, including Genus, Species, Height and Caliper,
  - c. A schedule for planting the proposed Replacement Tree,
  - d. If applicable, a Mitigation Payment,
  - e. If applicable, a Tree Protection Plan,
5. Replacement Trees will continue to be identified as Replacement Trees for a period of ten (10) years after they are planted,
6. No Replacement Tree shall be Removed without a Tree Permit issued by the Tree Warden. In all cases, the Tree Warden shall keep a record of the type and size of any Replacement Tree Removed, the reason for the removal, photographs of the Replacement Tree documenting the reason for removal, the date, the contractor, and the name and address of the property owner,
7. A Mitigation Payment will be required for all Replacement Trees Removed. The Mitigation Payment shall be assessed on a DBH basis in consideration of the Replacement Tree Removed, in accordance with the City of Everetts's most recent tree planting and maintenance costs



inclusive of purchasing, planting, watering, and maintaining Replacement Trees for a period of not less than five years. No reduction of the amount of Mitigation Payment otherwise available under this Ordinance will be allowed in connection with the Removal of Replacement Trees.

8. In the case of any project which requires a Tree Permit and where a Tree Survey identifies a tree Removal, the total DBH of Replacement Trees, or Mitigation Payment of equivalent value, as applicable, shall be 2 times or more, the total DBH of the trees to be Removed.

## Tree Protection Plan

1. A Tree Protection Plan shall be required in the case where any applicable Significant Tree, Public Tree or Public Shade Tree or their Tree Protection Zone which will not be Removed, extends or overlaps into the work zone of any project, excavation or construction where any applicable Significant Tree, Public Tree or Public Shade Tree or their Tree Protection Zone may be damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone,
2. If applicable a Tree Protection Plan shall be submitted concurrently with an application for a Tree Permit.
3. The Tree Protection Plan shall be designed and certified by a Certified Arborist,
4. The Tree Protection Plan shall be subject to approval by the Tree Warden,
5. All applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone near the excavation or construction of any building, structure, or street, or in the vicinity of utility work shall be sufficiently guarded and protected by those responsible for such work so as to prevent injury to said applicable Significant Trees, Public Trees and Public Shade Trees.
6. A Tree Protection Plan shall include;
  - a. The location on the Lot of all applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone
  - b. An indication of which applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means.
  - c. Descriptions and drawings of tree protection measures that will be used to prevent damage or disturbance to trees and their root systems that will be retained.

## Significant trees

1. A Tree Permit shall be required in the case of any project that requires a Site Plan Review per the City of Everett Code of Ordinances, Division IV, Sec. 19, where the Tree Survey identifies any Significant tree that will be Removed, Damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
2. No Tree Permit shall be required for the removal or disturbance of a Significant Tree located wholly on a Lot not Owned or managed by the City of Everett except in the case of any project which requires a Site Plan Review per Division IV: Zoning, § 19 Site Plan Review
3. A Tree Permit to Remove an applicable Significant Tree shall be issued when an applicable Significant Tree will be;

- a. Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the Mitigation Plan,
- b. Replaced by a Mitigation Payment into the Tree Replacement fund,
- c. The Tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the Tree Warden.
- d. The removal of the Tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the Tree Warden.

## Public Tree and Public Shade Trees

1. A Tree Permit shall be required in the case of any project where any Public Tree or Public Shade Tree will be Removed, damaged or disturbed including through pruning, digging or though the compaction of soil due to the passage or parking of vehicles or equipment within the Tree Protection Zone.
2. Except as provided by a Tree Permit, no person other than the Tree Warden or their designee shall Remove, prune, alter or disturb any Public Tree or Public Shade Tree or the Tree Protection Zone of any Public Tree or Public Shade Tree, including through the compaction of soil due to the passage or parking of vehicles or equipment.
3. When a Public Tree or Public Shade Tree is to be Removed, a public tree hearing shall be scheduled. The public tree hearing will be advertised twice in a local newspaper during the 14 days prior to the public tree hearing, posted on the City website, the City hall bulletin board, and a notice shall be affixed to the tree itself. The resident or owner requesting the removal of a Public Tree or Public Shade Tree shall pay for costs associated with this notice.
4. After the conclusion of a favorable public tree hearing a Tree Permit to Remove a Public Tree or Public Shade Tree shall be issued when a Public Tree or Public Shade Tree will be;
  - a. Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the Mitigation Plan,
  - b. Replaced by a Mitigation Payment into the Tree Replacement fund,
  - c. The Tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the Tree Warden.
  - d. The removal of the Tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the Tree Warden.

## Duty of Care

1. Upon issuance of any City of Everett permit by the Planning Board, the director of Inspectional Services or the Tree Warden, the permit holder is required to take reasonable precautions to ensure that any applicable Significant Tree and all Public Trees and Public Shade Trees are adequately protected and maintained free from harm from work associated with the permit issued. Failure to adequately protect and maintain any applicable Significant Trees and all Public Trees and Public Shade Trees free from harm may result in a fine, and failure to adequately protect applicable Significant Trees and all, Public Trees and Public Shade Trees that results in

any applicable Significant Trees and all, Public Trees and Public Shade Trees being Removed within Five (5) years of the failure to protect being noted may result in a fine and a Mitigation Payment that reflects the value in accordance with two (2) times the DBH of the applicable Significant Trees, Public Trees or Public Shade Trees Removed.

## Tree Donations

1. Voluntary contributions may be made to benefit tree planting and maintenance in Everett shall be deposited into the Tree Replacement Fund.

## Enforcement

1. Any person who violates any of the provisions of this Chapter shall be notified by the Tree Warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.
2. Upon notice from the Tree Warden that work on any Lot on which an applicable Significant Trees, Public Tree, Public Shade Tree or their Tree Protection Zone is located is being performed contrary to any applicable Tree Protection Plan or Mitigation Plan or any provision of this Chapter, such work shall be immediately stopped. The stop work order shall be in writing, and shall be given to the owner of the Lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.
3. Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.
4. Injunctive Relief. Whenever there exists reasonable cause to believe that a person is violating any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, the City may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
5. Failure to apply for and receive a Tree Permit or failure to replace an applicable Significant Tree, Public Tree, Public Shade Tree or make a payment into the Tree Replacement Fund or to post and maintain a bond in accordance with this ordinance shall constitute a separate violation of this Chapter for which there shall be a fine of not more than \$300.00. Each day such violation continues shall constitute a separate offense.
6. Alternative Penalty; As an alternative to any fine stated in this ordinance, citations may be issued pursuant to M.G.L. c. 40, § 21D, assessing a fine of not more than \$300.00 for each day the violation is committed or permitted to continue.
7. Tree vandalism. Each instance of mayhem shall constitute a violation of this ordinance and shall be subject to a fine of up to \$300.00.
8. Removal without a Tree Permit. Each instance in which an applicable Significant Tree, Public Tree or Public Shade Tree is Removed without a Tree Permit shall constitute a violation of this ordinance and shall be subject to a fine in the amount applicable to the City of Everetts most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining Replacement Trees for a period of not less than five years,

- a. The fine for any applicable Significant Tree, Public Tree or Public Shade Tree Removed without a Tree Permit shall be assessed at two (2) times the total DBH of any applicable Significant Tree, Public Tree or Public Shade Tree Removed,
  - b. No reduction of the amount of the fine otherwise available under this Ordinance will be allowed in connection with the Removal of any applicable Significant Tree, Public Tree or Public Shade Tree Removed without a Tree Permit.
9. Each failure to replace an applicable Significant Tree, Public Tree or Public Shade Tree or to make a payment into the Tree Replacement Fund beyond the timeframe of the Tree Permit shall constitute a separate violation of this ordinance and shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.
10. Failure to comply with a condition contained in a Tree Permit. Each instance where there is a failure to comply with a condition contained in a Tree Permit shall be subject to a fine in the amount of \$300.00.
11. Failure to comply with a stop work order. Each instance where there is a failure to comply with a stop work order shall constitute a violation of this ordinance, which shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense;
12. Nothing herein shall be construed to require the City of Everett to make a payment into the Tree Replacement Fund for any tree that it Removes.

## Severability

1. Severability. The provisions of this ordinance are severable. If any section, provision, or portion of this ordinance is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this ordinance shall continue to be valid.

## Effective Date

In Effect. This Ordinance shall take effect immediately upon passage and publication as provided by law.

#4- C0259-24

Legislative Affairs & Election Committee  
September 9, 2024

The Committee on Legislative Affairs & Elections met on Monday, September 9, 2024 at 6pm in the City Council Chambers.

The meeting was recorded by ECTV and can be viewed on the City of Everett website.

Members present were Councilor Michael Marchese, presiding, Councilors Stephanie Smith, Katy Rogers and Stephanie Martins.

The Committee considered an Ordinance offered by Councilor Katy Rogers: An Ordinance pertaining to trees in the City of Everett.

David St. Louis, Arborist, was also present.

David Flood, Legislative Research Specialist provided the Committee with a reformatted version of the Tree Ordinance submitted by Councilor Rogers, but noted that the Ordinance still needed a preamble. Councilor Rogers remarked that the Ordinance provides opportunities for the City to invest in its urban tree canopy. Councilor Smith asked Mr. St. Louis if this Ordinance would result in any costs to the City and Mr. St. Louis responded that it shouldn't. The Committee recommended that the Sponsor meet with Mr. Flood to address the need for a preamble as well as to finalize a fine schedule and suggested that the Ordinance be provided to the City Solicitor for her review and comments prior to it being presented at the next meeting.

The Committee voted: to grant further time.

Respectfully Submitted,

John W. Burley  
Clerk of Committees

**ENROLLED ORDINANCE**

PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.

ENROLLED: MM/DD/2024

DATE OF PROPOSED ORDAINMENT: MM/DD/2024



**CITY COUNCIL..... No. C0259-24**

**IN THE YEAR TWO THOUSAND AND TWENTY-FOUR**

**AN ORDINANCE PERTAINING TO TREES IN THE CITY OF EVERETT**

Councilor /s/ Katy L. Rogers

**Whereas: x; and**

**Whereas: x, and**

**Whereas: x.**

**Now, therefore, by the authority granted to the City Council of the City of Everett-Tree, Massachusetts to make and amend ordinances:**

**Be it Ordained by the City Council of the City of Everett, Massachusetts that Chapter 17 of the Revised Ordinances of the City of Everett is hereby amended as follows:**

**The title of Chapter 17 shall be amended by changing the title from “STREETS AND SIDEWALKS” to “STREETS, SIDEWALKS AND OTHER OUTDOOR SPACES”**

**Chapter 17 of the Revised Ordinances of the City of Everett is hereby further amended as follows:**

**Article V of Chapter 17 of the Revised Ordinances of the City of Everett shall be amended by adding a new Division 3 as follows:**

**DIVISION 3. CITY TREE ORDINANCES**

**Section 17-120 Intent and purpose**

**(a)** The City of Everett is committed to investing in its urban tree canopy. To that end, ~~these ordinances~~this division shall guide the city in-;

**(1)** The preservation of existing trees-;

**(2)** The promotion of new tree planting; and

(3) In community engagement with our urban canopy.

~~(a)(b)~~ Development of the city's urban canopy will serve to improve the environment, the aesthetics and the quality of life in the city ~~of Everett~~ and for its residents. ~~The numerous functions of a well-developed urban tree canopy include;~~

~~(c)~~ The numerous functions of a well-developed urban tree canopy include:

- (1) Conserving energy, and combating heat island effect by providing shade and evaporative cooling through transpiration;<sub>7.2</sub>
- (2) Improving local and global air quality by absorbing carbon dioxide, ozone, particulate matter, and producing oxygen;<sub>7.2</sub>
- (3) Reducing storm runoff, flooding and soil erosion;<sub>7.2</sub>
- (4) Providing microclimate control;<sub>7.2</sub>
- (5) Reducing wind speed and directing air flow;<sub>7.2</sub>
- (6) Reducing noise pollution;<sub>7.2</sub>
- (7) Providing habitat for birds, small mammals, and other wildlife;<sub>7.2</sub>
- (8) Enhancing visual and aesthetic qualities that attract visitors and businesses;<sub>7.2</sub>
- (9) Providing natural privacy among neighbors;<sub>7.2</sub>
- (10) Protecting and increasing real property values;<sub>7.2</sub> and
- (11) Contributing to the definition of public spaces and creating civic identity and responsibility.

~~(b)(d)~~ The provisions of this ordinancedivision reinforce, enhance, and expand existing legal vehicles to ensure that future development and public policy adequately preserve, protect, and provide for replacement of public trees and public shade trees as well as increasing the total tree inventory.

~~(e)~~ The city resolves to plant more trees and in greater variety in order to compensate for past tree losses, the length of time required for a tree to achieve maturity and to provide resiliency through biodiversity.

~~(e)(f)~~ The city will adhere to "right tree, right place" philosophy to ensure that all new trees are planted and maintained to ensure long term success into maturity.

~~(d)(g)~~ This ordinancedivision:

- (1) Ensures that the city ~~of Everett~~ sustains its designation as Tree City USA by Meeting or exceeding the four core standards of sound urban forestry management;
  - a. Maintaining a tree department;<sub>7.2</sub>
  - b. Having a city tree ordinance;<sub>7.2</sub>
  - c. Spending at least \$2.00 per capita on urban forestry;<sub>7.2</sub> and

- d. Celebrating Arbor Day.
- (2) Protects and preserves public shade trees pursuant to M.G.L. c. 87.
  - (3) Encourages private property owners to plant or to accept a tree from the city to be planted within the setback area of their lot instead of in the tree lawn or tree pit, if the tree warden so recommends.
  - (4) Allows the tree warden, or a private organization acting with the written consent of the tree warden, to plant trees acquired with public or private funds in the public rights-of-way or within the setback from such public rights-of-way with acceptance by the property owner for the purpose of improving, protecting, shading, or ornamenting the land.

### Section 17-121      **Definitions**

- (a) "Aggregate diameter": The combined DBH (~~diameter at breast height~~) of multiple tree trunks growing from the same root system shall be considered to be the DBH of the tree in the case of any tree where more than one stem originates below 54.5 feet from the ground.
- (b) "Caliper": A measurement of the tree trunk diameter used when any tree is less than 6" ~~inches~~ and is a measurement of the diameter of the tree trunk at 12 inches above the ground. Caliper measurement is typically used when purchasing new trees.
- (c) "Certified arborist": An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
- (d) "DBH (diameter at breast height)": The diameter of a tree trunk measured in inches at a height of 4.5 feet above the ground. For multiple trunk trees, DBH is the aggregate diameter of the trunks.
- (e) "Lot": A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.
- (f) "Mitigation payment." A payment to be paid to the tree replacement fund associated with the removal of applicable significant trees, public trees or public shade trees that have not been replaced with replacement trees in accordance with the mitigation requirements established in this ~~Ordinance~~ division. The mitigation payment shall be in accordance with the ~~City of Everett's city's~~ most recent tree planting costs in consideration of ~~two (2)~~ times or more, the total DBH or caliper of trees removed.
- (g) "Mitigation plan": A document to be provided where any applicable significant tree, public tree or public shade tree is proposed to be removed from a lot, stating;
  - (1) Why any applicable significant tree, public tree or public shade tree is proposed to be removed from a lot; ~~;~~
  - (2) A description of the replacement tree proposed to replace any applicable significant tree, public tree or public shade tree to be removed, and
  - (3) The mitigation payment, if required.



- (h) “Pruning standards”: Standards for pruning of trees as defined in the ANSI A300 Tree Care Standards and any future amendments or revisions to the same.
- (i) “Public shade tree”: A tree located in the public way, as defined in M.G.L. c. 87, Sec. 5.
- (j) “Public tree”: Any tree located on land owned completely by the city ~~of Everett~~. This does not include any tree that fits the definition of a public shade tree under M.G.L. c. 87.
- ~~1. “Replacement Caliper”: The caliper for applicable Significant Trees, Public Trees and Public Shade Trees planted in replacement for Removed trees shall be at least two (2) times the DBH or aggregate diameter whichever is greater, of the tree Removed.~~
- (k) "Replacement trees." A tree or trees to be planted to replace applicable significant trees, public trees or public shade trees to be removed from the lot. The approval of the tree warden will be required if replacement trees are to be placed on other lots. Replacement trees shall continue to be identified as such for a period of ~~ten (10)~~ years.
- (l) “Remove (including removing and removal)”: Cutting down any applicable significant tree, public tree or public shade tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of an applicable significant tree, public tree or public shade tree, including, but not limited to, excessive or improper pruning.
- (m) "Significant tree": Any tree ~~six (6)~~ inches DBH or larger which is on a lot. This does not include any tree that fits the definition of a public tree under this ordinance or any tree that fits the definition of a public shade tree under M.G.L. c. 87.
- (n) “Tree permit”: A document signed and certified by the tree warden required to be issued for any project requiring a site plan review per ~~the City Appendix A, Section 19 of Everett Code of these Revised Ordinances, Division IV, Sec. 19~~, where any applicable significant tree, public tree or public shade tree may be damaged or disturbed as a result of a project on the lot. A tree permit shall also be required for any project that requires or may result removal, damage or disturbance including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone or other means to any public trees or public shade trees and their tree protection zone.
- (o) "Tree protection plan": A document designed by a certified arborist and approved by the tree warden which shall include the following information~~;~~:
- (1) Drawings of tree protection measures~~;~~:
  - (2) The location on the lot of all applicable significant trees, public trees and public shade trees and their tree protection zone~~;~~:
  - (3) An indication of which applicable significant trees, public trees and public shade trees and their tree protection zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree’s root system by vehicle traffic, parking or other means~~;~~:
  - (4) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed, the tree protection plan shall include the location of any applicable significant tree, public tree and public shade tree, and their genus, species, height and DBH or caliper,

- (5) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed, the tree protection plan shall include the location of replacement tree ~~or trees~~(s) and their genus, species, height and DHB or caliper.
- (6) A schedule for planting the proposed replacement tree ~~or trees~~,(s);
- (7) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed and an inadequate number of replacement trees are proposed to be planted, a mitigation plan shall be included in the tree protection plan,
- (8) Such other conditions as specified by the tree warden pursuant to applicable regulations.
- (p) "Tree protection zone": The area surrounding a tree which must remain as undisturbed as possible so as to prevent damage or removal of the tree. Including but not limited to the area where roots critical to the vigor and structure of the tree are located. The size and shape of a tree protection zone shall be defined by a certified arborist, shall adhere to the ANSI A300 Tree Care Standards and be approved by the tree warden.
- (q) "Tree replacement": The tree warden shall require the replacement of any removed applicable significant tree, public tree or public shade tree, which shall be planted by the applicant or their contractors under the supervision of a certified arborist and subject to approval by the tree warden.
- (r) "Tree replacement fund": Payments required by this ordinancedivision for planting at the same site or at another location shall be deposited into this fund.
- (s) "Tree survey": A document designed by a certified arborist and approved by the tree warden which shall include the location, genus, species, height and DBH of all significant trees, public trees and public shade trees and their tree protection zone on a lot and those trees that have been removed from a lot within one year prior to the submission of a tree survey. If applicable; a tree survey shall include a tree protection plan and a mitigation plan. A tree survey shall be required for any project requiring any building permit, a special permit per The City Appendix A, Section 3 of Everett Code of these Revised Ordinances, Division IV Sec. 3 or a site plan review per the City of Everett Code of Appendix A, Section 19 of these Revised Ordinances, Division IV, Sec. 19. A tree survey shall also be required for any project that requires or may result in any public trees or public shade trees being removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (t) "Tree warden": The individual who holds this title shall be an arborist certified by the Massachusetts Arborists Association (MAA), the International Society of Arboriculture or any successor of either organization. The duties and responsibilities of the tree warden shall conform to M.G.L. c. 87 and shall include other responsibilities described in this ordinancedivision.

**Section 17-122 Compliance with state law**

Nothing in this ordinancedivision shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing municipal or state law.

**Section 17-123 Tree replacement fund**

- (a) There is hereby established a tree replacement fund which shall be held by the city treasurer in an account and administered in accordance with applicable provisions of the Massachusetts General Laws.
- ~~(a)~~(b) Any payments into the tree replacement fund shall be deposited in said fund and shall be used solely for the purpose of supporting tree planting and maintenance throughout the entire city.

**Section 17-124 Applicability**

The terms and provisions of this ~~ordinance~~division shall be administered by the tree warden and shall apply to any applicable significant tree and to any public tree or public shade tree and their tree protection zone located within the city ~~of Everett~~.

**Section 17-125 Tree warden**

- (a) The tree warden shall be a certified arborist by the Massachusetts Arborist's Association, the International Society of Arboriculture, or any successor of either organization.
- (b) The duties and responsibilities of the tree warden shall conform to M.G.L. ~~A.~~ c. 87 and shall include, but not be limited to, the following and as may be further specified in this ~~ordinance~~division:
- (1) Care and control of all trees within public rights-of-way and care and control of all trees on city property~~;~~
  - (2) Development of an annual work plan, using the tree inventory as a resource, for systematic tree maintenance, replacements, plantings, and removals for each fiscal year. The plan shall include locations of work, designated work to be accomplished, and resources including funds required~~;~~
  - (3) Posting notices and holding public hearings for the removal of public trees and public shade trees as required by M.G.L. c. 87 and this ~~ordinance~~division;
  - (4) Expending funds appropriated for planting trees on land within public rights-of-way, city owned property and in the setback of a lot with the express approval of the owners~~;~~
  - (5) Granting or denying permits and attaching thereto reasonable conditions required under this ~~ordinance~~division;
  - (6) Working in conjunction with other city departments to seek grants or other assistance concerning the preservation, maintenance and planting of trees in ~~City~~the city;
  - (7) Development of rules, regulations, tree inventories, manuals, and other data, in conjunction with other city departments, to carry out the purposes and intent of this ordinance~~;~~

- (8) Supervising the planting and care of city trees to ensure that such planting and care meets the criteria of ~~these ordinances~~this division and the ANSI A300 Tree Care Standards<sub>;2</sub>;
- (9) Ensuring the regular maintenance of and updating of the ~~City of Everett's city's~~ tree inventory to track removal and replacement of trees in order to replace lost trees in an orderly fashion<sub>;2</sub>;
- (10) Appointment of designee to serve in the absence of the tree warden<sub>;2</sub>;
- (11) Coordinate with any private organization that creates a program for the planting or pruning of public trees and public shade trees on city property, in the public rights-of-way or within the setbacks with the express approval of the owners,
- (12) With authorization by the ~~council~~mayor, undertaking other responsibilities consistent with the purposes and intent of this ~~ordinance~~division; and
- (13) Enforcement of this ordinance.

**Section 17-126      *Tree survey***

- (a) A tree survey shall be required in the case of any project that requires any building permit, a special permit per ~~The City Appendix A, Section 3~~ of ~~Everett Code of these Revised Ordinances, Division IV Sec. 3,~~ or a site plan review per ~~the City of Everett Code of Ordinances, Division IV, Sec. Appendix A, Section~~ 19. The application for any building permit, a special permit or a site plan review shall include a tree survey which shall first have been submitted to the tree warden not less than ~~twenty-one (21)~~ days prior to the submission of the application for a<sub>;</sub> building permit, special permit or site plan review.
- (b) A tree survey shall also be required for any project that requires or may result in any public trees or public shade trees being removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (c) A tree survey shall include the location, genus, species, height, DBH and tree protection zone of all significant trees, public trees and public shade trees that will be removed, damaged, or disturbed, including through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone by any project requiring any building permit, a special permit per ~~The City Appendix A, Section 3~~ of ~~Everett Code of these Revised Ordinances, Division IV Sec. 3,~~ or a site plan review per ~~the City of Everett Code of Appendix A, Section 19~~ of ~~these Revised Ordinances, Division IV, Sec. 19.~~

**Section 17-127      *Tree permits***

- (a) A tree permit shall be required in the case of any project where any applicable significant tree or public tree or public shade tree will be removed, damaged or disturbed including ~~through,~~ pruning, digging or through<sub>;</sub> the compaction of soil ~~due to the~~ passage or parking of vehicles or equipment within the tree protection zone<sub>;2</sub>.
- (b) No tree permit application fee shall be charged<sub>;2</sub>.

- (c) If applicable, a tree permit application shall be submitted concurrently with a tree survey in accordance with this ordinancedivision and if applicable, a mitigation plan and a tree protection plan<sub>7.</sub>
- (d) The tree warden shall review applications for tree permits in accordance with the provisions of this ordinancedivision and with any rules or regulations promulgated hereunder<sub>7.</sub>
- (e) The tree warden shall date--stamp or otherwise record the date of filing of each application for a tree permit<sub>7.</sub>
- (f) The tree warden shall complete the review of each tree permit application relating wholly to significant tree removal no later than ~~ten (10)~~ business days after the submission of a completed application to the tree warden<sub>7.</sub>
- (g) Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing trees, as they deem necessary. The tree warden shall make a determination that the prescribed protective measures have been adequately provided before any disturbance of the site related to the permitted activity may begin,
- (h) In the case of any project which requires any building permit, a special permit per ~~The City Appendix A, Section 3 of Everett Code of these Revised Ordinances, Division IV Sec. 3~~ or a site plan review per ~~the City of Everett Code of Appendix A, Section 19 of these Revised Ordinances, Division IV, Sec. 19~~, the owner of the lot shall be required to commit to comply with all provisions of the tree permit ~~and if applicable, the~~ provisions of the mitigation plan, the tree protection plan and other provisions of this Chapterdivision and regulations promulgated hereunder in the application for requires any building permit, a special permit per ~~The City of Everett Code of Ordinances, Division IV Sec. Appendix A, Section 3~~, or a site plan review per the ~~City of Everett Code of Ordinances, Division IV, Sec. Appendix A, Section 19~~,
- (i) If applicable, the tree warden shall report whether the tree permit was granted or denied to the planning board or the director of inspectional services within the same ~~ten (10)~~ business days. If the planning board or the director of inspectional services receives no such report about a tree permit for the property within the above-stated time period, the planning board ~~etor~~ director of inspectional services shall accept ~~a~~ building permit, special permit or site plan review application without that report,
- (j) In the case of a project where a tree permit allows for the removal of an applicable significant tree, a public tree or a public shade tree, the tree warden shall keep a record of the type and size of tree(s) removed, the reason(s) for the removal, ~~photographs~~ photograph(s) of the tree(s) documenting the reason for removal, the date, the contractors, and the name and address of the property owner,
- (k) Any tree permit issued by the tree warden shall be valid for 90 days from issuance. The tree warden, following an email or written request by the applicant, may extend the length of the permit for any length of time, as they deem necessary and appropriate,
- (l) A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this ordinancedivision or the conditions of the tree permit. The written notice shall be sent by certified mail, return receipt requested, or by hand delivery and shall provide an

opportunity for the permit holder to correct the non-compliance and apply for a renewal of the tree permit upon compliance, where practicable.

**Section 17-128 Mitigation plan**

- (a) In the case of any project which requires a tree permit and where a tree survey identifies a tree removal, a mitigation plan will be required for all trees removed,
- (b) The mitigation plan shall be designed and certified by a certified arborist,
- (c) The mitigation plan shall be subject to approval by the tree warden,
- (d) If applicable, a mitigation plan shall be submitted concurrently with an application for a tree permit. A mitigation plan shall include:
  - (1) Why any tree is proposed to be removed from a lot,
  - (2) A description of the replacement tree proposed to replace any tree to be removed, including genus, species, height and caliper,
  - (3) A schedule for planting the proposed replacement tree,
  - (4) If applicable, a mitigation payment,
  - (5) If applicable, a tree protection plan,
- (e) Replacement trees will continue to be identified as replacement trees for a period of ~~ten~~ **ten** years after they are planted,
- (f) No replacement tree shall be removed without a tree permit issued by the tree warden. In all cases, the tree warden shall keep a record of the type and size of any replacement tree removed, the reason for the removal, photographs of the replacement tree documenting the reason for removal, the date, the contractor, and the name and address ~~off~~ the property owner,
- (g) A mitigation payment will be required for all replacement trees removed. The mitigation payment shall be assessed on a DBH basis in consideration of the replacement tree removed, in accordance with the ~~City of Everett's city's~~ most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining replacement trees for a period of not less than ~~five~~ **five** years. No reduction of the amount of mitigation payment otherwise available under this ~~Ordinance will~~ **division shall** be allowed in connection with the removal of replacement trees.
- (h) In the case of any project which requires a tree permit and where a tree survey identifies a tree removal, the total DBH of replacement trees, or mitigation payment of equivalent value, ~~asa~~ **4s** applicable, shall be 2 times or more, the total DBH of the trees to be removed.

**Section 17-129 Tree protection plan**

- (a) A tree protection plan shall be required in the case where any applicable significant tree, public tree or public shade tree or their tree protection zone which will not be removed, extends or overlaps into the work zone of any project, excavation or construction where any applicable significant tree, public tree or public shade tree or their tree protection zone may be damaged or disturbed including through, pruning, digging or through the



compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone;

- (b) If applicable a tree protection plan shall be submitted concurrently with an application for a tree permit.
- (c) The tree protection plan shall be designed and certified by a certified arborist;
- (d) The tree protection plan shall be subject to approval by the tree warden,
- (e) All applicable significant trees, public trees and public shade trees and their tree protection zone near the excavation or construction of any building, structure, or street, or in the vicinity of utility work shall be sufficiently guarded and protected by those responsible for such work so as to prevent injury to said applicable significant trees, public trees and public shade trees.
- (f) A tree protection plan shall include:
  - a. ~~The location on the Lot of all applicable Significant Trees, Public Trees and Public Shade Trees and their Tree Protection Zone~~
  - (1) An indication of which applicable significant trees, public trees and public shade trees and their tree protection zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means; and
  - (2) Descriptions and drawings of tree protection measures that will be used to prevent damage or disturbance to trees and their root systems that will be retained.

**Section 17-130 Significant trees**

- (a) A tree permit shall be required in the case of any project that requires a site plan review per the City of Everett Code of Ordinances, ~~Division IV, Sec. Appendix A, Section~~ 19, where the tree survey identifies any significant tree that will be removed, damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (b) No tree permit shall be required for the removal or disturbance of a significant tree located wholly on a lot not owned or managed by the city ~~of Everett~~ except in the case of any project which requires a site plan review per ~~Division IV: Zoning Appendix A~~, § 19 Site Plan Review
- (c) A tree permit to remove an applicable significant tree shall be issued when an applicable significant tree will be:
  - (1) Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the mitigation plan,
  - (2) Replaced by a mitigation payment into the tree replacement fund,
  - (3) The tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the tree warden.

- (4) The removal of the tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the tree warden.

**Section 17-131 Public tree and public shade trees**

- (a) A tree permit shall be required in the case of any project where any public tree or public shade tree will be removed, damaged or disturbed including through pruning, digging or though the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (b) Except as provided by a tree permit, no person other than the tree warden or their designee shall remove, prune, alter or disturb any public tree or public shade tree or the tree protection zone of any public tree or public shade tree, including through the compaction of soil due to the passage or parking of vehicles or equipment.
- (c) When a public tree or public shade tree is to be removed, a public tree hearing shall be scheduled. The public tree hearing will be advertised twice in a local newspaper during the 14 days prior to the public tree hearing, posted on the city website, the city hall bulletin board, and a notice shall be affixed to the tree itself. The resident or owner requesting the removal of a public tree or public shade tree shall pay for costs associated with this notice.
- (d) After the conclusion of a favorable public tree hearing, a tree permit to remove a public tree or public shade tree shall be issued when a public tree or public shade tree will be:
- (1) Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the mitigation plan;
  - (2) Replaced by a mitigation payment into the tree replacement fund;
  - (3) The tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the tree warden; or
  - (4) The removal of the tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the tree warden.

**Section 17-132 Duty of care**

- (a) Upon issuance of any city ~~of Everett~~ permit by the planning board, the director of inspectional services or the tree warden, the permit holder is required to take reasonable precautions to ensure that any applicable significant tree and all public trees and public shade trees are adequately protected and maintained free from harm from work associated with the permit issued.
- ~~(a)~~(b) Failure to adequately protect and maintain any applicable significant trees and all public trees and public shade trees free from harm may result in a fine, and failure to adequately protect applicable significant trees and all public trees and public shade trees that results in any applicable significant trees and all public trees and public shade trees being



removed within ~~Five (5)~~ years of the failure to protect being noted may result in a fine and a mitigation payment that reflects the value in accordance with ~~two (2)~~ times the DBH of the applicable significant trees, public trees or public shade trees removed.

**Section 17-133      *Tree donations***

Voluntary contributions may be made to benefit tree planting and maintenance in ~~Everett~~the city shall be deposited into the tree replacement fund.

**Section 17-134      *Enforcement***

- (a) Any person who violates any of the provisions of this ~~Chapter~~division shall be notified by the tree warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.
- (b) Upon notice from the tree warden that work on any lot on which an applicable significant ~~Tree~~tree, public tree, public shade tree or their tree protection zone is located is being performed contrary to any applicable tree protection plan or mitigation plan or any provision of this ~~Chapter~~division, such work shall be immediately stopped. The stop work order shall be in writing, and shall be given to the owner of the lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.
- (c) Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.
- (d) ~~Injunctive Relief.~~ Whenever there exists reasonable cause to believe that a person is violating any applicable mitigation plan or tree protection plan or any provision of this ~~Chapter~~division, the city may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (e) Failure to apply for and receive a tree permit or failure to replace an applicable significant tree, public tree or, public shade tree or make a payment into the tree replacement fund or to post and maintain a bond in accordance with this ~~ordinance~~division shall constitute a separate violation of this ~~Chapter~~division for which there shall be a fine of not more than \$300.00. Each day such violation continues shall constitute a separate offense.
- (f) ~~Alternative Penalty.~~ As an alternative to any fine stated in this ~~ordinance~~division, citations may be issued pursuant to M.G.L. c. 40, § 21D, assessing a fine of not more than \$300.00 for each day the violation is committed or permitted to continue.
- (g) ~~Tree vandalism.~~ Each instance of mayhem vandalism to an applicable significant tree, public tree or, public shade tree shall constitute a violation of this ~~ordinance~~division and shall be subject to a fine of up to \$300.00.
- (h) ~~Removal without a Tree Permit.~~ Each instance in which an applicable significant tree, public tree or public shade tree is removed without a tree permit shall constitute a violation of this ~~ordinance~~division and shall be subject to a fine in the amount applicable

to the ~~City of Everett~~city's most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining replacement trees for a period of not less than ~~five~~5 years;

- (1) The fine for any applicable significant tree, public tree or public shade tree removed without a tree permit shall be assessed at ~~two (2)~~ times the total DBH of any applicable significant tree, public tree or public shade tree removed,
  - (2) ~~No reduction of the amount of the fine otherwise available under this~~ Ordinance ~~division~~ will be allowed in connection with the removal of any applicable significant tree, public tree or public shade tree removed without a tree permit.
- (i) Each failure to replace an applicable significant tree, public tree or public shade tree or to make a payment into the tree replacement fund beyond the timeframe of the tree permit shall constitute a separate violation of this ordinance ~~division~~ and shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.
  - (j) Failure to comply with a condition contained in a tree permit. Each instance where there is a failure to comply with a condition contained in a tree permit shall be subject to a fine in the amount of \$300.00.
  - (k) Failure to comply with a stop work order. Each instance where there is a failure to comply with a stop work order shall constitute a violation of this ordinance ~~division~~, which shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense;
  - (l) Nothing herein shall be construed to require the city ~~of Everett~~ to make a payment into the tree replacement fund for any tree that it removes.

## Severability

~~Severability--~~Secs. 17-135-17-139 *Reserved*

The provisions of this ordinance are severable. If any section, provision, or portion of this ordinance is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this ordinance shall continue to be valid.

## Effective Date

~~In Effect--~~This ordinance shall take effect ~~immediately~~ upon passage by the City Council and publication as provided by law ~~subsequent approval by His Honor the Mayor.~~



A true copy attest

*Sergio Cornelio*

Sergio Cornelio, City Clerk

**ENROLLED ORDINANCE**

*PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.*

ENROLLED: MM/DD/2024

DATE OF PROPOSED ORDAINMENT: MM/DD/2024



**CITY COUNCIL..... No. C0259-24**

IN THE YEAR TWO THOUSAND AND TWENTY-FOUR

**AN ORDINANCE PERTAINING TO TREES IN THE CITY OF EVERETT**

Councilor /s/ Katy L. Rogers

**Whereas:** x; and

**Whereas:** x, and

**Whereas:** x.

**Now,** therefore, by the authority granted to the City Council of the City of Everett, Massachusetts to make and amend ordinances:

**Be it Ordained** by the City Council of the City of Everett, Massachusetts that Chapter 17 of the Revised Ordinances of the City of Everett is hereby amended as follows:

The title of Chapter 17 shall be amended by changing the title from “**STREETS AND SIDEWALKS**” to “**STREETS, SIDEWALKS AND OTHER OUTDOOR SPACES**”

Chapter 17 of the Revised Ordinances of the City of Everett is hereby further amended as follows:

Article V of Chapter 17 of the Revised Ordinances of the City of Everett shall be amended by adding a new Division 3 as follows:

**DIVISION 3. CITY TREE ORDINANCES**

***Section 17-120 Intent and purpose***

- (a) The City of Everett is committed to investing in its urban tree canopy. To that end, this division shall guide the city in:
  - (1) The preservation of existing trees;
  - (2) The promotion of new tree planting; and
  - (3) In community engagement with our urban canopy.

- (b) Development of the city’s urban canopy will serve to improve the environment, the aesthetics and the quality of life in the city and for its residents.
- (c) The numerous functions of a well-developed urban tree canopy include:
  - (1) Conserving energy, and combating heat island effect by providing shade and evaporative cooling through transpiration;
  - (2) Improving local and global air quality by absorbing carbon dioxide, ozone, particulate matter, and producing oxygen;
  - (3) Reducing storm runoff, flooding and soil erosion;
  - (4) Providing microclimate control;
  - (5) Reducing wind speed and directing air flow;
  - (6) Reducing noise pollution;
  - (7) Providing habitat for birds, small mammals, and other wildlife;
  - (8) Enhancing visual and aesthetic qualities that attract visitors and businesses;
  - (9) Providing natural privacy among neighbors;
  - (10) Protecting and increasing real property values: and
  - (11) Contributing to the definition of public spaces and creating civic identity and responsibility.
- (d) The provisions of this division reinforce, enhance, and expand existing legal vehicles to ensure that future development and public policy adequately preserve, protect, and provide for replacement of public trees and public shade trees as well as increasing the total tree inventory.
- (e) The city resolves to plant more trees and in greater variety in order to compensate for past tree losses, the length of time required for a tree to achieve maturity and to provide resiliency through biodiversity.
- (f) The city will adhere to “right tree, right place” philosophy to ensure that all new trees are planted and maintained to ensure long term success into maturity.
- (g) This division:
  - (1) Ensures that the city sustains its designation as Tree City USA by Meeting or exceeding the four core standards of sound urban forestry management;
    - a. Maintaining a tree department;
    - b. Having a city tree ordinance;
    - c. Spending at least \$2.00 per capita on urban forestry; and
    - d. Celebrating Arbor Day.
  - (2) Protects and preserves public shade trees pursuant to M.G.L. c. 87.

- (3) Encourages private property owners to plant or to accept a tree from the city to be planted within the setback area of their lot instead of in the tree lawn or tree pit, if the tree warden so recommends.
- (4) Allows the tree warden, or a private organization acting with the written consent of the tree warden, to plant trees acquired with public or private funds in the public rights-of-way or within the setback from such public rights-of-way with acceptance by the property owner for the purpose of improving, protecting, shading, or ornamenting the land.

***Section 17-121 Definitions***

- (a) “Aggregate diameter”: The combined DBH of multiple tree trunks growing from the same root system shall be considered to be the DBH of the tree in the case of any tree where more than one stem originates below 54.5 feet from the ground.
- (b) “Caliper”: A measurement of the tree trunk diameter used when any tree is less than 6 inches and is a measurement of the diameter of the tree trunk at 12 inches above the ground. Caliper measurement is typically used when purchasing new trees.
- (c) "Certified arborist": An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.
- (d) “DBH (diameter at breast height)”: The diameter of a tree trunk measured in inches at a height of 4.5 feet above the ground. For multiple trunk trees, DBH is the aggregate diameter of the trunks.
- (e) "Lot": A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.
- (f) "Mitigation payment." A payment to be paid to the tree replacement fund associated with the removal of applicable significant trees, public trees or public shade trees that have not been replaced with replacement trees in accordance with the mitigation requirements established in this division. The mitigation payment shall be in accordance with the city’s most recent tree planting costs in consideration of 2 times or more, the total DBH or caliper of trees removed.
- (g) "Mitigation plan": A document to be provided where any applicable significant tree, public tree or public shade tree is proposed to be removed from a lot, stating;
  - (1) Why any applicable significant tree, public tree or public shade tree is proposed to be removed from a lot;
  - (2) A description of the replacement tree proposed to replace any applicable significant tree, public tree or public shade tree to be removed, and
  - (3) The mitigation payment, if required.
- (h) “Pruning standards”: Standards for pruning of trees as defined in the ANSI A300 Tree Care Standards and any future amendments or revisions to the same.
- (i) “Public shade tree”: A tree located in the public way, as defined in M.G.L. c. 87, Sec. 5.

- (j) “Public tree”: Any tree located on land owned completely by the city. This does not include any tree that fits the definition of a public shade tree under M.G.L. c. 87.
- (k) "Replacement trees." A tree or trees to be planted to replace applicable significant trees, public trees or public shade trees to be removed from the lot. The approval of the tree warden will be required if replacement trees are to be placed on other lots. Replacement trees shall continue to be identified as such for a period of 10 years.
- (l) “Remove (including removing and removal)”: Cutting down any applicable significant tree, public tree or public shade tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of an applicable significant tree, public tree or public shade tree, including, but not limited to, excessive or improper pruning.
- (m) "Significant tree": Any tree 6 inches DBH or larger which is on a lot. This does not include any tree that fits the definition of a public tree under this ordinance or any tree that fits the definition of a public shade tree under M.G.L. c. 87.
- (n) “Tree permit”: A document signed and certified by the tree warden required to be issued for any project requiring a site plan review per Appendix A, Section 19 of these Revised Ordinances, where any applicable significant tree, public tree or public shade tree may be damaged or disturbed as a result of a project on the lot. A tree permit shall also be required for any project that requires or may result removal, damage or disturbance including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone or other means to any public trees or public shade trees and their tree protection zone.
- (o) "Tree protection plan": A document designed by a certified arborist and approved by the tree warden which shall include the following information:
  - (1) Drawings of tree protection measures;
  - (2) The location on the lot of all applicable significant trees, public trees and public shade trees and their tree protection zone;
  - (3) An indication of which applicable significant trees, public trees and public shade trees and their tree protection zones may be affected, damaged or otherwise disturbed including by the compaction of soil in and around a tree’s root system by vehicle traffic, parking or other means;
  - (4) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed, the tree protection plan shall include the location of any applicable significant tree, public tree and public shade tree, and their genus, species, height and DBH or caliper,
  - (5) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed, the tree protection plan shall include the location of replacement tree(s) and their genus, species, height and DHB or caliper.
  - (6) A schedule for planting the proposed replacement tree(s);
  - (7) In the event that any applicable significant tree, public tree or public shade tree is proposed to be removed and an inadequate number of replacement trees are

proposed to be planted, a mitigation plan shall be included in the tree protection plan,

- (8) Such other conditions as specified by the tree warden pursuant to applicable regulations.
- (p) "Tree protection zone": The area surrounding a tree which must remain as undisturbed as possible so as to prevent damage or removal of the tree. Including but not limited to the area where roots critical to the vigor and structure of the tree are located. The size and shape of a tree protection zone shall be defined by a certified arborist, shall adhere to the ANSI A300 Tree Care Standards and be approved by the tree warden.
- (q) "Tree replacement": The tree warden shall require the replacement of any removed applicable significant tree, public tree or public shade tree, which shall be planted by the applicant or their contractors under the supervision of a certified arborist and subject to approval by the tree warden.
- (r) "Tree replacement fund": Payments required by this division for planting at the same site or at another location shall be deposited into this fund.
- (s) "Tree survey": A document designed by a certified arborist and approved by the tree warden which shall include the location, genus, species, height and DBH of all significant trees, public trees and public shade trees and their tree protection zone on a lot and those trees that have been removed from a lot within 1 year prior to the submission of a tree survey. If applicable, a tree survey shall include a tree protection plan and a mitigation plan. A tree survey shall be required for any project requiring any building permit, a special permit per Appendix A, Section 3 of these Revised Ordinances or a site plan review per Appendix A, Section 19 of these Revised Ordinances. A tree survey shall also be required for any project that requires or may result in any public trees or public shade trees being removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (t) "Tree warden: The individual who holds this title shall be an arborist certified by the Massachusetts Arborists Association (MAA), the International Society of Arboriculture or any successor of either organization. The duties and responsibilities of the tree warden shall conform to M.G.L. c. 87 and shall include other responsibilities described in this division.

***Section 17-122 Compliance with state law***

Nothing in this division shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing municipal or state law.

***Section 17-123 Tree replacement fund***

- (a) There is hereby established a tree replacement fund which shall be held by the city treasurer in an account and administered in accordance with applicable provisions of the Massachusetts General Laws.



- (b) Any payments into the tree replacement fund shall be deposited in said fund and shall be used solely for the purpose of supporting tree planting and maintenance throughout the entire city.

***Section 17-124            Applicability***

The terms and provisions of this division shall be administered by the tree warden and shall apply to any applicable significant tree and to any public tree or public shade tree and their tree protection zone located within the city.

***Section 17-125            Tree warden***

- (a) The tree warden shall be a certified arborist by the Massachusetts Arborist's Association, the International Society of Arboriculture, or any successor of either organization.
- (b) The duties and responsibilities of the tree warden shall conform to M.G.L. c. 87 and shall include, but not be limited to, the following and as may be further specified in this division:
- (1) Care and control of all trees within public rights-of-way and care and control of all trees on city property;
  - (2) Development of an annual work plan, using the tree inventory as a resource, for systematic tree maintenance, replacements, plantings, and removals for each fiscal year. The plan shall include locations of work, designated work to be accomplished, and resources including funds required;
  - (3) Posting notices and holding public hearings for the removal of public trees and public shade trees as required by M.G.L. c. 87 and this division;
  - (4) Expending funds appropriated for planting trees on land within public rights-of-way, city owned property and in the setback of a lot with the express approval of the owners;
  - (5) Granting or denying permits and attaching thereto reasonable conditions required under this division;
  - (6) Working in conjunction with other city departments to seek grants or other assistance concerning the preservation, maintenance and planting of trees in the city;
  - (7) Development of rules, regulations, tree inventories, manuals, and other data, in conjunction with other city departments, to carry out the purposes and intent of this ordinance;
  - (8) Supervising the planting and care of city trees to ensure that such planting and care meets the criteria of this division and the ANSI A300 Tree Care Standards;
  - (9) Ensuring the regular maintenance of and updating of the city's tree inventory to track removal and replacement of trees in order to replace lost trees in an orderly fashion;
  - (10) Appointment of designee to serve in the absence of the tree warden;

- (11) Coordinate with any private organization that creates a program for the planting or pruning of public trees and public shade trees on city property, in the public rights-of-way or within the setbacks with the express approval of the owners,
- (12) With authorization by the mayor, undertaking other responsibilities consistent with the purposes and intent of this division; and
- (13) Enforcement of this ordinance.

***Section 17-126 Tree survey***

- (a) A tree survey shall be required in the case of any project that requires any building permit, a special permit per Appendix A, Section 3 of these Revised Ordinances or a site plan review per Appendix A, Section 19. The application for any building permit, a special permit or a site plan review shall include a tree survey which shall first have been submitted to the tree warden not less than 21 days prior to the submission of the application for a building permit, special permit or site plan review.
- (b) A tree survey shall also be required for any project that requires or may result in any public trees or public shade trees being removed, damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (c) A tree survey shall include the location, genus, species, height, DBH and tree protection zone of all significant trees, public trees and public shade trees that will be removed, damaged, or disturbed, including through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone by any project requiring any building permit, a special permit per Appendix A, Section 3 of these Revised Ordinances or a site plan review per Appendix A, Section 19 of these Revised Ordinances

***Section 17-127 Tree permits***

- (a) A tree permit shall be required in the case of any project where any applicable significant tree or public tree or public shade tree will be removed, damaged or disturbed including pruning, digging or through, the compaction of soil passage or parking of vehicles or equipment within the tree protection zone.
- (b) No tree permit application fee shall be charged.
- (c) If applicable, a tree permit application shall be submitted concurrently with a tree survey in accordance with this division and if applicable, a mitigation plan and a tree protection plan.
- (d) The tree warden shall review applications for tree permits in accordance with the provisions of this division and with any rules or regulations promulgated hereunder.
- (e) The tree warden shall date-stamp or otherwise record the date of filing of each application for a tree permit.
- (f) The tree warden shall complete the review of each tree permit application relating wholly to significant tree removal no later than 10 business days after the submission of a completed application to the tree warden.

- (g) Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing trees, as they deem necessary. The tree warden shall make a determination that the prescribed protective measures have been adequately provided before any disturbance of the site related to the permitted activity may begin,
- (h) In the case of any project which requires any building permit, a special permit per Appendix A, Section 3 of these Revised Ordinances or a site plan review per Appendix A, Section 19 of these Revised Ordinances, the owner of the lot shall be required to commit to comply with all provisions of the tree permit provisions of the mitigation plan, the tree protection plan and other provisions of this division and regulations promulgated hereunder in the application for requires any building permit, a special permit per Appendix A, Section 3, or a site plan review per the Appendix A, Section 19,
- (i) If applicable, the tree warden shall report whether the tree permit was granted or denied to the planning board or the director of inspectional services within the same 10 business days. If the planning board or the director of inspectional services receives no such report about a tree permit for the property within the above-stated time period, the planning board or director of inspectional services shall accept building permit, special permit or site plan review application without that report,
- (j) In the case of a project where a tree permit allows for the removal of an applicable significant tree, a public tree or a public shade tree, the tree warden shall keep a record of the type and size of tree(s) removed, the reason(s) for the removal, photograph(s) of the tree(s) documenting the reason for removal, the date, the contractors, and the name and address of the property owner,
- (k) Any tree permit issued by the tree warden shall be valid for 90 days from issuance. The tree warden, following an email or written request by the applicant, may extend the length of the permit for any length of time, as they deem necessary and appropriate,
- (l) A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this division or the conditions of the tree permit. The written notice shall be sent by certified mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the non-compliance and apply for a renewal of the tree permit upon compliance, where practicable.

***Section 17-128 Mitigation plan***

- (a) In the case of any project which requires a tree permit and where a tree survey identifies a tree removal, a mitigation plan will be required for all trees removed,
- (b) The mitigation plan shall be designed and certified by a certified arborist,
- (c) The mitigation plan shall be subject to approval by the tree warden,
- (d) If applicable, a mitigation plan shall be submitted concurrently with an application for a tree permit. A mitigation plan shall include:
  - (1) Why any tree is proposed to be removed from a lot,
  - (2) A description of the replacement tree proposed to replace any tree to be removed, including genus, species, height and caliper,

- (3) A schedule for planting the proposed replacement tree,
- (4) If applicable, a mitigation payment,
- (5) If applicable, a tree protection plan,
- (e) Replacement trees will continue to be identified as replacement trees for a period of 10 years after they are planted,
- (f) No replacement tree shall be removed without a tree permit issued by the tree warden. In all cases, the tree warden shall keep a record of the type and size of any replacement tree removed, the reason for the removal, photographs of the replacement tree documenting the reason for removal, the date, the contractor, and the name and address of the property owner,
- (g) A mitigation payment will be required for all replacement trees removed. The mitigation payment shall be assessed on a DBH basis in consideration of the replacement tree removed, in accordance with the city's most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining replacement trees for a period of not less than 5 years. No reduction of the amount of mitigation payment otherwise available under this division shall be allowed in connection with the removal of replacement trees.
- (h) In the case of any project which requires a tree permit and where a tree survey identifies a tree removal, the total DBH of replacement trees, or mitigation payment of equivalent value, as applicable, shall be 2 times or more, the total DBH of the trees to be removed.

***Section 17-129 Tree protection plan***

- (a) A tree protection plan shall be required in the case where any applicable significant tree, public tree or public shade tree or their tree protection zone which will not be removed, extends or overlaps into the work zone of any project, excavation or construction where any applicable significant tree, public tree or public shade tree or their tree protection zone may be damaged or disturbed including through, pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (b) If applicable a tree protection plan shall be submitted concurrently with an application for a tree permit.
- (c) The tree protection plan shall be designed and certified by a certified arborist.
- (d) The tree protection plan shall be subject to approval by the tree warden,
- (e) All applicable significant trees, public trees and public shade trees and their tree protection zone near the excavation or construction of any building, structure, or street, or in the vicinity of utility work shall be sufficiently guarded and protected by those responsible for such work so as to prevent injury to said applicable significant trees, public trees and public shade trees.
- (f) A tree protection plan shall include:
  - (1) An indication of which applicable significant trees, public trees and public shade trees and their tree protection zones may be affected, damaged or otherwise

disturbed including by the compaction of soil in and around a tree's root system by vehicle traffic, parking or other means; and

- (2) Descriptions and drawings of tree protection measures that will be used to prevent damage or disturbance to trees and their root systems that will be retained.

***Section 17-130 Significant trees***

- (a) A tree permit shall be required in the case of any project that requires a site plan review per the City of Everett Code of Ordinances, Appendix A, Section 19, where the tree survey identifies any significant tree that will be removed, damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (b) No tree permit shall be required for the removal or disturbance of a significant tree located wholly on a lot not owned or managed by the city except in the case of any project which requires a site plan review per Appendix A, § 19 Site Plan Review
- (c) A tree permit to remove an applicable significant tree shall be issued when an applicable significant tree will be:
  - (1) Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the mitigation plan,
  - (2) Replaced by a mitigation payment into the tree replacement fund,
  - (3) The tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the tree warden.
  - (4) The removal of the tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the tree warden.

***Section 17-131 Public tree and public shade trees***

- (a) A tree permit shall be required in the case of any project where any public tree or public shade tree will be removed, damaged or disturbed including through pruning, digging or through the compaction of soil due to the passage or parking of vehicles or equipment within the tree protection zone.
- (b) Except as provided by a tree permit, no person other than the tree warden or their designee shall remove, prune, alter or disturb any public tree or public shade tree or the tree protection zone of any public tree or public shade tree, including through the compaction of soil due to the passage or parking of vehicles or equipment.
- (c) When a public tree or public shade tree is to be removed, a public tree hearing shall be scheduled. The public tree hearing will be advertised twice in a local newspaper during the 14 days prior to the public tree hearing, posted on the city website, the city hall bulletin board, and a notice shall be affixed to the tree itself. The resident or owner requesting the removal of a public tree or public shade tree shall pay for costs associated with this notice.

- (d) After the conclusion of a favorable public tree hearing, a tree permit to remove a public tree or public shade tree shall be issued when a public tree or public shade tree will be:
- (1) Replaced or relocated on site or on an abutter's setback with the abutter's express approval in accordance with the provisions of the mitigation plan;
  - (2) Replaced by a mitigation payment into the tree replacement fund;
  - (3) The tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of utility service, is causing drainage or passage problems upon public rights-of-way, or poses a threat to pedestrian or vehicular safety and no other means of mitigation is applicable as certified by the tree warden; or
  - (4) The removal of the tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified by the tree warden.

***Section 17-132 Duty of care***

- (a) Upon issuance of any city permit by the planning board, the director of inspectional services or the tree warden, the permit holder is required to take reasonable precautions to ensure that any applicable significant tree and all public trees and public shade trees are adequately protected and maintained free from harm from work associated with the permit issued.
- (b) Failure to adequately protect and maintain any applicable significant trees and all public trees and public shade trees free from harm may result in a fine, and failure to adequately protect applicable significant trees and all public trees and public shade trees that results in any applicable significant trees and all public trees and public shade trees being removed within 5 years of the failure to protect being noted may result in a fine and a mitigation payment that reflects the value in accordance with 2 times the DBH of the applicable significant trees, public trees or public shade trees removed.

***Section 17-133 Tree donations***

Voluntary contributions may be made to benefit tree planting and maintenance in the city shall be deposited into the tree replacement fund.

***Section 17-134 Enforcement***

- (a) Any person who violates any of the provisions of this division shall be notified by the tree warden of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.
- (b) Upon notice from the tree warden that work on any lot on which an applicable significant tree, public tree, public shade tree or their tree protection zone is located is being performed contrary to any applicable tree protection plan or mitigation plan or any provision of this division, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the lot involved, or to the owner's agent, or to the person doing the work, and shall state the conditions under which work will be permitted to resume.

- (c) Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.
- (d) Whenever there exists reasonable cause to believe that a person is violating any applicable mitigation plan or tree protection plan or any provision of this division, the city may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (e) Failure to apply for and receive a tree permit or failure to replace an applicable significant tree, public tree or, public shade tree or make a payment into the tree replacement fund or to post and maintain a bond in accordance with this division shall constitute a separate violation of this division for which there shall be a fine of not more than \$300.00. Each day such violation continues shall constitute a separate offense.
- (f) As an alternative to any fine stated in this division, citations may be issued pursuant to M.G.L. c. 40, § 21D, assessing a fine of not more than \$300.00 for each day the violation is committed or permitted to continue.
- (g) Each instance of vandalism to an applicable significant tree, public tree or, public shade tree shall constitute a violation of this division and shall be subject to a fine of up to \$300.00.
- (h) Each instance in which an applicable significant tree, public tree or public shade tree is removed without a tree permit shall constitute a violation of this division and shall be subject to a fine in the amount applicable to the city's most recent tree planting and maintenance costs inclusive of purchasing, planting, watering, and maintaining replacement trees for a period of not less than 5 years:
  - (1) The fine for any applicable significant tree, public tree or public shade tree removed without a tree permit shall be assessed at 2 times the total DBH of any applicable significant tree, public tree or public shade tree removed,
  - (2) No reduction of the amount of the fine otherwise available under this division will be allowed in connection with the removal of any applicable significant tree, public tree or public shade tree removed without a tree permit.
- (i) Each failure to replace an applicable significant tree, public tree or public shade tree or to make a payment into the tree replacement fund beyond the timeframe of the tree permit shall constitute a separate violation of this division and shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.
- (j) Failure to comply with a condition contained in a tree permit. Each instance where there is a failure to comply with a condition contained in a tree permit shall be subject to a fine in the amount of \$300.00.
- (k) Failure to comply with a stop work order. Each instance where there is a failure to comply with a stop work order shall constitute a violation of this division, which shall be subject to a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.

- (1) Nothing herein shall be construed to require the city to make a payment into the tree replacement fund for any tree that it removes.

***Secs. 17-135-17-139 Reserved***

The provisions of this ordinance are severable. If any section, provision, or portion of this ordinance is determined to be invalid by a court of competent jurisdiction, then the remaining provisions of this ordinance shall continue to be valid.

This ordinance shall take effect upon passage by the City Council and subsequent approval by His Honor the Mayor.



A true copy attest

A handwritten signature in black ink that reads "Sergio Cornelio". The signature is written in a cursive style.

Sergio Cornelio, City Clerk





C0260-24

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**To:** Mayor and City Council  
**From:** Councilor Robert J. Van Campen  
**Date:** July 22, 2024

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**Agenda Item:**

Everett Docklands Innovation District , an affiliate of the Davis Companies proposed zoning amendments

**Background and Explanation:**

**Attachments:**

July 15, 2024

REC'D 2024 JUL 15 AM 9:49  
EVERETT CITY CLERK'S OFFICE

**Via Hand Delivery**

Everett City Council  
484 Broadway  
Room 38  
Everett, MA 02149

Re: Everett Docklands Innovation District

Dear Council Members:

Everett Landco, LLC, an affiliate of The Davis Companies and owner of the former Exxon terminal, is pleased to present for your consideration the following proposed zoning amendments pursuant to Mass. Gen. Laws chapter 40A, § 5:

1. Proposed text amendment to create new section 36 of the Zoning Ordinance entitled "Master Planned Development";
2. Proposed text amendment to create new section 37 of the Zoning Ordinance entitled the "Everett Docklands Innovation District"; and
3. Proposed map amendment to re-zone certain parcels into the Everett Docklands Innovation District.

We have worked with the City's planning staff in a collaborative effort to develop the proposed zoning amendments. The proposed Master Planned Development provision can be used anywhere in the City to create master planned areas, creating a new process where the Zoning Ordinance does not currently contain any provision for master plans. The proposed Everett Docklands Innovation District amendment will, in conjunction with the Master Planned Development provision, facilitate Everett Landco's transformation of the former oil terminal into an innovative and mixed-use neighborhood for the future. This once in a generation project intends to transform a heavily contaminated site into brand new neighborhood with innovative uses.

We are extremely excited about the opportunities these proposed zoning changes will create for the City of Everett and look forward to discussing the proposed amendments with you at the Council's public hearing on this matter. Thank you in advance for your consideration.

Sincerely,



Michael Cantalupa  
Chief Development Officer

6795670.2

Section 36 **MASTER PLANNED DEVELOPMENT.**

**A. Intent**

1. To utilize dynamic, long-term planning to implement the recommendations of the City for transformational development or redevelopment of land in a comprehensive manner allowing for the conceptual layout of synergistic uses and connections between buildings, social settings, streets and the surrounding environment.
2. To implement comprehensive planning and permitting to design and create destination districts at underdeveloped properties through the authorization of a long-term plan for future development, while allowing for flexibility to meet changing market demands.

**B. Purpose**

1. To allow a Master Plan Special Permit for the coordinated development of land as a Development Site allowing for comprehensive planning and compliance with the Everett Zoning Ordinance in the aggregate across a Development Site rather than by individual lots.
2. To provide for foreseeability in the implementation and build out of individual projects, uses and mitigation for approved Master Plans.
3. Permit some flexibility in the development of individual tracts of land by required and predetermined standards.
4. To allow for subsequent subdivision and conveyance of separate parts of the Master Plan while maintaining overall compliance.
5. To provide certainty to the City and project proponents that once a Master Plan is approved, the approved Master Plan is protected against future zoning changes.

**C. Applicability**

Master Plan Special Permits may be granted pursuant to this Section for property in any zoning district except Dwelling Districts. The zoning for specific districts may alter the procedures and requirements for Master Plan Special Permits set forth in this Section.

**D. Definitions**

1. **Approving Authority.** The Planning Board of the City of Everett.
2. **Development Project.** A Project undertaken pursuant to this Ordinance that requires Master Plan Special Permit and Site Plan Approval.

3. **Development Site.** One or more lots on which a Development Project is proposed.
4. **Gross Square Feet (“GSF”).** The measure of floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space, whether or not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.
5. **Height.** The vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level of the finished grade at all elevations of a building.
6. **FAR.** The result of dividing the gross floor area of the building or buildings on a lot by the total lot area expressed as a decimal number.
7. **Lot.** A parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The Applicant shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement.
8. **Open Space.** An area of land such as a square, green, park, and linear park which is located and designed for access by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation and landscape buffers around structures.
9. **Site Plan.** A plan depicting a proposed Development Project which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Ordinance.
10. **Site Plan Approval.** The Approving Authority’s authorization for a proposed Development Project in accordance with this Ordinance after the conduct of a Site Plan Review.
11. **Special Permit Granting Authority.** The Planning Board of the City of Everett.

**E. Development Review**

1. General: Development approval under this Section includes a two-tiered permitting process consisting of:
  - i. Master Plan Special Permit: Development approval under this Section allows for a Master Planned Development through the issuance of Master Plan Special Permit prior to and as a prerequisite to Site Plan Review; and

- ii. Site Plan Review: Development on individual lots within a Master Planned Development Property subject to an approved Master Plan Special Permit shall be subject to Site Plan Review pursuant to the provisions of this Section.

2. Master Planned Development

- i. Proposed development or redevelopment of one acre of land or more may proceed as a Master Plan Special Permit.
- ii. Notwithstanding the creation of separate lots within a Development Site, which are separated by streets, driveways, Open Space and other buildings or structures, Development Sites approved under a Master Plan Special Permit shall be permitted to aggregate all project components, including, but not limited to, FAR, parking, and Open Space, so that any one lot may not comply with otherwise applicable requirements provided that the overall Development Site complies, provided the Approving Authority finds that the aggregation adequately serves the area covered by the Master Plan Special Permit. Land containing buildings, structures or open spaces which are part of an approved Master Plan Special Permit may be subdivided and conveyed to third parties as separate lots and remain in compliance with the Master Plan Special Permit, provided such division does not result in any violation of this Ordinance or the requirements of the Master Plan Special Permit.
- iii. Previously permitted development may be included in a Development Site and proposed build out of a Master Plan, provided that the date of the first certificate of occupancy for the subject real property is not more than two (2) years prior to the decision date of the Master Plan Special Permit.

**F. Master Plan Standards**

An application for a Master Plan Development Special Permit shall include the following:

1. Quantitative data including:

- i. Parcel size;
- ii. Proposed lot coverage of structures;
- iii. Floor area ratio;
- iv. Total amount of private open space, both private and public;
- v. Total number and type of dwelling units by number of bedrooms;
- vi. Approximate gross residential densities;

- vii. Total amount in square footage of nonresidential construction by type of use;
- viii. Number of parking spaces to be provided by use;
- ix. Total length of streets to be conveyed to the city government;
- x. Total length of streets to be held as private ways within the development;
- xi. Total length by type of other public works to be conveyed to the city government;
- xii. Number and types of public facilities.

2. Graphic materials shall include, but not be limited to, the following:

- i. Map of existing site conditions, including contours, water course, floor plains, unique nature features, existing vegetation, soil types, existing buildings;
- ii. Map of existing land use;
- iii. Existing and proposed lot lines;
- iv. Location and size of gross floor area of all existing and proposed buildings, structures, and other improvements including maximum heights, types of dwelling units, and nonresidential structures by use;
- v. Location and size in square feet of all private open space and areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;
- vi. The existing and proposed circulation system of arterial, collector, and local streets, including off-street parking areas, service areas, loading areas, and all points of access to existing public rights of way;
- vii. Proposed pedestrian circulation system;
- viii. Existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines;
- ix. General landscaped plan indicating the treatment of materials used for private and common open spaces;
- x. Description of adjacent land areas, including land uses, zoning, densities, circulation systems, public facilities, and unique natural features of the landscape;

- xi. Proposed treatment of the perimeter of the development, including materials and techniques used such as screens, fences, and walls.
3. A transportation impact and demand analysis conducted by a qualified transportation engineer. The analysis shall include:
- i. Traffic counts on arterial streets that provide access to the development site showing data on average daily traffic (ADT) and a.m. and p.m. peak periods (conducted for two hours divided into 15-minute segments);
  - ii. Intersection turning movement counts at intersections likely to be affected by the proposed development (conducted for two hours divided into 15-minute segments);
  - iii. An inventory of roadway characteristics showing the width of the principal approach streets and the presence or absence of pedestrian, bicycle and other transit infrastructure and accommodations and the condition of any such infrastructure and accommodations;
  - iv. Estimated trip generation showing the projected inbound and outbound trip demand for the a.m. and p.m. peak periods and a typical one-hour off-peak trip generation. Estimated trip generation shall be delineated by mode, including single-occupancy vehicle (“SOV”), mass-transit and any other applicable mode of transportation. For purposes hereof, trips utilizing ride share services shall be considered SOV trips;
  - v. A comprehensive Transportation Demand Management Plan, which is consistent with the requirements of Section 35 .
  - vi. The estimated distribution of new vehicle trips by approach streets;
  - vii. The effect of additional traffic generated by the development on impacted intersections and roadways;
  - viii. Estimated off-street parking and loading requirements and time of peak accumulation.
4. Submitted master plans must propose and detail sustainability and climate resiliency measures, including but not limited to the following:
- i. Identification of all master plan scale efforts to mitigate project impacts to the environment;
  - ii. A storm water management and infrastructure plan demonstrating incorporation of best management practices relative to the control and treatment of storm water within the Master Plan Development;

- iii. Use of best available environmentally sustainable building and infrastructure design to the maximum extent reasonably practicable.
5. Submitted master plans must include: proposed development phasing for buildings, open space, infrastructure, mitigation projects and other improvements.
6. If the Planning Board determines, after evaluating the size, complexity, timing and scope of the proposed development, that required mitigation for the Master Plan Development can reasonably be determined at the time of issuance of a Master Plan Special Permit, it may approve a mitigation phasing plan. Alternatively, the Master Plan Special Permit may contain conditions regarding mitigation generally required for the Master Plan Development as a whole and reserving phase-specific mitigation to be determined during site plan review for each separate phase of the development.

#### **G. Streets & Open Space**

1. Streets and Open Space provided in any Master Plan shall be shown on submittals for a Master Plan Special Permit.
2. Any streets or Open Space created as part of a Master Plan may be dedicated to the public in perpetuity by a covenant or other deed restriction or by transfer to the City in fee or by easement, subject to the City's acceptance of any such interest, without impacting the FAR or other dimensional criteria of the approved Master Plan Special Permit.
3. Open Space created through easement or discontinuance of an existing street or other abutting right-of-way within the Development Site may be counted toward any required amount of Open Space required by this Section or otherwise by the Ordinance.
4. Roadway design shall be consistent with best practices for urban, multi-modal neighborhoods. Proponents should refer to example guidelines including National Association of City Transportation Officials ("NACTO") design guidance, the City of Boston's Complete Streets Design Guidelines and MassDOT's Bicycle Facilities guide. Arterial roadways shall be designed to accommodate existing transit services and, when practicable, should accommodate any planned or anticipated transit services identified by planning staff during Pre-Submittal Meeting.

#### **H. Master Plan Development Standards**

1. Sustainable Development: At a minimum, each phase of a Master Plan Development must, to the maximum extent reasonably practicable, be developed in accordance with all best practices with respect to sustainable development standards at the time when each phase undergoes Site Plan Review.



## 2. Parking & Mobility

- i. Motor vehicle parking may be provided as underground or aboveground structured parking, surface parking (on and off street) or as shared parking (parking for multiple uses during alternating peak times).
- ii. Development subject to a Master Plan Special Permit may provide parking pursuant to the provisions of the zoning district in the aggregate across the Development site and locate parking serving any property or use within the Master Plan on any property within the Development Site regardless of location or ownership and such parking may be allocated among the properties within a Development Site at the discretion of the project proponent, subject to the special permit granting authority determining that the aggregation adequately serves the area covered by the Master Plan Special Permit.
- iii. Parking facilities shall be designed to be sufficient to adequately serve the Master Plan Development but shall not be designed to encourage use of SOVs. All reasonably practicable measures shall be taken to maximize the non-SOV mode share and to minimize the amount of SOV parking within the Development Site.

### A. Master Plan Special Permit Process

- a. Purpose: A Master Plan Special Permit authorizes a long-term plan for future development and for an applicant to move forward with subsequent Site Plan Review.
- b. Applicability: Approval of a Master Plan Special Permit authorizes the applicant to submit applications for subsequent Site Plan Review required by this Ordinance only and vests the right to develop property in accordance with the Master Plan.
- c. Authority
  - i. The Planning Board is the permit granting authority for a Master Plan Special Permit.
  - ii. Waiver: The Planning Board may within its reasonable discretion waive application or other procedural requirements for a Master Plan Special Permit upon a determination that such waivers are insubstantial and are consistent with intent and purposes of the zoning district.
- d. Procedures
  - i. The following review procedures are required:
    - a) Step 1: Pre-Submittal Meeting with Planning Staff

- b) Step 2: Application Review & Staff Report
  - c) Step 3: Public Notice
  - d) Step 4: Public Hearing
  - e) Step 5: Decision
  - f) Step 6: Appeal Period
  - g) Step 7: Certification of Decision and Recording
- ii. The review procedures required for a Master Plan Special Permit may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits, as indicated elsewhere in this Ordinance.
- e. Review Criteria
    - i. In its discretion to approve or deny a Master Plan Special Permit, the Planning Board shall make findings considering, at least, each of the following:
      - a) The intent of the zoning district.
      - b) Existing plans and standards established by the City.
      - c) The gross floor area allocated to different use categories.
      - d) The proposed alignment and connectivity of the streets in the Development Site and their relationship to streets outside the Development Site.
      - e) Mitigation proposed to alleviate any adverse impacts on municipal and utility infrastructure.
      - f) Proposed development and mitigation phasing.
      - g) Proposed parking to address demand by residents and users of the proposed uses.
      - h) Aggregation of parking, open space or other requirements, if proposed in the Master Plan, is acceptable.
    - ii. Waiver: The Planning Board may approve a Master Plan Special Permit that deviates from the standards of this Section upon a finding that such waiver(s) will not adversely affect public safety and will equally or better serve the purposes of the zoning district in which the Development Site is located.
    - iii. When considering a revision to a previously approved Master Plan Special Permit, the Planning Board shall limit its review to the proposed changes to the previously approved application.
- f. Conditions
    - i. The Planning Board may attach reasonable conditions and limitations that it deems necessary or appropriate.

- ii. Conditions must have a reasonable nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
  - iii. The Planning Board shall require applicants to provide for infrastructure mitigation, transportation mitigation, and community impact mitigation as a condition of any Master Plan Special Permit.
  - iv. The Planning Board shall establish construction permitting requirements for the phasing of development, if applicable, as a condition of any Master Plan Special Permit.
- g. **Permit Duration and Extension**
- i. Master Plan Special Permits remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal, and remain valid so long as progress is being made in accordance with the approved phasing of development. The nature and extent of work necessary to constitute exercise of a Master Plan Special Permit may be specified in the zoning for individual districts or in the Master Plan Special Permit.
  - ii. The Planning Board may reduce the time period that a Master Plan Special Permit remains valid to a shorter time period as a condition attached to the permit for projects of less than two acres or 200,000 square feet of gross floor area.
  - iii. The Planning Board may extend the duration of validity for a Master Plan Special Permit upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the Special Permit.
- h. **Amendment of a Master Plan Special Permit.**
- i. Major Amendments. A proposed amendment to a Master Plan Special Permit shall be presented to the Director of Planning and Development, who shall, within thirty days, determine whether the proposed amendment is a major amendment or a minor amendment. If the amendment is determined to be a major amendment, it shall require approval by the Planning Board after a public hearing held in accordance with the provisions of G.L. c.40A, §§9 and 11. The following matters generally will be considered major amendments:
    - a) Increases in floor area or ground coverage by ten percent (10%) or more across the Development Site;
    - b) Substantial changes to the roadway networks, access or other infrastructure serving the Development Site;

- c) Addition of one or more uses not approved in the Master Plan Special Permit; or
  - d) results in a condition that the Director of Planning and Development determines to be substantially more detrimental to the surrounding neighborhood or the City than the existing condition(s) and approved plans.
- ii. Minor Amendments. Any other modification shall be considered a minor amendment. Minor amendments shall require the approval of the Director of Planning and Development.
  - iii. When considering an Amendment to a Master Plan Special Permit, review shall be limited to the proposed revision to the parcel or phase with proposed changes to the previously approved Master Plan but may include aggregation of the impacts of the proposed amended plan as a whole.
- i. Appeals
    - i. The appeal of any decision of the Planning Board regarding a Master Plan Special Permit or amendment thereto shall be made in accordance with the provisions of G.L. c. 40A §17.

**B. Site Plan Review Process for Approved Master Plan Special Permits**

- a. Purpose: Site Plan Review is the administrative review and approval of a development to confirm compliance with the provisions of this Section and an approved Master Plan Special Permit so that the development is conforming to the provisions of this Ordinance and adequately addresses any potential impacts.
- b. Applicability:
  - i. Site Plan Review is required for any development, including buildings, open space and streets, subject to a Master Plan Special Permit.
  - ii. The provisions of this Section relating to Site Plan Review supersede the requirements for Site Plan Review found otherwise in this Ordinance.
- c. Authority
  - i. The Planning Board is the decision-making authority for Site Plan Review within an approved Master Plan Special Permit.
  - ii. Waiver: The Planning Board may within its reasonable discretion waive application or other procedural requirements for Site Plan Review within an approved Master Plan Special Permit upon a determination that such

waivers are insubstantial and are consistent with intent and purposes of the zoning district.

d. Procedure

i. The following review procedures are required:

- a) Step 1: Pre-Submittal Meeting with Planning Staff
- b) Step 2: Application Review & Staff Report
- c) Step 3: Public Notice
- d) Step 4: Public Hearing
- e) Step 5: Decision
- f) Step 6: Appeal Period
- g) Step 7: Certification of Decision and Recording

ii. The Planning Board shall have 90 days from the time of submittal of a complete Site Plan Review application to render its decision.

e. Review Criteria

i. The Planning Board's review of an application for Site Plan Review shall be limited to the following criteria:

- a) Compliance with the approved Master Plan Special Permit, including:
  - i) The bulk and height of any proposed structure(s) and accessory structure(s), adequacy of open spaces, the building coverage on the site, yard sizes (setbacks) and lot areas;
  - ii) The physical layout of the structure(s), driveways, parking areas, utilities and other infrastructure;
  - iii) The design of the exterior building facade materials and fenestration, including compliance with the Everett Design Regulations promulgated by the Planning Board;
  - iv) The adequacy of the arrangement of parking, drop-off/pick-up and loading areas in relation to the proposed use of the site; and
  - v) The adequacy of the phased mitigation attributable to the project undergoing site plan review based on the mitigation phasing set forth in the Master Plan Special Permit.

- b) Adequate parking shall be provided in compliance with the Master Plan Special Permit either on the proposed lot or otherwise within the Development Site.
  - c) The site drainage shall be designed in accordance with applicable provisions of the Zoning and General Ordinances.
  - d) The design and adequacy of the sewage disposal system(s) to serve the proposed development shall be in accordance with water and sewer department requirements.
  - e) The site plan shall demonstrate conformance with applicable lot area, setback and height regulations pursuant to the Master Plan Special Permit for the zoning district.
- ii. The Planning Board shall approve an application for site plan approval in the form submitted or with reasonable conditions which shall pertain to this Section unless the Planning Board finds that the application is incomplete or otherwise not in conformance with the applicable provisions of the Zoning Ordinance.
  - iii. Waiver: The board may, after review of the completed application and at its discretion, waive certain criteria if it deems it appropriate.
  - iv. When considering a revision to a previously approved Master Plan Special Permit, the Planning Board shall limit its review to the proposed changes to the previously approved application and any material changes in circumstances relating to the infrastructure serving the development area subsequent to issuance of the Master Plan Special Permit.
- f. Conditions
    - i. The review board may attach reasonable conditions and limitations that it deems necessary or appropriate in order to ensure compliance with the Board's findings and the standards for granting of a Site Plan.
    - ii. Conditions must have a reasonable nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
  - g. Permit Duration and Extension
    - i. Approval of a Site Plan will remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal, and remain valid so long as progress is being made in accordance with the approved phasing of development.

- ii. The Planning Board may extend the duration of validity for a Site Plan upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the Site Plan.

**h. Amendment of a Site Plan Approval.**

- i. Proposed revisions to an approved site plan shall be submitted to the Director of Planning and Development.
- ii. Minor Amendments. Revisions deemed minor by the Director of Planning and Development (or designee) may be approved without a public hearing. Revisions shall be considered de minimis upon the Director of Planning and Development findings that:
  - a) The proposed changes would not contravene the legal notice, any finding, or condition of the Planning Board in the original approval;
  - b) The proposed changes would not detrimentally impact matters of substance identified in meeting minutes of original hearings;
  - c) The proposed changes would not alter the character of the development; and
  - d) The proposed changes would be so insignificant as not to be noticeable to persons generally familiar with the original approval.
- iii. Major Amendments. Revisions that are not minor shall be subject to the full notice and hearing provisions and shall be submitted to other City boards, department and agencies for review and comment.
- iv. When considering an amendment to an approved Site Plan Approval, review shall be limited to the proposed revision to the previously approved Site Plan Approval and any material changes in circumstances relating to the infrastructure serving the parcel or phase with proposed changes subsequent to issuance of the Master Plan Special Permit.
- i. Appeals: The appeal of any decision of the Planning Board regarding a Site Plan Approval or amendment thereto shall be made in accordance with the provisions of G.L. c. 40A §17.

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Section 37 EVERETT DOCKLANDS INNOVATION DISTRICT (“EDID”)

**A. Intent**

- a. To establish zoning regulations in accordance with the land use policy objectives in the City and to encourage comprehensive planning across multiple properties.
- b. To permit development in accordance with a Master Plan Special Permit pursuant to Section 36 of the Ordinance.
- c. All land within the EDID shall be deemed a Priority Development Site in accordance with M.G.L. c. 43D and shall accordingly be subject to expedited permitting processes.
- d. To encourage economic development, job creation and to strengthen the tax base in the City of Everett.

**B. Purpose**

- a. To permit comprehensive planning and development across a Development Site that would otherwise not be permitted in other zoning districts in the City; to allow a diversity of land uses in close proximity, within a limited area; to facilitate development responsive to current and future market conditions; to facilitate integrated physical design; and to encourage interaction among activities located within the EDID.
- b. To allow for the aggregation and compliance of certain build out standards across a Development Site rather than by individual lots in a Master Plan.

**C. Applicability**

- a. This Section is applicable to all real property within the EDID as shown on the Official Zoning Map of the City of Everett.
- b. All use, parking and dimensional regulations governing land within the EDID are set forth within this Section. All other requirements of the Zoning Ordinance that do not conflict with the provisions of this section shall apply to property within the EDID, provided that the Planning Board shall have the discretion to waive any such provisions in approving a Master Plan Special Permit if it determines such waiver to be in the public interest. Where provisions of the Zoning Ordinance conflict with the EDID, the provisions of the EDID control. Projects developed pursuant to a Master Plan Special Permit shall be subject to site plan review pursuant to Section 36 of the Zoning Ordinance rather than Section 19 of the Zoning Ordinance.

**D. Master Planned Development Standards**

- a. Design Guidelines and Regulations



1. The Planning Board shall adopt, and may from time to time amend, regulations governing Master Planned Developments, including without limitation regulations governing the design of open space, building design, and roadway layout and design.

b. Inclusionary Housing

1. A Master Plan Special Permit may aggregate required inclusionary housing, thereby allowing certain buildings and development phases to contain fewer inclusionary housing units than would otherwise be required, with construction of the remaining required units deferred to a future phase, if it finds:

- a) Adequate surety or conditions of approval will ensure that all inclusionary housing units will be constructed in a timely manner.
- b) Aggregation of inclusionary housing units will not result in undue concentration of inclusionary housing units in specific phases or building types.
- c) Aggregation of inclusionary housing units is warranted based upon economic or other circumstances.

c. Building Standards

1. The dimensional requirements applicable to the EDID are:

<b>Dimension:</b>	<b>All Non-Master Planned Uses</b>	<b>Allowable Pursuant to Master Plan Special Permit</b>
<b>Minimum Lot Size</b>	5,000 sf	2,000 sf
<b>Required Frontage</b>	40 ft.	20 ft
<b>FAR</b>	1.0*	NA
<b>Minimum Lot Area per Dwelling Unit</b>	2,000 sf**	NA
<b>Minimum Front Yard Setback</b>	10 ft.	0 ft.
<b>Minimum Side Yard Setback</b>	10 ft.	0 ft.
<b>Minimum Rear Yard Setback</b>	20 ft.	0 ft.
<b>Minimum Setback to Master Planned Area Boundary</b>		10 ft.
<b>Minimum Open Space***</b>	5%	5%
<b>Maximum Height</b>	65 ft****	370 ft*****

\*FAR may be increased to 4.0 by special permit.

\*\*For a Development Site two acres or more the minimum square footage per dwelling unit shall be 350 square feet.

\*\*\*Limited Access Open Space may comprise up to 20% of the minimum required Open Space, and the remainder shall be Public Access Open Space.

\*\*\*For a Development Site two acres or more the maximum height is 85 feet.

\*\*\*\*\* 370 ft. is the maximum allowed by the Federal Aviation Administration (“FAA”). The maximum allowed height by the FAA ranges from to 250 ft. to 370 ft. depending on the location within the EDID.

2. Notwithstanding the creation of separate lots within a Development Site, which are separated by streets, driveways, Open Space and other buildings or structures, Development Sites approved under a Master Plan Special Permit shall be permitted to aggregate all project components, including, but not limited to, FAR, parking, drainage structures, retail space requirements, inclusionary housing units and Open Space, so that individual lots need not comply with otherwise applicable requirements provided that the overall Development Site complies, and provided further that the Approving Authority finds that the aggregation adequately serves the area covered by the Master Plan Special Permit. Buildings, structures or open spaces which are part of an approved Master Plan Special Permit may be subdivided and conveyed to third parties as separate lots and remain in compliance with the Master Plan Special Permit, provided such division does not result in any violation of the EDID or the requirements of a Master Plan Special Permit.

d. Use Provisions

1. The EDID has two subdistricts shown as “Subdistrict A” and Subdistrict B” shown on the Zoning Map referenced above in Section 37.3.
2. The standards of the following Table are the permitted uses for the EDID based on the following notations.
  - a) Permitted Uses.
    - i) Master Plan Developments: “Y” indicates that the Planning Board may, in its discretion, permit a use as part of the Master Plan Special Permit. Any use of such land must be specifically identified and approved in such Master Plan Special Permit. Any use not specifically identified in an approved Master Plan Special Permit shall only be permitted upon modification of such Special Permit.
    - ii) Non-Master Plan Developments: “Y” indicates that the use is allowed by right in the district.
  - b) Special Permit Uses.

- i) “SP” indicates that a use allowed only if approved by the Special Permit Granting Authority (“SPGA”), in accordance with the special permit review procedures prescribed in this Ordinance. In the EDID the Planning Board is the SPGA.
  - c) Uses Not Permitted.
    - i) “-“ indicates that a use is not allowed in the district.
  - d) Determination of Use Category.
    - i) For specific uses which are not listed but are clearly within a category listed in the Table of Use Regulations, the Building Commissioner shall determine whether the proposed use is permitted, and if so, into which category it will be classified. The Building Commissioner shall note the applicable use classification in the issuance of a building permit on the EDID.
3. Multiple uses in the same structure within the EDID: There shall be no restriction on combining different categories of use within the same building other than those imposed by the State Building Code or other federal, state or local regulations other than the Ordinance.

USE CATEGORY	Master Planned Uses		Non-Master Planned Uses Less Than 5,000 sq ft of Gross Floor Area		Non-Master Planned Uses Greater Than 5,000 sq ft of Gross Floor Area	
	Sub A	Sub B	Sub A	Sub B	Sub A	Sub B
<b>RESIDENTIAL</b>						
Single Family Dwelling	-	-	-	-	-	-
Two Family Dwelling	-	-	-	-	-	-
Three Family Dwelling	-	-	-	-	-	-
Attached Dwelling Development	-	-	-	-	-	-
Multifamily Residential <sup>1</sup>	Y	Y	Y	Y	SP	SP

<sup>1</sup> Residential units may not comprise more than fifty percent (50%) of the gross floor area of the first story of any multifamily residential building. Common amenities, rental and administrative offices, parking or other uses customarily accessory to multifamily residential use shall not count towards this limit. The first stories of each structure containing residential units shall contain one or more commercial uses comprising an area of at least 30

<b>COMMERCIAL</b>						
Active boating, water taxi, recreational boating	Y	Y	SP	SP	SP	SP
Amusement, including indoor entertainment facilities	Y	Y	Y	Y	SP	SP
Arts Center	Y	Y	Y	Y	Y	Y
Auto showrooms for the sale of automobiles and light trucks, and service facilities which are associated with the sales facilities in the same building	Y	Y	-	-	-	-
Bank	Y	Y	SP	SP	SP	SP
Bank with drive-through window(s)	Y	Y	SP	SP	SP	SP
Bar, Pub, Tavern, Cocktail Lounge	Y	Y	SP	SP	SP	SP
Brewery, including on site service and manufacturing	Y	Y	SP	SP	SP	SP
Business, Finance or other Professional Office Use <sup>2</sup>	Y	Y	Y	Y	SP	SP
Car wash	-	-	-	-	-	-
Convenience Store	Y	Y	Y	Y	SP	SP
Dance club / night club	Y	Y	-	-	-	-
Entertainment facilities including Concert Venue	Y	Y	-	-	-	-
Fast Order Food Establishment including drive throughs	Y	Y	SP	SP	SP	SP
For Profit Educational Schools, including but not limited to Vocational Schools	Y	Y	Y	Y	SP	SP
Freight or Trucking Terminal	-	Y	-	-	-	-
Gaming Establishment	-	-	-	-	-	-
Gasoline Station	Y	Y	-	-	-	-
Gazebo, outdoor performance space	Y	Y	Y	Y	Y	Y
Grocery Store	Y	Y	-	-	-	-

square feet for each residential unit contained within the structure. Such uses may include any of the uses listed as permitted under the "Commercial" category in this use table and may be aggregated across multiple sites to achieve the overall objective of the EDID.

<sup>2</sup> Including, but not limited to offices for high technology and biotech users.

Hotel	Y	Y	Y	Y	SP	SP
Kennel, pet day care establishment	Y	Y	SP	SP	SP	SP
Marina	Y	Y	SP	SP	SP	SP
Medical Services, including Hospitals, Medical Office Buildings, Community Health Centers, and Urgent Care	Y	Y	Y	Y	Y	Y
Membership Club	Y	Y	SP	SP	SP	SP
Motel	-	-	-	-	-	-
Movie theater or cinema	Y	Y	Y	Y	Y	Y
Neighborhood Market	Y	Y	Y	Y	SP	SP
Parking garage (including sub-surface) provided there shall be no door or driveway for vehicles in connection with any public garage within fifty (50) feet of any Residential sub-district boundary line. A parking garage can be a use on a separate lot or an accessory parking garage that is on a separate lot.	Y	Y	SP	SP	SP	SP
Parking, surface lots as a principal use pending the construction of structured parking pursuant to a master plan special permit (To discuss limitations on time and the public)	Y	Y	-	-	-	-
Recreational use such as bowling alley, arcade, billiards/pool hall, roller rink, tennis courts, swimming, theater, etc.	Y	Y	SP	SP	SP	SP
Resort Casino [Discuss with planning staff]	-	-	-	-	-	-
Restaurants, not including Fast Order Food Establishments, and provided that there are no drive-through facilities.	Y	Y	SP	SP	SP	SP
Retail sales and services, including large format Retail	Y	Y	SP	SP	SP	SP
Retail sales & service, w/outside storage	Y	Y	SP	SP	SP	SP
Retail sales & service, w/no outside storage	Y	Y	SP	SP	SP	SP
Service and repair stations for automobile or light truck, but not including gasoline stations	-	-	-	-	-	-
Sports/Fitness Facilities; Health Club and Spa	Y	Y	Y	Y	SP	SP
Taxicab business	-	-	-	-	-	-

Transportation related uses including railroad or street railroad passenger stations including customary accessory services therein; not including switching, storage, or freight yards or sidings.	Y	Y	-	-	-	-
Veterinary or pet grooming establishment	Y	Y	SP	SP	SP	SP
Water Taxi or Water Shuttle	Y	Y	Y	Y	Y	Y
Wholesale	Y	Y	-	-	-	-
<b>INNOVATION</b>						
Advanced/Light Manufacturing	Y	Y	SP	SP	SP	SP
Battery Energy Storage Systems	Y	Y	SP	SP	SP	SP
Converter Station	-	Y	SP	SP	SP	SP
Retail Electric Vehicle Charging Station	Y	Y	Y	Y	SP	SP
Laboratory	Y	Y	SP	SP	SP	SP
Life Science	Y	Y	SP	SP	SP	SP
Life Science (Manufacturing)	Y	Y	SP	SP	SP	SP
Research and Development	Y	Y	SP	SP	SP	SP
<b>INDUSTRIAL</b>						
Assembly Related Uses	-	Y	-	-	SP	SP
Automotive Supply and Repair	-	-	-	-	-	-
Central heating or cooling plant	-	Y	SP	SP	SP	SP
Electric Generation Plants/Substation (C0221-17)	-	Y	-	-	-	-
Heavy manufacturing providing there is no outside storage work and there are no emissions of noxious odors, smoke or noise, and no vibration discernible on the exterior of the building.	-	Y	-	-	-	-
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five horsepower or steam pressure in excess of 15 pounds gauge pressure.	-	Y	-	-	SP	SP

Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	Y	-	-	-	SP
Power, gas or fuel generating facilities.	-	Y	-	-	-	-
Storage and sale of building materials or machinery.	-	Y	-	-	-	SP
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials.	-	Y	-	-	-	SP
Trucking terminals and freestanding product distribution centers.	-	Y	-	-	-	-
Warehouse, Distribution, including E-Commerce, Last Mile, and Same Day Delivery	-	Y	-	-	-	SP
<b>ACCESSORY USES</b>						
Electric car charging station	Y	Y	Y	Y	Y	Y
Home Occupation	Y	Y	-	-	-	-
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	Y	-	-	-	-
Gas stored in quantities below the maximum allowable quantities (MAQs) established for hazardous materials; High-Hazard Group H occupancies as outlined by the Massachusetts State Building Code 780 CMR, the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00, and their referenced standards	Y	Y	SP	SP	SP	SP
Limo service / driving service	-	-	-	Y	-	SP
Meeting and conference space	Y	Y	Y	Y	SP	SP
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.	Y	Y	Y	-	SP	-
Office	Y	Y	Y	Y	Y	Y
Parking (surface lot) accessory to any permitted principal use (10 or fewer spaces)	Y	Y	Y	Y	Y	Y
Parking (surface lot) accessory to any permitted principal use (greater than ten spaces)	Y	Y	-	-	Y	Y
Solar Uses	Y	Y	Y	Y	Y	Y
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	Y	Y	SP	SP	SP	SP

Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	Y	Y	Y	Y
<b>EXEMPT</b>						
Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y
Municipal use such as library, fire station, police station, park, and soldiers' and sailors' memorial building.	Y	Y	Y	Y	Y	Y
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y
Nonprofit educational use.	Y	Y	Y	Y	Y	Y
<b>PROHIBITED USES</b>						
Adult Bookstore	-	-	-	-	-	-
Adult Club	-	-	-	-	-	-
Adult Theater	-	-	-	-	-	-
Adult Video Store	-	-	-	-	-	-
Body Art/Tattoo Studio	-	-	-	-	-	-
Body Piercing Studio	-	-	-	-	-	-
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-
Check-Cashing Establishment	-	-	-	-	-	-
Bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-
Fortune Teller	-	-	-	-	-	-
Gas stored in quantities exceeding the maximum allowable quantities (MAQs) established for hazardous materials where not located within High-Hazard Group H1 occupancies as outlined by the Massachusetts State Building Code 780 CMR, the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00, and their referenced standards; or gas stored within ten (10) feet of any street line or party lot line, except in the case of	-	-	-	-	-	-
Gun Shop	-	-	-	-	-	-



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.	-	-	-	-	-	-
Industrial plants for the generation of power, steam or any other type of energy involving the use of solid fuel.	-	-	-	-	-	-
Open lot or enclosed storage of coal, coke, sand or similar materials.	-	-	-	-	-	-
Open lot storage, handling or hauling of used materials including, but not limited to building materials, metal junk, scrap, paper, rags or motor vehicles.	-	-	-	-	-	-
Parking (surface lot) as a principal use	-	-	-	-	-	-
Pawn Shop	-	-	-	-	-	-
Salvage operations or junk yard	-	-	-	-	-	-
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.	-	-	-	-	-	-

**E. Parking & Mobility**

a. Table of Parking Requirements.

Use	Minimum Required Parking
Bar, Cocktail Lounge, Pub Tavern	1 space for each 6 seats
Churches, Synagogues and other Places of Assembly used as Places of Worship	1 space for each 50 square feet of assembly area
Dwelling, Multifamily	0.75 spaces per unit
Elderly and Handicap Housing	0.4 spaces per unit
Hotel	0.25 Spaces per hotel room
Industrial	1 space per 4,000 SF of GSF
Medical or Dental Office	1 space per 1,000 GSF
Office Use	1 space per 2,000 GSF

<b>Table of Parking Requirements</b>	
<b>Use</b>	<b>Minimum Required Parking</b>
Places of Assembly, including Schools, Auditoriums, Museums, Theaters and Cinemas	1 space for each room plus 1 space for each 6 persons designated for the largest single room occupancy
Restaurants	1 space per 600 SF of dining area
Retail Use	1 space per 600 GSF
Warehouse	1 space per 3,000 GSF
All other uses	To be determined by the Building Commissioner based on a similar use in this table, taking into account data as may be submitted by the Applicant

b. Notes to Table of Parking Requirements.

1. If a change of use from one use to another use is proposed and the new use requires a greater number of parking spaces than the existing use, review by the Building Commissioner is required. Depending on the permitting requirements applicable to the proposed use, review by the Approving Authority may also be required. Required parking can be delivered in any combination of surface, structured parking, freestanding parking garages, (including centralized garages), or parking contained within occupied buildings.
2. When the application of the required parking standards in the Table of Parking Requirements results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.
3. Parking spaces shall be at least nine feet wide and at least eighteen feet long. At the Applicant's option, up to fifteen percent of required parking spaces may be compact parking spaces, which shall be at least eight feet wide and at least eighteen feet long.
4. Any proposed use or building that would not meet the off-street parking requirements of subsection (5)(a) of this section will be subject to the requirements of Section 35 (Transportation Demand Management).

c. Location of Required Parking.

1. Newly constructed surface parking for new Development Projects shall be located exclusively at the side or rear of a new building relative to any Street right-of-way. Parking for new construction is not permitted to be located

within the required front yard setbacks. Remote parking may be authorized by special permit from the Planning Board.

- d. Reduction of Required Parking. Notwithstanding anything to the contrary herein, any minimum required number of parking spaces may be reduced by the Approving Authority by up to fifty percent (50%) as a condition of special permit, provided the Applicant demonstrates that the fewer parking will not cause excessive congestion, endanger public safety, or that fewer parking spaces will provide positive environmental or other benefits, taking into consideration:
1. The availability of a sufficient amount, in the opinion of the Approving Authority, of available public or commercial parking in the vicinity of the use(s) being served, and including parking dedicated to the use(s) being served; and/or
  2. The availability of a Fixed Public Transportation Stop within six hundred (600) linear feet of a pedestrian entrance to the Development Project, taking into account the proposed use(s) and the extent to which residents, employees and/or patrons of the proposed use(s) may be reasonably expected to access the site via public transit; and/or
  3. The availability of shared use of parking spaces serving other uses having peak user demands at different times, may be permitted at the discretion of the Approving Authority, shared use may be made of required parking spaces by intermittent use establishments such as certain commercial uses or residential uses whose peak parking demand is only at night and by other uses whose peak demand is only during the day. Where such shared parking is authorized, the Approving Authority shall indicate in its written decision the basis for such reduction and may within the special permit impose conditions of use or occupancy appropriate to such reduction.

**F. Definitions applicable to EDID**

The Definitions set forth in Section 2 of the Zoning Ordinance are applicable herein except as specifically modified in the EDID.

- a. Advanced/Light Manufacturing: Fabrication, processing or assembly employing primarily electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration. Examples include manufacturing of pharmaceuticals, medical devices, computer components, robotics, additive manufacturing and advanced materials.
- b. Battery Energy Storage Systems: The storage of energy, including, but not limited to, from sources such as wind and solar, or other available sources, and subsequent dispersal.

- c. Converter Station: A specialized type of substation which forms the terminal equipment for a high-voltage direct current transmission line that converts direct current to alternating current or the reverse. In addition to the converter, the station usually contains:
1. three-phase alternating current switch gear;
  2. transformers;
  3. capacitors or synchronous condensers for reactive power;
  4. filters for harmonic suppression; and
  5. direct current switch gear
- d. Electric Vehicle Charging Station: As a principal use, a retail location for the charging of electric vehicles, including accessory retail services.
- e. Floor Area Ratio or "FAR": The result of dividing the gross floor area of the building or buildings on a lot by the total area of the lot, expressed as a decimal number. FAR shall not include stairs, utility shafts, mechanical shafts, elevator shafts, electrical rooms, mechanical rooms, telephone rooms, spaces less than seven feet in height, bathrooms, loading docks, and structured parking.
- f. Fixed Public Transportation Stop – A stop on a system using buses, vans, light rail, rail, or other vehicles to operate on a predetermined route according to a predetermined schedule.
- g. Frontage: The distance measured as a straight line along the Right of Way between the intersection of the Right of Way boundary and the lot lines or along the curve of the Right of Way and the intersection of the Right of Way boundary and the lot lines.
- h. Height: The vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the average finished grade at the perimeter of the building. Excluded from the definition of height:
1. On any building located within the EDID, domes, cupolas and other ornamental features, solar collectors, chimneys, ventilators, skylights, tanks, bulkheads, penthouse for stairs, parapets, elevator penthouse, machinery, antennas, transceivers, and other accessory features which are required above roofs may not exceed twenty (20) feet measure vertically from the highest point of the entire building.
  2. On any building located within the EDID, rooftop screens, fully enclosed mechanical penthouses or fences erected to conceal equipment shall not exceed forty (40) feet in height and shall not be included in the height

calculation of the building, provided that such rooftop screens, fully enclosed mechanical penthouses or fences are set back a minimum of ten (10) feet from the edge of the roof of the building.

- i. Laboratory: A designated area within a building equipped to conduct scientific experiments, tests, investigations, research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of biology, life science, chemistry, electronics, computer science, engineering, geology, medicine and physics, including vivariums. Laboratory shall include Biosafety Level 1 and 2 facilities.
- j. Life Science: Research, development and/or prototype manufacturing utilizing microorganisms, chemical or biological substances, vivariums, or biomechanical equipment in the fields of Life Science, biotechnology, medical, pharmaceutical, environmental science, microbiology, comparative medicine, apparatus, machines and devices for research, development, pharmaceuticals, biomedical technologies, life systems technologies, environmental and biomedical devices manufacturing and advanced and practical application in any such field or areas. Life Science shall include accessory office. Life Science and Biotechnology uses are subject to all federal, state and local regulations and best management practices.
- k. Life Science (Manufacturing): A life science or biotechnology laboratory engaged in the manufacturing of life science technologies and medicines for commercial production to the market, including accessory office.
- l. Lot: A parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other [note: consultants are checking this]. The Applicant shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement.
- m. Open Space (Limited Access): An area of land or outdoor built space such as a square, green, park, linear park, water feature, stormwater garden, landscape buffer, planting zone, balcony, or roof deck which is located and designed for access primarily or exclusively by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation.
- n. Open Space (Public Access): An area of land or outdoor built space such as a square, green, park, linear park, water feature, stormwater garden, landscape buffer, planting zone, balcony, or roof deck which is located and designed for access by the public, including provision for access by pedestrians and/or bicyclists for passive or active recreation.

- o. Research and Development: Research, development, and testing activities that do not involve the mass manufacturing, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration or similar pollution standard. Research and Development shall include, but is not limited to the fields of biology, life science, chemistry, electronics, computer science, engineering, geology, medicine and physics and vivariums.
- p. Solar Uses: Any photovoltaic, solar energy, or solar thermal system that converts solar energy into electricity or useful forms of energy for water heating, space heating, or space cooling, provided the system is mounted on a building or public structure.
- q. Setback: The shortest horizontal distance from the lot line to the nearest building wall or building part except as otherwise noted.

## G. Administration

- a. Master Plan Special Permits
  - 1. Amendments: An increase in floor area ratio, height, ground coverage or trip generation of less than 20%, in and of itself, shall not alone constitute a Major Amendment for purposes of Section 36 of the Ordinance. In addition, changes to uses allocated in Phases approved in a Master Plan Special Permit shall not constitute a Major Amendment, provided that the Director of Planning and Development determines that the overall impacts after the change remain consistent with the impacts identified and mitigated for in the Master Plan Special Permit.
  - 2. Mitigation Phasing: In approving a Master Plan Special Permit pursuant to Section 36 of the Ordinance, if the Planning Board determines, after evaluating the size, complexity, timing and scope of the proposed development, that required mitigation for the Master Plan Development can reasonably be determined at the time of issuance of a Master Plan Special Permit, it may approve a mitigation phasing plan. Alternatively, the Master Plan Special Permit may contain conditions regarding mitigation generally required for the Master Plan Development as a whole and reserving phase-specific mitigation to be determined during site plan review for each separate phase of the development.
  - 3. Vesting of Master Plan Special Permits: Significant investment in site work, environmental remediation work or other work conducted pursuant to (including such work performed prior to approval) and in furtherance of the development described in a Master Plan Special Permit and development authorized by a Master Plan Special Permit within, three (3) years of issuance thereof, shall constitute exercise and vesting of the rights granted under the entire Master Plan Special Permit. Provided the Master Plan Special Permit is thus exercised within three (3) years, the development authorized thereunder



shall not be subject to amendments to this Ordinance enacted after the date of the Planning Board's vote to approve the Master Plan Special Permit, provided that any Major Amendment of the Master Plan Special Permit shall require compliance with the Ordinance as in effect at the time of amendment. If requested, the Building Commissioner shall be authorized to issue a binding written determination establishing that the work performed on-site satisfies the vesting provision of this Section.

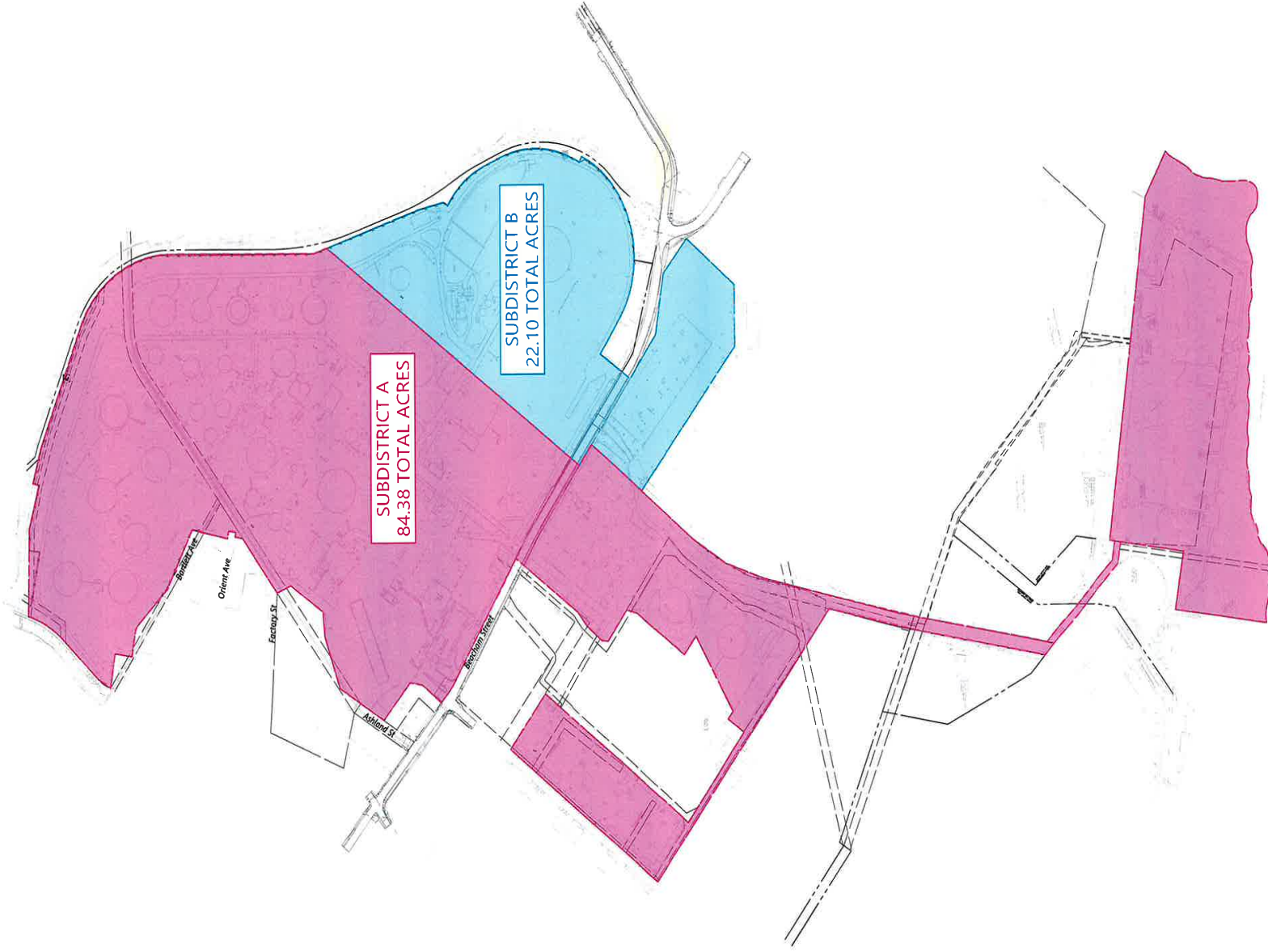
b. Waivers:


1. For non-Master Plan projects, the SPGA may, within its reasonable discretion, waive application or other procedural special permit or site plan requirements upon a determination that such waivers are insubstantial and are consistent with the intent and purpose of the EDID, but may only waive zoning requirements through the special permit process.
2. For Master Plan projects the SPGA may approve waivers as provided in Section 36 of the Ordinance.

6761252.5

**Legend**

- SUBDISTRICT A 
- SUBDISTRICT B 



Everett Docklands  
Innovation District  
32 Marchant Street  
Everett, MA

## Item No. 22.00

July 15, 2014

Not Issued for Construction

**Everett Docklands Innovation District and Subdistrict Map**

Scale: 1" = 100'

1/2" = 100'

1" = 200'

1" = 400'

1" = 800'

1" = 1600'

1" = 3200'

1" = 6400'



**Zoning Map Amendment**

The Official Zoning Map of the City of Everett shall be amended to include the parcels of land shown on the attached map within the Everett Docklands Innovation District.

## Section 36 MASTER PLANNED DEVELOPMENT.

### A. Intent

1. To utilize dynamic, long-term planning to implement the recommendations of the City for transformational development or redevelopment of land in a comprehensive manner allowing for the conceptual layout of synergistic uses and connections between buildings, social settings, streets and the surrounding environment.
2. To implement comprehensive planning and permitting to design and create destination districts at underdeveloped properties through the authorization of a long-term plan for future development, while allowing for flexibility to meet changing market demands.

### B. Purpose

1. To allow a Master Plan Special Permit for the coordinated development of land as a Development Site allowing for comprehensive planning and compliance with the Everett Zoning Ordinance in the aggregate across a Development Site rather than by individual lots.
2. To provide for foreseeability in the implementation and build out of individual projects, uses and mitigation for approved Master Plans.
3. Permit some flexibility in the development of individual tracts of land by required and predetermined standards.
4. To allow for subsequent subdivision and conveyance of separate parts of the Master Plan while maintaining overall compliance.
5. To provide certainty to the City and project proponents that once a Master Plan is approved, the approved Master Plan is protected against future zoning changes.

### C. Applicability

Master Plan Special Permits may be granted pursuant to this Section for property in any zoning district except Dwelling Districts. The zoning for specific districts may alter the procedures and requirements for Master Plan Special Permits set forth in this Section.

### D. Definitions

1. **Approving Authority.** The Planning Board of the City of Everett.
2. **Development Project.** A Project undertaken pursuant to this Ordinance that requires Master Plan Special Permit and Site Plan Approval.
3. **Development Site.** One or more lots on which a Development Project is proposed.

4. **Gross Square Feet (“GSF”).** The measure of floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space, whether or not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.
5. **Height.** The vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level of the finished grade at all elevations of a building.
6. **FAR.** The result of dividing the gross floor area of the building or buildings on a lot by the total lot area expressed as a decimal number.
7. **Lot.** A parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The Applicant shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement. However, it shall remain the authority of the Planning Board to dictate the frontage of any subject residential building on a lot for purposes of calculating the eligible number of residential on-street parking permits.
8. **Open Space.** An area of land such as a square, green, park, and linear park which is located and designed for access by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation and landscape buffers around structures.
9. **Site Plan.** A plan depicting a proposed Development Project which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Ordinance.
10. **Site Plan Approval.** The Approving Authority’s authorization for a proposed Development Project in accordance with this Ordinance after the conduct of a Site Plan Review.
11. **Special Permit Granting Authority.** The Planning Board of the City of Everett.

## **E. Development Review**

1. General: Development approval under this Section includes a two-tiered permitting process consisting of:
  - i. Master Plan Special Permit: Development approval under this Section allows for a Master Planned Development through the issuance of Master Plan Special Permit prior to and as a prerequisite to Site Plan Review; and

- ii. Site Plan Review: Development on individual lots within a Master Planned Development Property subject to an approved Master Plan Special Permit shall be subject to Site Plan Review pursuant to the provisions of this Section.

## 2. Master Planned Development

- i. Proposed development or redevelopment of one-half ( $\frac{1}{2}$ ) acre of land or more may proceed as a Master Plan Special Permit.
- ii. Notwithstanding the creation of separate lots within a Development Site, which are separated by streets, driveways, Open Space and other buildings or structures, Development Sites approved under a Master Plan Special Permit shall be permitted to aggregate all project components, including, but not limited to, FAR, parking, and Open Space, so that any one lot may not comply with otherwise applicable requirements provided that the overall Development Site complies, provided the Approving Authority finds that the aggregation adequately serves the area covered by the Master Plan Special Permit. Land containing buildings, structures or open spaces which are part of an approved Master Plan Special Permit may be subdivided and conveyed to third parties as separate lots and remain in compliance with the Master Plan Special Permit, provided such division does not result in any violation of this Ordinance or the requirements of the Master Plan Special Permit.
- iii. Previously permitted development may be included in a Development Site and proposed build out of a Master Plan, provided that the date of the first certificate of occupancy for the subject real property is not more than two (2) years prior to the decision date of the Master Plan Special Permit.

## F. Master Plan Standards

An application for a Master Plan Development Special Permit shall include the following:

- 1. Quantitative data including:
  - i. Parcel size;
  - ii. Proposed lot coverage of structures;
  - iii. Floor area ratio;
  - iv. Total amount of private open space, both private and public;
  - v. Total number and type of dwelling units by number of bedrooms;
  - vi. Approximate gross residential densities;

- vii. Total amount in square footage of nonresidential construction by type of use;
- viii. Number of parking spaces to be provided by use;
- ix. Total length of streets to be conveyed to the city government;
- x. Total length of streets to be held as private ways within the development;
- xi. Total length by type of other public works to be conveyed to the city government;
- xii. Number and types of public facilities.

2. Graphic materials shall include, but not be limited to, the following:

- i. Map of existing site conditions, including contours, water course, floor plains, unique nature features, existing vegetation, soil types, existing buildings;
- ii. Map of existing land use;
- iii. Existing and proposed lot lines;
- iv. Location and size of gross floor area of all existing and proposed buildings, structures, and other improvements including maximum heights, types of dwelling units, and nonresidential structures by use;
- v. Location and size in square feet of all private open space and areas to be conveyed, dedicated, or reserved as common open spaces, public parks, recreational areas, school sites, and similar public and semi-public uses;
- vi. The existing and proposed circulation system of arterial, collector, and local streets, including off-street parking areas, service areas, loading areas, and all points of access to existing public rights of way;
- vii. Proposed pedestrian circulation system;
- viii. Existing and proposed utility systems including sanitary sewers, storm sewers, and water, electric, gas, and telephone lines;
- ix. General landscaped plan indicating the treatment of materials used for private and common open spaces;
- x. Description of adjacent land areas, including land uses, zoning, densities, circulation systems, public facilities, and unique natural features of the landscape;



- iii. Use of best available environmentally sustainable building and infrastructure design to the maximum extent reasonably practicable.
5. Submitted master plans must include: proposed development phasing for buildings, open space, infrastructure, mitigation projects and other improvements.
6. If the Planning Board determines, after evaluating the size, complexity, timing and scope of the proposed development, that required mitigation for the Master Plan Development can reasonably be determined at the time of issuance of a Master Plan Special Permit, it may approve a mitigation phasing plan. Alternatively, the Master Plan Special Permit may contain conditions regarding mitigation generally required for the Master Plan Development as a whole and reserving phase-specific mitigation to be determined during site plan review for each separate phase of the development.

### **G. Streets & Open Space**

1. Streets and Open Space provided in any Master Plan shall be shown on submittals for a Master Plan Special Permit.
2. Any streets or Open Space created as part of a Master Plan may be dedicated to the public in perpetuity by a covenant or other deed restriction or by transfer to the City in fee or by easement, subject to the City's acceptance of any such interest, without impacting the FAR or other dimensional criteria of the approved Master Plan Special Permit.
3. Open Space created through easement or discontinuance of an existing street or other abutting right-of-way within the Development Site may be counted toward any required amount of Open Space required by this Section or otherwise by the Ordinance.
4. Roadway design shall be consistent with best practices for urban, multi-modal neighborhoods. Proponents should refer to example guidelines including National Association of City Transportation Officials ("NACTO") design guidance, the City of Boston's Complete Streets Design Guidelines and MassDOT's Bicycle Facilities guide. Arterial roadways shall be designed to accommodate existing transit services and, when practicable, should accommodate any planned or anticipated transit services identified by planning staff during Pre-Submittal Meeting.

### **H. Master Plan Development Standards**

1. Sustainable Development: At a minimum, each phase of a Master Plan Development must, to the maximum extent reasonably practicable, be developed in accordance with all best practices with respect to sustainable development standards at the time when each phase undergoes Site Plan Review.
2. Parking & Mobility

- i. Motor vehicle parking may be provided as underground or aboveground structured parking, surface parking (on and off street) or as shared parking (parking for multiple uses during alternating peak times).
- ii. Development subject to a Master Plan Special Permit may provide parking pursuant to the provisions of the zoning district in the aggregate across the Development site and locate parking serving any property or use within the Master Plan on any property within the Development Site regardless of location or ownership and such parking may be allocated among the properties within a Development Site at the discretion of the project proponent, subject to the special permit granting authority determining that the aggregation adequately serves the area covered by the Master Plan Special Permit.
- iii. Parking facilities shall be designed to be sufficient to adequately serve the Master Plan Development but shall not be designed to encourage use of SOVs. All reasonably practicable measures shall be taken to maximize the non-SOV mode share and to minimize the amount of SOV parking within the Development Site.

#### **I. Master Plan Special Permit Process**

1. Purpose: A Master Plan Special Permit authorizes a long-term plan for future development and for an applicant to move forward with subsequent Site Plan Review.
2. Applicability: Approval of a Master Plan Special Permit authorizes the applicant to submit applications for subsequent Site Plan Review required by this Ordinance only and vests the right to develop property in accordance with the Master Plan.
3. Authority
  - i. The Planning Board is the permit granting authority for a Master Plan Special Permit.
  - ii. Waiver: The Planning Board may within its reasonable discretion waive application or other procedural requirements for a Master Plan Special Permit upon a determination that such waivers are insubstantial and are consistent with intent and purposes of the zoning district.
4. Procedures
  - i. The following review procedures are required:
    - a) Step 1: Pre-Submittal Meeting with Planning Staff
    - b) Step 2: Application Review & Staff Report
    - c) Step 3: Public Notice



- d) Step 4: Public Hearing
- e) Step 5: Decision
- f) Step 6: Appeal Period
- g) Step 7: Certification of Decision and Recording
- ii. The review procedures required for a Master Plan Special Permit may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits, as indicated elsewhere in this Ordinance.

#### 5. Review Criteria

- i. In its discretion to approve or deny a Master Plan Special Permit, the Planning Board shall make findings considering, at least, each of the following:
  - a) The intent of the zoning district.
  - b) Existing plans and standards established by the City.
  - c) The gross floor area allocated to different use categories.
  - d) The proposed alignment and connectivity of the streets in the Development Site and their relationship to streets outside the Development Site.
  - e) Mitigation proposed to alleviate any adverse impacts on municipal and utility infrastructure.
  - f) Proposed development and mitigation phasing.
  - g) Proposed parking to address demand by residents and users of the proposed uses.
  - h) Aggregation of parking, open space or other requirements, if proposed in the Master Plan, is acceptable.
- ii. Waiver: The Planning Board may approve a Master Plan Special Permit that deviates from the standards of this Section upon a finding that such waiver(s) will not adversely affect public safety and will equally or better serve the purposes of the zoning district in which the Development Site is located.
- iii. When considering a revision to a previously approved Master Plan Special Permit, the Planning Board shall limit its review to the proposed changes to the previously approved application.

6. Conditions

- i. The Planning Board may attach reasonable conditions and limitations that it deems necessary or appropriate.
- ii. Conditions must have a reasonable nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
- iii. The Planning Board shall require applicants to provide for infrastructure mitigation, transportation mitigation, and community impact mitigation as a condition of any Master Plan Special Permit.
- iv. The Planning Board and the Building Department shall establish construction permitting requirements for the phasing of development, if applicable, as a condition of any Master Plan Special Permit.

7. Permit Duration and Extension

- i. Master Plan Special Permits remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal, and remain valid so long as progress is being made in accordance with the approved phasing of development. The nature and extent of work necessary to constitute exercise of a Master Plan Special Permit may be specified in the zoning for individual districts or in the Master Plan Special Permit.
- ii. The Planning Board may reduce the time period that a Master Plan Special Permit remains valid to a shorter time period as a condition attached to the permit for projects of less than two acres or 200,000 square feet of gross floor area.
- iii. The Planning Board may extend the duration of validity for a Master Plan Special Permit upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the Special Permit.

8. Amendment of a Master Plan Special Permit.

- i. Major Amendments. A proposed amendment to a Master Plan Special Permit shall be presented to the Director of Planning and Development, who shall, within thirty days, determine whether the proposed amendment is a major amendment or a minor amendment. If the amendment is determined to be a major amendment, it shall require approval by the Planning Board after a public hearing held in accordance with the provisions of G.L. c.40A, §§9 and 11. The following matters generally will be considered major amendments:

- a) Increases in floor area or ground coverage by ten percent (10%) or more across the Development Site;
  - b) Substantial changes to the roadway networks, access or other infrastructure serving the Development Site;
  - c) Addition of one or more uses not approved in the Master Plan Special Permit; or
  - d) results in a condition that the Director of Planning and Development determines to be substantially more detrimental to the surrounding neighborhood or the City than the existing condition(s) and approved plans.
- ii. Minor Amendments. Any other modification shall be considered a minor amendment. Minor amendments shall require the approval of the Director of Planning and Development.
  - iii. When considering an Amendment to a Master Plan Special Permit, review shall be limited to the proposed revision to the parcel or phase with proposed changes to the previously approved Master Plan but may include aggregation of the impacts of the proposed amended plan as a whole.

9. Appeals

- i. The appeal of any decision of the Planning Board regarding a Master Plan Special Permit or amendment thereto shall be made in accordance with the provisions of G.L. c. 40A §17.

**J. Site Plan Review Process for Approved Master Plan Special Permits**

- 1. Purpose: Site Plan Review is the administrative review and approval of a development to confirm compliance with the provisions of this Section and an approved Master Plan Special Permit so that the development is conforming to the provisions of this Ordinance and adequately addresses any potential impacts.
- 2. Applicability:
  - i. Site Plan Review is required for any development, including buildings, open space and streets, subject to a Master Plan Special Permit.
  - ii. The provisions of this Section relating to Site Plan Review supersede the requirements for Site Plan Review found otherwise in this Ordinance.
- 3. Authority
  - i. The Planning Board is the decision-making authority for Site Plan Review within an approved Master Plan Special Permit.

- ii. Waiver: The Planning Board may within its reasonable discretion waive application or other procedural requirements for Site Plan Review within an approved Master Plan Special Permit upon a determination that such waivers are insubstantial and are consistent with intent and purposes of the zoning district.

#### 4. Procedure

- i. The following review procedures are required:
  - a) Step 1: Pre-Submittal Meeting with Planning Staff
  - b) Step 2: Application Review & Staff Report
  - c) Step 3: Public Notice
  - d) Step 4: Public Hearing
  - e) Step 5: Decision
  - f) Step 6: Appeal Period
  - g) Step 7: Certification of Decision and Recording
- ii. The Planning Board shall have 90 days from the time of submittal of a complete Site Plan Review application to render its decision.

#### 5. Review Criteria

- i. The Planning Board's review of an application for Site Plan Review shall be limited to the following criteria:
  - a) Compliance with the approved Master Plan Special Permit, including:
    - i) The bulk and height of any proposed structure(s) and accessory structure(s), adequacy of open spaces, the building coverage on the site, yard sizes (setbacks) and lot areas;
    - ii) The physical layout of the structure(s), driveways, parking areas, utilities and other infrastructure;
    - iii) The design of the exterior building facade and materials and fenestration, including compliance with the Everett Design Regulations promulgated by the Planning Board;

- iv) The adequacy of the arrangement of parking, drop-off/pick-up and loading areas in relation to the proposed use of the site; and
- v) The adequacy of the phased mitigation attributable to the project undergoing site plan review based on the mitigation phasing set forth in the Master Plan Special Permit.
- b) Adequate parking shall be provided in compliance with the Master Plan Special Permit either on the proposed lot or otherwise within the Development Site.
- c) The site drainage shall be designed in accordance with applicable provisions of the Zoning and General Ordinances.
- d) The design and adequacy of the sewage disposal system(s) to serve the proposed development shall be in accordance with water and sewer department requirements.
- e) The site plan shall demonstrate conformance with applicable lot area, setback and height regulations pursuant to the Master Plan Special Permit for the zoning district.
- ii. The Planning Board shall approve an application for site plan approval in the form submitted or with reasonable conditions which shall pertain to this Section unless the Planning Board finds that the application is incomplete or otherwise not in conformance with the applicable provisions of the Zoning Ordinance.
- iii. Waiver: The board may, after review of the completed application and at its discretion, waive certain criteria if it deems it appropriate.
- iv. When considering a revision to a previously approved Master Plan Special Permit, the Planning Board shall limit its review to the proposed changes to the previously approved application and any material changes in circumstances relating to the infrastructure serving the development area subsequent to issuance of the Master Plan Special Permit.

#### 6. Conditions

- i. The review board may attach reasonable conditions and limitations that it deems necessary or appropriate in order to ensure compliance with the Board's findings and the standards for granting of a Site Plan.
- ii. Conditions must have a reasonable nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.

7. Permit Duration and Extension

- i. Approval of a Site Plan will remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal, and remain valid so long as progress is being made in accordance with the approved phasing of development.
- ii. The Planning Board may extend the duration of validity for a Site Plan upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the Site Plan.

8. Amendment of a Site Plan Approval.

- i. Proposed revisions to an approved site plan shall be submitted to the Director of Planning and Development.
- ii. Minor Amendments. Revisions deemed minor by the Director of Planning and Development (or designee) may be approved without a public hearing. Revisions shall be considered de minimis upon the Director of Planning and Development findings that:
  - a) The proposed changes would not contravene the legal notice, any finding, or condition of the Planning Board in the original approval;
  - b) The proposed changes would not detrimentally impact matters of substance identified in meeting minutes of original hearings;
  - c) The proposed changes would not alter the character of the development; and
  - d) The proposed changes would be so insignificant as not to be noticeable to persons generally familiar with the original approval.
- iii. Major Amendments. Revisions that are not minor shall be subject to the full notice and hearing provisions and shall be submitted to other City boards, department and agencies for review and comment.
- iv. When considering an amendment to an approved Site Plan Approval, review shall be limited to the proposed revision to the previously approved Site Plan Approval and any material changes in circumstances relating to the infrastructure serving the parcel or phase with proposed changes subsequent to issuance of the Master Plan Special Permit.

9. Appeals: The appeal of any decision of the Planning Board regarding a Site Plan Approval or amendment thereto shall be made in accordance with the provisions of G.L. c. 40A §17.

Section 37 **EVERETT DOCKLANDS INNOVATION DISTRICT (“EDID”)**

**A. Intent**

- a. To establish zoning regulations in accordance with the land use policy objectives in the City and to encourage comprehensive planning across multiple properties.
- b. To permit development in accordance with a Master Plan Special Permit pursuant to Section 36 of the Ordinance.
- c. To encourage economic development, job creation and to strengthen the tax base in the City of Everett.

**B. Purpose**

- a. To permit comprehensive planning and development across a Development Site that would otherwise not be permitted in other zoning districts in the City; to allow a diversity of land uses in close proximity, within a limited area; to facilitate development responsive to current and future market conditions; to facilitate integrated physical design; and to encourage interaction among activities located within the EDID.
- b. To allow for the aggregation and compliance of certain build out standards across a Development Site rather than by individual lots in a Master Plan.

**C. Applicability**

- a. This Section is applicable to all real property within the EDID as shown on the Official Zoning Map of the City of Everett.
- b. All use, parking and dimensional regulations governing land within the EDID are set forth within this Section. All other requirements of the Zoning Ordinance that do not conflict with the provisions of this section shall apply to property within the EDID, provided that the Planning Board shall have the discretion to waive any such provisions in approving a Master Plan Special Permit if it determines such waiver to be in the public interest. Where provisions of the Zoning Ordinance conflict with the EDID, the provisions of the EDID control. Projects developed pursuant to a Master Plan Special Permit shall be subject to site plan review pursuant to Section 36 of the Zoning Ordinance rather than Section 19 of the Zoning Ordinance.

**D. Master Planned Development Standards**

- a. Design Guidelines and Regulations
  - 1. The Planning Board shall adopt, and may from time to time amend, regulations governing Master Planned Developments, including without

limitation regulations governing the design of open space, building design, and roadway layout and design.

b. Inclusionary Housing

1. A Master Plan Special Permit may aggregate required inclusionary housing, thereby allowing certain buildings and development phases to contain fewer inclusionary housing units than would otherwise be required, with construction of the remaining required units deferred to a future phase, if it finds:
  - a) Adequate surety or conditions of approval will ensure that all inclusionary housing units will be constructed in a timely manner.
  - b) Aggregation of inclusionary housing units will not result in undue concentration of inclusionary housing units in specific phases or building types.
  - c) Aggregation of inclusionary housing units is warranted based upon economic or other circumstances.

c. Building Standards

1. The dimensional requirements applicable to the EDID are:

<b>Dimension:</b>	<b>All Non-Master Planned Uses</b>	<b>Allowable Pursuant to Master Plan Special Permit</b>
<b>Minimum Lot Size</b>	5,000 sf	2,000 sf
<b>Required Frontage</b>	40 ft.	20 ft
<b>FAR</b>	1.0*	NA
<b>Minimum Lot Area per Dwelling Unit</b>	2,000 sf**	NA
<b>Minimum Front Yard Setback</b>	10 ft.	0 ft.
<b>Minimum Side Yard Setback</b>	10 ft.	0 ft.
<b>Minimum Rear Yard Setback</b>	20 ft.	0 ft.
<b>Minimum Setback to Master Planned Area Boundary</b>		10 ft.
<b>Minimum Open Space***</b>	15%	15%
<b>Maximum Height</b>	65 ft****	370 ft*****

\*FAR may be increased to 4.0 by special permit.

\*\*For a Development Site two acres or more the minimum square footage of land area per dwelling unit shall be 350 square feet.



\*\*\*Limited Access Open Space may comprise up to 20% of the minimum required Open Space, and the remainder shall be Public Access Open Space.

\*\*\*\*For a Development Site two acres or more the maximum height is 85 feet.

\*\*\*\*\* 370 ft. is the maximum allowed by the Federal Aviation Administration (“FAA”). The maximum allowed height by the FAA ranges from to 250 ft. to 370 ft. depending on the location within the EDID.

2. Notwithstanding the creation of separate lots within a Development Site, which are separated by streets, driveways, Open Space and other buildings or structures, Development Sites approved under a Master Plan Special Permit shall be permitted to aggregate all project components, including, but not limited to, FAR, parking, drainage structures, retail space requirements, inclusionary housing units and Open Space, so that individual lots need not comply with otherwise applicable requirements provided that the overall Development Site complies, and provided further that the Approving Authority finds that the aggregation adequately serves the area covered by the Master Plan Special Permit. Buildings, structures or open spaces which are part of an approved Master Plan Special Permit may be subdivided and conveyed to third parties as separate lots and remain in compliance with the Master Plan Special Permit, provided such division does not result in any violation of the EDID or the requirements of a Master Plan Special Permit.

d. Use Provisions

1. The EDID has two subdistricts shown as “Subdistrict A” and Subdistrict B” shown on the Zoning Map referenced above in Section 37.3.

2. The standards of the following Table are the permitted uses for the EDID based on the following notations.

a) Permitted Uses.

i) Master Plan Developments: “Y” indicates that the Planning Board may, in its discretion, permit a use as part of the Master Plan Special Permit. Any use of such land must be specifically identified and approved in such Master Plan Special Permit. Any use not specifically identified in an approved Master Plan Special Permit shall only be permitted upon modification of such Special Permit.

ii) Non-Master Plan Developments: “Y” indicates that the use is allowed by right in the district.

b) Special Permit Uses.

- i) “SP” indicates that a use allowed only if approved by the Special Permit Granting Authority (“SPGA”), in accordance with the special permit review procedures prescribed in this Ordinance. In the EDID the Planning Board is the SPGA.
  - c) Uses Not Permitted.
    - i) “-“ indicates that a use is not allowed in the district.
  - d) Determination of Use Category.
    - i) For specific uses which are not listed but are clearly within a category listed in the Table of Use Regulations, the Building Commissioner shall determine whether the proposed use is permitted, and if so, into which category it will be classified. The Building Commissioner shall note the applicable use classification in the issuance of a building permit on the EDID.
3. Multiple uses in the same structure within the EDID: There shall be no restriction on combining different categories of use within the same building other than those imposed by the State Building Code or other federal, state or local regulations other than the Ordinance.

USE CATEGORY	Master Planned Uses		Non-Master Planned Uses Less Than 5,000 sq ft of Gross Floor Area		Non-Master Planned Uses Greater Than 5,000 sq ft of Gross Floor Area	
	Sub A	Sub B	Sub A	Sub B	Sub A	Sub B
<b>RESIDENTIAL</b>						
Single Family Dwelling	-	-	-	-	-	-
Two Family Dwelling	-	-	-	-	-	-
Three Family Dwelling	-	-	-	-	-	-
Attached Dwelling Development	-	-	-	-	-	-
Multifamily Residential <sup>1</sup>	Y	Y	Y	Y	SP	SP
<b>COMMERCIAL</b>						
Active boating, water taxi, recreational boating	Y	Y	SP	SP	SP	SP
Residential units may not comprise more than fifty percent of the gross floor area of the building. Common facilities, rental units, including building, common facilities, rent	Y	Y	Y	Y	SP	SP
customarily accessory to multifamily residential use shall not exceed 30 percent of the first story area of the building. Arts Center	Y	Y	Y	Y	Y	Y

square feet for each residential unit contained within the structure. Such uses may include any of the uses listed as permitted under the “Commercial” category in this use table and may be aggregated across multiple sites to achieve the overall objective of the EDID.

Auto showrooms for the sale of automobiles and light trucks, and service facilities which are associated with the sales facilities in the same building	Y	Y	-	-	-	-
Bank	Y	Y	SP	SP	SP	SP
Bar, Pub, Tavern, Cocktail Lounge	Y	Y	SP	SP	SP	SP
Body Art/Tattoo/Piercing Studio	Y	Y	-	-	-	-
Brewery, including on site service and manufacturing	Y	Y	SP	SP	SP	SP
Business, Finance or other Professional Office Use <sup>2</sup>	Y	Y	Y	Y	SP	SP
Car wash	-	-	-	-	-	-
Convenience Store	Y	Y	Y	Y	SP	SP
Dance club / night club	Y	Y	-	-	-	-
Entertainment facilities including Concert Venue	Y	Y	-	-	-	-
Fast Order Food Establishment	Y	Y	SP	SP	SP	SP
For Profit Educational Schools, including but not limited to Vocational Schools	Y	Y	Y	Y	SP	SP
Freight or Trucking Terminal	-	Y	-	-	-	-
Gaming Establishment	-	-	-	-	-	-
Gasoline Station	Y	Y	-	-	-	-
Gazebo, outdoor performance space	Y	Y	Y	Y	Y	Y
Grocery Store	Y	Y	-	-	-	-
Hotel	Y	Y	Y	Y	SP	SP
Kennel, pet day care establishment	Y	Y	SP	SP	SP	SP
Marina	Y	Y	SP	SP	SP	SP
Medical Services, including Hospitals, Medical Office Buildings, Community Health Centers, and Urgent Care Centers	Y	Y	Y	Y	Y	Y
Membership Club	Y	Y	SP	SP	SP	SP
Motel	-	-	-	-	-	-
Movie theater or cinema	Y	Y	Y	Y	Y	Y
Neighborhood Market	Y	Y	Y	Y	SP	SP
Parking garage (including sub-surface) provided there shall be no door or driveway for vehicles in connection with any public garage within fifty (50) feet of any Residential sub-district boundary line. A parking garage can be a use on a separate lot or an accessory parking garage that is on a separate lot.	Y	Y	SP	SP	SP	SP

<sup>2</sup> Including, but not limited to offices for high technology and biotech users.

Parking, surface lots as a principal use pending the construction of structured parking pursuant to a master plan special permit (To discuss limitations on time and the public)	Y	Y	-	-	-	-
Recreational use such as bowling alley, arcade, billiards/pool hall, roller rink, tennis courts, swimming, theater, etc.	Y	Y	SP	SP	SP	SP
Resort Casino	-	-	-	-	-	-
Restaurants, not including Fast Order Food Establishments, and provided that there are no drive-through facilities.	Y	Y	SP	SP	SP	SP
Retail sales and services, including large format Retail	Y	Y	SP	SP	SP	SP
Retail sales & service, w/outside storage	Y	Y	SP	SP	SP	SP
Retail sales & service, w/no outside storage	Y	Y	SP	SP	SP	SP
Service and repair stations for automobile or light truck, but not including gasoline stations	-	-	-	-	-	-
Sports/Fitness Facilities; Health Club and Spa	Y	Y	Y	Y	SP	SP
Taxicab business	-	-	-	-	-	-
Transportation related uses including railroad or street railroad passenger stations including customary accessory services therein; not including switching, storage, or freight yards or sidings.	Y	Y	-	-	-	-
Veterinary or pet grooming establishment	Y	Y	SP	SP	SP	SP
Water Taxi or Water Shuttle	Y	Y	Y	Y	Y	Y
Wholesale	Y	Y	-	-	-	-
<b>INNOVATION</b>						
Advanced/Light Manufacturing	Y	Y	SP	SP	SP	SP
Battery Energy Storage Systems	Y	Y	SP	SP	SP	SP
Converter Station	-	Y	SP	SP	SP	SP
Data Center	Y	Y	SP	SP	SP	SP
Retail Electric Vehicle Charging Station	Y	Y	Y	Y	SP	SP
Laboratory	Y	Y	SP	SP	SP	SP
Life Science	Y	Y	SP	SP	SP	SP
Life Science (Manufacturing)	Y	Y	SP	SP	SP	SP
Research and Development	Y	Y	SP	SP	SP	SP
<b>INDUSTRIAL</b>						
Assembly Related Uses	-	Y	-	-	SP	SP

Automotive Supply and Repair	-	-	-	-	-	-
Central heating or cooling plant	-	Y	SP	SP	SP	SP
Electric Generation Plants/Substation (C0221-17)	Y	Y	-	-	-	-
Heavy manufacturing providing there is no outside storage work and there are no emissions of noxious odors, smoke or noise, and no vibration discernible on the exterior of the building.	-	Y	-	-	-	-
Light manufacturing (excluding scrap metal), producing, processing, fabricating, printing, converting, altering, finishing or assembling, entirely contained within the structure with no associated emissions of noxious odors or noise, on a scale requiring not more than a total of five horsepower or steam pressure in excess of 15 pounds gauge pressure. Examples include, but are not limited to, wood cabinetry, modular housing, metal product fabrication, roofing, assembly of plumbing components, HVAC manufacturing, etc.	-	Y	-	-	SP	SP
Manufacture, assembly, processing, packing or other industrial operations associated with medium to heavy industry which involves machining, welding, shearing, forging, stamping or similar operations.	-	Y	-	-	-	SP
Power, gas or fuel generating facilities.	-	Y	-	-	-	-
Storage and sale of building materials or machinery.	-	Y	-	-	-	SP
Storage of goods in containers where all storage is contained within the building, not including storage of any raw or natural materials.	-	Y	-	-	-	SP
Trucking terminals and freestanding product distribution centers.	-	Y	-	-	-	-
Warehouse, Distribution, including E-Commerce, Last Mile, and Same Day Delivery	-	Y	-	-	-	SP
<b>ACCESSORY USES</b>						
Drive-through facilities for first-floor commercial uses in multi-story buildings	Y	Y	SP	SP	SP	SP
Electric car charging station	Y	Y	Y	Y	Y	Y
Home Occupation	Y	Y	-	-	-	-
Hospitality uses customarily accessory to Hotel, including restaurant, bar, spa, etc.	Y	Y	-	-	-	-
Gas stored in quantities below the maximum allowable quantities (MAQs) established for hazardous materials; High-Hazard Group H occupancies as outlined by the Massachusetts State Building Code 780 CMR, the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00, and their referenced standards	Y	Y	SP	SP	SP	SP
Limo service / driving service	-	-	-	Y	-	SP
Meeting and conference space	Y	Y	Y	Y	SP	SP

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.	Y	Y	Y	-	SP	-
Office	Y	Y	Y	Y	Y	Y
Parking (surface lot) accessory to any permitted principal use (10 or fewer spaces)	Y	Y	Y	Y	Y	Y
Parking (surface lot) accessory to any permitted principal use (greater than ten spaces)	Y	Y	-	-	Y	Y
Solar Uses	Y	Y	Y	Y	Y	Y
Uses accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production.	Y	Y	SP	SP	SP	SP
Wholesale merchandising incidental and subordinate to a primary retail business	Y	Y	Y	Y	Y	Y
<b>EXEMPT</b>						
Agriculture, horticulture or floriculture and the expansion or reconstruction of existing structures thereon for the primary purpose of agriculture, horticulture or floriculture.	Y	Y	Y	Y	Y	Y
Municipal use such as library, fire station, police station, park, and soldiers' and sailors' memorial building.	Y	Y	Y	Y	Y	Y
Public or charitable institutional building not of a correctional nature	Y	Y	Y	Y	Y	Y
Religious use including church, synagogue, mosque, parish house and Sunday School building.	Y	Y	Y	Y	Y	Y
Nonprofit educational use.	Y	Y	Y	Y	Y	Y
<b>PROHIBITED USES</b>						
Adult Bookstore	-	-	-	-	-	-
Adult Club	-	-	-	-	-	-
Adult Theater	-	-	-	-	-	-
Adult Video Store	-	-	-	-	-	-
Body Piercing Studio	-	-	-	-	-	-
Bulk storage or processing plants involving the use of flammable or combustible liquids, gases or solids.	-	-	-	-	-	-
Check-Cashing Establishment	-	-	-	-	-	-
Bulk storage or processing plants involving the use of flammable liquids, gases or solids.	-	-	-	-	-	-
Fortune Teller	-	-	-	-	-	-

Gas stored in quantities exceeding the maximum allowable quantities (MAQs) established for hazardous materials where not located within High-Hazard Group H occupancies as outlined by the Massachusetts State Building Code 780 CMR, the Massachusetts Comprehensive Fire Safety Code 527 CMR 1.00, and their referenced standards; or gas stored within ten (10) feet of any street line or party lot line, except in the case of gas contained or generated in fire extinguishers.	-	-	-	-	-	-
Gun Shop	-	-	-	-	-	-
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.	-	-	-	-	-	-
Industrial plants for the generation of power, steam or any other type of energy involving the use of solid fuel.	-	-	-	-	-	-
Open lot or enclosed storage of coal, coke, sand or similar materials.	-	-	-	-	-	-
Open lot storage, handling or hauling of used materials including, but not limited to building materials, metal junk, scrap, paper, rags or motor vehicles.	-	-	-	-	-	-
Parking (surface lot) as a principal use	-	-	-	-	-	-
Pawn Shop	-	-	-	-	-	-
Salvage operations or junk yard	-	-	-	-	-	-
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.	-	-	-	-	-	-

**E. Parking & Mobility**

- a. Table of Parking Requirements.

<b>Table of Parking Requirements</b>	
<b>Use</b>	<b>Minimum Required Parking</b>
Bar, Cocktail Lounge, Pub Tavern	1 space for each 6 seats
Churches, Synagogues and other Places of Assembly used as Places of Worship	1 space for each 50 square feet of assembly area
Dwelling, Multifamily	0.75 spaces per unit
Elderly and Handicap Housing	0.5 spaces per unit
Hotel	0.25 Spaces per hotel room
Industrial	1 space per 4,000 SF of GSF
Medical or Dental Office	1 space per 1,000 GSF
Office Use	1 space per 2,000 GSF
Places of Assembly, including Schools, Auditoriums, Museums, Theaters and Cinemas	1 space for each room plus 1 space for each 6 persons designated for the largest single room occupancy
Restaurants	1 space per 600 SF of dining area
Retail Use	1 space per 600 GSF
Warehouse	1 space per 3,000 GSF
All other uses	To be determined by the Building Commissioner based on a similar use in this table, taking into account data as may be submitted by the Applicant

b. Notes to Table of Parking Requirements.

1. If a change of use from one use to another use is proposed and the new use requires a greater number of parking spaces than the existing use, review by the Director of Planning & Development is required. Depending on the permitting requirements applicable to the proposed use, review by the Approving Authority may also be required. Required parking can be delivered in any combination of surface, structured parking, freestanding parking garages, (including centralized garages), or parking contained within occupied buildings.
2. When the application of the required parking standards in the Table of Parking Requirements results in a number that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is 0.5 or more. If the result includes a fraction below 0.5, the fraction shall be rounded down to the next whole number.



3. Parking spaces shall be at least nine feet wide and at least eighteen feet long. At the Applicant's option, up to fifteen percent of required parking spaces may be compact parking spaces, which shall be at least eight feet wide and at least eighteen feet long.
  4. Any proposed use or building that would not meet the off-street parking requirements of subsection (E)(a) of this section will be subject to the requirements of Section 35 (Transportation Demand Management).
- c. Location of Required Parking.
1. Newly constructed surface parking for new Development Projects shall be located exclusively at the side or rear of a new building relative to any Street right-of-way. Parking for new construction is not permitted to be located within the required front yard setbacks. Remote parking may be authorized by special permit from the Planning Board.
- d. Reduction of Required Parking. Notwithstanding anything to the contrary herein, any minimum required number of parking spaces may be reduced by the Approving Authority by up to fifty percent (50%) as a condition of special permit, provided the Applicant demonstrates that the fewer parking will not cause excessive congestion, endanger public safety, or that fewer parking spaces will provide positive environmental or other benefits, taking into consideration:
1. The availability of a sufficient amount, in the opinion of the Approving Authority, of available public or commercial parking in the vicinity of the use(s) being served, and including parking dedicated to the use(s) being served; and/or
  2. The availability of a Fixed Public Transportation Stop within six hundred (600) linear feet of a pedestrian entrance to the Development Project, taking into account the proposed use(s) and the extent to which residents, employees and/or patrons of the proposed use(s) may be reasonably expected to access the site via public transit; and/or
  3. The availability of shared use of parking spaces serving other uses having peak user demands at different times, may be permitted at the discretion of the Approving Authority, shared use may be made of required parking spaces by intermittent use establishments such as certain commercial uses or residential uses whose peak parking demand is only at night and by other uses whose peak demand is only during the day. Where such shared parking is authorized, the Approving Authority shall indicate in its written decision the basis for such reduction and may within the special permit impose conditions of use or occupancy appropriate to such reduction.

**F. Definitions applicable to EDID**

The Definitions set forth in Section 2 of the Zoning Ordinance are applicable herein except as specifically modified in the EDID.

- a. Advanced/Light Manufacturing: Fabrication, processing or assembly employing primarily electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration. Examples include manufacturing of pharmaceuticals, medical devices, computer components, robotics, additive manufacturing, 3D printing, and advanced materials.
- b. Battery Energy Storage Systems: The storage of energy, including, but not limited to, from sources such as wind and solar, or other available sources, and subsequent dispersal.
- c. Converter Station: A specialized type of substation which forms the terminal equipment for a high-voltage direct current transmission line that converts direct current to alternating current or the reverse. In addition to the converter, the station usually contains:
  1. three-phase alternating current switch gear;
  2. transformers;
  3. capacitors or synchronous condensers for reactive power;
  4. filters for harmonic suppression; and
  5. direct current switch gear
- d. Data Center: Data Center shall mean a use involving a building/premise in which the primary use is occupied by computers and/or telecommunications and related equipment, including supporting equipment, where information is processed, transferred and/or stored.
- e. Electric Vehicle Charging Station: As a principal use, a retail location for the charging of electric vehicles, including accessory retail services.
- f. Floor Area Ratio or "FAR": The result of dividing the gross floor area of the building or buildings on a lot by the total area of the lot, expressed as a decimal number. FAR shall not include stairs, utility shafts, mechanical shafts, elevator shafts, electrical rooms, mechanical rooms, telephone rooms, spaces less than seven feet in height, bathrooms, loading docks, and structured parking.
- g. Fixed Public Transportation Stop – A stop on a system using buses, vans, light rail, rail, or other vehicles to operate on a predetermined route according to a predetermined schedule.

- h. Frontage: The distance measured as a straight line along the Right of Way between the intersection of the Right of Way boundary and the lot lines or along the curve of the Right of Way and the intersection of the Right of Way boundary and the lot lines.
- i. Height: The vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the average finished grade at the perimeter of the building. Excluded from the definition of height:
  1. On any building located within the EDID, domes, cupolas and other ornamental features, solar collectors, chimneys, ventilators, skylights, tanks, bulkheads, penthouse for stairs, parapets, elevator penthouse, machinery, antennas, transceivers, and other accessory features which are required above roofs may not exceed twenty (20) feet measure vertically from the highest point of the entire building.
  2. On any building located within the EDID, rooftop screens, fully enclosed mechanical penthouses or fences erected to conceal equipment shall not exceed forty (40) feet in height and shall not be included in the height calculation of the building, provided that such rooftop screens, fully enclosed mechanical penthouses or fences are set back a minimum of ten (10) feet from the edge of the roof of the building.
- j. Laboratory: A designated area within a building equipped to conduct scientific experiments, tests, investigations, research, prototype manufacture, experimental and testing activities including, but not limited to, the fields of biology, life science, chemistry, electronics, computer science, engineering, geology, medicine and physics, including vivariums. Laboratory shall include Biosafety Level 1 and 2 facilities.
- k. Life Science: Research, development and/or prototype manufacturing utilizing microorganisms, chemical or biological substances, vivariums, or biomechanical equipment in the fields of Life Science, biotechnology, medical, pharmaceutical, environmental science, microbiology, comparative medicine, apparatus, machines and devices for research, development, pharmaceuticals, biomedical technologies, life systems technologies, environmental and biomedical devices manufacturing and advanced and practical application in any such field or areas. Life Science shall include accessory office. Life Science and Biotechnology uses are subject to all federal, state and local regulations and best management practices.
  - l. Life Science (Manufacturing): A life science or biotechnology laboratory engaged in the manufacturing of life science technologies and medicines for commercial production to the market, including accessory office.
- m. Lot: A parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any

lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other [note: consultants are checking this]. The Applicant shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement.

- n. Open Space (Limited Access): An area of land or outdoor built space such as a square, green, park, linear park, water feature, stormwater garden, landscape buffer, planting zone, bike lane, sidewalk, shared-use path, balcony, or roof deck which is located and designed for access primarily or exclusively by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation. For purposes of calculating the percentage of open space in a given application, the denominator in the ratio shall include the total site area, excluding: public roads or private roads with easements (including drive lanes and parking areas) and curbs.
- o. Open Space (Public Access): An area of land or outdoor built space such as a square, green, park, linear park, water feature, stormwater garden, landscape buffer, planting zone, bike lane, sidewalk, shared-use path, balcony, or roof deck which is located and designed for access by the public, including provision for access by pedestrians and/or bicyclists for passive or active recreation. For purposes of calculating the percentage of open space in a given application, the denominator in the ratio shall include the total site area, excluding: public roads or private roads with easements (including drive lanes and parking areas) and curbs.
- p. Research and Development: Research, development, and testing activities that do not involve the mass manufacturing, fabrication, processing, or sale of products. Such uses shall not violate any odor, dust, smoke, gas, noise, radiation, vibration or similar pollution standard. Research and Development shall include, but is not limited to the fields of biology, life science, chemistry, electronics, computer science, engineering, geology, medicine and physics and vivariums.
- q. Solar Uses: Any photovoltaic, solar energy, or solar thermal system that converts solar energy into electricity or useful forms of energy for water heating, space heating, or space cooling, provided the system is mounted on a building or public structure.
- r. Setback: The shortest horizontal distance from the lot line to the nearest building wall or building part except as otherwise noted.
- s. Substation: A substation is a part of an electrical generation, transmission, and distribution system. Substations transform voltage from high to low, or the reverse, or perform any of several other important functions. Between the generating station and consumer, electric power may flow through several substations at different voltage levels.

**G. Administration****a. Master Plan Special Permits**

1. Amendments: An increase in floor area ratio, height, ground coverage or trip generation of less than 15%, in and of itself, shall not alone constitute a Major Amendment for purposes of Section 36 of the Ordinance. In addition, changes to uses allocated in Phases approved in a Master Plan Special Permit shall not constitute a Major Amendment, provided that the Director of Planning and Development determines that the overall impacts after the change remain consistent with the impacts identified and mitigated for in the Master Plan Special Permit.
2. Mitigation Phasing: In approving a Master Plan Special Permit pursuant to Section 36 of the Ordinance, if the Planning Board determines, after evaluating the size, complexity, timing and scope of the proposed development, that required mitigation for the Master Plan Development can reasonably be determined at the time of issuance of a Master Plan Special Permit, it may approve a mitigation phasing plan. Alternatively, the Master Plan Special Permit may contain conditions regarding mitigation generally required for the Master Plan Development as a whole and reserving phase-specific mitigation to be determined during site plan review for each separate phase of the development.
3. Vesting of Master Plan Special Permits: Significant investment in site work, environmental remediation work or other work conducted pursuant to (including such work performed prior to approval) and in furtherance of the development described in a Master Plan Special Permit and development authorized by a Master Plan Special Permit within, three (3) years of issuance thereof, shall constitute exercise and vesting of the rights granted under the entire Master Plan Special Permit. Provided the Master Plan Special Permit is thus exercised within three (3) years, the development authorized thereunder shall not be subject to amendments to this Ordinance enacted after the date of the Planning Board's vote to approve the Master Plan Special Permit, provided that any Major Amendment of the Master Plan Special Permit shall require compliance with the Ordinance as in effect at the time of amendment. If requested, the Building Commissioner shall be authorized to issue a binding written determination establishing that the work performed on-site satisfies the vesting provision of this Section.

**b. Waivers:**

1. For non-Master Plan projects, the SPGA may, within its reasonable discretion, waive application or other procedural special permit or site plan requirements upon a determination that such waivers are insubstantial and are consistent

with the intent and purpose of the EDID, but may only waive zoning requirements through the special permit process.

2. For Master Plan projects the SPGA may approve waivers as provided in Section 36 of the Ordinance.





C0302-24

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**To:** Mayor and City Council  
**From:** Councilor Robert J. Van Campen  
**Date:** September 9, 2024

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**Agenda Item:**

An order requesting the confirmation on the appointment of Mirlande Felissaint as Director of Elections/Registrar for a for a term ending January 5, 2026

**Background and Explanation:**

**Attachments:**





**CARLO DeMARIA**  
**MAYOR**

***CITY OF EVERETT - OFFICE OF THE MAYOR***  
*484 Broadway Everett, Massachusetts 02149*

☎ 617-394-2270

✉ [mayorcarlo.demaria@ci.everett.ma.us](mailto:mayorcarlo.demaria@ci.everett.ma.us)

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September 4, 2024

Honorable City Council  
484 Broadway  
Everett, MA 02149

Dear Honorable Members:

In accordance with Section 3-3 of the City of Everett Home Rule Charter, I hereby appoint and submit for your confirmation, Mirlande Felissaint as Director of Elections/Registrar for a for a term ending January 5, 2026.

I recommend your favorable passage of this order.

Respectfully submitted,

Carlo DeMaria  
Mayor



September 4, 2024  
**City of Everett, Massachusetts**  
**CITY COUNCIL**

Offered By: \_\_\_\_\_  
Councilor Robert VanCampen, as President

**Bill Number:**

**Bill Type: Order**

BY THE CITY COUNCIL OF THE CITY OF EVERETT, as Follows:

I hereby appoint and submit for your confirmation, Mirlande Felissaint as Director of Elections/Registrar for a term ending January 5, 2026.

