

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending Streets and Sidewalks, Land Division and Zoning Regulations to be Consistent with New Development Regulations for Off-Street Parking and Loading, Amending Ordinances in Accordance with Sections 1-28 of this Ordinance**

**WHEREAS**, the Planning Commission recommended repeal and replacement of existing standards and development regulations in the Zoning Code for Parking, Loading and Access (Planning Commission Resolution No. 18-008);

**WHEREAS**, the amendments to the Zoning Code will require additional amendments to Title 13, Streets and Sidewalks, Title 18, Land Division and Title 19, Zoning, of the EMC for consistency;

**WHEREAS**, the Planning Commission conducted public briefings on March 7, 2018 and May 15, 2018, to discuss and consider potential amendments to titles of the EMC pertaining to consistency and coordination with new off-street parking standards and development regulations;

**WHEREAS**, public notice and opportunity to comment on these amendments was provided through electronic and mail notice to interested parties, a legal notice of public hearing published in the Everett Herald on May 16, 2018, notice to the Washington State Department of Commerce on May 14, 2018, and a public hearing held by the Planning Commission on June 5, 2018;

**WHEREAS**, EMC 19.41.170(C) provides for amendment of the Zoning Code (Title 19) when it finds that: 1) the proposed amendment is consistent with the applicable provisions of the Everett general plan; and 2) the proposed amendment bears a substantial relation to public health, safety or welfare; and 3) the proposed amendment promotes the best long term interests of the Everett community;

**WHEREAS**, the proposed amendments will ensure the titles of the EMC will be consistent with the development regulations adopted to implement new off-street parking standards requirements;

**WHEREAS**, the proposed amendments to the titles of the EMC are consistent with the city's Comprehensive Plan;

**WHEREAS**, the proposed amendments to the titles of the EMC are consistent with the state's Growth Management Act;

**WHEREAS**, the proposed off-street parking standards and development regulations bear a substantial relation to public health, safety or welfare; and

**WHEREAS**, the proposed amendments promote the best long-term interests of the Everett community.

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

*[Proposed changes are shown with a vertical bar in the left hand margin; words struck through are proposed for deletion; words that are underlined are proposed additions.]*

**Section 1.** Section 2 of Ordinance No. 3498, Chapter 13.16, Driveways in Title 13 (Streets and Sidewalks, EMC 13.16.020) is hereby amended as follows:

**13.16.020 Improvement permit required.**

**A.** No person, firm or corporation shall remove, alter or construct any curb, sidewalk, driveway approach, gutter, pavement or other improvement in any public street, alley or other property owned by or dedicated to or used by the city and over which it has jurisdiction to regulate the matters covered hereby, without first obtaining a permit from the city engineer, and no permit shall be granted until the applicant shall file with the city engineer for his approval a copy of a drawing showing the location and size of all such proposed improvements to serve the property affected.

**B.** It shall be a violation of this title to drive over an improvement located within the public right-of-way, such as a curb, sidewalk or landscape area, without first obtaining a permit for a driveway approach from the city engineer and constructing the improvement(s) authorized by the permit.

**Section 2.** Section 5 of Ordinance No. 3498, Chapter 13.16, Driveways in Title 13 (Streets and Sidewalks, EMC 13.16.050) is hereby amended as follows:

**13.16.050 Prohibited locations.**

Driveways shall be located as follows:

**A.** No driveway approach shall be permitted to encompass any municipal facility under the permit provided for herein.

Applicant may be authorized to relocate any municipal facility including any within the limits of a curb return which may be encroached upon as allowed under subsections C and D of this section;

**B.** At street intersections, no portion of any driveway approach, including end slopes, shall be permitted between the limits of the intersection of the prolonged property lines and the curb, except as may be allowed under subsections C and D of this section;

**C.** At street intersections no portion of any driveway approach, including end slopes, shall be permitted between the limits of the intersection of the prolonged back edges of the sidewalks and the curb, except as may be allowed under subsection D of this section;

**D.** On all curb returns at street intersections, where the radius is twenty-five feet or more, driveway approaches, including end slopes, may encroach upon each end of the return for a distance equal to twelve and one-half percent of the total length of the arc of the curb return, thus leaving at least seventy-five percent of the length of the arc of the curb return face free from driveway encroachment;

**E.** Notwithstanding the provisions of subsections B and C of this section, at street intersections no portion of any driveway approach including end slopes shall be permitted between the points of curvature of the curb return where the radius of the curb is twenty feet or less;

**F.** ~~No permit for a driveway approach shall be granted where reasonable egress and ingress, for the purpose for which the property is used, can be secured from the alley; Access from the public street where the lot abuts an alley will only be allowed as an exception to using the alley for access. Pursuant~~

to EMC Chapter 19.34, the city engineer, in consultation with the planning director, may allow access from the street in-lieu, or in addition to, using the alley.

G. No driveway approach for commercial purposes shall be allowed unless sufficient space is provided for vehicles, twenty feet in length to turn around before returning to the street, or unless an exit to an alley or secondary street is provided, ~~or unless approved by the city council.~~

**Section 3.** Section 11 of Ordinance No. 3498, Chapter 13.16, Driveways in Title 13 (Streets and Sidewalks, EMC 13.16.110) is hereby amended as follows:

**13.16.110 Unusual conditions.**

The city ~~council~~ engineer is authorized to grant, in writing, ~~variances-administrative modifications~~ from the regulations and requirements of this chapter, ~~providing they first determine that the following conditions are presented the following criteria are met:~~

- A. The ~~variance-requested~~ modification arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation upon the applicant's property;
- B. That the ~~variance-requested~~ modification is not against the public interest, particularly safety, convenience and general welfare;
- C. That the granting of the permit for the ~~variance-~~ modification will not adversely affect the rights of the adjacent property owners or tenants;
- D. That the terms of this chapter will ~~create an~~ work unnecessary hardship on the applicant, property owner or tenant. (Prior code § 13.36.110)

**Section 4.** Section 7(F)(7) of Ordinance No. 2328-98, as amended (Land Division, Land Division Evaluation Criteria and Development Standards, EMC 18.28.120), is hereby amended as follows:

**18.28.120 Easement access exception.**

A. Short Subdivisions. The city may, at the request of the applicant in short subdivisions only and as permitted by the Everett zoning code, allow access to lots by easement when in the opinion of the city engineer:

- 1. The improvement of a public street is not necessary to facilitate adequate supply of sewer and utilities;
- 2. The improvement of a public street is not necessary to provide on-street parking;
- 3. The improvement of a public street is not necessary to provide access to potential additional lots or future developable area; and
- 4. The improvement of a public street is not necessary to protect the public health, safety and welfare of the residents and general public.

B. Subdivisions. When a site contains natural constraints, such as topography or environmentally sensitive areas, and the provision of an easement would reduce impacts to those areas, the director and city engineer may allow the use of limited easement access. Easement access within subdivisions shall be limited to one easement serving a maximum of two single-family units.

C. Easement Access Drive Standards. All easement access drives shall be built to the following standards for easement widths, paving widths, off-street parking and utilities. All easement access drives shall be constructed to city standards with an A-1 curb/gutter on both sides and shall meet the

requirement for thickness and sub-grade as required for a Local Access Street “A”. The city engineer may require a turnaround to city standards on any easement access drive. All required improvements must be installed and completed prior to final short subdivision approval.

Easement Access Drive Standards For	Potential Number of Dwelling Units Served	Minimum Easement Width	Surface and Pavement	Off-Street Parking Spaces
Single-Family Dwelling Unit	1—2 dwelling units	24 feet (14 feet for access drive, plus 5 feet landscape easement on both sides)	14 feet paving per city standards for a driveway	4 per single-family dwelling unit
Single-Family Dwelling Unit with Required Fire Lane	1—2 dwelling units	30 feet (20 feet for access drive, plus 5 feet landscape easement on both sides)	20 feet paving per city standards for a fire lane	4 per single-family dwelling
Single-Family Dwelling Units	3—6 dwelling units	30 feet (20 feet for access drive, plus 5 feet landscape easement on both sides)	18 feet of paving per city standards for thickness and subgrade Local Access Street “A” with A-1 curb/gutter on both sides <sup>1</sup>	4 per single-family dwelling unit
Duplexes and Multiple-Family Dwelling Units*	Public street required	N/A	N/A	N/A

\* See Section 18.28.130(O).

<sup>1</sup> The city engineer shall have the authority to determine where to terminate the curb for easement access rear lots in short subdivisions of three to six lots.

**Section 5.** Section 7(F)(8) of Ordinance No. 2328-98, as amended (Land Division, Land Division Evaluation Criteria and Development Standards, EMC 18.28.130), is hereby amended as follows:

**18.28.130 Development standards for easement access lots.**

- A. Calculation of Number of Units. For determining the number of units served by an easement access drive, the city shall count the maximum number of potential units for the total short subdivision.
- B. Maximum Number of Units Permitted in Easement Access Short Subdivision. The maximum number of units permitted in an easement access short subdivision (including the use of other approved driveways and/or other easement access drives as permitted by this title) shall not exceed six.
- C. All units that abut or are adjacent to an easement access drive are required to take access off the easement, unless it is determined by the city engineer that:
  - 1. An existing dwelling and its garage are in a location where access from the easement is impractical or impossible due to the topography or environmental constraints of the site; or
  - 2. A potential safety issue exists related to access from the easement as determined by the city engineer.
- D. All easement access drive short subdivisions are limited to one easement access drive per street frontage, unless otherwise approved by the director and city engineer. More than one easement access drive per frontage shall be approved only if the following criteria are met:

1. A public street is not possible;
  2. A single easement access cannot serve the proposed short subdivision due to the configuration of the property to be subdivided; and
  3. This option is not a substitute for comprehensive subdividing which includes the installation of a public street and utilities.
- E. For any easement access or easement with public utilities, the city engineer shall determine the required easement width based on city standards.
- F. A maximum of two lots can be served by private utility side services within an easement, unless the city engineer determines that a public utility main is necessary for adequate area service. Three or more lots served within an easement will require public utilities.

~~G. For all easement access lots, no new driveways or parking areas will be allowed within the front yard setback, with the exception of the easement access drive. For easement access rear lots, a vehicle turnaround may be allowed within the front setback.~~

~~H. Access off an easement drive is limited to one twenty-foot driveway and curb cut per lot. The driveway shall not exceed twenty feet in width for a distance of twenty feet from the easement access drive curb. This requirement shall be noted as a condition of approval on the face of the final short plat map.~~

~~I. Surface Parking. On any lot where surface parking is proposed, the parking area shall be at a minimum five feet from any property line and shall not exceed twenty feet in width for a distance of twenty feet from the easement access drive curb. All parking areas shall be landscaped, screened and improved in accordance with the design and development provisions of this chapter. For any easement access drive that is not required to have Type A-1 curbing, the city shall require a landscaped berm, swale or other barrier to prevent parking outside of the approved driveway. Refer to Section [18.28.080\(B\)](#).~~

~~GJ. All easement access and panhandle lots shall provide a vehicle turnaround as approved by the city traffic engineer. For easement access rear lots, the turnaround shall be located on the lot that it is serving, and may be located within the front setback. The turnaround area shall be not included in meeting the parking requirements of this title.~~ Parking within the turnaround shall be prohibited.

~~HK. Site Development Plan. On all lots within an easement access short subdivision, the applicant is required to submit a site development plan meeting the requirements of the procedures for processing permit applications as defined in Title [15](#) of this code, Local Project Review Procedures.~~

~~IL. Lot Width, Depth, Dwelling Unit Orientation, Building Sites for Easement Access Lots. The planning director shall have the authority to modify the following standards under Section [18.28.050\(B\)](#), where a dedication for right-of-way widening is required by the city.~~

1. Measurement of Lot Width and Depth. Except for easement access interior lots, lot width and depth shall be measured using the same orientation as the originating parcel. All lots shall meet the minimum lot width and depth dimensional standards of the zoning code.

2. Easement access interior lots may only be created when the originating parcel, or parent lot, contains a minimum of seventy feet of width. When the parent lot is less than seventy feet wide, no interior lots may be created within an easement access short subdivision.

3. Dwelling Unit Orientation. All lots that have full frontage on an improved public right-of-way and easement access rear lots shall have the dwelling unit oriented to the public street. The dwelling unit shall have a defined front entrance, windows and porch facing the street. Easement access interior lots shall have the dwelling unit oriented to the easement access drive.

**JM.** Orientation of Lots and Required Setbacks for Easement Access Lots. All required setbacks shall be shown on the final short plat map and shall comply with the following standards and the approved site development plan. For irregular or unusually shaped lots, the director shall determine which lots are front, interior, or rear lots. Easement access lots will be required to meet the following setbacks:

1. Easement Access Front Lots. The unit and lot shall be oriented to the public street.

a. Front setback: twenty feet;

b. Rear setback: twenty feet;

c. Side setbacks: five feet from easement access drive curb face;

d. Side setback exterior for attached garage: ten feet if used as access to private open space, five feet otherwise;

e. Rear setback for detached garage ~~or parking area~~: five feet with landscape screening per Section [18.28.080\(E\)\(1\)](#);

f. Setback for garage: twenty feet from face of curb.

2. Easement Access Interior Lots. All dwelling units shall be oriented to the easement access drive. Building setbacks shall depend on the depth of the lot and shall meet the following standards:

a. Front setback (orientation toward easement): ten feet for house and twenty feet for garage measured from face of curb. Porches, decks and other appurtenances are not permitted in the front setback area;

b. Rear setback (opposite from easement) on lots eighty-five feet deep or greater: twenty feet;

c. Side setback on lots eighty-five feet deep or greater: five feet;

d. Rear setback on lots less than eighty-five feet deep: five feet and ten feet if used as access to private open space;

e. Side setback for lots less than eighty-five feet deep (adjacent to dwelling): thirty-five feet. The thirty-five-foot side setback area may be reduced equal to the area that the rear setback is increased. To allow this option, the rear setback may not be less than ten feet and the side yard may not be less than twenty feet. The side setback and rear setback must add up to at least forty feet.

3. Easement Access Rear Lots. Except as provided herein, the dwelling unit and lot must be oriented toward the public street.

a. Front Setback (Orientation Toward Public Street). The house shall be twenty feet and the garage shall be a minimum of thirty-five feet. A ten-foot-wide T-type turnaround shall be provided a minimum of five feet from the property line, with landscape screen per Section [18.28.080\(E\)\(1\)](#).

b. Rear setback: twenty feet.

c. Side setbacks: five feet.

Exception: In two-lot short subdivisions, the dwelling unit and lot may be oriented to the easement. The width, depth, and orientation of the dwelling unit on the rear lot may be changed to allow the dwelling

to face the side lot line of the parent lot. In this case, the lot shall have a minimum of eighty-five feet of width and seventy feet of lot depth as measured in the same orientation as the parent lot. Setbacks shall be as follows:

- i. Front Setback. The house shall be twenty feet and the garage shall be a minimum of thirty-five feet. A ten-foot-wide T-type turnaround shall be provided a minimum of five feet from the property line, with landscape screen per Section [18.28.080\(E\)\(1\)](#), except that all required plantings shall be on the inside of the fence;
- ii. Rear setback: twenty feet;
- iii. Side setback (rear exterior lot line of parent lot): twenty feet;
- iv. Side setback: five feet, with landscape screen meeting the requirements of Section [18.28.080\(E\)\(1\)](#).

~~KN.~~ Calculation of Lot Area for Easement Access Lots. The dimensions of the easement access drive shall be excluded from the lot area. Landscape buffers on both sides of the easement access drive may be included. Environmentally sensitive area tracts, drainage tracts and above-ground drainage improvements shall be excluded from lot area.

~~LQ.~~ Duplex units and accessory dwelling units are prohibited in easement access short subdivisions in single-family zones, except for existing duplex units constructed on a lot or lots prior to the adoption of this title. In the proposed short subdivision the existing duplex unit must be on a lot of not less than nine thousand square feet.

~~MP.~~ Common Easement Access Drive Use. The city engineer may allow the use of a common easement access drive on an existing or adjacent short subdivision if the unit count for the property to be short subdivided together with the adjacent short subdivision does not exceed the maximum number of units allowed and such easement access drive can or currently meets all subdivision code standards. The applicant shall provide the following:

1. An easement providing for access, utilities, and maintenance from all ~~property owners~~ of property that the easement access drive crosses over and who have legal access to such easement; and
2. An amendment to the existing short subdivision access easement drive to accurately reflect the proposed changes.

**Section 6.** Section 3 of Ordinance No. 1671-89, as amended (Zoning, User Guide, EMC 19.03.050.C), is hereby amended to read as follows:

**19.03.050 Additional zoning regulations.**

In addition to the use-standards tables, this title contains a variety of regulations that may apply to the subject property or a particular use. The following list will help you determine what other chapters of this title may contain regulations which are applicable.

C. Off-Street Parking. To see how many parking spaces are required for a specific use, go to ~~Table No. 34-1 in~~ Chapter 19.34. ~~For the B-3 zone, the parking requirements are listed in Chapter 19.22.~~

**Section 7.** Section 36 of Ordinance No. 2397-99, as amended (Zoning, Use Tables, Special Regulations for Zoning Code Table NO. 5.2, EMC 19.05), is hereby amended to read as follows:

**Special Regulations for Zoning Code Table NO. 5.2**

(5) ~~Refer to Chapter 34 for standards applicable to drive-up facilities. Drive-up teller stations are not permitted within fifty feet of residentially-zoned lots; except that in the M-1 zone, drive-up teller stations are not permitted within seventy five feet of residentially-zoned lots. In any zone, drive-up teller stations shall only be allowed where permitted by the traffic engineer.~~ In the M-M and M-1 zones, financial institutions are permitted only in a multitenant building.

(6) ~~Drive-up teller stations are not permitted unless access is from the alley, and shall only be allowed where permitted by the traffic engineer. (Reserved)~~

(10) (a) Office uses are not permitted in the R-3(L) zone, and are permitted in the R-3 zone only as provided in paragraph (b) of this Special Regulation (10).

(b) Office Uses on Colby Avenue in R-3 and R-4 Zones. Offices are permitted as a stand-alone use only on corner lots in those portions of the R-3 and R-4 zones that front on Colby Avenue, between 19th Street and 25th Street, subject to the following requirements:

(1) Office uses may only be established in existing single-family dwellings or in existing nonconforming buildings. Existing buildings may not be removed and replaced with new office buildings.

(2) For existing single-family dwellings that are converted to office uses, the building shall maintain the appearance of a single-family dwelling. Any additions or remodeling shall not increase the gross floor area of the existing building by more than twenty-five percent.

~~(3) Off-street parking shall be located to the rear of the building and may take access only from the alley, except where an existing parking area takes access from the street.~~

~~(34)~~ Wall signs are limited to one per building, and a maximum area of sixteen square feet.

Freestanding signs are limited to one per building, a maximum height of five feet, a maximum area of sixteen square feet, and shall be set back ten feet from the front or side lot lines. Internally illuminated signs are prohibited.

(c) Except as provided by paragraph (b) or (d) of this Special Regulation (10), office uses are permitted in the R-4 or R-5 zones only in mixed-use buildings in which at least fifty percent of the gross floor area is used for two or more dwellings. Chapter [19.15](#), and the multiple-family design guidelines, shall apply to mixed-use office-residential developments with three or more dwelling units.

(d) When the property is located in the O or C-O overlay zone, the provisions of Chapter [19.16](#) shall apply.

(15) The following regulations apply only to espresso stands which are contained in a structure, and which can serve customers who remain in their vehicles by means of a drive-up window. Mobile espresso vehicles are not subject to these regulations. Espresso retail uses not able to serve customers who remain in their vehicles shall be regulated as “restaurants.”

~~(a) Drive-up espresso stands shall be located so as not to remove or obstruct required off-street parking for other uses on the same lot or an adjoining lot.~~

~~(b) One off-street parking space shall be provided for each employee working at any given time.~~

~~(aε)~~ Street frontage landscaping shall be provided in accordance with the zone in which the property is located.

~~(d) Holding lanes shall provide sufficient room on site for three vehicles for each service lane without obstructing required off-street parking areas for other uses on the lot or an adjoining lot.~~

~~(be)~~ The building shall be set back a minimum of ten feet from required street frontage landscaping when a drive lane is proposed on the street side of the structure, and fifty feet from any residentially zoned property.

~~(cf)~~ Signs shall be permitted as provided for the zone in which the property is located.



(16) The following regulations shall apply to restaurants:

(a) In the R-4 and R-5 zones, restaurants are permitted only in mixed-use buildings in which:

- (1) Business is oriented to immediately surrounding neighborhood.
- (2) At least sixty-five percent of the gross floor area is used for multiple-family dwellings.
- (3) The maximum gross floor area devoted to an individual nonresidential use is four thousand square feet.
- (4) No additional curb cuts are permitted for the nonresidential use(s).
- (5) The sale of alcoholic beverages is prohibited.

(b) Sale of alcoholic beverages other than beer or wine is prohibited in the B-1 zone. Establishments selling beer and/or wine in the B-1 zone shall derive not more than twenty-five percent of their gross sales volume from alcoholic beverages.

(c) Restaurants with drive-up windows are not permitted in the B-1, B-2(B), ~~B-3~~, W-C, M-S, M-M, or M-1 zone.

(d) In the M-M and M-1 zones, restaurants are permitted only in multiple-tenant buildings in which nonrestaurant uses occupy at least seventy-five percent of the gross floor area of the total building.

(1) In the B-2(B) zone, restaurants may be contained in and exclusively occupy freestanding structures which take up to, but no more than, sixty-six percent of the total gross floor area of the building(s) on the site where they are located. A site plan for the entire site shall be approved when a restaurant is proposed. Said plan shall show all uses, locations and landscaping.

(2) Where freestanding restaurants are sited in the B-2(B) zone in conjunction with office building(s) either at the same time or not, and when the affected site abuts residentially zoned lots, the outside wall(s) of the office building(s) shall be placed as near to the residentially zoned lots as applicable provisions of this code allow. The restaurant use shall be located next to the street and/or away from residentially zoned lots.

(3) Where one or the other permitted use is not to be constructed under the provisions of a permit application, the remaining "vacant" portion, where the future use will be located, shall be provided with Type IV "stabilizing" landscaping. That portion of the perimeter landscaping abutting residentially zoned lots, where they occur, shall be Type III landscaping of the appropriate category. In all cases, site-obscuring fencing, not including chain link, shall be used when abutting residentially zoned lots.

(e) Restaurants with dancing or live entertainment are not permitted in the B-1 or B-2(B) zone.

(f) A restaurant with live music and/or dancing is not permitted within one hundred feet of lots located in residential zones.

(g) ~~For r~~Restaurants with drive-up service windows, refer to Chapter 34 for standard applicable to drive-up facilities. ~~shall meet the following standards:~~

~~(1) Drive-up service windows shall not be located less than fifty feet from lots located in residential zones.~~

~~(2) Drive-up order placing stations shall be located not less than one hundred feet from lots located in residential zones.~~

~~(3) There shall be one outdoor waste receptacle provided for each eight parking spaces.~~

~~(4) Holding lanes for drive-up order placing stations shall provide room for a minimum of eight vehicles and shall be located a minimum of one hundred feet from lots located in residential zones.~~

~~(5) Delivery and loading areas shall be located so as not to interfere with drive-up window traffic or off-street parking areas.~~

(29) Clinic uses and medical-related activities are permitted in the R-3, R-4 or R-5 zones only as provided in paragraph (a), (b) or (c) of this Special Regulation (29). Clinic uses and medical-related activities are permitted in the W-C zone only as provided in paragraph (d) of this Special Regulation (29).

(a) Clinic Uses and Medical-Related Activities on Colby Avenue in R-3 and R-4 Zones. Clinics, offices or medical-related activities are permitted as a stand-alone use only on corner lots in those portions of the R-3 and R-4 zones that front on Colby Avenue, between 19th Street and 25th Street, subject to the following requirements:

(1) Clinic uses and medical-related activities may only be established in existing single-family dwellings or in existing nonconforming buildings. Existing buildings may not be removed and replaced with new clinic or medical-related activity buildings.

(2) For existing single-family dwellings that are converted to clinic uses or medical-related activities, the building shall maintain the appearance of a single-family dwelling. Any additions or remodeling shall not increase the gross floor area of the existing building by more than twenty-five percent.

~~(3) Off-street parking shall be located to the rear of the building and may take access only from the alley, except where an existing parking area takes access from the street.~~

~~(34)~~ Wall signs are limited to one per building, and a maximum area of sixteen square feet. Freestanding signs are limited to one per building, a maximum height of five feet, a maximum area of sixteen square feet, and shall be set back ten feet from the front or side lot lines. Internally illuminated signs are prohibited.

(b) Except as provided by paragraph (a) or (c) of this Special Regulation (29), clinic uses or medical-related activities are permitted in the R-3, R-4 or R-5 zones only in mixed-use buildings in which at least fifty percent of the gross floor area is used for two or more dwellings. Chapter 19.15, and the multiple-family design guidelines, shall apply to mixed-use clinic-medical-residential developments with three or more dwelling units.

(c) When the property is located in the C or C-O overlay zone, the provisions of Chapter 19.16 shall apply.

(d) Clinics and pharmacies are permitted. Other medical-related activities are permitted only in conjunction with clinic use. Ambulance dispatch centers are not permitted in the W-C zone.

(42) ~~See Section 19.22.020.D for development standards for parking lots in the B-3 zone. (Reserved)~~

**Section 8.** Section 6 of Ordinance No. 1671-89, as amended (Zoning, Development Standards Table, EMC 19.06.030), is hereby amended as follows:

**19.06.030 Off-street parking requirements.**

The off-street parking requirements for specific land uses are contained in Chapter 19.34 of this title, ~~except that the parking standards for the B-3, C-2ES, BMU and E-1 zones are contained in Chapters 22, 25, 31A and 31B, respectively, of this title.~~

**Section 9.** Section 9 of Ordinance No. 2146-96, as amended (Zoning, Small Lots, Duplexes, Accessory Buildings, EMC 19.07.010), is hereby amended as follows:

**19.07.010 Small lot single-family dwelling, and duplex development standards.**

Single-family dwellings to be built on lots having less than five thousand square feet in any zone, and duplexes on any sized lot in any zone shall meet the development standards contained herein unless approved as part of a multiple-family development pursuant to Chapter 19.15 of this title. It is the intent of these development standards that single-family dwellings on small lots and duplexes be compatible with neighboring properties, friendly to the streetscape, and in scale with the lots upon which they are

to be constructed. The planning director is authorized to promulgate guidelines, graphic representations, and examples of housing designs and methods of construction that do or do not satisfy the intent of these standards.

A. The dwelling or duplex shall have:

1. Doors and windows which face the street; and
2. A distinct entry feature such as a porch or weather covered entry way with at least thirty-six square feet of weather cover, and a minimum dimension of four feet. Covered porches open on three sides may encroach six feet into a required front setback.

~~B. If the lot abuts an alley, the garage or off-street parking area shall take access from the alley, unless precluded by steep topography. No curb cuts shall be permitted unless access from the alley is precluded by steep topography.~~

BC. If there is no alley access, the front of the garage shall be set back five feet from the front of the dwelling, and the dwelling(s) shall have entry, window and/or roofline design treatment which emphasizes the house more than the garage. The director may approve an alternative to the five-foot setback for the garage consistent with guidelines promulgated by the director that provide for a prominent entrance to the dwelling as viewed from the street, and architectural elements that minimize the bulk of the garage and garage door(s) and emphasize the dwelling unit orientation to the street. The alternative must provide equivalent or superior architectural design than would be provided by meeting the standards of this section.

CD. For lots less than five thousand square feet, lot coverage by buildings shall not exceed fifty percent. Gross floor area of the dwelling, excluding the garage, shall not exceed fifty percent of the lot area. For dwellings with a basement that is more than seventy-five percent below grade, the square footage of the basement shall not be included in the calculation of the gross floor area of the building.

DE. On lots located north of 41st Street, a minimum roof pitch of 6:12 is required.

EF. On lots located north of 41st Street, windows facing the street shall be vertically proportioned (taller than they are wide).

FG. When the individual dwelling units in a duplex are attached by a nonresidential portion of the structure, such as a garage or storage building, the attachment between dwellings shall measure at least fifty percent of the length of each wall to which it attaches and be a minimum of one story in height.

**Section 10.** Section 7 of Ordinance No. 3534-17, as amended (Zoning, Small Lots, Duplexes, Accessory Buildings, EMC 19.07.030), is hereby amended as follows:

**19.07.030 Accessory dwelling units.**

The regulations in this section shall apply to accessory dwelling units (ADUs), whether attached or detached. The term "ADU" as used in this section shall apply to either attached or detached accessory dwelling units. The term "DADU" as used in this section shall apply only to detached accessory dwelling units. In the event there is a conflict between the provisions of this section or any other provision of the EMC, the provisions of this section shall control.

- A. Accessory Dwelling Units (ADUs), Where Permitted. An ADU shall be permitted as an accessory use to the principal dwelling unit in the zones indicated in Use Table No. 5.1 on any legally established lot, provided it complies with the provisions of this section. In the core residential area and other zones that allow single-family attached or multiple-family dwellings, the development standards applicable to those zones shall apply to development of more than one dwelling on a lot rather than this section.
- B. Review Process. ADUs shall be permitted subject to Review Process I as defined in EMC Title 15.
- C. Owner Occupancy Required. Either the principal dwelling unit or the ADU shall be occupied by the owner of the property as his or her principal residence. Prior to issuance of a permit for an accessory dwelling unit, the property owner shall submit to the city a signed affidavit affirming that the owner occupies the principal dwelling as his or her principal residence, and will occupy either the principal dwelling or accessory dwelling after completion of the accessory dwelling unit. The owner shall record a covenant with the Snohomish County auditor, approved by the director, that shall run with the land as long as the ADU is maintained on the property. The property owner shall submit proof that the covenant has been recorded with the Snohomish County auditor's office prior to issuance of the building permit.
- D. An ADU shall not be segregated from the ownership of the principal dwelling through a subdivision, condominium, or any other process.
- E. Only one ADU is permitted on a lot.
- F. An ADU shall not be permitted on a lot with more than one dwelling unit.

~~G. Off-Street Parking.~~

- ~~1. A minimum of one off-street parking space above what is required for the principal dwelling shall be provided for the ADU.~~
- ~~2. When abutting an alley, the required parking for the principal and accessory dwelling units shall be accessed from the alley, unless there is an existing legally established driveway connecting to a public street.~~
- ~~3. The requirement for one off-street parking space for the ADU may be waived by the planning director, using Review Process II as defined in EMC Title 15, when all of the following circumstances apply:~~
  - ~~a. The property is not located in a residential parking permit zone (Chapter 46.30); and~~
  - ~~b. The property has frontage on a public street; and~~
  - ~~c. There are at least two on-street parking spaces in front of the subject property; and~~
  - ~~d. There is a public transit stop located within one-quarter mile walking distance of the property with a safe walking path to the transit stop.~~

~~G.H.~~ The property owner shall certify to the city no later than April 1st of each year that the owner occupies one of the dwellings as his or her principal residence. Any person who fails to report or falsely certifies that he or she resides in a dwelling unit at the stated address shall be subject to the enforcement and penalty provisions of Chapter 1.20.

~~H.H.~~ A permit for an ADU shall automatically expire, and the building shall be brought into conformance with the zoning code, whenever:

- 1. The ADU is substantially altered and is no longer in conformance with the standards of this section;
- 2. The owner ceases to reside in either the principal or the accessory dwelling unit.

~~I.H.~~ An ADU shall not exceed seventy-five percent of the gross floor area of the principal dwelling, or eight hundred square feet, whichever is less; provided, that the city may allow increased size if the ADU is located completely on a single floor in order to efficiently use all floor area. This process is available only for buildings existing:

- 1. On the effective date of Ordinance No. 3534-17 (March 8, 2017); or
- 2. At least three years prior to the date of application for conversion to an accessory dwelling unit.

~~J.K.~~ Minimum Rear Setback.

- 1. Alley Lots. An ADU shall have no minimum rear setback.

2. Non-Alley Lots. Twenty feet; provided, that the city, using Review Process II as defined in EMC Title 15, may allow a DADU to have a minimum rear setback of five feet if the building does not exceed eighteen feet in height within the rear twenty feet of the lot.

**KL.** Building Height. The maximum permitted building height for a detached ADU shall be:

1. Alley lots: twenty-four feet.
2. Non-alley lots: twenty-four feet; provided, however, that the maximum height shall not exceed eighteen feet in height when located within the rear twenty feet of the lot.
3. The planning director may authorize a greater height limit to match existing roof pitch of the principal dwelling using Review Process II as defined in EMC Title 15, up to a maximum height of twenty-eight feet.

**LM.** Lot Coverage. The maximum lot coverage standard for the underlying zone shall apply to all buildings on the lot; provided, that it may be increased, using Review Process II as defined in EMC Title 15, by an additional five percent of the lot area if necessary to allow a DADU on an existing developed lot that meets all other requirements of this section.

**MN.** Design Standards. An ADU shall meet the design standards in this section. A property owner may request that the planning director modify the design standards, using Review Process II as defined in EMC Title 15. The planning director shall consider the impact that the requested modification will have on abutting properties in terms of aesthetics, privacy, view impacts, and compatibility with the character of other dwellings.

1. Attached ADUs. The single-family appearance and character of the dwelling shall be maintained when viewed from the surrounding neighborhood. Only one entrance to the residential structure may be located on any street side of the structure; provided, however, that this limitation shall not affect the eligibility of a residential structure which has more than one entrance on the front or street side on the effective date of the ordinance codified in this section.
2. Historic Overlay Zones. On lots located in the historic overlay zone, an attached ADU shall comply with the standards of subsection N.1 of this section. A DADU shall comply with the development and design standards of the H overlay zone for infill dwelling units.
3. Detached ADUs. The planning director shall promulgate a design manual of examples and best practices for the design of DADUs and compatibility with the surrounding neighborhood. The city shall have the authority to require changes to the design of a DADU that is not consistent with best practices identified in the design manual. In addition:
  - a. The DADU shall be designed to give the appearance that it is secondary to the principal dwelling.
  - b. Siding, roofing, windows and building trim materials shall visually match those used on the principal dwelling.
  - c. The roof pitch shall be similar to the predominant roof pitch on the principal dwelling.

**NO.** Legalization of Illegal ADUs.

1. An illegal ADU is an ADU which does not fully comply with the provisions of this section and all other applicable codes. An illegal ADU, whether attached or detached, may be legalized provided it can be made to fully comply with the provisions of this section and all other applicable codes.
2. If the property owner takes all actions necessary to legalize the ADU within two years of the effective date of this section, the additional fees required by Section 16.72.070 shall be waived.

**Section 11.** Section 15 of Ordinance No. 1671-89, as amended (Zoning, Multiple-Family Development Standards, EMC 19.15.010.D), is hereby amended as follows:

**19.15.010 Purpose—Applicability—Multiple-family design guidelines, modification of development standards and design guidelines.**

D. Modification of Development Standards and Design Guidelines. An applicant may propose and the planning director, using the review process described in Title 15, Local Project Review Procedures, may allow an applicant to deviate from certain development standards of this chapter, as provided herein, and from the multiple-family design guidelines, provided the proposal satisfies the evaluation criteria of this subsection. This process differs from the variance procedure in that rather than approval being based upon unusual circumstances or a physical hardship such as steep slopes, it is based upon the quality of the proposed design. This alternative process is intended to promote well-designed housing which does not strictly comply with the development standards of this chapter and/or the multiple-family design guidelines, but which meets the criteria contained herein. In evaluating such a proposal, the planning director, using the criteria in subsection D.3 of this section, shall determine if the alternative design provides equivalent or superior results to that which would be required by compliance with the development standards of this chapter and the design guidelines.

1. What Can Be Modified. The following standards can be modified using this process:

- a. Multiple-family design guidelines;
- b. Permitted number of dwelling units may be increased by not more than ten percent;
- c. Building setbacks and separation between buildings;
- d. Building height;
- e. Open space and on-site recreation standards of this chapter;
- f. Landscaping requirements;
- ~~g. Parking location;~~
- gh. Pedestrian access requirements as provided by Section 15.080.C.

2. What Cannot Be Modified. Except for the standards identified in subsection D.1 of this section, no other standards, including the following, can be modified using this process:

- a. Number of off-street parking spaces;
- b. Uses permitted by the zone in which the property is located;
- c. Regulations for nonconforming uses;
- d. Standards of Sections 19.33D.360 through 19.33D.590 of the zoning code (Environmentally Sensitive Areas) and Chapter 19.37 of the zoning code (Critical Areas);
- e. Shoreline regulations, where applicable;
- f. Standards adopted as part of "H" historic or "D" design overlay zones.

3. Evaluation Criteria for Modification. Any proposal to modify development standards or design guidelines shall not undermine the intent of the standards of this chapter or the intent of the multiple-family design guidelines. The planning director shall not approve a request for modification unless the proposal provides architectural and urban design elements equivalent or superior to what would likely result from compliance with the multiple-family design guidelines and the development standards of the zoning code which are proposed to be modified. The planning director shall consider the following criteria in evaluating proposals using this process:

- a. The unique characteristics of the subject property and/or its surroundings and how they will be protected or enhanced by modifying the development standards or design guidelines.
- b. The positive characteristics of the proposed development and whether such characteristics could be provided by compliance with the development standards and/or design guidelines proposed to be modified.



- c. The arrangement of buildings and open spaces as they relate to other buildings and/or uses on the subject property and on surrounding properties.
- d. Visual impact to surrounding properties caused by parking facilities in the proposed development and whether such impacts are less than would result from compliance with the development standards and/or design guidelines proposed to be modified.
- e. If the development proposes greater building height than permitted by the zone in which the property is located, does the increase in building height result in an increase in the usable open space on the property over what would be provided by meeting the development standards and design guidelines proposed to be modified?
- f. If the development proposes greater building height than permitted by the zone in which the property is located, does the increase in building height impact the views or privacy of abutting residentially zoned properties?
- g. Does the proposed development result in a mix of permitted residential and commercial uses allowed by the zoning in which the property is located which would not result from compliance with the development standards and/or design guidelines proposed to be modified?
- h. Does the proposed design mitigate the impacts that could be caused by relaxation of the standards which are proposed to be modified?

4. Appeal of Planning Director’s Decision. An appeal of the planning director’s decision using this process shall be reviewed by the hearing examiner in accordance with Title 15, Local Project Review Procedures. Substantial weight shall be given to the decision of the planning director in considering any appeal.

**Section 12.** Section 13 of Ordinance No. 2307-98, as amended (Zoning, Multiple-Family Development Standards, Parking Location, EMC 19.15.070), is hereby repealed.

**Section 13.** Section 9 of Ordinance No. 2307-98, as amended (Zoning, Multiple-Family Development Standards, EMC 19.15.080), is hereby amended as follows:

**19.15.080 Pedestrian access—Vehicular access.**

The intent of this section is to provide standards which place an emphasis on safe streets and sidewalks, and enhance the streetscape in the neighborhood, ~~and provide for on-street parking by limiting curb cuts on the street.~~ Compliance with the multiple-family design guidelines is required for meeting the requirements of this section.

A. Pedestrian Access. On-site pedestrian access shall be provided as follows:

- 1. The primary entrance to a building which faces the street, or for dwelling units located on the ground floor which face the street, shall be located on the facade facing the street. Such entrances shall be prominent, visible from the street, and connected by a walkway to the public sidewalk. Modifications to this requirement may be made:
  - a. When the building is oriented to an interior courtyard, and the courtyard has a prominent walkway connecting directly to the public sidewalk; or
  - b. When topography is too steep to allow for a direct pedestrian connection to the public sidewalk.
  - c. In complexes with several buildings, when the building is oriented to an internal pedestrian and open space system and the pedestrian walkways have prominent connections to the public sidewalk(s).
- 2. Where pedestrian walkways which provide the only access to a dwelling unit are located in a required interior side setback area, the minimum building setback shall be ten feet.

3. Pedestrian entrances from the street shall be clearly defined and designed so as to be separated from and more prominent than driveways and entrances to parking garages.
4. External stairways which provide pedestrian access to dwelling units located above the ground floor shall not be placed between the building facade and any abutting street, or encroach into required setback areas.
5. On-site pedestrian walkways shall be connected to public sidewalks and provide for resident safety, convenience, and access to sidewalks, other buildings, and off-street parking areas.

6. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be more prominent than the vehicular access.

~~B. Vehicular Access. On corner lots, the driveway(s) shall be located away from the street intersection. Sites abutting an alley shall be required to gain vehicular access from the alley. No driveway access from the public street shall be allowed unless specifically authorized by the planning director, based upon a recommendation from the city engineer, using the review process described in Title 15, Local Project Review Procedures, when necessary to provide access to off-street parking under the structure which is not otherwise possible due to severe limitations caused by the slope of the property. Approval shall be subject to the following requirements:~~

- ~~1. The width of the driveway shall not exceed twenty-five percent of the width of the lot or twenty feet, whichever is less.~~
- ~~2. Additional yard area equal to the area covered by the portion of the driveway within the setback area shall be provided by an increase in the setback of the building or portion of the building.~~
- ~~3. The driveway shall be located to one side of the lot and away from the center of the site to the maximum extent feasible.~~
- ~~4. On a corner lot access shall be from the side street unless the side street is an arterial street.~~
- ~~5. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be more prominent than the vehicular access.~~

**Section 14.** Section 27 of Ordinance No. 1671-89, as amended (Zoning, Zone M-1 Regulations, EMC 19.27.020.B-C), is hereby amended as follows:

**19.27.020 Additional development standards in the M-1 zone.**

B. Landscaping. In addition to the perimeter landscaping required by Chapter [19.35](#) of this title, site landscaping shall be provided in accordance with the standards of this section. Where this section specifies a requirement which is different from the standards of Chapter [19.35](#), the more substantial requirements shall apply.

1. Each building shall be surrounded by fifteen feet of landscaping, except for loading areas, access to buildings and pedestrian walkways up to five feet in width. Landscaping within this area shall consist of:
  - a. A mix of evergreen and deciduous trees and shrubs, with lawn or hardy ground cover which will cover seventy-five percent of the landscape area within two years of planting.
  - b. Trees shall be planted at a density of three per one thousand square feet of landscape area. Evergreen trees shall be minimum of six feet tall at the time of planting and deciduous trees a minimum diameter of one and one-half inches, measured at six inches above the ground.



2. Outdoor parking areas shall be separated from streets and abutting properties in accordance with the ~~setback standards contained in the use standards table and shall be landscaped in accordance with the standards of Section Chapters 34 and 3519.35.080.~~

C. Loading. ~~Truck loading operations and maneuvering areas shall not be located within required building setback areas or within one hundred thirty feet of areas zoned for residential use. Truck loading/unloading shall not be permitted on streets.~~ Truck loading, parking and maneuvering areas shall be screened from abutting properties and streets by a sight-obscuring fence eight feet in height, enclosed within a ten-foot-wide landscaped area planted to Type II standards. ~~Truck loading operations and maneuvering areas shall not be permitted to occupy an area exceeding fifty percent of the total linear dimensions of the building perimeter.~~

**Section 15.** Section 28 of Ordinance No. 1671-89, as amended (Zoning, Zone M-M Regulations, EMC 19.28.020.B), is hereby amended as follows:

**19.28.020 Additional standards for uses in the M-M zone.**

B. Loading. ~~Truck loading operations and maneuvering areas shall not be located within required building setback areas or within one hundred thirty feet of areas zoned for residential use. Truck loading/unloading shall not be permitted on streets.~~ Truck loading, parking and maneuvering areas shall be screened from abutting properties and streets by a sight-obscuring fence eight feet in height or enclosed within a ten-foot wide landscaped area planted to Type II standards.

**Section 16.** Section 12 of Ordinance No. 3099-08, as amended (Zoning, Broadway Mixed-Use Zone, EMC 19.31A.030), is hereby amended as follows:

**19.31A.030 Other development standards.**

A. Maximum Building Height.

1. Mixed-Use and Residential Uses. The maximum permitted building height for mixed-use and residential structures shall be as provided by Map No. 31A-1, measured as height above base elevation as defined by Chapter [19.04](#), provided:

a. No portion of a structure within fifty feet of any lot within a zoning district having a lower height limit shall exceed the height limit for the adjacent district.

b. Roof forms, including pitched and curved shapes, that do not contain habitable space may exceed the height limit, but by no more than ten feet. All mechanical equipment on the roof shall be contained within a roof form and not exposed to view from either the street or adjacent residential areas.

2. Nonresidential Uses. The maximum permitted building height for nonresidential structures shall be thirty-five feet, except as provided in subsections A.2.c, Height Bonuses, and A.2.d, Gateway Segment, South of 38th Street, of this section, measured as height above base elevation, as defined by Chapter [19.04](#), provided:

a. No portion of a structure within fifty feet of any lot within a zoning district having a lower height limit shall exceed the height limit for the adjacent district.

b. Roof forms, including pitched and curved shapes, that do not contain habitable space may exceed the height limit, but by no more than ten feet. All mechanical equipment on the roof shall be contained within a roof form and not exposed to view from either the street or adjacent residential areas.

c. Height Bonuses. Building heights for nonresidential structures may be increased to the maximum height permitted for mixed-use and residential structures through a discretionary review process if the development incorporates amenities or TDR credits from the list below. Each bonus amenity shall permit an increase in height of ten feet, not to exceed the maximum height for mixed-use or residential structures as indicated on Map No. 31A-1. The planning director shall have the authority to determine whether the proposed amenities are of sufficient quality to qualify for the height bonus. TDR credits shall permit height bonuses as provided by subsection A.2.c.(6) of this section.

(1) Exterior Public Space. This space shall be available to the public at least for the period between seven a.m. and dusk. It shall be an area equal to at least two percent of the total interior floor space of the development, or eighty square feet, whichever is greater. No dimension shall be less than eight feet. Landscaping, textured paving, pedestrian-scaled lighting, and seating shall be included.

(2) Art or Water Feature in a Publicly Accessible Space. Each feature must be appraised at a value that is at least one percent of the value of building construction. Documentation of building costs and appraised value of the art or water feature shall be provided.

(3) Through-Block Pedestrian Connection. A walkway at least eight feet wide allowing the public to walk between a street and an alley or another street. The walkway shall be constructed with cement or masonry pavers, flanked with planting and pedestrian-scaled lighting.

(4) Below-Ground Structured Parking. Fifty percent of all required parking shall be contained within a structure that is below grade.

(5) Common Courtyard or Green. This space shall be available to tenants of the development. It shall be an area equal to at least four percent of the gross floor area of the building. There should be both paved areas and landscaping, with planting comprising at least thirty percent of the area. Seating and pedestrian-scaled lighting shall be provided. This feature is in addition to any other open space or common areas required in this chapter.

(6) Transfer of Development Rights. Additional height can be earned through a transfer of development rights (TDR) from sending sites in the city that are impacted by critical areas or from sending sites containing a historic building listed on the national, state or Everett register when such a building is rehabilitated to the Secretary of the Interior's Standards for Rehabilitation, to receiving sites within the BMU zone. The development rights transferred from the sending site shall be recorded as a restriction on the title of the sending site. Credits toward additional height shall be provided as follows:

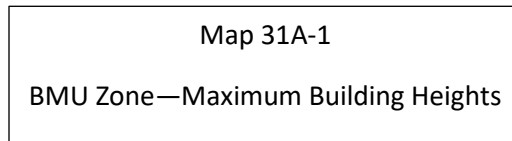
(A) Residential TDR Credit. An additional ten feet in height shall be permitted as follows: one residential dwelling unit TDR credit shall be required for each five thousand square feet of lot area; provided, that where this computation results in a fraction greater than one-half, one additional dwelling unit TDR credit shall be required.

(B) Nonresidential TDR Credit. An additional ten feet in building height shall be permitted for each ten thousand square feet of nonresidential building space transferred from a sending site.

(7) Sustainable Building Practices. Additional height can be earned through the incorporation of sustainable building and low impact development practices in project design and development. These practices may include:

- (A) Use of sustainable building materials.
- (B) Use of permeable paving materials.
- (C) Green (vegetated) roofs.
- (D) Rain gardens/native vegetation drainage system.
- (E) Alternative energy systems (wind, solar, geothermal).
- (F) Pursuit of LEED certification.

d. Gateway Segment, South of 38th Street. The maximum building height for all structures in the Gateway Segment south of 38th Street shall be sixty-five feet.



~~B. Off-Street Parking Standards.~~

~~1. Nonresidential Uses. Off-street parking shall be provided as required by Table 34-1 in Chapter 19.34 of the zoning code.~~

~~2. Residential Uses. Multifamily residential developments shall provide off-street parking as provided for on Map Number 34-1 (Chapter 19.34). For properties located in that part of the BMU zone not encompassed by either Area A or Area B on Map 1, the area north of 25th Street, multiple-family residential developments shall provide one off-street parking space per unit for one or fewer bedroom units, and one and one-half parking spaces per unit for two or more bedroom units. For purposes of this section, any room other than a kitchen, bathroom, living room or dining room, such as a den, study, office or other similar room, shall be considered a bedroom.~~

~~BC. Multiple-Family Development Standards. The following development standards shall apply to residential uses within the BMU zone.~~

~~1. Open Space. All multifamily residential development must provide at least fifty square feet of on-site open space per dwelling unit. The design standards below shall supersede the requirements of Chapter 19.15. Acceptable types of open space include:~~

~~a. Common Open Space. Where accessible to all residents, open space shall count for up to one hundred percent of the required open space. This includes landscaped courtyards or decks, entrance plazas, gardens with pathways, children’s play areas, or other multipurpose recreational and/or green spaces. Special requirements for common open spaces include the following:~~

~~(1) Required setback areas shall not count towards the open space requirement, unless it is part of the space that meets dimensional requirements.~~

(2) Space shall have a minimum dimension of fifteen feet to provide functional leisure or recreational activity.

(3) Space should feature paths, landscaping, seating, lighting and other pedestrian amenities to make the area more functional and enjoyable.

(4) Common space shall be separated from ground level windows, streets, service areas and parking lots with landscaping, low-level fencing, and/or other treatments as approved by the city that enhance safety and privacy for both the common open space and dwelling units.

(5) Space should be oriented to receive sunlight, face east, west or preferably south, when possible.

b. Balconies. Individual balconies or patios may be used for up to fifty percent of the required open space. To qualify as open space, balconies or patios shall be at least thirty-five square feet, with no dimension less than four feet.

c. Rooftop Decks and Terraces. May be used to meet up to fifty percent of the required open space, provided the following conditions are met.

(1) Space must be accessible (ADA) to all dwelling units.

(2) Space must provide amenities such as seating areas, landscaping, and/or other features that encourage use as determined by the city.

(3) Space must feature hard surfacing appropriate to encourage resident use.

(4) Space must incorporate features that provide for the safety of residents, such as enclosures and appropriate lighting levels.

d. On-site Recreation Areas (Outdoor or Indoor). May be used to meet up to fifty percent of the required open space, provided the following conditions are met.

(1) Space must be accessible (ADA) to all dwelling units.

(2) Subject to the criteria for on-site recreation areas as provided in Section 15.050.A.2.

2. Setbacks/Privacy. All ground floor residential units shall be set back at least ten feet from the right-of-way, or may be set back five feet if all living units with windows have a floor elevation at least three feet above the sidewalk grade to provide for increased privacy. The city may approve other design solutions that retain resident privacy while enhancing the pedestrian environment on the sidewalk.

**Section 17.** Section 12 of Ordinance No. 3099-08, as amended (Zoning, Broadway Mixed-Use Zone, EMC 19.31A.040.A & C), is hereby amended as follows:

**19.31A.040 Design standards.**

A. ~~RESERVED Curb Cuts. The intent is to maintain a contiguous, uninterrupted sidewalk by minimizing and consolidating driveway access points on Broadway.~~  
~~Required Standards.~~

~~1. Driveways on Broadway shall have a minimum separation of one hundred feet.~~

~~2. Curb cuts shall not exceed twenty-five feet in width.~~

~~3. The sidewalk pattern shall carry across the driveway.~~

~~4. Drive-through facilities shall not be located between the building and Broadway.~~

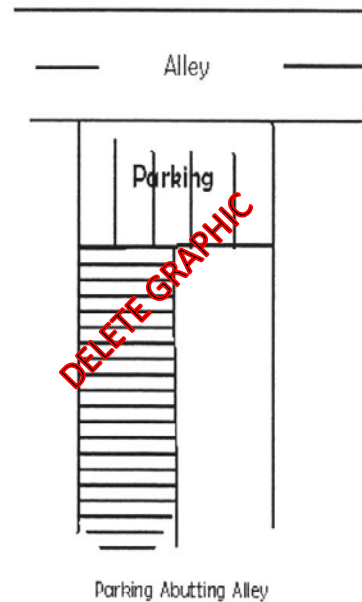
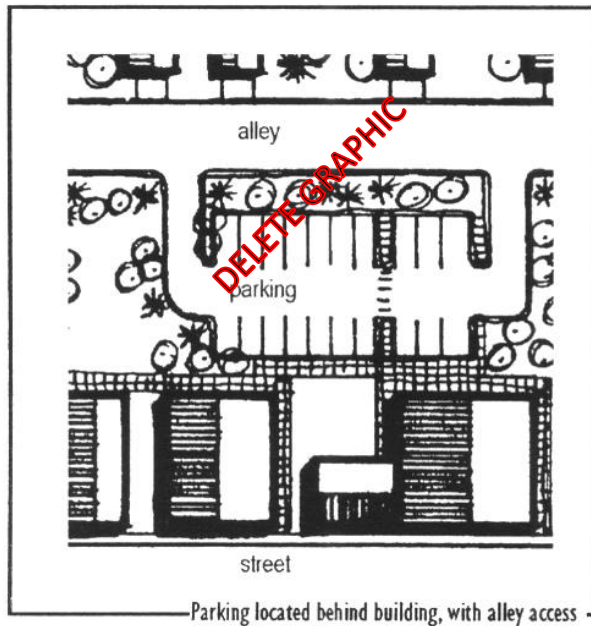
5.—Distances between driveways and curb cut widths may be modified subject to approval from the city's traffic engineer and the planning director.

Encouraged Standards.

6.—Vehicular access to parking lots and driveways should be provided from the alley or side streets.

7.—Adjacent developments should share driveways wherever feasible.

C. RESERVED Location of Parking. The intent is to maintain a contiguous, active pedestrian street frontage along Broadway by locating parking lots behind or beside buildings.



Required Standards.

1.—Parking lots shall not be permitted between the building and abutting streets. Parking lots shall be landscaped as required by Chapter 19.35.

2.—In parking lots where spaces directly abut the alley, parking stall depths must be at least twenty-five feet and have a minimum width of nine feet.

D.—Parking Lot Lighting. The intent is to provide pedestrian scale lighting in parking lots.

Required Standards.

1.—Pedestrian-scale lighting, a maximum of eighteen feet tall, shall be used to define pedestrian walkways and connections within parking lots and between buildings.

2.—All lighting shall be shielded from the sky and adjacent properties and structures, either with exterior shields or optics within the fixture.

Encouraged Standards.

3.—Ornamental or decorative accent lighting fixtures should be used to highlight building and site entrances and special landscape features.

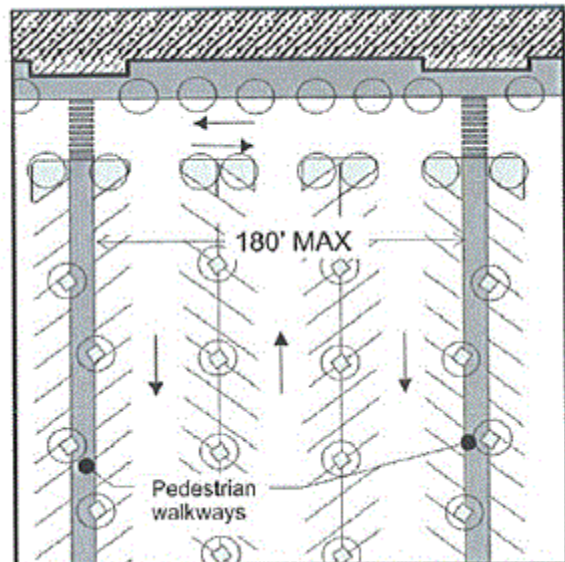
**Section 18.** Section 12 of Ordinance No. 3269-12, as amended (Zoning, E-1 (Evergreen Way) and MUO (Mixed-Use Overlay) Zones, EMC 19.31B.060), is hereby amended as follows:

**19.31B.060 Design standards—Parking area design.**

A.—Pathways Through Parking Areas. The intent of this provision is to provide safe and convenient pedestrian paths from the street sidewalk through parking areas to building entries in order to encourage pleasant walking experiences between businesses and to provide an inviting, pleasant pedestrian circulation system that integrates with parking and serves as access to nearby businesses.

1.—Developments must provide specially marked or paved walkways through parking areas. Generally, walkways should be provided every four rows and a maximum distance of one hundred eighty feet shall be maintained between paths. Where possible, align the pathways to connect with major building entries or other sidewalks, pathways, and destinations.

**Figure 31B.060-1. Parking area pathway examples**



**Figure 31B.060-2. Parking area pathway configuration**

**AB.** Parking Area Landscaping. The intent of this provision is to reduce the visual presence of parking on the E-1 and MUO zone streetscapes and adjacent development, increase the visual quality of the E-1 and MUO zone, increase tree canopy cover for environmental and aesthetic benefits, and improve water quality and improve storm water management.



1. Parking and Outdoor Storage/Sales Area Screening for Properties within the E-1 and Mixed-Use Overlay (MUO) Zones (see also street improvement requirements in Section [19.31B.050](#)). Parking area and permitted outdoor storage/sales area screening shall be provided between sidewalks and parking areas within the Evergreen Way zone and within the E-1 and MUO as follows:

a. One of the following options shall be used:

(1) Provide a five-foot-wide planting bed that incorporates a continuous low wall (two to three feet tall). The planting bed shall be on the street side of the wall and feature the following plantings:

(A) A mix of deciduous and evergreen trees generally interspersed throughout the landscape strip and spaced to create a continuous canopy.

(B) At least seventy percent deciduous trees.

(C) Trees provided at one per thirty linear feet.

(D) Shrubs provided at the rate of one per twenty square feet of landscape strip and spaced no more than eight feet apart on center.

(E) Perennials.

(F) Ground cover.

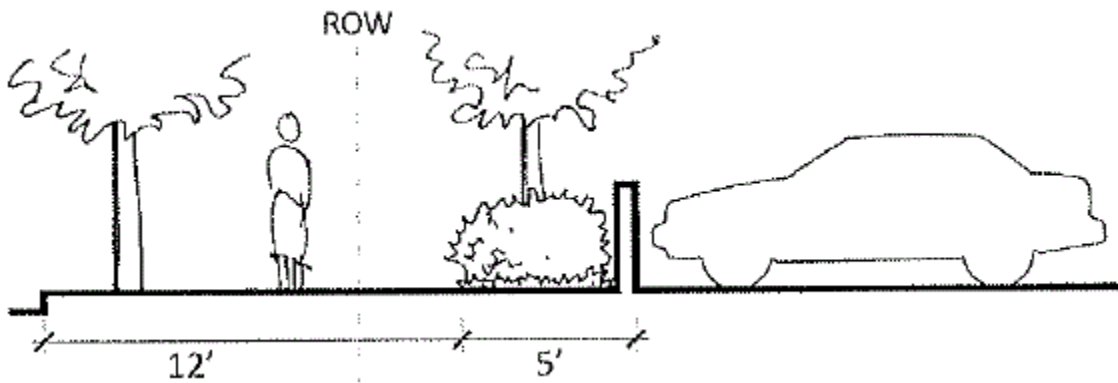
(G) No plants included in the Snohomish County noxious weed list.

(H) Maintain plantings to maintain eye level visibility between the street/sidewalk and parking area for safety. This means that shrubs and other low plantings should be maintained below three feet in height while trees (once they achieve taller heights) should generally be trimmed up to the eight-foot level.

(See Figure 31B.060-~~13~~.)

The wall shall be constructed of brick, stone, decorative concrete or concrete block, or other permanent material that provides visual interest and helps to define the street edge as determined by the city. Pedestrian openings in the wall are encouraged where they would form a logical pedestrian connection between the public sidewalk and on-site walkways.

**Figure 31B.060-~~13~~. Five-foot-wide planting bed with low wall**



(2) Provide a landscape strip with elements as in subsection B.1.a.(1) of this section except that a minimum eight-foot-tall trellis with vines within a minimum three-foot-wide planter may be substituted for the trees. (See Figure 31B.060-24.)

**Figure 31B.060-42. Parking area planting buffer with low wall and trellis**

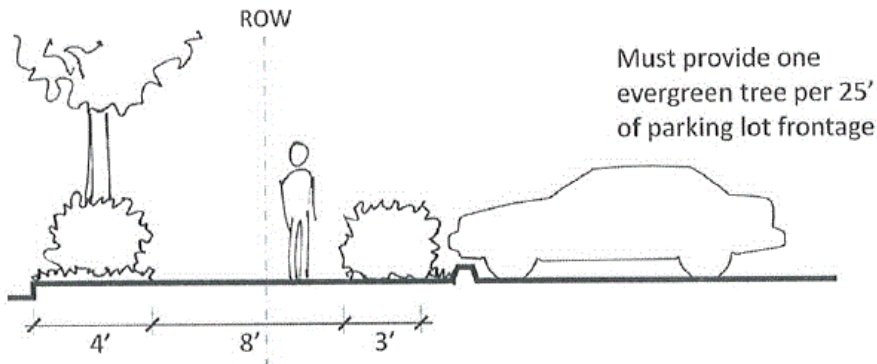


2. Frontage Landscaping for Parking and Outdoor Auto Display/Sales Areas. (See also street improvement requirements in Section [19.31B.050](#).) Frontage landscaping for outdoor auto display/sales and parking areas, where permitted, shall be provided between sidewalks and parking areas according to any of the options stated below:

- a. Any of the options in subsection B.1 of this section.
- b. If the development provides one evergreen tree along each of the property's side yards for every thirty feet of parking frontage, then the frontage landscaping may be reduced to three feet in width, with a wheel stop installed two feet from the planting area to protect the plantings (see Figure 31B.060-35). Said evergreen trees shall be in addition to those required by Section [19.35.060](#) and planted within a ten-foot-wide planter along both side lot lines, preferably in the front half of the property but not nearer than twenty-five feet from the front lot line. If a corner lot, the evergreen trees shall only be required along the interior side lot line. At a minimum, the planting area adjacent to the street frontage must consist of a solid row of dense evergreen shrubs between two feet, six inches and three feet in height. The plantings must be irrigated as approved by the city. Occasional pedestrian openings in the solid row of shrubs are allowed where they would form a logical pedestrian connection between the public sidewalk and on-site walkways.



**Figure 31B.060-35. Minimum parking area screening standard for parking and outdoor auto display/sales areas if evergreen trees are substituted for trees in side yards of parking area landscaping**



**BC.** Interior parking lot landscaping shall be provided as required in Chapter [19.35](#).

**Section 19.** Section 12 of Ordinance No. 3269-12, as amended (EMC 19.31B.070.A), is hereby amended as follows:

**19.31B.070 Design standards—Site planning.**

The design standards of this section shall apply to all development within the E-1 and MUO zones. The planning director may allow modification of design standards to permit a design that meets the intent of this chapter and provides a superior design treatment than could be achieved if those standards were strictly applied. The director’s review of proposed modifications under this section shall be governed by the procedures established in Title [15](#) for Review Process II.

A. Relationship to Street Front for Properties Inside the Mixed-Use Overlay (MUO). The intent is to enhance commercial areas and to establish visual identity for each area; create an active, safe pedestrian environment, especially at the center of the mixed-use nodes; unify streetscapes, especially on side streets and internal streets; improve circulation, including options for pedestrians, bicycles and vehicles; enhance the visual character of streets within commercial areas; enhance the visibility of commercial uses from the street; and link neighborhoods across Evergreen Way.

1. Frontage Requirements for Properties Fronting on Evergreen Way in the MUO. (See Figure 31B.070-1.)

a. Building entries must have a direct pathway to the public sidewalk. Such entries should face the street. Where entries are located on the side of the building they must be visible from the street and connected to the public sidewalk by a pedestrian pathway. Entries on a building wall opposite the street must be connected to the public sidewalk by a pedestrian pathway.

b. Parking areas fronting Evergreen Way must be screened according to the options provided in Section 31B.060.[AB.2](#).

c. No storage areas, untreated blank walls (see Section 31B.080.G), drive-through windows (where allowed), fences over three feet high, chain-link fences, or large-item displays (e.g., automobiles, lumber) are allowed within one hundred feet of the Evergreen Way right-of-way unless that element is separated from all public rights-of-way by a building and not visible from Evergreen Way or any designated side street. See also Section 39.070.B for location of fences in commercial zones.

d. If the building is located within thirty feet of the Evergreen Way right-of-way, then the area between the sidewalk and the building must feature pedestrian-oriented space or landscaping. This area may be used for outdoor display or seating, but it may not be used for storage or display when the building is closed to the public. That is, the area may be allowed for merchandise display but may not be fenced off or secured for long-term display or storage.

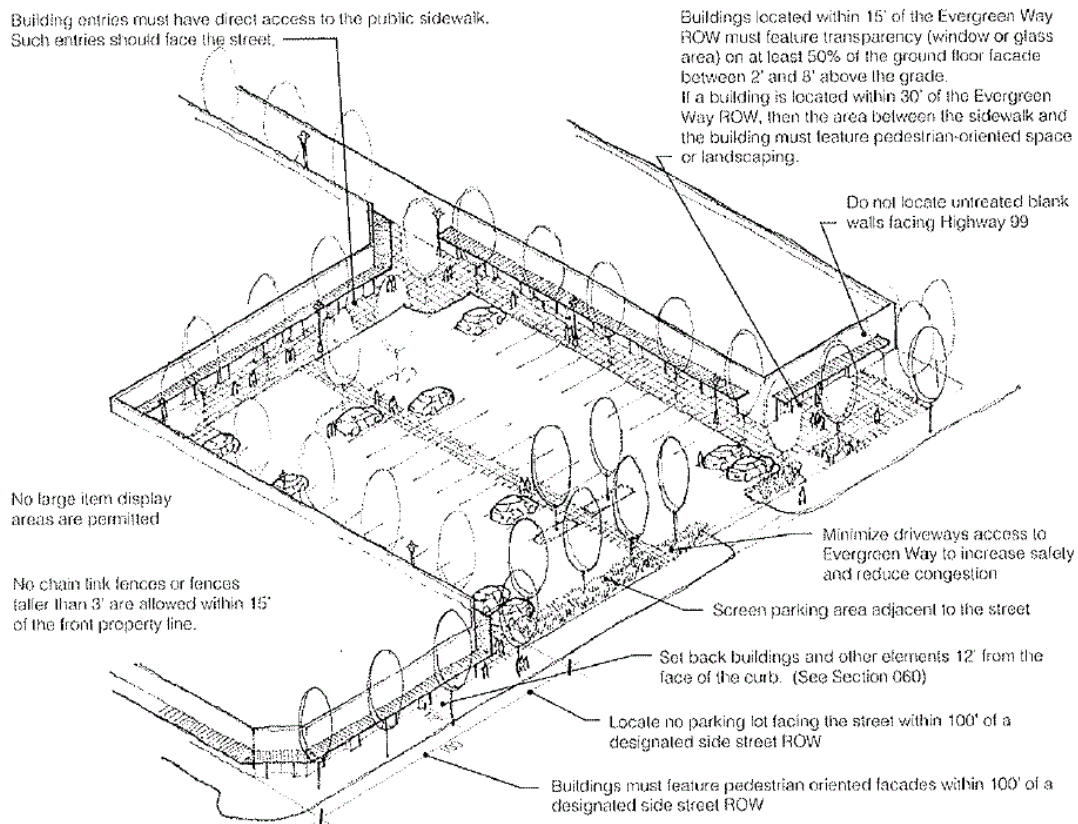
e. Buildings fronting on and located within twenty-five feet of the Evergreen Way right-of-way must feature transparency (window or glass area) on at least fifty percent of the ground floor facade facing Evergreen Way or any public street between two feet and eight feet above the grade. (Note: Standard d, in subsection A.1.d of this section, also applies.)

~~f. Within one hundred feet of a designated pedestrian-oriented side street right-of-way (see Section 19.31B.015.D) or a BRT station, parking areas are not allowed fronting the Evergreen Way right-of-way. They must be separated from the public right-of-way by an occupied building.~~

fg. Buildings within one hundred feet of designated pedestrian-oriented cross streets rights-of-way shall feature pedestrian-oriented facades fronting Evergreen Way. (See Section 31B.080.D.)

gh. Ground floor residential units must be set back at least twenty feet from the Evergreen Way right-of-way.

**Figure 31B.070-1. Evergreen Way street orientation requirements in the MUO**



i. Exceptions. Legally occupied buildings and operating businesses as of the date of adoption of this section are excepted from the provisions of subsections A.1.b, d, e, ~~f and g~~ and ~~h~~ of this section; provided, that discontinuation of such business for more than one year shall terminate the exception

from the provisions of this section. If a business undertakes a major exterior remodel, then the provisions do apply.

2. Frontage Requirements for Properties in the MUO Fronting on Designated Pedestrian-Oriented Side Streets. All development for properties fronting on “designated pedestrian-oriented side streets” as specified in Section 31B.015.D shall meet the following conditions:

~~a.—Parking areas must not be located between primary buildings and the designated side streets unless the city determines no other option is feasible. In such cases, the city may allow parking areas to occupy up to fifty percent of the street front, but no more than sixty-five feet, measured parallel to the street right-of-way.~~

~~b.—No parking areas are allowed along the side street right-of-way within one hundred feet of the Evergreen Way right-of-way unless the city determines no other option is feasible.~~

~~ae.~~ Service areas, ~~drive-through windows,~~ storage areas, large-item display areas, fences over three feet high, chain-link fences, and untreated blank walls (see Section 31B.080.G) shall not be visible from a designated side street. (The city may require special screening measures to accomplish this requirement.)

~~bd.~~ Buildings within one hundred feet of the Evergreen Way right-of-way shall feature pedestrian-oriented facades facing the side street. (See Section 31B.080.D.)

~~ce.~~ Buildings with ground floor residential units within twenty feet of the right-of-way must have the ground floor elevation at least three feet above sidewalk grade except for designated universally accessible units. This provision is intended to increase privacy for ground-floor dwelling units.

~~df.~~ Parking areas must be screened from pedestrian areas, sidewalks, walkways, and the street right-of-way in accordance with Section 31B.060.~~AB.2.~~

~~ge.~~ Buildings with ground floor commercial uses located within twenty-five feet of the right-of-way must feature transparency (window or glass area) on at least fifty percent of the ground floor facade facing the street between two feet and eight feet above grade. Residential units on the ground floor and within fifteen feet of the right-of-way must feature transparency on at least twenty percent of the ground floor between five and eleven feet above grade.

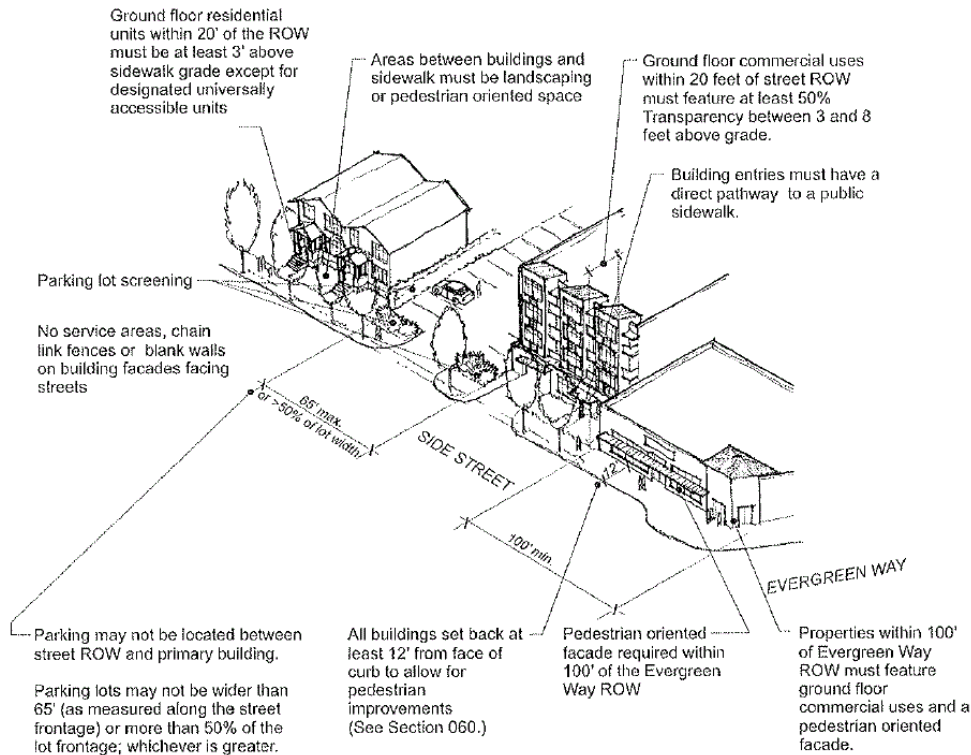
~~fh.~~ Building entries must have a direct pathway to the public sidewalk. Such entries should face the street.

~~gi.~~ Areas between the street right-of-way and the front building facade must be pedestrian-oriented spaces or landscaped as described in subsection C of this section.

~~hj.~~ The interior of parking lots shall be landscaped as required by Section [19.35.080](#).

Note: See also subsection H of this section, street corners.

**Figure 31B.070-2. Designated pedestrian-oriented side street configuration requirements for properties inside the MUO**



**Section 20.** Section 12 of Ordinance No. 3269-12, as amended (Zoning, E-1 (Evergreen Way) and MUO (Mixed-Use Overlay) Zones, EMC 19.31B.070.C), is hereby amended as follows:

**19.31B.070 Design standards—Site planning.**

**C. Circulation.**

1. Pedestrian Circulation. The intent of this provision is to improve the pedestrian environment by making it easier, safer, and more comfortable to walk on street sidewalks, to transit stops, between businesses and residences, and through parking areas; provide pedestrian facilities such as sidewalks, crosswalks, and bus shelters connecting to all modes of transportation; provide convenient pedestrian circulation connecting all on-site activities to adjacent pedestrian routes and streets; connect neighborhoods severed by major arterials; and provide access to transit and services.

- a. Provide pedestrian access onto the site from all streets on which the use is located. Where a use fronts two streets, pedestrian access shall be provided from both streets, unless the city determines such access is not feasible.
- b. For developments with multiple buildings, provide for pedestrian circulation between all buildings.
- c. New developments inside the MUO shall provide for the opportunity for future pedestrian connections to adjacent properties (inside and adjacent to the E-1 zone) through the use of pathway stub-outs, building configuration, and/or parking area layout. The city may require that pedestrian access be provided between adjacent lots or two different streets where it determines that such a

requirement is within the public interest and would not cause security problems or disadvantage the intended use. This standard is not required for properties outside the MUO.

Note: See also subsection J of this section, Design of Internal Pedestrian Paths and Circulation, and subsection K of this section, Pedestrian-Oriented Open Space Standards.

**Figure 31B.070-4. Provide pedestrian access to the site from the street**



~~2.—Vehicular Access and Circulation. The intent of this provision is to provide safe and convenient vehicular access routes through large areas by connecting public and/or private roadways and accessways; mitigate traffic impacts and to conform to the city’s objectives for better traffic circulation; enhance the visual character of interior access roads; minimize conflicts with pedestrian circulation and activity; enhance the safety and function of public streets; provide access management on Evergreen Way; i.e., to reduce turning movements that increase congestion and reduce safety; and support transit services.~~

~~See also Section 19.31B.060, Design standards—Parking area design.~~

- ~~a.—Driveways shall be limited to one every two hundred linear feet of street frontage, unless the city determines no other option is feasible.~~
- ~~b.—Vehicular access to sites at intersections shall be located on the lowest classified roadway and as close as practical to the property line most distant from the intersection, unless the city finds there is a compelling reason to the contrary.~~
- ~~c.—The city shall require that driveways be located to avoid conflicts with transit stops.~~
- ~~d.—The city may require that driveways on abutting sites serve two or more properties and that internal vehicular circulation be coordinated.~~

**Section 21.** Section 12 of Ordinance No. 3269-12, as amended (Zoning, E-1 (Evergreen Way) and MUO (Mixed-Use Overlay) Zones, EMC 19.31B.070.M), is hereby amended as follows:

**19.31B.070 Design standards—Site planning.**

M. Site Lighting. The intent of this provision is to encourage the use of lighting as an integral design component to enhance buildings, landscaping, or other site features; increase night sky visibility and to

reduce the general illumination of the sky; reduce horizontal light glare and vertical light trespass from a development onto adjacent parcels and natural features; use lighting in conjunction with other security methods to increase site safety.

1. Site Lighting Levels. All publicly accessible areas shall be lighted with average minimum and maximum levels as follows:

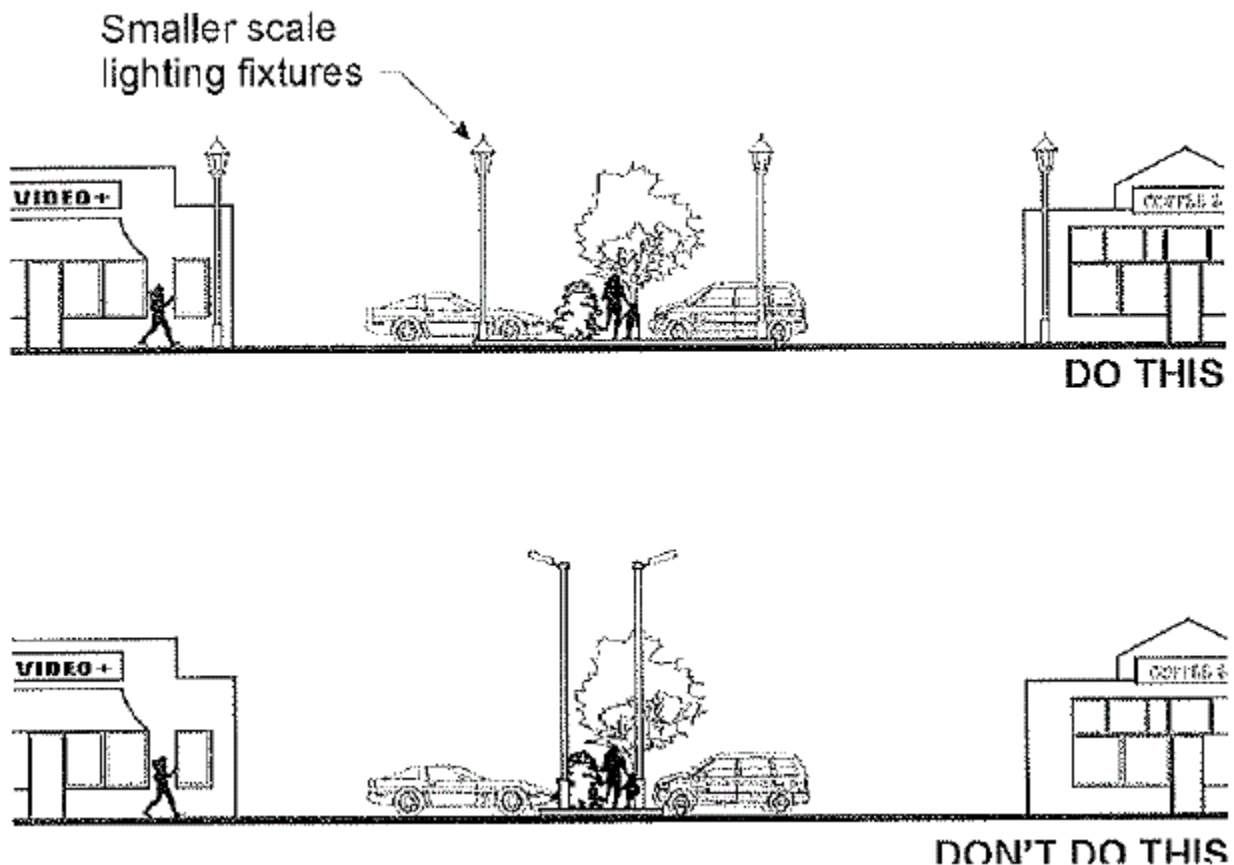
- a. Minimum (for low or nonpedestrian and vehicular traffic areas) of one-half foot-candle;
- b. Moderate (for moderate or high volume pedestrian areas) of one to two foot-candles; and
- c. Maximum (for high volume pedestrian areas and building entries) of four foot-candles.

2. Lighting shall be provided at consistent levels, with gradual transitions between maximum and minimum levels of lighting and between lit areas and unlit areas. Highly contrasting pools of light and dark areas shall be avoided.

~~3. Parking area lighting fixtures shall be full cut-off (zero percent candlepower at ninety degrees horizontal and ten percent maximum candlepower at eighty degrees from vertical), dark sky rated, and mounted no more than thirty feet above the ground, with lower fixtures preferable so as to maintain a human scale.~~

~~4. All fixtures over fifteen feet in height shall be fitted with a full cut-off luminaire.~~

~~Figure 31B.070-22. Acceptable and unacceptable parking area lighting~~





~~5.—Pedestrian-scaled lighting (light fixtures no taller than fifteen feet) is encouraged in areas of pedestrian activity.~~

~~6.—Lighting must not trespass onto adjacent private parcels, nor shall a light source (luminaire) be visible at the property line. All building lights shall be directed onto the building itself and/or the ground immediately adjacent to it. The light emissions shall not be visible above the roof line of the building.~~

~~3.7.~~ Surface-mounted building wall parking lot lighting is prohibited.

**Section 22.** Section 7 of Ordinance No. 1923-93, as amended (Zoning, Historic Overlay Zone, EMC 19.33.170), is hereby amended as follows:

**19.33.170 Off-street parking requirements.**

~~The following off-street parking requirements shall apply to dwellings in the historic overlay zone:~~

~~A.—Off-street parking shall not be located between the building and the public street unless approved by the planning director due to steep topography which precludes other placement.~~

~~B.—All access to off-street parking areas shall be from the alley when the subject lot abuts an alley. The planning director may, subject to the provisions of the city's local project review procedures ordinance, allow access to off-street parking areas located under the building from the street only when the applicant demonstrates that it is not physically possible to provide access to the parking area from the alley.~~

~~C.—Off-street parking shall be provided according to Chapter 19.34.~~

**Section 23.** Section 12 of Ordinance No. 1923-93, as amended (Zoning, Historic Overlay Zone, EMC 19.33.230), is hereby amended as follows:

**19.33.230 Garages.**

~~A.—Access to garages shall be from the alley only except where no alley exists.~~

~~AB.~~ If access to the garage must be from the street, the garage shall be set back twenty feet from the interior edge of the sidewalk to maintain clear sidewalk access.

~~BC.~~ Attached garages which are accessible from the street shall never occupy more than fifty percent of the width of all buildings facing the street, and shall be set back a minimum of five feet further from the front property line than the entry to the dwelling.

~~CD.~~ Open carports for more than two cars which are visible from the street are prohibited.

~~DE.~~ Garages shall reflect the material, style and construction of the original house.

**Section 24.** Section 38 of Ordinance No. 1671-89, as amended by Section 6 of Ordinance No. 2095-95 and Section 3 of Ordinance No. 3297-12, and as codified at EMC 19.38.060 (Nonconforming parking), is hereby repealed.

**Section 25.** Section 39 of Ordinance No. 1673-89 as amended (Zoning, General Provisions, EMC 19.39.050), is hereby amended as follows:

**19.39.050 Bed and breakfast houses.**

A. The bed and breakfast house shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, in the ordinary meaning of the term, that would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes. The bed and breakfast house shall be operated within the principal structure and not in any accessory structure.

B. The owner shall be the operator of the facility and shall reside on the premises.

C. There shall be no more than five guest rooms for persons other than the members of the immediate family of the operator.

~~D. Two off-street parking spaces shall be provided for the operator, and one off-street parking space shall be provided for each guest room. Off-street parking shall not be provided in the required front setback area except in a preexisting driveway. Visual screening of off-street parking areas shall be provided as required by Section 19.15.070.D of this title for lots located within the area designated by map number 15-1 or 15-2, or as required by Chapter 19.35 of this title for other lots.~~

~~D.E.~~ Signs shall show only the name of the bed and breakfast house and shall be limited to twelve square feet in area, shall not be internally illuminated, and shall be set back a minimum of ten feet from the front or corner side lot line.

~~E.F.~~ There shall be no cooking facilities permitted in guest rooms.

~~F.G.~~ The maximum stay permitted for guests shall not exceed ten consecutive days.

~~G.H.~~ Bed and breakfast houses shall be permitted where indicated by the use-standards table for individual zones. Within the A-1, R-S, R-1, R-2, B-1 and B-2(B) zones, bed and breakfast houses shall be permitted only in homes individually listed on the National, State or Everett Historical Register. Homes within historic districts which are not individually listed on the National, State or Everett Historical Register are not eligible to become bed and breakfast houses.

~~H.I.~~ In considering an application for a bed and breakfast house within the A-1, R-S, R-1 and R-2 zones, the review authority shall consider the impact that noise and traffic from the proposed bed and breakfast house would have on the neighborhood in which the house is located. Within these zones, the review authority shall have the authority to deny an application if the noise or traffic generated by a bed and breakfast house would infringe upon the right of the neighboring residents to enjoy a peaceful occupancy of their homes; or if the street system is not sufficient to provide emergency vehicle access to the bed and breakfast house and other neighboring properties.

**Section 26.** Section 39 of Ordinance No. 1671-89, as amended (Zoning, General Provisions, EMC 19.39.130.E), is hereby amended as follows:

**19.39.130 Minimum lot area, shape, lot area averaging, lot frontage—Cluster alternative for subdividing.**

E. Minimum Lot Area—Cluster Alternative for Subdividing.

1. Purpose and Intent. The purpose of this section is to establish a process which allows greater flexibility in the development of single-family detached and attached housing on lots which do not strictly conform to the development standards of this title for single-family lots, or which are legally structured so as to be sold individually but not through fee simple ownership as is typical through a conventional subdivision or short subdivision. This process shall be known as the “cluster alternative.” The cluster alternative is intended to provide flexibility for a development that is innovative and consistent with comprehensive plan policies promoting architectural compatibility with housing on



adjacent properties, affordable housing, and owner occupied housing types. Terms sometimes used for the type of single-family detached development allowed using the cluster alternative review process include, but are not limited to, “zero lot line,” “zipper lots,” “angle lots,” “not lots,” “Z-lots,” or “cluster lots.”

It is the intent of this development review process to require the thoughtful design of the site layout and housing units prior to receiving approval so the public will know what the development will look like when completed and so the review authority will have sufficient information to use in evaluating the proposed housing development for compliance with the requirements of this section. The basis for approval of a proposed development will depend in part upon the applicant demonstrating that the flexibility allowed through this review process will result in a housing development which includes high quality housing, compatibility with neighboring properties, and design that is sensitive to the property’s setting.

It is also the intent of this review process to eliminate variances to the dimensional requirements of the Zoning Code by requiring use of the review process described in this section rather than the variance process. By establishing this review process for alternative development standards to those otherwise required by the Zoning Code, subdividers will have greater flexibility in the design of subdivisions, and the public will have more input to the design of the subdivision and siting of housing units on the site.

2. **Applicability—Where Permitted.** This alternative to a conventional subdivision or short subdivision shall be permitted in any residential zone allowing for the development of single-family detached dwellings. To use this process, developments shall contain at least seven single-family detached and/or single-family attached dwellings.

3. **Review Process—Review Authority.** Review Process III shall be required as defined in Title 15 of this code, or any amendments thereto.

4. **Modification of Development Standards.** The review authority, through the cluster alternative review process, may allow the following modifications to the development standards of the underlying zone district:

a. Lot area, provided that no lot shall have an area containing less than four thousand square feet (three thousand square feet for lots with alley access), and that the number of dwelling units does not exceed the number derived using the following formula:

Total lot area divided by minimum lot area of zone = maximum # of permitted dwellings\*

\*Any calculation resulting in a fractional number shall be rounded down to the next whole number.

For example, on a one-acre site in the R-1 zone, the formula would be calculated as follows:

43,560 sq. ft. divided by 6,000 square feet = 7 dwelling units.

On a two-acre site in the R-2 zone, the formula would be calculated as follows:

87,120 sq. ft. divided by 5,000 square feet = 17 dwelling units.

b. Lot width, provided the lot has a minimum width of forty-five feet if it does not have alley access, and a minimum width of thirty feet if it has alley access.

c. Lot depth, provided the lot has a minimum depth of seventy-five feet.

d. Building setbacks.

- e. Lot frontage.
- f. Lot coverage.
- g. The requirements of Sections 19.33D.360 through 19.33D.590 and Chapter 19.37 of this title shall not be permitted to be modified except as provided by said Sections 19.33D.360 through 19.33D.590 and Chapter 19.37.
- h. Single-family detached or single-family attached dwelling units are permitted using the cluster alternative.

5. Evaluation Criteria for Modification of Development Standards. The basis for approval or denial of a proposal to modify the development standards of the underlying zone district, as permitted by subsection E.4 of this section, shall be the innovative or beneficial overall quality of the proposed development, demonstrated by the following criteria. The review authority shall deny the application for failure to satisfy the following criteria:

- a. The modification will allow an innovative or unique residential development not otherwise permitted by the development standards of the underlying zone district, but which promotes the goals of the comprehensive plan for architectural compatibility with housing on adjacent properties, affordable housing, and owner occupied housing types.
- b. The modification will result in the provision of usable common open space equal to at least ten percent of the lot area prior to development (example: trails, playground, ball field, etc.).
- c. The modification will result in less visual impact created by off-street parking areas when viewed from public streets or private properties which abut the property than would be likely without the modification of development standards.
- d. The dwelling unit orientation and design provides orientation to the street, including a prominent front entrance to the dwelling, minimizes the visual prominence of the garage and garage doors, promotes greater privacy for existing residential areas abutting the subject property, and between individual dwellings within the cluster development than would be likely to occur without the modification of development standards. Consideration will be given to orientation and design of dwelling units, screening, and landscaping.
- e. The modification will result in the protection or enhancement of environmentally sensitive areas or historic structures not likely to occur without the modification of development standards. If these features do not exist, this section will not apply.

6. Single-Family Attached Development Standards. In addition to the other provisions of the cluster alternative, the following standards shall apply to single-family attached housing proposed using the cluster alternative:

- a. Single-family attached housing shall be permitted only when each dwelling unit may be owner occupied, as provided through a condominium, zero lot line subdivision, or residential binding site plan.
- b. Buildings shall be designed and constructed so that each dwelling is distinguishable as a separate dwelling.
- c. Each dwelling shall have a prominent entrance on the ground level.
- ~~d. If the property abuts an alley, the garage or off-street parking area shall take access from the alley. No curb cuts will be permitted for lots with alley access.~~
- de. Lots without alley access may have garages which face the street, but the front of the garage shall be setback five feet behind the front facade of the dwelling. ~~Driveway width shall not exceed twenty feet within required front setback areas.~~

7. Conditions of Approval Which May Be Required by the Review Authority. In considering a proposal using the cluster alternative to conventional platting, the review authority shall require the following as conditions of approval of the proposed development:

- a. The provision and improvement of common open space areas for the use and benefit of the residents of the proposed cluster development.
- b. Limitation on the percentage of lot coverage by buildings, driveways and off-street parking areas to minimize storm water runoff and visual impacts to surrounding properties.
- c. Limitation on the size, floor area, and height of buildings.
- d. Dwellings built on lots without direct frontage on the public street shall be situated to respect the privacy of abutting homes and to create usable yard space for the dwelling(s). The review authority shall have the discretion to establish setback requirements that are different than may otherwise be required in order to accomplish these objectives.
- e. Appropriately sized and placed landscaping shall be provided to enhance the streetscape, to provide privacy for dwellings on abutting lots, and to provide separation and buffering on easement access drives. The city may require a community landscaping maintenance easement for the front yards of all homes or lots, and require maintenance by the homeowners association to ensure uniform maintenance of all front yards within the development.
- f. The review authority may apply additional development standards, such as increased setbacks, reduced building height, window location, or other building design elements, as a condition of approval, as needed to ensure that developments using the cluster alternative review process satisfy the evaluation criteria stated in subsection (E)(5) of this section.
- g. Covenants—Maintenance. All common open space, community facilities, and landscaping shall be subject to maintenance and use provisions which shall be set forth and recorded in private covenants, deed restrictions, homeowner’s agreements or through other legal means in a form suitable to the city attorney to assure continued maintenance, establish rights of access and to address other relevant matters.

8. Application Submittal Requirements. In addition to the application submittal requirements of the city’s Land Division Ordinance and other requirements of the Zoning Code, applications for the cluster alternative to subdivisions or short subdivisions shall include the following information:

- a. Typical lot detail with architectural elevations of dwellings proposed to be built or placed on each building site on the property, reflecting an integrated architectural plan for the development.
  - i. The dwelling units shall be designed to fit each specific lot or building site so that adequate off-street parking can be provided and still provide a pleasing streetscape, private yard areas and common open space area.
  - ii. The dwelling unit design shall take into consideration the relationship of indoor and outdoor spaces to provide for the optimum use of both.
  - iii. If possible, the design should provide for solar orientation and views from the site.
- b. Master landscaping plan for the property, including fencing and planting to ensure privacy, screen drainage facilities, and provide compatibility between the subject property and adjoining residential areas.

**Section 27.** Section 60 of Ordinance No. 1849-92, as codified at EMC 19.39.165 (Transportation compatibility), is hereby repealed.

**Section 28.** Section 39 of Ordinance No. 1671-89, as amended by Section 5 of Ordinance No. 2839-05, and as codified at EMC 19.39.170 (Vehicles—Storage in residential zones) is hereby repealed.

**Section 29. Severability.** Should any section, paragraph, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

**Section 30. Conflict.** In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

**Section 31. Corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

**Section 32. General Duty.** It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

\_\_\_\_\_  
Cassie Franklin, Mayor

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK**

**Passed:** \_\_\_\_\_

**Valid:** \_\_\_\_\_

**Published:** \_\_\_\_\_

**Effective Date:** \_\_\_\_\_