

to be modified except as provided by said Sections 33D.360 through 33D.590 and Chapter 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.

e. 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. (Ord. 3377-14 § 4, 2014; Ord. 2720-03 §§ 10—13, 2003; Ord. 2329-98 § 1, 1998; Ord. 2146-96 §§ 12, 14, 1996; Ord. 1838-91 § 25, 1991; Ord. 1671-89 (part), 1989.)

39.140 Performance regulations—General.

A. Light and Glare Regulation. Any artificial surface which produces light or glare which annoys, injures, endangers the health or safety of persons, or interferes with the use of property is a violation of this title.

B. Heat Regulation. Heat generated by any activity or operation on the subject property which injures or endangers the health or safety of persons or interferes with the use of abutting property or streets is a violation of this title.

C. Noise Regulation. Noise shall be regulated in accordance with the provisions of the noise ordinance.

D. Odor—Air Emissions. Any odor which injures or endangers the health or safety of persons or interferes with the use of abutting properties or streets is a violation of this title. Emissions to air shall comply with the standards of the State Department of Ecology and the Puget Sound Air Pollution Control Authority.

E. Vibration and Concussion. Except during periods of construction, vibration or concussion resulting from a permitted use on a lot shall not be discernible on other properties without the aid of instruments. (Ord. 1671-89 (part), 1989.)

39.145 Recreational marijuana zoning regulations.

A. Definitions. The terms “marijuana,” “marijuana processor,” “marijuana producer,” and “marijuana

retailer” shall have the meaning set forth in RCW 69.50.101. “City” means the city of Everett.

B. Producers and Processors. Marijuana producers and marijuana processors may operate in the city of Everett provided there is full compliance with all of the following provisions:

1. Marijuana producers and marijuana processors must comply with all requirements of state law, the Washington State Liquor and Cannabis Board, and the city;

2. Marijuana producers and marijuana processors may locate only within the M-1, M-2, M-M, and C-2 zones;

3. Marijuana producers and marijuana processors may not locate within one thousand feet of any parcel zoned as residential (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);

4. Marijuana producers and marijuana processors may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

5. Tier 2 and Tier 3 marijuana producers and/or processors may not operate or locate in the city; and

6. There shall be a minimum separation of one thousand feet between production and/or processing uses, measured as the shortest distance between the boundaries of the lot upon which each use is located.

C. Retailers. Marijuana retailers may operate in the city pursuant to the following restrictions:

1. Marijuana retailers must comply with all requirements of state law, Washington State Liquor and Cannabis Board and the city;

2. Marijuana retailers may locate only within the B-2, B-3, BMU, C-1, C-1R, C-2, E-1, E-1MUO, and M-2 zones;

3. Marijuana retailers may not locate in neighborhood business (B-1) zones;

4. Marijuana retailers may not locate in a building in which nonconforming retail uses have been established in residential zones (R-S, R-1, R-1(A), R-2, R-2(A), R-3, R-3(L), R-4, and R-5 zones);

5. Marijuana retailers may not locate within one thousand feet of any parcel containing an elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older;

6. Marijuana retailers may not locate within two thousand five hundred feet of any other legally established marijuana retailer;

7. Customer parking for marijuana retailers must be on the public street side of the structure in which the marijuana retailer is located and may not be off of or adjacent

to an alley. However, staff parking and business deliveries may occur on the alley side of the structure;

8. Vehicular access to the parking lot for a marijuana retailer shall be from the public street frontage and may not be from an alley. Any property located on a street from which vehicular access to the site from the street is prohibited by the city engineer shall not be allowed for use as a marijuana retailer;

9. Marijuana retailers shall not be allowed on any parcel containing a residential use;

10. Marijuana retailers shall not be allowed on any parcel that is contiguous to a parcel containing residential use, unless the planning director, using Review Process II as described in Title 15, finds the following:

a. There is a physical separation between the two uses, such as another commercial building, or a substantial change in topography;

b. The retail use is located in a shopping center as one of multiple tenants with adequate parking for all uses and access as stated above;

c. The building in which the retail use is located faces the commercial street and the residential use faces a residential street in the opposite direction, without a shared alley between the two;

d. The residential use is located at least one hundred feet from the common lot line between the two uses;

11. In reviewing a proposed marijuana retailer under this section, the planning director shall have the authority to require improvements including, but not limited to, fencing or landscaping to screen the retail use from the residential use;

12. The front facade of retail stores shall consist of storefront window(s), doors, and durable, quality building materials consistent with the design standards of the zone in which the property is located. Transparency requirements for windows shall apply unless in conflict with Washington State Liquor and Cannabis Board regulations. If located in a zone without design standards, at least three of the following shall be provided:

a. Special treatment of windows and doors, other than standard metal molding/framing details, around all ground floor windows and doors, decorative glazing, or door designs.

b. Decorative light fixtures with a diffuse visible light source or unusual fixture.

c. Decorative building materials, such as decorative masonry, shingle, brick, or stone.

d. Individualized patterns or continuous wood details, decorative moldings, brackets, trim or lattice work, ceramic tile, stone, glass block, or similar materials.

e. Use of a landscaping treatment as part of the building's design, such as planters or wall trellises.

f. Decorative or special railings, grill work, or landscape guards.

g. Landscaped trellises, canopies, or weather protection.

h. Sculptural or hand-crafted signs.

i. Special building elements, such as pilasters, entablatures, wainscots, canopies, or marquees that exhibit non-standard designs.

j. Other similar features or treatment that satisfies the intent of the guidelines as approved by the city;

13. The maximum number of retail marijuana stores allowed in the city of Everett shall not exceed five. Provided, the city shall review the maximum number of retail marijuana stores allowed before June 1, 2018, to determine whether this maximum number should be changed.

D. Measurements. Distances provided under this section shall be measured as the shortest distance between the perimeters of the parcels at issue.

E. Compliance. Marijuana producers, marijuana processors, and marijuana retailers are required to acquire all necessary business licenses and are required to comply with municipal tax regulations and all other applicable city ordinances and regulations.

F. Establishment. For purposes of the two-thousand-five-hundred-foot setback between marijuana retailers, marijuana retailers shall be considered to be legally established in the order in which they are issued a city of Everett business license. The city will not accept a business license application for a recreational marijuana business prior to the applicant providing the city a copy of a letter from the Washington State Liquor and Cannabis Board indicating that the applicant has been approved for a recreational marijuana license. The city will process business license applications for recreational marijuana businesses in the order in which they are accepted.

G. Enforcement. Any violation of this section is subject to enforcement under the provisions of Chapter 1.20 or through action of the city attorney seeking injunctive or other civil relief in any court of competent jurisdiction. The violator will be responsible for costs, including reasonable attorney fees. (Ord. 3486-16 § 2, 2016; Ord. 3443-15 §§ 2, 3, 2015)

39.150 Required setbacks—Exceptions.

A. General. This section establishes what structures, improvements, and activities may be in or take place within required setback areas as established for each use in each zone in Chapters 5 through 28 of this title.

B. Exceptions and Limitations in Some Zones. Chapters 5 through 28 contain specific regulations regarding what may be in or take place in required yards. Where applicable, those specific regulations supersede the provisions of this section. See Section 41.100 for regulations concerning outdoor uses, activities and storage.

C. Structures and Improvements. No improvement or structure may be located in a required setback area except as follows:

1. A driveway, walkway, and/or parking area subject to the standards of Chapter 34.

2. Uncovered porches, decks, and steps which are no higher than three feet above the existing grade do not require a setback from the rear or side lot lines.

3. Chimneys with or without foundations, bay windows, eaves, greenhouse windows and other elements of a structure that customarily extend beyond the exterior walls of a structure and do not require a foundation may extend up to eighteen inches into any required setback area. The total horizontal dimension of the elements that extend into a required yard, excluding eaves, may not exceed twenty-five percent of the length of the facade upon which the architectural element is located. No variance shall be granted to allow the architectural element to exceed twenty-five percent of the width of the facade upon which it is located.

4. Fences may be located in required setback areas subject to the fence regulations contained within this section.

5. Rockeries and retaining walls may be located in required setback areas if:

a. The rockery or retaining wall is not being used as a direct structural support for a building;

b. The rockery or retaining wall is reasonably necessary to provide support to a cut or slope;

c. The rockery or retaining wall will not obstruct or interfere with the vision of vehicles and pedestrians using driveways and public rights-of-way; and

d. Any structure retaining soil which is four feet or greater in height shall comply with accessory building setback requirements, unless otherwise approved by the planning director, using the review process described in Title 15, Local Project Review Procedures.

6. Improvements associated with shoreline use and access areas may be located in any required setback area. The landward end of a pier may be located in the required setback area.

7. Those structures and improvements permitted in required setback areas by subsection D of this section.

8. Signs may be located in required setback areas subject to the requirements of Chapter 36 or other specific regulations of this title.

9. A covered porch which is open on three sides may encroach six feet into a required front or rear yard setback area.

10. Heat pumps and other air conditioning equipment shall not be permitted within a required front or side setback area.

11. Uncovered porches, decks and steps not over forty-two inches above grade may encroach into a front setback area by not more than fifty percent of the required setback depth.

12. Uncovered porches, decks, and steps over three feet in height and no higher than ten feet above the exist-

ing grade may encroach into the principal building's rear setback area by not more than fifty percent of the required setback depth.

13. Zero lot line subdivisions approved as part of a formal subdivision or short subdivision may allow encroachment into what would otherwise be considered a required setback area.

D. Required Setbacks—Intrusions Into.

1. Signs, Marquees and Awnings: See sign code, Chapter 36.

2. Garages/Carports on Slopes:

a. If the topography of a lot is such that the front building setback line is eight feet or more above the street grade, and there is no reasonable way to construct a driveway up to the dwelling level, a garage/carport may be built into the bank, provided it is set back at least five feet from the front property line and does not exceed fifteen feet in height.

b. If the topography of a lot is such that the land drops down steeply from the street level and there is no reasonable way to construct a driveway with a slope less than fifteen percent down to the dwelling level, a garage/carport may be built in the front yard setback subject to approval by the planning director. The garage/carport must be set at least five feet back from the front lot line, and may not exceed fifteen feet in height above the floor of the garage. The garage/carport and its vehicular access must be located and oriented to minimize disturbance of the slope.

c. The garage/carport constructed in accordance with subparagraph a or b of this subdivision must comply with the street intersection sight-obstruction requirements of Section 39.180.

E. Required Yards, Designation and Measurement of.

1. Except as specifically provided in subsection (E)(2) of this section or as provided in an approved formal plat or short plat, each lot must contain only one front setback and only one rear setback. Any other setback will be considered a side setback.

2. The planning director is authorized to designate front, rear and side setbacks in accordance with the definitions of Chapter 4. If these definitions do not establish a front and rear setback, the planning director shall establish the setbacks based upon orientation of the lot to surrounding lots and to any existing development pattern. All other setbacks will be defined in relation to the established front and rear setback. (Ord. 2973-07 §§ 5—8, 2007; Ord. 2538-01 § 71, 2001; Ord. 2146-96 § 13, 1996; Ord. 1849-92 §§ 55, 56, 1992; Ord. 1671-89 (part), 1989.)

39.155 Supportive housing.

A. Permanent supportive housing shall comply with the development standards and design guidelines for multiple-family development for the zone in which such housing is located except as specified herein.

1. The allowed density shall be the number of units that can be placed on the site while meeting the dimensional standards and all other required standards of the zone in which the project is located except that in single-family zones, building height shall be determined during the review process based upon compatibility with surrounding uses.

2. Access to transit must be available within five hundred feet of the development.

3. A written management plan shall be provided for the review and approval of the planning director. At a minimum, a management plan shall address the following components:

a. Specify the nature of the supportive housing project and its intended occupants;

b. Identify potential impact(s) on nearby residential uses and proposed methods to mitigate those impacts;

c. Include a neighborhood outreach plan that addresses how the applicant will communicate with and inform the neighborhood before and after project approval;

d. Identify the project management or agency to whom support staff are responsible and who will be available to resolve concerns pertaining to the facility. The plan shall specify procedures for updating any changes in contact information;

e. Identify staffing, supervision and security arrangements appropriate to the facility. A twenty-four-hour on-site manager is required;

f. On-site services shall be for residents of the facility only;

g. The management plan will contain requirements for updating all contact information to the city when changes occur;

h. If the planning director determines at any time there is evidence of fraud in obtaining the permit; concealment or misrepresentation of any material fact on the application or on any subsequent applications or reports; or that the supportive housing project is found to be in violation of the approved plans, conditions of approval, or the terms of the permit or management plan, and the owner has failed to correct the violation after proper notice thereof; then the city may initiate compliance proceedings as provided by Chapter 1.20.

4. A use compliance inspection or report may be required periodically by the city as determined by the planning director. If a permanent supportive housing project is discontinued or abandoned, future use of the property shall be in conformance with the use and development standards of the underlying zone or overlay zone. (Ord. 3500-16 § 8, 2016)

39.160 Vehicle and equipment repair on residential premises.

Servicing, repairing, assembling, wrecking, modifying, restoring, or otherwise working on any vehicle on any residential premises in any zone district shall be subject to the following:

A. Work shall be limited to the repair and maintenance of vehicles, equipment, or other conveyance currently registered as specified in the Washington Vehicle Code to the occupant or a member of the occupant's family, which shall be limited to parents, grandparents, spouse, or children related by blood, marriage or adoption. This limitation precludes auto repair on residential premises by any commercial entity.

B. Such work shall be conducted on no more than one vehicle at any one time.

C. Such work shall only be done within an enclosed structure (such as a garage) or in an area which is screened from public view.

D. Such work shall be done only between the hours of eight a.m. and ten p.m.

E. Such work shall not be done in a public right-of-way.

F. Storage of parts, equipment, or other supplies needed for the repair of the vehicle on the premises must be kept within an enclosed structure or in an area which is screened from public view.

G. No such work which creates a nuisance as defined in Chapter 8.20 shall be permitted.

H. Upon completion of any work allowed by this section, the property shall be cleaned of all debris, oil, grease, gasoline, cloths, rags, and equipment or material used in the work, and shall be left in such a condition that no hazard to persons or property shall remain.

I. Disposal of all waste products shall be done in accordance with Chapter 19.114 RCW. (Ord. 1849-92 § 59, 1992.)

39.165 Transportation compatibility.

All uses other than single-family dwellings, duplexes on individual lots, and agricultural activities shall be designed in a manner which encourages the use of public transportation and pedestrian accessibility, and which maximizes the efficient use of the existing transportation system. The applicant shall use the SNO-TRAN publication "A Guide to Land Use and Public Transportation" as a guide in planning the location of buildings and parking areas, parking lot and landscaping design, pedestrian circulation, and other site improvements. The design of all proposed developments shall:

A. Provide pedestrian connections to form logical routes from origins to destinations; and

B. Provide for weather protection for pedestrians from rain through use of sheltered walkways or sidewalks, canopies, multiple building entrances, lobbies and entries

of sufficient size and accessibility. (Ord. 1849-92 § 60, 1992.)

39.170 Vehicles—Storage in residential zones.

A. Recreational vehicles, campers, travel trailers and large boats may be stored in a side or rear setback area on residential lots upon which a principal dwelling is located; provided, that such vehicle is owned by the owner or resident of the dwelling.

B. Vehicles over sixteen thousand pounds gross vehicle weight which are not specifically mentioned in subsection A of this section shall not be parked or stored on residentially zoned lots. In respect to any motor vehicle designed, used or maintained primarily for the transportation of property which is not equipped with a plate or marker showing the manufacturer's gross vehicle weight rating, the weight of a vehicle shall be determined as follows:

1. Any motor vehicle having less than six wheels is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of less than sixteen thousand pounds.

2. Any motor vehicle having six wheels or more is the equivalent of a vehicle having a manufacturer's gross vehicle weight rating of sixteen thousand pounds or more.

C. No vehicle shall be parked or stored on any lot in such a manner that it obstructs the vision of drivers entering a street from a private driveway to the extent that it causes a safety hazard for vehicular and pedestrian traffic. (Ord. 2839-05 § 1, 2005; Ord. 1671-89 (part), 1989.)

39.180 Surveys required.

For all new buildings, additions, or alterations of existing buildings, the planning director and building official shall both have the independent authority to require the applicant to have a survey completed to verify that the setback and height standards of Title 19 are met.

Upon consideration of scope of the proposed project and the materials submitted by the applicant, the planning director or building official, in their sole discretion, may require a full survey, limit the required survey to a determination of specified property corners or a bench mark for elevation, or require additional information which will demonstrate compliance without requiring a survey. Where the proposed building, addition, or alteration is within one foot of a required setback or within one foot of the maximum allowable height, the planning director and building official should always require a full or limited survey, unless extraordinary circumstances justify otherwise. (Ord. 3216-11 § 1, 2011)