

10. Compliance with the provisions of this title and other city, state and federal regulations.

11. Accessibility to public transit, and traffic reduction measures proposed by the applicant to reduce dependence of the proposed use on the automobile.

D. Evaluation Criteria for Specific Uses. The uses which are listed in this subsection are classified as special property uses. When the use-standards table of a particular zone allows one of the following uses, subject to Review Process II, III or VA, the review authority shall consider the following factors listed for a specific use as a basis for approving, disapproving or approving with modifications a proposed use, in addition to the general evaluation criteria listed in subsection C of this section:

1. Governmental or Quasi-Governmental Activities.

a. Parks, Playground and Public Recreational Facilities.

(1) Park buildings exceeding one thousand square feet in size shall be located a minimum of fifty feet from adjoining residentially zoned properties.

(2) Accessory buildings containing less than one thousand square feet shall be reviewed using Review Process I.

b. Above Ground Utility and Communications Facilities.

(1) Major utility and communications facilities shall be designed, landscaped or otherwise screened to ensure compatibility with surrounding properties. Above ground utility and communications structures and antennas shall be designed, constructed, painted and screened so as to blend with surrounding uses and buildings. The review authority may impose additional restrictions on the location, setbacks, height, design, landscaping and screening of above ground utility and communications facilities if necessary to minimize visual impacts and promote greater compatibility with existing or planned uses on surrounding properties. Amateur radio tower antennas shall be regulated by Section 39.040, and are not subject to review under this section.

(2) Antennas associated with above ground utility or communications facilities shall be located on existing or replacement towers or structures to the maximum extent technically feasible to discourage the proliferation of tower structures. Installation or co-location of antennas on existing or replacement towers or structures shall be preferred unless the proponent can demonstrate that a new structure is necessary to adequately serve the needs of the public. When proposed to be installed on an existing or replacement tower or structure located in a nonresidential zone located at least three hundred feet from residential zones, facilities which are subject to Review Process II shall be reviewed using Review Process I, subject to meeting all requirements of this section. When proposed to be located on an existing or replacement utility or communi-

cations structure or other nonresidential structure in a residential zone, Review Process II shall be required.

(3) Tower structures for above ground utility and/or communications facilities shall not be located in or within three hundred feet of residentially zoned areas, in or within two hundred feet of gateway corridors as designated by the Everett comprehensive plan, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, unless the applicant provides an analysis of alternative sites and existing facilities which are technically feasible where the structure could be located or co-located which demonstrates that the proposed facility cannot adequately serve the needs of the public for the proposed utility or communications service in an alternative location. When location in or within two hundred feet of a gateway corridor, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, is necessary to serve the public need for utility or communications services, use of existing or replacement utility and communications facilities is encouraged. When existing facilities are used or replaced, addition to or replacement of existing structures may exceed the height of the existing facility by not more than twenty feet.

(4) When tower structures for above ground utility and/or communications facilities are proposed to be located within three hundred feet of residentially zoned areas, in or within two hundred feet of gateway corridors as designated by the Everett comprehensive plan, or in or within two hundred feet of areas under the jurisdiction of the shoreline master program, zones which otherwise require Review Process II shall use Review Process III.

(5) All utility and communication facilities shall be installed underground or within structures to the greatest extent practical in order to maximize safety and minimize visual and noise impacts upon surrounding properties. When it is not practical to install underground or within structures, all utility and communications facilities shall be architecturally designed and screened so as to minimize visual impacts on and promote compatibility with surrounding properties.

(6) Above ground utility and communications facilities shall be designed so as to be the lowest height possible to adequately serve the needs of the public for the proposed utility or communications service. The review authority, in considering the proposed utility or communications facility, may allow antenna or tower height to exceed the height permitted in the underlying zone without having to satisfy the variance approval criteria of Section 41.130.C of this title. Approval may only be granted if it can be demonstrated that such height is necessary to adequately serve the needs of the public for the proposed utility or communications service. The applicant shall provide an evaluation of alternative designs and locations which could result in a lower tower or antenna height.

(7) Towers associated with above ground utility and communication facilities and all ancillary structures shall comply with the setback standards of the zone in which the property is located; provided, that when allowed to be located in or within two hundred feet of residential zones, the height of any tower shall not exceed the horizontal distance between the base of the tower and the nearest residential property line. The review authority, in considering the proposed utility or communications facility, may allow a lesser setback, without having to satisfy the variance approval criteria of Section 41.130.C of this title, if it can be demonstrated that a lesser setback is necessary to adequately serve the needs of the public for the proposed utility or communications service, or that a lesser setback will result in better screening than in a location which meets the setbacks required herein.

(8) The above ground utility or communications facility shall be removed from the site should the use for such purposes be discontinued for one hundred twenty days or more. The planning director shall have the discretion, upon the request of the owner of the facility, to allow an extension of this time period to allow for the use of the site by another utility or communications service provider.

(9) Maintenance, repair, or replacement of existing utility or communications facilities or appurtenant structures and the installation of minor above ground utility and communications facilities are exempt from this section. This exemption includes replacement or increased heights of not more than twenty feet to accommodate wireless telecommunications antennas. Utility and communications service providers are encouraged to locate such facilities of a minor nature and small scale on existing or replacement structures, where technically feasible, in preference to erecting new towers or structures for such purposes.

(10) To the extent provided by law, the city may require utility or communications service provider to allow up to two additional service providers to be located on shared facilities to discourage the proliferation of tower structures, consistent with technological feasibility. The review authority may allow an additional twenty feet in tower height per additional provider to accommodate collocation.

(11) Utility or communications facilities which require towers for which safety lights are required by the FAA shall not be permitted unless the applicant demonstrates that such a facility in the proposed location and at such a height is necessary to adequately serve the needs of the public for the proposed utility or communications service.

(12) The planning director may require review by an expert third party who is approved by the city and the applicant, to be paid for by the applicant, when needed for review of site-specific data submitted by the applicant concerning technical aspects related to specific facilities and locations.

c. Airfields, Seaplane Terminals and Landing Facilities.

(1) All such facilities which are proposed shall be reviewed using Review Process IIIA.

(2) Public or private airfields, airports and seaplane facilities shall be developed in accordance with Federal Aviation Administration requirements.

(3) Public or private airfields, airports and seaplane facilities shall be designed and constructed in a manner which has the least noise impact on surrounding properties, especially areas developed with or designated for residential use.

(4) Public or private airfields, airports and seaplane facilities shall be located so as to avoid safety hazards and minimize noise impacts, particularly on residential land uses.

d. Special Aviation Uses. Special aviation uses shall consist of helipads, including the establishment or modification of the use and any supporting landing or communications facilities. Modification of a special aviation use shall include more flights or increased environmental impact than was identified in the city's decision (or, if not specified in the decision, then the SEPA environmental document that served as a basis for the city's decision).

(1) Special aviation uses shall be reviewed under Review Process VA, except for emergency airlift landing facilities for existing hospitals which are subject to Review Process IIIA.

(2) Facilities shall be located so as to avoid safety hazards and minimize noise impacts, particularly on residential land uses.

(3) Facilities shall be designed, constructed and operated in a manner that has the least noise impact on surrounding properties, especially areas developed with or designated for residential use.

(4) Facilities shall be developed in accordance with Federal Aviation Administration requirements.

2. Community Service Facilities.

a. Public and Private Elementary and Secondary Schools, Colleges, Universities and Public Vocational Education Centers.

(1) This section does not apply to private training schools such as beauty schools, business colleges or technical training facilities, which shall be treated as commercial uses by this title.

(2) Elementary and middle schools may be located on local or arterial streets. High schools shall be located adjacent to or within four hundred feet of collector or arterial streets.

(3) Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties. Buildings over twenty-five feet in height shall have an additional setback of one foot for each foot over twenty-five feet in height.

(4) Temporary classrooms of any size, and accessory structures smaller than one thousand square feet shall be reviewed using Review Process I.

b. Churches.

(1) New church structures shall be located a minimum of fifteen feet from adjacent residentially zoned properties.

(2) Church buildings shall comply with the height requirements of the zone in which it is located. Steeples may exceed the maximum building height.

(3) Where churches are located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street.

c. Hospital.

(1) Hospitals and directly related hospital functions shall only be located in areas which are designated "Hospital" (2.4) on the Everett general plan.

(2) Hospital-owned or hospital-operated uses which are the same as uses which are permitted in the underlying zone shall be reviewed using Review Process I.

(3) Vehicle, pedestrian and ambulance traffic shall be directed toward the nearest collector or arterial street and away from local residential streets.

(4) Hospitals and hospital-related structures shall be set back a minimum of fifty feet from adjacent residentially zoned lots.

(5) Hospitals and hospital-related uses shall be screened from adjacent residentially zoned lots by the landscaping requirements of Landscape Category B.

d. Community Center.

(1) A community center shall be located adjacent to or within four hundred feet of collector or arterial streets.

(2) A community center shall be located within one-quarter mile of transit routes.

(3) Where a community center is located adjacent to local residential streets, the parking lot entrances/exits shall be oriented toward the nearest collector or arterial street. The review authority may allow other means of access through the review process to provide for safe circulation and emergency vehicle access.

(4) Structures shall be located a minimum of twenty-five feet from adjacent residentially zoned properties.

(5) Community center buildings shall comply with the height requirements of the zone in which it is located; however, the review authority may consider allowing a greater height provided the additional height is necessary to accommodate the functional needs of the facility and that the facility is designed to be the lowest height that will accommodate the functional needs.

(6) All freestanding signs shall be monument signs with a maximum height of eight feet and shall include low plantings around the base of the sign to make it a part of the landscape.

3. Secure Community Treatment Facilities. Secure community transition facilities shall also be subject to the following standards:

a. Essential Public Facilities. A secure community transition facility ("SCTF") is an essential public facility. In addition to complying with the city's requirements for a special use permit, the applicant for a SCTF shall comply with the city's siting process for essential public facilities.

b. Maximum Number of Residents. No SCTF shall house more than twelve persons, excluding resident staff.

c. Siting Criteria.

(1) No SCTFs shall be allowed in or within the line of sight of the following specified uses, whether such uses are located within or outside the city limits. In or within the line of sight of any "risk potential activity" as defined in RCW 71.09.020, as amended, include, but are not limited to:

(A) Public and private schools;

(B) School bus stops;

(C) Licensed day care and licensed pre-school facilities;

(D) Public parks, publicly dedicated trails, sports fields and playgrounds;

(E) Recreational and community centers;

(F) Churches, synagogues, temples and mosques;

(G) Public libraries; and

(H) Others risk potential activities identified by the Department of Social and Health Services.

(2) The distance provided for line of sight shall be measured by following a straight line from the nearest point of the property parcel upon which the secure community transition facility is to be located, to the nearest point of the parcel of property or land use district boundary line from which the proposed land use is to be separated.

(3) In order to assist in providing equitable distribution, there shall be a separation of one mile between an SCTF and any existing SCTF, jail, correctional facility, mental health facility, work release, pre-release or similar facility. (Similar facility includes but not limited to Madison House, Everett Gospel Mission Men Shelter, Everett Gospel Mission Women and Children Shelter, Green House, and Evergreen Manor.)

d. Review Process III (Special Property Use/Conditional Use Permit): A special property/conditional use permit Review Process III application for SCTF shall comply with all the permitting and procedural requirements pertaining to a special property/conditional use permit Review Process III including those found under Title 15 of this code.

e. Existing SCTFs. In the event a SCTF is legally sited in accordance with the provisions of this title, this does not preclude any subsequent siting of any risk poten-

tial activity described in subsection D.3.c.(1) of this section within the line of sight.

f. When evaluating an application for a SCTF consideration shall also be given to those siting provisions provided in RCW 71.09.250(8).

E. Adaptive Reuse of Nonresidential Buildings in Residential Zones.

1. Purpose. The purpose of this subsection is to allow for adaptive reuse of nonresidential buildings in residential zones that are functionally obsolete in order to improve the economic feasibility of a property by considering uses that are not otherwise permitted, but which, if properly designed and managed, would not create unacceptable impacts on surrounding properties or the immediate vicinity in general. This process differs from the unlisted use process listed in Section 2.080 in that uses that are not specifically authorized in the underlying residential zone may be considered using the process described herein.

2. Procedures. Any request to allow a use that is not otherwise permitted in the underlying residential zone shall be processed as a special property use. If the property is in or within five hundred feet of a single-family residential zone, the application shall be reviewed using Review Process III. If the property is more than five hundred feet from a single-family residential zone but is in or within one hundred fifty feet of a multiple-family residential zone, the application shall be reviewed using Review Process II. If the property is outside a historic overlay zone but listed on a historic register or as a contributing structure in a historic register district, the historical commission shall review the proposal and make a recommendation to the hearing examiner using Review Process III.

3. Circumstances. The city may allow a use in a residential zone that is not specifically allowed in that zone if it is necessary to encourage adaptive reuse of a building under the following circumstances:

a. It is unlikely that the primary building on the subject property could be preserved if only uses permitted in the underlying zone were allowed.

b. Allowing a different use would enhance the character of the building and immediate vicinity.

c. The use would not have a detrimental effect upon surrounding properties or the immediate vicinity.

4. Uses. The following uses may be considered for adaptive reuse of an existing building in a residential zone:

a. Dwelling units. Density based on underlying zoning plus one additional dwelling unit;

b. Assisted living facilities;

c. Libraries;

d. Museums and art galleries;

e. Social service facilities;

f. Public services;

g. Business incubators;

h. Artist studios;

i. Music venues;

j. Cafes and bistros;

k. Live-work units;

l. Bed and breakfasts;

m. Other uses not listed above if determined through the review process to be compatible with surrounding properties and the immediate vicinity.

5. Review Criteria. The following criteria shall be used as the basis for determining compatibility with surrounding uses and approving, denying, or conditionally approving a request to allow the adaptive reuse of a nonresidential building in a residential zone:

a. General evaluation criteria of subsection C of this section.

b. The adaptive reuse would promote or aid in the preservation or rehabilitation of the primary building.

c. No significant adverse impacts to public safety.

d. Compliance with building and fire codes.

e. Hours of the day of proposed use or activity.

f. Proposed management and operational procedures to minimize and mitigate potential impacts.

g. Expansions to the primary building shall not exceed ten percent of the existing footprint or five hundred square feet, whichever is greater, and will not detrimentally affect the outside character of the building.

h. Other factors not specified herein that would create adverse impacts to the immediate vicinity.

6. Any proposal that would adversely affect properties in the immediate vicinity shall be denied. The city shall retain the right to revoke a permit issued under this section that fails to comply with any conditions of approval of said permit, or which operates in a manner inconsistent with representations made in the application, pursuant to Chapter 1.20.

F. Notification. Notification for special property use applications shall be provided according to the required review process, as specified in Title 15, Local Project Review Procedures.

G. Review Authority Decisions.

1. Conditions and Restrictions. If the review authority approves a special property use permit, conditions and restrictions may be applied thereto, which exceed the minimum standards required by this title, when necessary to assure that the proposed use complies with all requirements of this title and is compatible with surrounding land uses.

2. Time Limit on Approval. The effective time period in which the applicant may establish the use proposed by an approved special property use permit shall be five years from the date of the written order granting approval of the permit. The written order may specify a shorter time period if the review authority determines that it is in the public interest to authorize a shorter period of

time in which to establish the use. The planning department may authorize one extension of time for a period of not more than one year if it can be found that circumstances beyond the control of the applicant prevented the establishment of the use.

3. Appeals.

a. Review Process II. The planning director's Review Process II determination may be appealed as provided by Title 15, Local Project Review Procedures.

b. Review Process III. No administrative appeal is provided for Review Process III decisions. (Ord. 3484-16 § 2, 2016; Ord. 3483-16 § 4, 2016; Ord. 2657-02 § 48, 2002; Ord. 2639-02 § 3, 2002; Ord. 2531-01 § 15, 2001; Ord. 2397-99 §§ 63—68, 1999; Ord. 2290-98 § 3, 1998; Ord. 1849-92 §§ 63, 64, 1992; Ord. 1811-91 § 10, 1991; Ord. 1671-89 (part), 1989.)

41.160 Rezones.

A. User Guide. This subsection establishes the mechanism and criteria for the city to change a zoning classification on the zoning map and to change the boundaries of zones on the zoning map. This mechanism is called rezoning. Please note that this section does not apply to proposals to amend the text of this title. Section 41.170 describes how that can be done.

B. Types of Rezones. There are two types of rezones:

1. Area-Wide Rezones. A rezone shall be treated as an area-wide rezone when:

- a. It is initiated by the city; or
- b. A significant class of properties are similarly affected by the proposed rezone; and
- c. It is either:
 - (1) Based upon an adopted or ongoing comprehensive planning process; or
 - (2) Part of a process that includes amending the text of this title.

2. Site-Specific Rezones. A rezone will be treated as a site-specific rezone when it does not meet the area-wide rezone requirements of subsection B.1 of this section.

3. Notification. Notification for rezones shall be provided as specified in Title 15, Local Project Review Procedures.

C. Area-Wide Rezones.

1. Applicable Process. The city will use the review process as determined by Title 15, Local Project Review Procedures, to review and decide upon a proposal for an area-wide rezone.

2. Area-Wide Rezones—Criteria. The city may decide to approve a proposal to rezone land only if it finds that:

- a. The proposal is consistent with the applicable provisions of the Everett general plan; and
- b. The proposal bears a substantial relation to public health, safety or welfare; and

c. The proposal promotes the best long-term interests of the Everett community.

3. Area-Wide Rezones—Map Change. If the city approves a proposal to rezone land through an area-wide rezone, it will give effect to this decision by making the necessary amendment to the zoning map of the city. Such an amendment to the zoning map shall be made by the city council adopting an ordinance which specifically describes the property being rezoned.

D. Site-Specific Rezones.

1. Applicable Process. The city will use the review process as determined by Title 15, Local Project Review Procedures, to review and decide upon an application for a site-specific rezone.

2. Criteria. The review authority may approve an application for a site-specific rezone if it finds that:

a. The proposed rezone is consistent with the Everett comprehensive plan; and

b. The proposed rezone bears a substantial relation to public health, safety or welfare; and the proposed rezone promotes the best long-term interests of the Everett community; and

c. The proposed rezone mitigates any adverse impact(s) upon existing or anticipated land uses in the immediate vicinity of the subject property.

3. Site-Specific Rezones—Implementation—Map Change. If the city approves an application for a site-specific rezone, it will give effect to this decision by adoption of an ordinance, or by adoption of an ordinance or resolution in conjunction with a development agreement between the city and the applicant, as provided in RCW 36.70B.170, to implement the rezone and make the appropriate change to the zone boundary or zone classification on the zoning map.

E. Zoning of Annexations. For properties which the city council has accepted an annexation petition as provided by state law or for which the city council has adopted a resolution initiating annexation proceedings by election, the city shall establish zoning and a comprehensive plan land use designation concurrently with the annexation proceeding. The zoning and comprehensive plan designation shall not become effective until such time as the ordinance annexing the subject properties becomes effective; provided, however, notwithstanding the above, the city is authorized to proceed with the annexation independent of the establishment of the zoning and comprehensive plan designation when the city council finds the existence of extenuating circumstances based upon the general health, safety and welfare of the area proposed to be annexed and/or the surrounding area. Whenever the city does not adopt zoning and a comprehensive plan designation concurrently with the annexation process, the annexation ordinance will establish an interim zoning designation of R-S (Suburban Residential) along with a complementary comprehensive plan designation

which shall become effective upon the effective date of annexation and the annexed area shall remain zoned R-S until such time as the city establishes a different zoning for the annexed area. (Ord. 2601-02 § 7, 2002; Ord. 2531-01 § 16, 2001; Ord. 2384-99 § 6, 1999; Ord. 2012-94 § 1, 1994; Ord. 1849-92 § 65, 1992; Ord. 1671-89 (part), 1989.)

41.165 Performance agreement rezones.

The following applies to performance agreement rezones in which a resolution of intent to rezone has been approved by the Everett city council prior to December 31, 2001.

A. Performance Agreement Rezone. A performance agreement rezone is a type of site-specific rezone in which a request for change of zone classification in which the applicant agrees to certain restrictions and conditions as part of the approval of the rezone request. Such conditions or restrictions shall be set forth in the resolution of intent to rezone the property, and shall be recorded on the property, in the county auditor's office, to be disclosed on title documents for the property.

The purpose of the performance agreement rezone is to enable the city to apply special development standards to specific sites where the review authority feels that the application of such standards is necessary to facilitate compatibility of land uses, especially where properties in different zones abut one another or where the potential impacts of uses proposed by the applicant or permitted in the requested zone warrant the use of special development standards. The review authority may require applications for non-project rezones to be evaluated as performance agreement rezones.

B. Resolutions of Intent. If the city decides to grant the request for a performance agreement rezone, it may adopt a resolution of intent to rezone. The resolution of intent shall establish a particular set of standards which govern the manner in which the site is developed and represents an agreement between the applicant (or future owners of the property) and the city. The resolution of intent permits the applicant to develop the property in accordance with the terms approved as part of the resolution.

C. Criteria. The city may approve an application for a performance agreement rezone only if it finds that:

1. The proposed rezone is consistent with the Everett comprehensive plan; and
2. The proposed rezone bears a substantial relation to public health, safety or welfare; and promotes the best long-term interests of the Everett community; and
3. The terms of the resolution of intent agreed to by the applicant and the city are sufficient to mitigate adverse impacts upon existing or anticipated land uses in the immediate vicinity of the subject property.

D. Effect of Approval. If city council approves an application for a performance agreement rezone, it will give effect to this decision by adopting a resolution of intent to rezone which will have the following effects:

1. Effect on the Applicant. The applicant may, subject to all other applicable codes and ordinances, develop the subject property in conformity with the resolution of intent to rezone.

2. Effect on the City. If the applicant completes development of the subject property in conformity with the resolution of intent to rezone, the city shall make the zone boundary or zone classification change on the zoning map that was approved in that resolution.

E. Minor Modifications. Subsequent to the adoption of the resolution of intent to rezone, the applicant may apply for a minor modification to the site plan approved as part of that resolution. The city will use the review process described in Title 15, Local Project Review Procedures, to review and decide upon an application for a minor modification. If the director determines that notice to contiguous property owners should be provided regarding the minor changes, the director may require the proposed modification to be reviewed using a higher level of review process than otherwise required by Title 15, Local Project Review Procedures. The city may approve a minor modification only if it finds that:

1. The change is necessary because natural features of the subject property not foreseen by the applicant or by the city prior to adoption of the resolution of intent to rezone; and

2. The change will not result in reducing the landscaped area, buffering areas or the amount of open space on the project required by the resolution of intent; and

3. The change will not result in increasing the residential density or gross floor area of the project as approved by the resolution of intent; and

4. The change will not result in any structure, or vehicular circulation or parking area which will adversely affect abutting property or public right-of-way, or conflict with any provisions of the resolution of intent or of this title; and

5. The city determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.