

ZONING ORDINANCE

Z Attachment 4

Appendix C Definitions

The Definitions are subject to the following rules of interpretation. Except when the context clearly indicates or requires otherwise:

- Words used or defined in one tense or form shall include other tenses and derivative forms.
- Words in the singular number shall include the plural number and words in the plural number shall include the singular number.
- The masculine gender shall include the feminine and the feminine gender shall include the masculine.
- The word "shall" is mandatory when applied to an applicant or other individual.
- The word "may" is permissive.
- The word "person" includes individuals, firms, corporations, associations, trusts and any other similar entities or groupings of such entities.
- The word "building" shall be construed as though followed by the words "or structure or part or parts thereof."
- The words "built" and "erected" shall each contain the other and shall include the words "constructed," "reconstructed," "altered," "enlarged," "moved," and any others of like significance.
- The words "occupied" or "used" shall be considered as though followed by the phrase "or intended, arranged, or designed to be used or occupied."
- In the case of any difference of meaning or implication between the text of this Ordinance and any caption, number, illustration or table, the text shall control, unless otherwise specifically noted herein. Terms and words not defined herein but defined in the Commonwealth of Massachusetts State Building Code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary.

Definitions

Administrator of the Approving Authority – the Approving Authority's designated administrative entity for purposes as set forth in this Ordinance.

Americans with Disabilities Act or "ADA" – the Americans with Disabilities Act of 1990, as amended, is a law that prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation.

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Applicant – the person or persons, including a corporation or other legal entity, who applies for issuance of a permit subject to the provisions of this Ordinance. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site.

Approving Authority – the Planning Board of the City of Everett.

Attached Dwelling Development – a row of at least three one-family attached dwelling units whose sidewalls are separated from other dwelling units by a fire wall or walls. Each unit in the row house or townhouse may be owned by a separate owner and shall have its own at-grade access.

Business - a corporation, sole proprietorship, partnership, limited liability company or any other organization formed for the purpose of carrying on a commercial enterprise.

By-Right Development Project – a Development Project allowable under this Ordinance without recourse to a special permit, variance, zoning amendment, or other form of zoning relief. A Development Project that is subject to the Site Plan Review requirement of this Ordinance shall be considered a By-Right Development Project.

Certificate of Occupancy – a statement signed by the Building Commissioner setting forth either that a building or structure complies with this chapter or that a building, structure or lot of land may lawfully be employed for specified uses, or both.

Cinema – a theater designed and constructed for the primary intended purpose of showing films or movies for a fee.

Convenience Store – retail stores of 5,000 square feet or less in gross floor area, which carry a range of merchandise oriented to convenience and travelers' shopping needs. These stores may be part of a service station or an independent facility.

Determination of Applicability – a written opinion of the Building Commissioner in response to petition of an Applicant regarding the applicable Use Category and permit requirements for a proposed or potential Development Project.

Development Project – a Project undertaken pursuant to this Ordinance that requires Site Plan Approval.

District Ordinance – section 30 of the City of Everett Zoning Ordinance, inclusive.

Dwelling Unit – a residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and shall contain a kitchen area or combination kitchen/living area.

Dwelling, Attached – a one-family dwelling unit in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant walls. Attached dwellings are also referred to as "townhouses," "townhouse dwellings" or "row houses."

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Dwelling, Single Family – a residence on a single lot.

Dwelling, Two-Family – a house on a single lot containing two dwelling units. This definition includes residential buildings containing two Dwelling Units adjoining side by side, in which no part of one dwelling unit is over any part of the other dwelling unit.

Dwelling, Three-Family – a residential building containing three Dwelling Units. The individual Dwelling Units may but need not be located on separate lots.

Dwelling, Multi-Family – a residential building containing four or more dwelling units designed for occupancy by the same number of families as the number of dwelling units. A Mixed-Use Development Project may include Multi-Family Dwelling Units.

Fast Order Food Establishment – an establishment whose primary business is the sale of food for consumption on or off the premises which is primarily intended for immediate consumption rather than for use as an ingredient or component of meals, available upon a short waiting time and packaged or presented in such a manner that it can be readily eaten inside or outside the premises where it is sold.

Fixed Public Transportation Stop – a stop on a fixed-location public transit route operated by the MBTA provided that for the purposes of this Ordinance such stop shall be located within thirty (30) feet of weather protected seating and provisions for bicycle parking.

Floor Area Ratio or “FAR” – the result of dividing the gross floor area of the building or buildings on a lot by the total area of the lot, expressed as a decimal number.

Frontage –

- a. The distance measured as a straight line along the street between the intersection of the street boundary and the lot lines or along the curve of the street and the intersection of the street boundary and the lot lines.
- b. The distance measured parallel to the intersection of the street boundary and the lot lines at a distance of twenty-five (25) feet measured on a line perpendicular to the line between the intersection of the street boundaries and the lot lines.

Game – a banking or percentage game played with cards, dice, tiles, dominoes or an electronic, electrical or mechanical device or machine played for money, property, checks, credit or any other representative of value which has been approved by the commission.

Gaming – dealing, operating, carrying on, conducting, maintaining or exposing any game for pay.

Gaming Area – the portion of the premises of a gaming establishment in which or on which gaming is conducted.

Gaming Establishment – the premises approved under a category 1 gaming license issued by the Massachusetts Gaming Commission under G.L. c.23K which includes a gaming area and any other nongaming structures or uses which may include, but shall not be limited to, hotels, restaurants, retail, bars, meeting areas, health club, spa, indoor or outdoor entertainment areas,

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live entertainment, active or passive recreation areas, waterfront improvements or other uses allowed by-right or by special permit pursuant to this Ordinance.

Gasoline Station – a building, facility or part thereof with at least one and no more than two service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles and the provisions for lubricating service or auto repair limited to: tire service and repair (but not recapping or re-grooving), replacement of miscellaneous parts and minor adjustments to parts of the motor not involving removal of the head, crankcase or motor.

General Ordinances – the Revised Ordinances of the City of Everett, Massachusetts, 2007, as amended.

Gross Square Feet (“GSF”) – the measure of floor area of space on all floors inclusive of heated basements, hallways, mechanical rooms, storage space and other miscellaneous space not exclusively occupied by a single tenant or occupant, measured from the exterior faces of exterior walls. Gross floor area does not include covered walkways, open roofed-over areas, porches, exterior terraces or steps, chimneys, roof overhangs, parking garages and unheated basements.

Gun Shop – the premises of any federally licensed firearms dealer where the primary business or commercial enterprise conducted on the premises is the purchase or sale of firearms or firearm ammunition.

Height – the vertical distance of the highest point of the roof beam in the case of a flat roof and of the mean level of the highest gable of a sloping roof as measured from the mean ground level at all elevations of a building.

Home Occupation – the use of a room or rooms in a dwelling or building accessory thereto by a person resident on the premises as an office, studio, or workroom for a home occupation provided that:

- i. Such use is clearly incidental and secondary to the use of the premises for dwelling purposes, with such use confined to not over one-third of the total floor area occupied by each family, and
- ii. Not more than one employee other than a resident of the premises is regularly employed thereon in connection with such use, and
- iii. No offensive noise, vibration, smoke, dust, odor, heat or glare is produced, and
- iii. There is no exterior display and no exterior sign, except for an announcement card or sign of not more than two (2) square feet in area, and
- iv. There is no exterior storage of material or equipment (including the exterior parking of more than one commercial vehicle) and no other exterior indication of such use or variation from the residential character of the premises.

Hotel – an establishment that provides temporary lodging for transient guests in a building greater than three (3) stories in height and having a common entrance or entrances; usually includes a public dining room; and may provide facilities for entertainment and various personal services for guests, but not including a boardinghouse, lodging house or rooming house.

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Identified Infrastructure Improvements – street network, open space and pedestrian improvements conceptually designed and recommended in the Lower Broadway Master Plan, as amended.

Level of Service (“LOS”) – a measure of the performance of an intersection as determined according to criteria set forth by the most recent edition of the manual of the Transportation Research Board of the National Research Council.

Lot – a parcel of land under one (1) sole or undivided ownership separate from that of any adjoining lots. A corner lot for the purposes of this Ordinance is any lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one hundred thirty-five (135) degrees with each other. The Applicant shall, for the purposes of this Ordinance, have the privilege of calling either street lot line the front, without reference to the building arrangement.

License – a license issued by the Massachusetts Gaming Commission under G.L. c.23K that permits the licensee to operate a gaming establishment with table games and slot machines.

Lower Broadway Master Plan or “LBMP” – the public plan of this name dated February 26, 2013 on file with the Everett Department of Planning and Development, prepared by Sasaki Associates, Inc. with and on behalf of the City of Everett to guide and inform land use policy and public improvements in the Lower Broadway Economic Development District.

Luminaire – a complete lighting system, including a lamp or lamps and a fixture.

Marina – a boat basin that has docks, slips, supplies and repair facilities for small boats.

Massachusetts Architectural Access Board or “MAAB” – a regulatory agency within the Massachusetts Office of Public Safety charged by 521 CMR 1.00 with developing and enforcing regulations designed to make public buildings accessible to, functional for, and safe for use by persons with disabilities.

Membership Club – a noncommercial social, sports or fraternal association or organization which is used exclusively by members and their guests.

Motel – an establishment that provides temporary lodging for transient guests in a building that is three (3) stories in height or less and in which the rooms are directly accessible from an outdoor parking area, but not including a boardinghouse, lodging house or rooming house.

Mixed Use Development Project – a Development Project combining residential use and commercial use, or multiple different commercial uses, on a single lot or in a single building.

Neighborhood Market – A pedestrian-oriented grocery/specialty market store offering food products packaged for preparation and consumption away from the site of the store and oriented to the daily shopping needs of surrounding residential areas. Neighborhood markets are less than 15,000 square feet in size and operate eighteen (18) or fewer hours per day. Neighborhood markets may include deli or beverage tasting facilities that are ancillary to the market/grocery portion of the use.

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Non-gaming vendor – a supplier or vendor including, but not limited to, a construction company, vending machine provider, linen supplier, garbage handler, maintenance company, limousine service company, food purveyor or supplier of alcoholic beverages, which provides goods or services to a gaming establishment or gaming licensee, but which is not directly related to games.

Office – a place for the regular performance of business transactions and services, generally intended for administrative, professional and clerical activities, including a medical or dental office or health clinic.

Open Space – an area of land such as a square, green, park, and linear park which is located and designed for access primarily or exclusively by residents, employees and/or patrons of a Development Project, including provision for access by pedestrians and/or bicyclists for passive or active recreation.

Open Space, Public – an area of land such as a square, green, neighborhood park, pocket park, and linear park which is located and designed for public access by pedestrians and/or bicyclists for passive or active recreation.

Parties in Interest – the Applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the Applicant as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the Everett Planning Board, and the planning board of every abutting city or town.

Priority Development Site – a location shown on the Zoning Map as having been designated as a Priority Development Sites in accordance with G.L. c.43D.

Project – construction or renovation undertaken pursuant to this Ordinance that may be authorized by Administrative Site Plan Review, and that does not require Site Plan Review. A Project is subject to different procedural requirements than a Development Project, but in all other respects is subject to the same performance standards as would be applicable to a Development Project.

Recreational Use – the principal use or intended principal use of land or structures for relaxation, entertainment, amusement, sports, or the like, whether on a fee or non-fee basis, but not including a cinema.

Restaurant – any business establishment principally engaged in serving food, drink, or refreshments, whether prepared on or off the premises provided, however, that drive through windows are not allowed.

Retail Sales and Service – business establishments selling goods and/or services to customers on-site, generally for end use personal, business or household consumption. A reasonable amount of storage of said goods shall also be assumed to be an integral part of retail use.

Service and repair stations for automobile or light truck, but not including gasoline stations – an establishment where passenger vehicles are serviced and repaired, including repair or rebuilding of engines, routine maintenance services such as oil changes, repairs to exhaust systems, and other general repair but not including auto body work. Such buildings may be

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required to be sound-insulated and designed to protect the neighborhood from vehicle exhaust and other by-products of vehicle servicing.

Setback – the shortest horizontal distance from the front lot line to the nearest building wall or building part except as otherwise noted.

Site Plan – a plan depicting a proposed Development Project which is submitted to the Approving Authority for its review and approval in accordance with the provisions of this Ordinance.

Site Plan Approval - the Approving Authority's authorization for a proposed Development Project in accordance with this Ordinance after the conduct of a Site Plan Review.

Site Plan Approval, Administrative – the authorization for a proposed Project by the Administrator of the Approving Authority in accordance with this Ordinance.

Site Plan Review - the Approving Authority's review of a proposed Development Project in accordance with this Ordinance.

Special Permit – a use of a structure or lot or any action upon a premises which may be permitted under this Ordinance only upon application to and the approval of the Special Permit Granting Authority.

Special Permit Granting Authority or "SPGA" – the Planning Board of the City of Everett unless as otherwise specified.

Story – the portion of a building or structure which is between any floor and the floor or roof above. A cellar, basement or parking area shall be deemed to be a story only if a) more than half of the clear height is above the average elevation of the finished lot grade, OR, b) more than five feet of the front elevation is above the grade at the front of the structure. Steeples and projections used or intended to be used exclusively for utility service or access to the roof shall not be deemed a story. An attic used for storage or structural support shall not be deemed to be a story if unfinished and not used for human occupancy.

Street – any existing street, square, lane, court or way set aside as a permanent right-of-way for street purposes, and including any such right-of way as may be created after the enactment of this Ordinance provided that it is at least forty (40) feet or more in width and of adequate width, grade and construction to serve its intended purpose in the reasonable judgment of the Approving Authority. For the purposes of this Ordinance, the Streets located within the LBEDD have been classified based on their function to the vehicular and pedestrian transportation network, as follows:

Street, Primary – this category includes Broadway, Bow Street and Beacham Street.

Street, Secondary – this category includes Bartlett Street, Orient Avenue, Lynde Street and Robin Street.

Street, Future Secondary – this category includes Charlton Street, Bernard Avenue, and Factory Street.

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Street, Tertiary – this category includes Hadley Court, Dane Street, Langdon Street, Jacobs Place, Courtland Street, Thorndike Street and Mystic Street.

Street, Future Tertiary – this category includes Bowdoin Street.

Street, Closed/Modified – this category includes Horizon Way (f/k/a Chemical Lane), Ashland Street, Washburn Street, Jerome Court, Gardner Court and Simonelli Place.

Sub-district – a specific and geographically defined area of land within the LBEDD that is subject to specific requirements for allowable uses or dimensional requirements that may differ from the requirements for allowable uses or dimensional requirements in other specific and defined areas within the LBEDD.

Tattoo Studio – a business that marks the skin with any indelible design, letter, scroll figure, symbol or any other mark that is placed by the aid of needles or other instruments upon or under the skin with a substance that will leave color under the skin and that cannot be removed, repaired or reconstructed without a surgical procedure. A Tattoo Studio may or may not be operated in conjunction with a Body Piercing Studio.

Temporary Community Parking Facilities – temporary parking lots or structures that are available to the public; provided, that such use shall not exceed thirty-six (36) months. (C0239-18)

Temporary Construction Parking Facilities – temporary parking facility accessory to construction activities on another lot(s) within the LBEDD; provided, that such use may not exceed thirty-six (36) months in duration and must be operated by the entity undertaking such construction. (C0370-16)

Underlying Zoning – the zoning requirements adopted pursuant to G.L. c. 40A that are otherwise applicable to the geographic area in which an Overlay Zoning District is located, as said requirements may be amended from time to time.

Use, Accessory – an Accessory Use is a use subordinate to the Principal Use on the same lot or in the same structure and serving a purpose customarily incidental to the Principal Use, and which does not, in effect, constitute conversion of the Principal Use of the lot, site or structure to a use not otherwise permitted in the LBEDD.

Use, Principal – the main or primary purpose for which a structure, building, or lot is designed, arranged, licensed, or intended, or for which it may be used, occupied, or maintained.

Yard, Front - the shortest distance measured from the closest point of the building to the nearest point of the intersection of the street boundary and the lot lines.

Yard, Rear – the shortest distance measured from the closest point of the building to the nearest point of a lot boundary line which is not considered a front or side yard boundary line.

Yard, Side – the shortest distance measured from the closest point of the building to the nearest point of a lot boundary line which is not designated a front or rear yard boundary line.

Zoning Map – the Zoning Map of the City of Everett, as amended.

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Zoning Ordinance – the Zoning Ordinance of the City of Everett, also referred to as Appendix A of the General Ordinances, as amended. (Ord. C0360-20; amended as part of October 2021 update)