

## Exhibit 4

**Instructions to reader:** This chapter amends EMC 13.68. You can locate proposed changes to the city’s code with a vertical bar in the left hand margin. Words struck through are proposed for deletion; words that are underlined and highlighted are proposed additions. For a summary of the effect of the changes to this chapter, please visit the Rethink Zoning Library at <https://everettwa.gov/2453/Rethink-Zoning-Library>.

### Chapter 13.68 STREET CONSTRUCTION AND PRIVATE CONSTRUCTION

#### Table of Contents

<b>CHAPTER 13.68 STREET CONSTRUCTION AND PRIVATE CONSTRUCTION .....</b>	<b>1</b>
13.68.010 DEFINITIONS .....	1
13.68.020 PURPOSE AND APPLICABILITY.....	1
13.68.030 ADMINISTRATION.....	4
13.68.040 DESIGN STANDARDS/GRADES .....	5
13.68.050 CONSTRUCTION .....	5
13.68.060 ISSUANCE OF BUILDING PERMIT .....	5
13.68.070 ADMINISTRATIVE MODIFICATION.....	5
13.68.080 APPEAL PROCEDURE .....	6

#### **13.68.010 Definitions.**

For the purpose of this chapter the following definitions shall apply:

- A. “Alley” means the minor portion of the public road network not designed for general travel and used primarily as means of access to the rear of residences and business establishments.
- B. “Alley improvement” means the drainage, grading and pavement facilities required to improve the alley to city design standards.
- C. “City engineer” means the person appointed by the mayor to position of engineering department head, or his designee.
- D. “Right-of-way” means the public property used or reserved for municipal purposes including all public utilities and street usages.
- E. “Street” means all or any portion of the city public road network open to the public for travel with exception of alleys and limited access highways designated as State Highways.
- F. “Street improvements” means the installation of all public facilities required to improve the street or alley to city design standards including grading, drainage, pavement, curb/gutter, sidewalk, ~~street lights~~streetlights, traffic signals and other necessary appurtenances. Such street improvements shall not be limited to the half street abutting the property; for example, where no permanent street improvement existed, the street improvement shall be extended beyond the centerline a sufficient distance (ten feet minimum) to permit safe movement of traffic.
- G. “Interim street improvements” means the installation of improvements to bring the public facility up to the existing character of the surrounding streets and pedestrian facilities and may include widening of or installation of the asphalt street surface, gravel or paved shoulder, temporary drainage facilities and in case of alleys, an all-weather gravel driving surface.

#### **13.68.020 Purpose and Applicability.**

The purpose of this chapter is to establish standards for improvements to public streets, sidewalks and alleys that would be required with development.

- A. Improvements required – business, commercial and industrial development. No building permit shall be issued by the city for construction of any new building or facility of any kind or description, or in connection

with any additions, alterations, or repairs within any twelve-month period which exceeds fifty percent of the current market value of an existing building or facility on the property, unless or until the public streets and alleys upon which the same abuts shall be improved to current city standards. The applicant shall be required to construct frontage (e.g. street and/or alley) street improvements together with all necessary appurtenances, at the owner(s) expense in accordance with the following requirements:

- B. Improvements required - residential uses. Public streets and alleys shall be improved to current city standards for any residential development that results in a total of three or more dwellings, excluding accessory dwelling units. This requirement for street improvements applies to single-family residences, duplex, triplex, multiple family or any combination thereof resulting in three or more dwelling units in total.
- C. Sidewalk improvement required for all residential development within sidewalk priority areas. This requirement supersedes the development threshold in subsection B of this section. All development resulting in the construction of one or more new residential dwelling units, excluding accessory dwellings, shall provide a sidewalk or safe walking path meeting city standards along the property's full frontage when located in the "sidewalk priority" area shown on Map 13.68-1. The sidewalk priority area includes the following locations:
  - 1. Metro Everett, as defined in Title 19;
  - ~~1-2.~~ Areas within one-quarter mile of a high frequency transit corridor;
  - 3. Areas within one-quarter mile of major arterials; and
  - 4. Areas within one quarter mile of a public school or public park.
- D. Exceptions. The city engineer may allow the property owner to provide interim street improvements, as defined in subsection G of Section 13.68.010 and the Administrative Guidelines, or to deviate from the requirements of this chapter in the following circumstances:
  - 1. Where a proposed development is subject to a land use permit under EMC Title 19, and conditions have been imposed through the land use review process which are intended to alter, supplement or replace the requirements of this chapter;
  - 2. Where ultimate improvements are not desirable to the city engineer at the present time due to existing severe horizontal or severe vertical grade alignment problems;
  - 3. Where the city engineer is satisfied that adequate street improvements exist except for nominal lacking of street width;
  - 4. Where plans for more comprehensive improvements exist which would alter the ultimate improvements required to be constructed on the public right-of-way abutting the proposed development site.
  - 5. Where the existing street and alley improvements can adequately serve the property in the short term future, in accordance with the published Administrative Guidelines;
  - 6. When existing street and/or alley improvements are inadequate or no public street and/or alley improvements exist:
    - a. Where ultimate improvements are, in the opinion of the city engineer, using reasonable engineering judgment not desirable, or, in the case of known plans for more comprehensive improvements, encompassing the public right-of-way abutting the site, the city engineer may allow an interim street improvement;
    - b. In all other cases of inadequate improvements or no public street or alley improvements, full street and/or alley improvements shall be required;
  - 7. The addition of a residential garage or carport shall be exempt from requirements of this chapter when such construction is an addition to an existing residential use.
- ~~A. All business, commercial, industrial, and multiple family residential (five units or more) land uses, shall be required to construct street and/or alley improvements together with all necessary appurtenances; provided, that if in the discretion of the city engineer any of the following conditions are found to exist, the city engineer may allow the property owner to provide interim improvements as defined in subsection C of Section 13.68.010, or to deviate from the requirements of this chapter:~~
  - ~~1. Where a proposed development is subject to the environmental review process pursuant to the State Environmental Policy Act (SEPA) and Ordinance No. 582-79 as amended, and conditions have been imposed~~

through the environmental review process which are intended to alter, supplement or replace the requirements of this chapter;

2. Where a proposed development is determined to be exempt from the requirements of the State-Environment Policy Act and Ordinance No. 582-79 as amended, and where the city engineer determines that ultimate improvements are not desirable at the present time due to existing severe horizontal or severe-vertical grade-alignment problems;

3. Where the city engineer is satisfied that adequate improvements exist except for nominal lacking of street-width;

4. Where plans for more comprehensive improvements exist which would alter the ultimate improvements required to be constructed on the public right of way abutting the proposed development site.

In every case where interim improvements are allowed, the property owner is required to provide a recorded-covenant power of attorney to the city (hereinafter referred to as "LID covenant") in support of a petition local improvement district for construction of street and alley improvements, together with all necessary-appurtenances. Forms for the LID covenant shall be provided by the city and approved by the city attorney.

~~B.~~ Residential uses, up to and including single family, duplexes, triplexes and fourplexes:

1. ~~Where, in the opinion of the city engineer, the existing street and alley improvements can adequately-serve the property in the short term future, in accordance with the published Administrative Guidelines-the requirements shall be to provide a recorded LID covenant for a local improvement district for-construction of street and alley improvements together with all necessary appurtenances;~~

2. ~~Where, in the opinion of the city engineer, the existing street and/or alley improvements are inadequate-or no public street and/or alley improvements exist:~~

a. ~~Where ultimate improvements are, in the opinion of the city engineer, using reasonable engineering-judgment not desirable, or, in the case of known plans for more comprehensive improvements,-encompassing the public right of way abutting the site, the city engineer may allow that the property-owner shall provide a recorded LID covenant, for a local improvement district for construction of street-and alley improvements together with all necessary appurtenances,~~

b. ~~In all other cases of inadequate improvements or no public street or alley improvements, full street-and/or alley improvements shall be required;~~

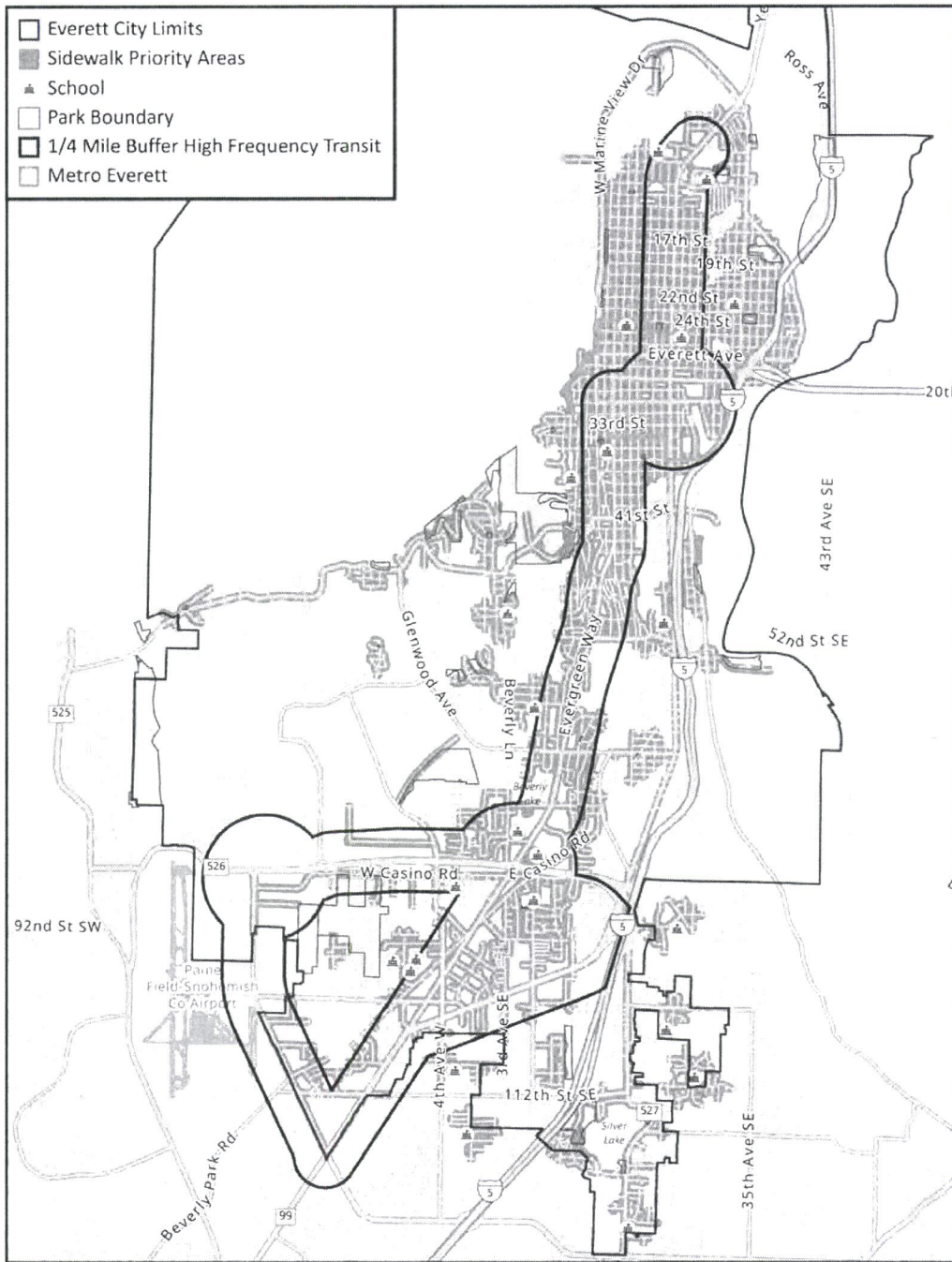
3. ~~Provided, however, the addition of a residential garage or carport shall be exempt from requirements-of this chapter when such construction is an addition to an existing residential use, up to and including-single family, duplexes, triplexes, and fourplexes.~~

~~E.C.~~ All owners of properties shall dedicate additional rights-of-way as necessary to complete the required street improvements in accordance with city standards; provided, however, that the developer shall still be required to meet the appropriate setback requirements as well as all other applicable ~~performance~~ development standards.

~~E.D.~~ All improvements required ~~by this chapter above~~ shall be extended as necessary to provide a smooth transition with existing improvements, both laterally across the street and longitudinally up and down the street, for drainage, vehicular and pedestrian traffic. Interim street improvements are defined in the Administrative Guidelines.

~~E.~~ For residential uses, up to and including single family, duplexes, triplexes and fourplexes, a neighborhood-residential street shall be considered adequate as long as the existing character of the surrounding streets and pedestrian facilities consist of an eighteen foot asphalt surface and a three foot shoulder beyond the hard-surface street section. On arterial and high volume residential streets, a six foot shoulder shall be deemed as-adequate, except where school or neighborhood pedestrian routes exist or are anticipated, sidewalks shall be-installed.

Map 13.68- 1: Sidewalk Priority Areas



**13.68.030 Administration.**

The authorized administrator of this chapter shall be the city engineer, and he is delegated the administrative responsibilities contained in this chapter, including establishment of administrative guidelines to implement the standards contained herein.

### 13.68.040 Design standards/grades.

- A. All street and alley improvements shall be to city design standards and approved by the city engineer.
- B. The city engineer shall utilize the uniform geometric standards for the design of city streets as per RCW 35.78.020—040 (Draft Copy from Washington State Department of Transportation dated September 18, 1978, and subsequent versions), the Manual on Uniform Traffic Control Devices (“MUTCD”), the American Public Works Association Standard Construction Specifications (current edition), together with such other standard ~~as~~ the city engineer may adopt and publish.
- C. In addition, design standards and street improvement requirements of specific application to certain streets, locations or neighborhoods may be further designated or defined by ordinance or resolution.
- D. The city engineer shall furnish control elevations for final grades of required improvements.

### 13.68.050 Construction.

All street and alley improvement plans shall be prepared by ~~an~~ licensed engineer, licensed in the state of Washington on twenty-four inch by thirty-six inch size mylar reproducible paper for permit approval by the city engineer prior to starting construction. All construction work shall be inspected by the city engineer, or his representative. Upon completion of construction, the city engineer is authorized to accept such improvement and/or any right-of-way dedication required herein on behalf of the city.

### 13.68.060 Issuance of building permit.

No new building permit shall be issued until all street and alley improvements are completed and accepted by the city engineer; provided, however, upon proper application to the building department, the city engineer may authorize issuance of a building permit upon delivery of a performance bond, cash deposit, or equivalent guarantee for one hundred twenty percent of the city engineer's approved estimated cost of the improvements to the public right-of-way, in order that such improvements could and would be installed at the expense of the building permit applicant or assigns upon the right-of-way within a reasonable time after notice so to do shall be given by the city.

### 13.68.070 ~~Variance procedure~~ Administrative modification.

The city engineer is authorized to grant, in writing, administrative modifications from the regulations and requirements of this chapter, provided the following criteria are met:

- A. The 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 modification is not against the public interest, particularly safety, convenience and general welfare;
  - C. That the granting of the permit for the modification will not adversely affect the rights of the adjacent property owners or tenants;
  - D. That the terms of this chapter will not create an unnecessary hardship on the applicant, property owner or tenant.
- ~~A. Any applicant or department of the city may request a special exception to the hearing examiner from any provision of this chapter. Such request by applicant shall be filed in writing with the city engineer and secretary of the hearing examiner. Such requests must be made in writing to the city engineer within thirty days from the date on which the city engineer presents the applicant with his final decision in writing. There shall be a nonrefundable fee of fifty dollars paid to the city treasurer to cover the city's cost of handling the request for special exception, except that a department of the city is exempt from the fee. The hearing examiner shall consider the proposed variance within thirty days after the city engineer receives the request.~~
- ~~B. The hearing examiner is authorized to grant, in writing, variances from the regulations and requirements of this chapter, providing it is first determined that all of the following conditions are present:~~

1. ~~The applicant has completed the environmental review process, under the provisions of the Washington State Environmental Policy Act (SEPA) and completed any street or traffic related studies required by the review;~~
  2. ~~The variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the city, and that not granting a special exception may aggravate the conditions;~~
  3. ~~That the variance requested is not against the public interest, particularly safety, convenience and general welfare;~~
  4. ~~That the granting of the variance will not adversely affect the adjacent property owners or tenants;~~
  5. ~~That the terms of this chapter will work unnecessary hardship on the applicant, property owner or tenant. Such hardship shall not be self imposed.~~
- C. ~~Any applicant or department of the city aggrieved by a variance decision of the hearing examiner may appeal to the city council pursuant to Section 20 of the Land Use Hearing Examiner Ordinance (Ordinance No. 692-80) and the rules of procedure adopted pursuant thereto.~~
- D. ~~In the absence of a hearing examiner who has jurisdiction to hear these matters, city council shall hear variances according to subsections A and B herein at no fee.~~

### **13.68.080 Appeal procedure.**

- A. ~~Any party applicant, aggrieved by a decision or interpretation of the city engineer, may appeal to the hearing examiner. Such appeals must be made in writing to the city engineer within thirty days from the date on which the city engineer presents the applicant with his final decision in writing. The hearing examiner shall consider the appeal of an administrative decision as set forth in EMC Title 15 within thirty days after the city engineer receives the appeal; provided, the applicant has completed the environmental review, under the provisions of the Washington State Environmental Policy Act (SEPA) and completed any street or traffic related studies required by the review. Such appeal shall be limited to the interpretation of the city engineer in the application of the provisions of this chapter and any amendments or additions hereto.~~
- B. ~~Any applicant or department of the city aggrieved by a decision of the hearing examiner may appeal to the city council pursuant to Section 20 of the Land Use Hearing Examiner Ordinance (Ordinance No. 692-80) and the rules of procedure adopted pursuant thereto.~~
- C. ~~In the absence of a hearing examiner who has jurisdiction to hear these matters, the city council shall hear appeals according to subsection A of this section, at no fee.~~