

The Following Sections have been included in a proposed Code Amendment Related to the  
**Mixed-Use Centers**

LMC 19.11 Districts Established

LMC 19.17 Multi-Family Building Zones

LMC 19.23 Commercial Zoning

**19.11.020 Zones designated—Essential use, maximum coverage, and density.**

There are established the classifications of the essential land uses for all residential, business and industrial zones to be known by the zone symbols shown as follows:

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density
A-1	Agricultural	0.10		1 D.U./20 Acres
RS-100	Single Family Dwellings	0.35	0.60	4 D.U./Acre
RS-84	Single Family Dwellings	0.35	0.60	4.5 D.U./Acre
RS-72	Single Family Dwellings	0.35	0.60	5.0 D.U./Acre
RMD	Residential Mixed Density	0.35	0.80	8.0 D.U./Acre
MH	Mobile and Modular Home	0.40	0.80	8.0 D.U./Acre
TR	Travel/Recreational Vehicle	0.65		
RM-1	Single Family and two Family Dwellings/bldg.	0.35	0.70	8.0 D.U./Acre
RM-2	Up to 4 Dwellings/bldg.	0.40	0.70	12 D.U./Acre
RM-3	Multiple Dwellings	0.40	0.75	16 D.U./Acre
RM-4	Multiple Dwellings	0.45	0.75	<del>24-20</del> D.U./Acre
RM-PC	Detached Single Family Dwellings	0.35	See Open Space Requirements	12 D.U./Acre
	Attached Single Family Attached	0.50		
	Multi-family Dwellings	0.40		
<del>SO</del>	<del>Senior Housing Overlay in the Pepin Creek Subarea</del>	<del>0.40—0.50</del>	<del>See Open Space Requirements</del>	<del>30 D.U./Acre</del>
HBD	Historic Business District	0.80		

**Commented [HG1]:** Delete as this overlay was not adopted within the Pepin Creek Sub-Area

CN <u>Overlay</u>	Commercial Neighborhood Overlay in the Pepin Creek Subarea	N/A		
CSL	Local Commercial Services	N/A		
CSR	Regional Commercial Services	N/A		
<u>MU Overlay</u>	<u>Mixed-Use Centers Overlay</u>		<u>See Open Space Requirements</u>	<u>28 D.U. Acre</u>
ID	Industrial District	N/A		
IBZ	Industrial Business Zone	N/A		
PU	Public Use	N/A		

D.U. = Dwelling Unit

(Ord. 1000 § A(part), 1995).

(Ord. No. 1390, § D, 2-22-2011; Ord. No. 1547, § 4, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

## Chapter 19.17 RM MULTIFAMILY BUILDING ZONES<sup>1</sup>

### 19.17.010 Purpose and zones established.

The goal is to allow flexibility in site and design standards while promoting infill projects compatible with existing multi-family developments.

~~Six~~ Five multi-family zones are established:

RM-1, Residential Multi-Family 1 zone; (up to 2 units/building)

RM-2, Residential Multi-Family 2 zone; (up to 4 units/building)

RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)

RM-4, Residential Multi-Family 4 zone; (up to ~~50~~ 20 units/building)

RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 units/building)

~~SO, Senior Overlay zone; (up to 30 units/acre)~~

**Commented [HG2]:** Reduce units per building in RM-4 and allow in MU Centers Overlay

<sup>1</sup>Editor's note(s)—Ord. No. 1581, § A, adopted June 3, 2019, repealed Ch. 19.17., §§ 19.17.010—19.17.110, and enacted a new Ch. 19.15 as set out herein. The former Ch. 19.17 pertained to similar subject matter. Please refer to the Code Comparative Table for full derivation.

A. Use of Low Impact Development Techniques. When an application for multi-family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:

1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

#### 19.17.020 Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE				
	RM-1	RM-2	RM-3	RM-4	RM-PC
Single Family Dwelling Unit	P	P	P	P	<u>P</u>
Duplex Units	P	P	P	P	<u>P</u>
Three or Four units per building	N	P	P	P	<u>P</u>
More than four units per building	N	N	P	P	<u>P(1)</u>
New manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	<u>P</u>
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N	<u>N</u>

P = Permitted Use; N = Not Allowed

(1) Buildings with more than four units are permitted within the RM-PC zone in certain situations. Refer to LMC 19.18.030 for details.

(Ord. No. 1581, § B, 6-3-2019)

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.66" + Indent at: 0.91"

---

#### **19.17.030 Accessory permitted uses.**

Accessory permitted uses in the Multi - Family Zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- E. Accessory dwelling unit (ADU), per LMC 19.20.,
- F. Recreation areas for occupants.
- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

(Ord. No. 1581, § B, 6-3-2019)

#### **19.17.040 Secondary permitted uses.**

Secondary permitted uses in the multi family zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.
- H. Adult family homes and residential care facilities, up to ~~six~~eight adults, when approved by the Washington State Department of Social and Health Services (DSHS).

(Ord. No. 1581, § B, 6-3-2019)

---

**19.17.050 Conditional property uses.**

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the planning commission and approved by the city council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
- E. Bed and breakfast establishments and short term rentals (See Section 19.49.030).
- F. House of worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.
- H. Community service facilities operated by a registered non-profit organization providing services to the community such as food banks, outpatient counseling services, and church related or outreach ministries. This use is subject to the following conditions in addition to the conditional use criteria established under Section 19.49.020.
  - 1. The use is limited to the RM-4 zones.
  - 2. This use specifically excludes retail sales and any facilities offering in-patient treatment, inpatient counseling, or inpatient rehabilitation.
  - 3. The maximum lot coverage for the proposed facility shall not exceed thirty percent.
  - 4. All parking and landscaping requirements shall be met.

(Ord. No. 1581, § B, 6-3-2019)

**19.17.060 Height, area, setback and bulk requirements.**

A. The following table provides regulations for height, area, setback and bulk requirements:

Zone	Min. Lot Size	Lot Coverage	Open Space Required	Height	Minimum Yard Setbacks in Feet
					Side Yard

	(sq. ft.)							
				Feet	<del>Front</del> Any Building Front or Side Elevation oriented toward Primary Street Frontage	Building Rear Elevation	Minimum Building Side Elevations not oriented toward Primary Street Frontage	Total of Building Side Elevations not oriented toward Primary Street Frontage
RM-1	7,200	35%	7.5%	32	20	30	7	22
RM-2	7,200	40%	7.5%	32	20	30	7	22
RM-3	7,200	40%	7.5%	32	20	30	12	27
RM-4	1 Acre	45%	7.5%	32	20	30	15	32

B. The following table provides regulation regarding the maximum density allowable in each zone:

Zone	Square Feet Required for First Unit	Square Feet Required for Additional Units	Maximum Units/Bldg.
RM-1	6,000	2,000	2
RM-2	6,000	2,000	4
RM-3	6,000	2,500	12
RM-4	6,000	1,650 for units 2—24 1,400 for each additional unit	<del>50-20</del>

- C. For the purposes of this chapter open space is as defined in Section 19.29.080(3) of the Lynden Municipal Code.
- D. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.
- (Ord. No. 1581, § B, 6-3-2019)

---

#### **19.17.070 Required Residential Amenities**

- A. Multi-family residential developments that include 8 or more units must provide shared on-site residential amenities.
- B. Shared community areas must include amenities that provide outdoor recreational / leisure spaces such as playgrounds, picnic or patio areas, sports courts, off-leash dog areas, or similar. These community open spaces will be reviewed and approved through Design Review Board approval process. The Board will review for the following criteria:
  - 1. Size of the area must be 60 square feet per unit.
  - 2. The area is safe in that it is visible, protected from vehicular traffic, and illuminated as needed for its intended use.
  - 3. The area is easily accessible via pedestrian walkways to all residents living within the development.
  - 4. The area is supplied with amenities such as permanent site furniture, shade structures, pavilions, and / or playground equipment so as to serve its purpose of providing recreational or leisure opportunities.
  - 5. The area is attractively landscaped.
  - 6. Proposed structures are consistent with the architecture.

#### **19.17.100 Design review board**

All multi-family developments will be subject to approval by the design review board.

(Ord. No. 1581, § B, 6-3-2019)

---

## Chapter 19.23 COMMERCIAL ZONING<sup>2</sup>

### 19.23.010 Zones defined.

The following commercial zones are hereby established and defined:

1. Historic business district (HBD): The historic business district is the zone where the city's economic activity originated. This zone is intended to be an active mix of professional offices and residences, personal services and small retail establishments serving the employees and residents of the area. Emphasis on the city's cultural history is anchored by the Pioneer Museum and the Windmill Hotel. Storefronts and streetscapes shall encourage pedestrian activity.
2. Local commercial services (CSL): The purpose of the CSL zone is to provide a location for local scale retail development (stores less than sixty-five thousand square feet), medical, professional and financial services. Development within this zone should focus on pedestrian connectivity to the surrounding area. ~~and mixed-use Residential~~ development is ~~strongly~~ encouraged in CSL areas that qualify for the Mixed-Use Centers Overlay. This zone, together with the historic business district, provides the primary location for civic and social activities within the community.
3. Regional commercial services (CSR): The purpose of the CSR zone is to support the development of large format retail and regional commercial development. In addition, this zone may support commercial establishments which require a retail contact with the public together with professional offices, storage and warehousing, or light manufacturing. This zone is located where larger parcels and arterial streets are available to support the traffic and land needs for these types of uses. This zone provides the primary location for businesses serving both the local and regional trade area. Residential development is permitted in CSR areas that qualify for the Mixed-Use Centers Overlay.
4. Mixed-Use Centers (MUC) Overlay: The purpose of the MUC Overlay is to identify specific areas of the City where a mix of multi-family residential and compatible commercial use is appropriate. The overlay fosters a development pattern with direct, convenient pedestrian, bicycle, and vehicular access between residences and businesses. It promotes a compact growth pattern that is scaled and designed to be

---

<sup>2</sup>Editor's note(s)—Ord. No. 1357, § A, adopted June 1, 2009, repealed and replaced the former Ch. 19.23, §§ 19.23.010—19.23.100, and enacted a new Ch. 19.23 as set out herein. The former Ch. 19.23 pertained to CS commercial service zones and derived from Ord. 1000 § A(part), 1995; Ord. 1026 § A(part), 1996; Ord. 1036 § A, 1997; Ord. 1051 § A(part), 1997; Ord. 1081 §§ A—C, 1999; Ord. 1112 § B, 2001; Ord. 1129 § A(part), 2002; Ord. 1293 § B, 2007; Ord. 1309 § A, 2007; Ord. No. 1349 § A, adopted Jan. 20, 2009.



compatible with surrounding land uses and provides sensitive transitions between different land uses.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### 19.23.020 Permitted uses.

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CSR	<u>MUC Overlay (1)</u>
Adult entertainment uses	N	C(4)	N	<u>N</u>
Agricultural product and/or equipment parts sales	N	C	P	<u>N</u>
Animal auction barn	N	N	N	<u>N</u>
Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C	<u>N</u>
Auction facilities for other goods	N	P	P	<u>N</u>
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P	<u>N</u>
Banks and financial institutions <u>with drive-thrus</u>	P	P	P	<u>N</u>
<u>Banks and financial institutions without drive-thrus</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Barber shops, beauty salons</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Bed and breakfast, <u>short term rentals</u>	P	P	N	<u>N</u>
<u>Body piercing and tattoo studios</u>	<u>N</u>	<u>N</u>	<u>P</u>	
Business Parks where at least 20% of the total GFA of the park is related to onsite retail, showroom, or office use.	N	N	P( <u>98</u> )	<u>N</u>
Business schools	P	P	P	<u>N</u>

Formatted Table

Commented [HG3]: Moved to Personal Services

Commented [HG4]: Moved to Personal Services

Car wash	N	P	P	<u>N</u>
<u>Carpet sales</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Clubs and lodges	P	P	N	<u>P</u>
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P	<u>P</u>
Commercial sporting events	C(7)	N	C(7)	<u>N</u>
Construction material sales <u>with</u> <u>outdoor yards</u>	N	C	P	<u>N</u>
Contractors and construction services	N	C	P	<u>N</u>
Convention center, including banquet facilities and/or meeting halls	C	P	P	<u>N</u>
Day care facilities	P	P	PA	<u>P</u>
<u>Day spas</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Eating / drinking establishments</u> <u>without drive-thrus including</u> <u>restaurants, cafes, bars, taverns, tasting</u> <u>rooms and microbreweries</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Eating / drinking establishments with</u> <u>drive-thrus including restaurants, cafes,</u> <u>and coffee shops</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>P(10)</u>
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P	<u>N</u>
Fitness facilities	P	P	P	<u>P</u>
<u>Food trucks</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Fueling stations (may include convenience store)	N	P(2)	P(2)	<u>N</u>
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P	<u>N</u>
Grocery store, <u>food market</u>	P	P	P	<u>P</u>
Home furnishings stores, <u>flooring,</u> <u>lighting, -window showrooms</u>	P	P	P	<u>P</u>

Commented [HG5]: Added Flooring to Home furnishing

Commented [HG6]: Moved to Personal Services

Home improvement and hardware stores <u>with no outdoor yards</u>	P	P	P	<u>N</u>
Hospitals	N	N	N	<u>N</u>
Hotels, motels — includes indoor restaurants, gift shops and other businesses associated with a hotel or motel	P	P	P	<u>N</u>
House of Worship	N	P	P	<u>N</u>
Laundry and dry cleaning facilities	P	P	P	<u>P</u>
Landscape plants and landscape materials for retail sales	N	P	P	<u>N</u>
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P	<u>N</u>
Liquor sales	P	P	P	<u>P</u>
Manufacture, fabrication, assembly, woodworking and metal working shops, where at least 20% of the GFA is related to on-site retail or office space. All uses subject to the performance standards of Chapter 19.25 of LMC	N	C(109)	P	<u>N</u>
Manufactured home parks	N	N	N	<u>N</u>
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N	<u>N</u>
<del>Martial arts or dance schools</del>	<del>P</del>	<del>P</del>	<del>P</del>	
<del>Medical and dental clinics (see Surgical Centers below)</del>	<del>P</del>	<del>P</del>	<del>P</del>	
Medical services overlay	N	N	P	<u>N</u>
<del>Mini storage facilities</del>	<del>P(6)</del>	<del>P</del>	<del>P</del>	
Motor vehicle and recreational vehicle sales and service	N	C	P	<u>N</u>
Multi-family residences	P(5)	P(5), <del>(8)</del>	<del>NP(5)</del>	<u>P(5)</u>

**Commented [HG7]:** Added to Studios

**Commented [HG8]:** Moved to "Storage facilities". Definition needed in LMC 17

Non-retail communications services	P	P	P	<u>N</u>
Non-profit offices that include warehousing	C	C	P	<u>N</u>
<u>Offices – business and professional</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Offices – medical, dental, and physical therapy (see also Surgical centers)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
On-site hazardous waste treatment (no treatment allowed in HBD) and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.	<u>NPA</u>	PA	PA	<u>N</u>
<u>Personal services such as barber, salon, day spa, body piercing, tattoo studios</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Pet supply store and grooming (no boarding)	P	P	P	<u>P</u>
Pharmacy <u>with drive-thru</u>	<u>PN</u>	P	P	<u>N</u>
<u>Photography studio</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Postal / shipping services</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P (no drive-thrus)</u>
Printing and duplicating shops	P	P	P	<u>P</u>
<u>Professional and business offices</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Public use facilities	P	P	P	<u>P</u>
Research and development facilities	N	P	P	<u>N</u>
<u>Restaurant — with drive thru</u>	<u>N</u>	<u>P</u>	<u>P</u>	
<u>Restaurants and cafés</u>	<u>P</u>	<u>P</u>	<u>P</u>	
Retail (general retail) not otherwise defined	P	P	P	<u>P</u>
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P	<u>N</u>

Commented [HG9]: Moved to Studios

Commented [HG10]: Moved to Offices – professional and business

Commented [HG11]: Moved to Eating / Drinking Establishments

Commented [HG12]: Moved to Eating / Drinking Establishments

Retail feed and seed stores	N	P	P	<u>N</u>
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P	<u>N</u>
<del>Retail shopping center or mall</del>	<del>P</del>	<del>P</del>	<del>P</del>	
Retail stores greater than 65,000 square feet	N	N	P(1)	<u>N</u>
Sign design, fabrication, and installation companies	N	C	P	<u>N</u>
Single-family residences existing prior to 1992	N	P	N	<u>N</u>
Skilled nursing and assisted living facilities	N	P	N	<u>N</u>
<u>Storage facilities – Mini-storage</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>N</u>
<u>Storage facilities – Large scale</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>N</u>
<u>Studios for art, photography, dance, martial arts, or fitness classes.</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Surgical centers	N	C	P	<u>N</u>
Theaters and movie theaters	P	P	P	<u>P</u>
Truck and trailer sales and service	N	C	P	<u>N</u>
Undertaking establishments	N	P	<del>N</del> <u>P</u>	<u>N</u>
Utility facilities	C	C	P	<u>N</u>
Video arcades	P(3)	P(3)	P(3)	<u>P(3)</u>
Warehousing, including open to the public	<del>N</del> <u>P(6)</u>	N	C	<u>N</u>
Wholesaling, including open to the public	N	N	C	<u>N</u>
<u>Temporary Uses: All temporary uses which occupy more than 200 sf must secure a Special Event Permit</u>	<u>HBD</u>	<u>CSL</u>	<u>CSR</u>	<u>MUC Overlay</u>

<u>Farmers markets or seasonal sales (produce or flower stands, landscape plants, pumpkins, Christmas trees)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Outdoor art and craft shows</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Outdoor sale of new or second-hand items (flea markets, antiques, swap meets, yard or garage sales)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

- (1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses and all uses within the Mixed-Use Centers Overlay.
- (2) See Section 19.23.100, Special Conditions for Automobile Service Stations.
- (3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
- (4) These uses may not be located within three hundred from Front Street, or two hundred feet from a residentially zoned area, or within two hundred feet from the fairgrounds, or five hundred feet from a church or school.
- (5) This use is permitted only as described in LMC 19.23.110. part of a mixed use development, where at least sixty percent of the ground floor area is a permitted commercial use. This is calculated based on the ground floor area of all the buildings on the site where there are multiple buildings proposed.
- (6) The use is permitted under the following conditions. These conditions may be varied through the receipt of a conditional use permit.
  - a. The use must take place in an existing building. The building may be modified for warehousing or mini-storage purposes, but construction of a new facility will require a conditional use permit. New construction must meet all Dutch/European design requirements for the CSL zone.
  - b. Primary access to these facilities may not be from Front Street or Grover Street, nor may a new facility front on either of these streets, and existing pedestrian access to Front Street, Grover Street, Riverview Road or 7th Street may not be closed.
  - c. Off-street loading and truck parking facilities must be available at the site and may not abut Front Street or Grover Street without a landscape buffer as required in Section 19.61.090.A. All off-street parking requirements must be met on site.

- 
- d. The site must meet the requirements of the engineering design and development standards and the Uniform Building Code and Uniform Fire Code.
- (7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone and Mixed-Use Centers Overlay under the following conditions:
- a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the finance director.
  - b. Off-street parking is provided and monitored to ensure emergency access at all times;
  - c. Police and fire departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.
  - d. No alcohol may be sold, distributed or consumed on site.
  - e. Mixed martial arts, boxing, wrestling or other "fight-type" events must meet the requirements of RCW 67.08.
- (8) ~~Multi-family development is permitted within the CSL zone under the following conditions:~~
- ~~a. This use is permitted only within the North Lynden Sub-Area;~~
  - ~~b. No residential development will be permitted at the intersections of arterial streets and/or state highways in the area determined by measuring two hundred feet along both front and side property lines and diagonally connecting the ends of the two lines.~~
  - ~~c. Minimum density: Eight units per acre.~~
  - ~~d. Maximum density: Twenty-four units per acre.~~
  - ~~e. Off-street parking: As required by Chapter 19.51 LMC.~~
  - ~~f. Height: As per Section 19.23.050.~~
  - ~~g. Setbacks: As per Section 19.17.060.A.~~
  - ~~h. Minimum lot size: Based on number of units and calculated under Section 19.17.060.B.~~
  - ~~i. Lot coverage and open space: As per Section 19.17.060.A.~~
- (9) Business parks are required to formalize a development agreement with the city council after receiving a recommendation from the planning commission which:
- a. Specifies a list of permitted, conditional, and prohibited uses with the business park.

- 
- b. Outlines a parking and loading standards which anticipates the uses permitted.
  - c. Creates standards for and screening of outdoor storage and refuse areas.
  - d. Addresses unique signage requirements.
  - e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.

(109) Manufacture, fabrication, assembly, woodworking and metal working shops locating within a CSL zoning category must acquire a conditional use permit if the subject property is located within three hundred feet of a residentially zoned property.

(10) Eating and drinking establishments on properties utilizing the provision of Mixed Use Overlay Centers must limit drive-thrus to one lane per establishment and orient drive-thrus in such a way as to not interfere with pedestrian connectivity within the site.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1477, § A, 2-17-2015; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### **19.23.030 Accessory permitted uses.**

Accessory uses permitted ~~in the HBD and CS zones~~ shall include such functions as repair and service relating to the essential uses, and are as follows:

- A. Operation of motors and other equipment relating to the function of the essential use;
- B. Food preparation and other material or service preparation relating to the primary use, but not conducted;
- C. Business and advertising signs, providing such signs conform to the sign regulations of this chapter.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### **19.23.040 Secondary permitted uses.**

The permitted secondary uses in the HBD and CS zones, when permitted outright or after receiving a conditional use permit, are as follows:

- A. The servicing of new passenger cars, trucks, recreation vehicles and farm implementing machinery as a condition to the operation of a sales function only;
- B. The storage of delivery trucks relating to the use of the retail and commercial property;
- C. The storage of materials or commodities to be used and/or sold in the conduct of the retail business functions.



(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

**19.23.050 Commercial Development Standards ~~Setbacks, access and queuing requirements.~~**

- A. **Setbacks.** Setbacks are established to ensure adequate circulation and access for emergency services. All setbacks are measured from the property line to the foundation. The setback requirements for the HBD and CS zones shall be as follows:

	HBD	CSL	CSR	<u>MUC</u>
Rear setback	20 ft. (1)	10 ft.	25 ft.	<u>Per LMC 19.23.110</u>
Front setback (2)	0 ft.	10 ft.	20 ft.	
Side setback (3)	0/10 ft.	0/10 ft.	0/10 ft.	
Maximum building height	48 ft.	48 ft.	48 ft.	

Formatted Table

- (1) May be located closer if parking is available underground with access to Judson Alley.
  - (2) When adjacent to Badger Road, front setback shall be one hundred feet from Highway Center line. When adjacent to the Guide Meridian Highway the front setback shall be one hundred feet from the center of the highway on the east side and one hundred and ten feet from the center of the highway on the west side. Once the required right-of-way for planned improvements has been acquired through dedication, setbacks shall be consistent with the setback requirements listed above.
  - (3) Where construction types and the International Building Code allow, the side yard setback in any commercial zone may be zero; provided, however, that the setback between a building and a right-of-way will not be less than ten feet.
- B. **Highway Frontage:** All development located on state highways must comply with the access requirements of the Washington State Department of Transportation in addition to the City of Lynden Manual for Engineering Design and Development Standards.
- C. **Drive-Thrus:** All businesses with a drive-thru window must have a minimum queue length of sixty feet. This is a cumulative total but does not include the vehicle at the drive-thru window. Businesses generating more than twenty-five p.m. peak hour trips must include queuing in the required traffic analysis checklist.
- D. All setbacks are measured from the property line to the foundation.**Accessory Structures:** Structures are considered accessory when they are incidental or clearly subordinate to the primary use. Accessory structures do not house the primary functions of the use of the property or are scaled so that the area of the structure equals only 20% or less of the gross floor area of the primary structure. Commercial properties are permitted accessory structures according to these standards.
1. Building permits are required for all structures greater than 120 square feet.

2. Building permits are required for all structures intended to remain on the property for more than 72 hours.
3. -Design Review Board approval is required for commercial accessory structures which have a floor area greater than 20% of the primary commercial structure and are visible from street rights-of-way.
4. Front and rear setbacks may be reduced by half for accessory structures with a gross floor area which equals 20% or less of an existing primary structure.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018; Ord. No. 1574, § C, 3-4-2019)

#### **19.23.060 Design review approval required.**

Design review is a tool to direct development in the City of Lynden to be of high quality, well designed and to produce projects that reflect the values and character of the Lynden community. Development plans reviewed administratively or by the Design Review Board must maintain compliance with design guidelines adopted by the Lynden City Council. These guidelines address site design, building design and features, streetscapes, trash and mechanical areas, and signage.

- A. New commercial structures which are visible from street right-of-way are subject to review and approval by the Design Review Board according to the City of Lynden Design Review Guidelines except that some accessory structures are exempt from Design Review Board approval per LMC 19.23.050(D).
- B. Commercial exterior remodels will be evaluated by the Planning Director to determine if review and approval of the Design Review Board is required. Board review will be prioritized for existing structures and sites which have historically never received approval. All commercial remodels are required to address aspects of site design such as lighting, landscape, street trees and the screening of mechanical equipment and trash disposal areas.
- A.C. The Historic Business District (HBD) of the City of Lynden has a number of historic buildings which are more than 50 years old and play a role in the history of the City. Additionally, an ~~distinct~~ aesthetic character based on the Dutch and European background of the founders of the community was also established in this area. To preserve this character and the community's unique identity, all new construction within the HBD shall reflect a historic Dutch and European aesthetic. ~~and Alternately, exterior commercial remodels within all commercial zoning districts the HBD shall~~ may be designed to restore or pay tribute to the structure's historic architecture. ~~be Designs are~~ subject to review and approval by the design review board.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### 19.23.070 Projections into public right-of-way.

Decorative additions to the fronts of buildings currently existing within the historic business district and CSL zone are allowed to extend into the public right-of-way as described here, a maximum of four inches with the following limitations:

- A. ~~Additions~~ Projections may be made on the side of the building facing the street only, no overhang may occur in the alleys.
- B. Materials used for decorative additions to buildings must be non-combustible, except for limited wood trim which may be approved by the building official, subject to building codes.
- C. Signs, marquees, canopies, or awnings with less than 15 feet clearance above a sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. may be allowed at a minimum height clearance of eight feet is required. as permitted under the International Building Code.
- D. Projections into public right-of-way that have more than 15 feet of clearance above the sidewalk are subject to the provisions of the International Building code and the approval of the Building Official.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### 19.23.080 Special development conditions for all stores greater than twenty-five thousand square feet GFA.

- A. Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the planning department for the continued maintenance of the site which addresses how the owner or operator will avoid any nuisance violations and the removal or proposed reuse of the facility. This plan must be submitted within twelve months of the vacancy; provided however, the time limit may be extended by the city council upon showing of good cause.
- B. Restrictive covenant required: Lease agreements containing provisions which limit, preclude or restrict the marketing, leasing or renting of retail building space greater than twenty-five thousand square feet to future lessees or future lessees operating a certain business, tend to prolong vacancy, are found to be detrimental to the public health, safety and welfare of the city, and shall not be permitted. The owner of any property for which a permit is granted authorizing an individual building or lease space greater than twenty-five thousand square feet for retail store purposes shall execute a restrictive covenant against the property for the benefit of the city. Said restrictive covenant shall:
  - 1. Preclude entry into any agreement which contains a provision preventing, restricting or limiting the marketing, leasing, or renting of the building or property to future

**Commented [HG13]:** Add section re upper story balconies per the IBC

---

lessees, including future lessees which may be competitors of any tenant or owner of the building.

2. Require continuous occupancy of the leased premises and operation of a retail business on the leased premises during the term of any lease or rental agreement
3. This restrictive covenant is required regardless of the time remaining on any marketing, lease or rental agreement and regardless of whether such future marketing, lease or rental agreement is a competing business with that of the owner, operator or landlord or of any past or prospective lessee. This restrictive covenant shall be approved by the city attorney and must be recorded at the time of permit approval.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

**19.23.090 Special development conditions development utilizing the provisions of the Mixed-Use Center Overlay and for retail stores greater than fifty thousand square feet GFA.**

- A. The costs of all studies and investigations reasonably necessary to grant approval of a building permit shall be borne by the applicant. If it becomes necessary for the city to hire outside professionals to review reports or studies, the cost of hiring the consultant(s) shall be borne by the applicant.
- B. All buildings are encouraged to achieve LEED certification. ~~A copy of the LEED checklist should be submitted at the time of permit application to demonstrate how the project will encourage energy efficiency and environmental responsiveness.~~
- C. Parking:
  1. Minimum parking area ~~4.5 stalls per one thousand square feet GFA~~ per LMC 19.51.
  2. Maximum parking area 6.0 stalls per one thousand square feet GFA.
  3. Development proposed under the provisions of the Mixed-Use Centers Overlay may be eligible for shared parking per LMC 19.51.
- D. Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the planning department for the continued maintenance of the site which addresses how the owner or operator will avoid any nuisance violations and the removal or proposed reuse of the facility. Said plan must be submitted within twelve months of the vacancy; provided however, the time limit may be extended by the city council upon showing of good cause. The plan shall include the following details:
  1. The owner or operator's proposed marketing efforts for obtaining an occupant for its facility.
  2. An executed maintenance contract for the site including landscaping, parking lot cleaning and site lighting.

- 
3. The requirements under this Section 19.23.090.D will be subject to enforcement under the provisions of Chapter 17.13 of the Lynden Municipal Code.
- E. Restrictive covenant required: Lease agreements containing provisions which limit, preclude or restrict the marketing, leasing or renting of retail stores greater than fifty thousand square feet to future lessees or future lessees operating a certain business, tend to prolong vacancy, are found to be detrimental to the public health, safety and welfare of the city, and shall not be permitted. The owner of any property for which a permit is granted authorizing an individual building or lease space greater than fifty thousand square feet for retail store purposes shall execute a restrictive covenant against the property for the benefit of the city as a condition of permit issuance. This restrictive covenant shall:
1. Preclude entry into any agreement which contains a provision preventing, restricting or limiting the marketing, leasing, or renting of the building or property to future lessees, including future lessees which may be competitors of any tenant or owner of the building.
  2. Require continuous occupancy of the leased premises and operation of a retail business on the leased premises during the term of any lease or rental agreement.
  3. In addition to other remedies, be enforceable by the remedy of specific performance and injunctive relief; and provide for award of reasonable costs and attorney's fees to the prevailing party in the event of enforcement of the restrictive covenant.
  4. The restrictive covenant referred to in this section shall be approved by the city attorney and must be recorded with the Whatcom County Auditor at the time of permit approval.
- F. Design guidelines: All large format retail buildings must meet the following site and building design guidelines-standards as part of compliance with the city's design review requirements.

#### Section I -Aesthetic Character

Intent: Buildings should offer attractive and inviting pedestrian scale features, spaces and amenities that reflect the character of the community.

##### 1. Facades and Exterior Walls

Intent: Facades should be articulated to reduce the massive scale and the uniform, impersonal appearances of large, retail buildings and provide visual interest that will be consistent with the community's identity, character and scale.

- A. Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade. The cumulative length or the recess or

---

projection must be a minimum of twenty percent of the length of the façade, but should not be more than sixty percent of the façade length.

- B. Ground floor facades that face public streets shall have arcades, entry areas, awnings or other such features along no less than sixty percent of their horizontal length. Display windows are encouraged as a design feature at entrances (see Section II.C.3).
- C. The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is encouraged.

## 2. Detail Features

Intent: Buildings should have architectural features and patterns that provide visual interest, at the scale of pedestrian, reduce massive aesthetic effects, and recognize local character. The elements in the following standards should be integral parts of the building fabric, and not superficially applied trim or graphics, or paint. Additional guidelines may be found in the City of Lynden Design Review Guidelines.

- A. Building facades must include a repeating pattern that shall include no less than three of the elements listed below. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty feet, either horizontally or vertically. Elements include: color change, texture change, material module change, and expression of architectural or structural bay through a change in plan no less than twelve inches in width, such as an offset, reveal, or projecting rib.
- B. Building materials may not include flat CMU blocks in a standard concrete grey.
- C. The use of a combination of architectural elements common to a traditional Dutch or Northern European style is required. These elements may include but are not limited to the following:
  - i. Roof line with a steep pitch and gables or a façade replicating that appearance.
  - ii. Decorative gable ends, stepped with ornamental detail.
  - iii. Narrow and vertical emphasis on fenestration. Windows are often highlighted in a contrasting color and are multi-paned.
  - iv. Quoins, corbels and corbelling.
  - v. Cornice detail.
  - vi. Use of brick masonry materials.
  - vii. Use of color to highlight ornamentation.

## 3. Roofs

---

Intent: Variations in roof lines should be used to add interest and to reduce the massive scale of the building.

- A. Rooflines should be varied with a change in height every one hundred linear feet in building length. Parapets, mansard roofs, gable roofs, hip roofs or dormers shall be used to conceal flat roofs and roof top equipment from public view.
- B. The average height of parapets or other roof treatments shall not exceed fifteen percent of the height of the supporting wall and such parapets may not exceed one-third of the height of the supporting wall at any time. Parapets shall feature three dimensional cornice treatments. Parapets and facades of varying heights and widths to approximate the appearance of several smaller buildings or storefronts are encouraged.

#### 4. Materials and colors

Intent: Exterior building materials and colors comprise a significant part of the visual impact of a building and should be reflective of the community's character, and surrounding neighborhood.

- A. Predominant exterior building materials shall be high quality materials that are easily maintainable, and graffiti resistant. Material suggestions include without limitation; brick, wood or fiber cement siding, and tinted and textured concrete masonry units. It is strongly recommended that a combination of colors and materials are used to meet the Dutch/Northern European design emphasis.
- B. The use of metallic colors, black or fluorescent colors as a building's primary color is prohibited.
- C. Predominant exterior materials shall not include the following items, unless they are manufactured to meet the other design criteria: smooth faced concrete blocks, smooth faced tilt-up concrete panels, and pre-fabricated steel panels.

#### 5. Entryways

Intent: Entryway design elements and variations should give orientation and character to a building as well as enhance the pedestrian scale.

- A. Each building on a site shall have clearly defined, highly visible entrances featuring no less than three of the following design elements:
  - i. Arcades, plazas or porticos.
  - ii. Raised parapets over the door.
  - iii. Arches.
  - iv. Display windows.
  - v. Outdoor patios.

---

vi. Peaked roof forms.

vii. Recesses or projections.

B. Where additional stores will be located in the principal building, each store shall have at least one exterior customer entrance that conforms to the above requirements.

C. Entry ways and their adjoining sidewalk, may not exit directly onto a travel lane or parking aisle. Pedestrian traffic should be directed to pedestrian walkways (refer to II. C. 1.).

#### 6. Back and Side Facades

Intent: All facades of a building which are visible from adjoining properties and/or public streets should be attractive and include elements from the preceding sections.

A. The side and rear of a building visible from any public street or adjoining property must incorporate at least one design element from Sections A and B above.

### Section II - Site Design

#### 1. Entrances

Intent: Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access and provide convenience. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. It is desirable for large retail buildings to feature multiple entrances.

A. All entrances shall be architecturally prominent and clearly visible from the abutting public street. The city encourages builders to locate public entrances on all sides that include public parking located on at least two sides of the building.

#### 2. Parking Lot Orientation

Intent: Parking lots should not overpower the visual impact of any site. They should provide safe, convenient and efficient access for vehicles and pedestrians. Bus stops and drop-off/pick-up locations should be considered as integral parts of the configuration.

A. Large parking lots should be visibly and functionally segmented into several smaller lots with the use of landscaping, and pedestrian walkways.

B. At least one pedestrian walkway shall be provided within the parking lot from each abutting street to the pedestrian walkway abutting the building.

C. Parking lot landscaping shall meet or exceed the requirements of Section 19.61.100 of the Lynden Municipal Code.

D. Cart corrals should be located throughout the parking areas in convenient and sufficient numbers and should be easily accessible.



---

E. All lighting in the parking lot shall be directed downward to minimize glare on neighboring properties.

F. Inclusion of bicycle parking is ~~strongly encouraged~~required.

### 3. Pedestrian Flows

Intent: Pedestrian accessibility opens auto-oriented developments to the neighborhood, reducing traffic impacts and enabling the development to project a friendlier more inviting image. Pedestrian walkways should be anchored by special design features such as towers, arcades, porticos, pedestrian light fixtures, bollards, planter walls and other architectural elements that define circulation ways and outdoor spaces.

- A. Continuous internal pedestrian walkways, no less than eight feet in width, shall be provided from the public sidewalk or right-of-way to the customer entrance of all buildings on the site. Pedestrian walkways that traverse the parking lot may be five feet in width. Walkways shall connect pedestrian activity such as, but not limited to transit stops, street crossings, buildings and store entry points, and central features and community spaces. Walkways shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty percent of their length.
- B. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Pedestrian walkways must also be protected from the driving lanes by curb stops, bollards, or other features that restrict vehicular access, while continuing to provide access for shopping carts.
- C. No parking stall shall be located further than one hundred thirty feet from an internal pedestrian walkway.
- D. Sidewalks, no less than eight feet in width, shall be provided along the full length of the building along any façade featuring a customer entrance and along any façade abutting public parking areas. Such sidewalks shall be located at least six feet from the façade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the façade.
- E. Internal pedestrian walkways provided in conformance with the section above, shall provide weather protection features such as awnings or arcades within thirty feet of all customer entrances. The extent of the covered area should be proportionate to the height of the building (i.e. the taller the building, the wider the covered pedestrian area).
- F. In no instance shall outdoor displays of merchandise or shopping cart storage impede the pedestrian movement at the entrance of the store.

---

#### 4. Outdoor Storage, Trash Collection and Loading Areas

Intent: Loading areas and outdoor storage areas exert visual and noise impact on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem.

- A. Areas for permanent outdoor storage, trash collection or compaction, loading, or other such uses shall be screened from the public or private rights-of-way.
- B. No areas for outdoor storage, trash collection or compaction, loading or other such uses shall be located within twenty feet of any public street or sidewalk or internal pedestrian walkway.
- C. Loading docks, truck parking, outdoor storage, HVAC equipment, trash dumpsters and compactors, and other service functions shall be incorporated into the overall design of the building and the site so that the visual and acoustic impacts of the functions are fully contained and out of view from adjacent properties and public streets. Public access to these areas should be restricted.
- D. Use of portable, metal storage containers or truck trailers as a permanent storage solution is not permitted. Temporary use, less than three months per calendar year, of these storage methods is permitted.
- E. Non-enclosed areas for the sale of seasonal inventory shall be clearly defined and may not infringe on any required parking or pedestrian walkway. Materials, colors and design of any screening walls and/or fences shall conform to those used as predominant materials and colors on the building.

#### 5. Signage

Intent: Signage should enhance the character of the building and should help the public find their way to where they need to go. Signage should be attractive, well-lit and consistent with the design of the building and surrounding neighborhood.

- A. Building signage should be proportionate to the size of the wall.
- B. Exposed neon tubing is not permitted.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

#### **19.23.100 Special conditions for automobile service stations.**

The purpose of this section is to promote the health, safety and general welfare in the city by establishing standards for the site design and the operation of ~~gasoline-vehicular~~ service stations. The need for such standards is created by the high volume of traffic and the frequency with which vehicles enter and leave the sites. By establishing these standards, it is intended

---

that the smooth flow of traffic will be facilitated and greater safety will be provided for the residents of Lynden, automobile passengers, and pedestrians.

- A. Code compliance: All ~~gasoline~~ service stations shall be in conformance and compliance with all federal, state and local statutes, laws and ordinances.
- B. Traffic study: A traffic impact analysis will be required for any new fueling station and the expansion of existing fueling stations.
- C. Development standards: Development standards and criteria of the zoning district/subzone shall apply unless otherwise noted in this section.
  - 1. Minimum lot size shall be fourteen thousand four hundred square feet.
  - 2. Ingress and egress must conform to the requirements of the City of Lynden Engineering Design and Development Manual.
  - 3. On-site lighting shall be located, directed, and/or shielded in a manner which reduces light glare or spill onto adjacent properties or rights-of-way.
  - 4. Separate public restrooms shall be provided for male and female and shall be barrier-free in conformance with WAC 51-20.
  - 5. A dumpster enclosure containing a dumpster shall be located strategically on the site in sufficient size and/or number to reduce off-site litter.
  - 6. Trash receptacles shall be located strategically and in sufficient number to reduce off-site litter.
  - 7. All portions of a ~~gasoline~~ service station site not utilized for landscaping or for other open space shall be paved. All perimeters shall be landscaped.
  - 8. No gasoline service station shall be located less than three hundred feet from any park, playground, church, school or public place of assemble. No service station shall be located closer than six hundred feet from the nearest property line of another service station unless the station is an accessory to a planned development or shopping center.
- D. Operational standards:
  - 1. No operation, service, or activity shall be permitted which would constitute a legal nuisance.
  - 2. A formal litter control program, as approved by the city, shall be implemented.
  - 3. Accessory truck, trailer and vehicle rental or sales shall be permitted where allowed by zoning.
  - 4. A policy manual for the management of hazardous material incidents is to be submitted to the city for review and approval prior to occupancy of the facility.

(Ord. No. 1357, § A, 6-1-2009; Ord. No. 1547, § 10, 12-4-2017; Ord. No. 1553, § 2, 3-19-2018)

### **19.23.110 Mixed-Use and Mixed-Use Centers Overlay**

#### **A. Purpose**

The primary purposes of mixed-use projects the Mixed-Use Centers Overlay is to:

1. Provide for a compatible mix of multifamily housing, neighborhood commercial businesses, and semi-public open spaces
2. Foster a development pattern offering direct, convenient pedestrian, bicycle, and vehicular access between residences and businesses;
3. Promote a compact growth pattern to efficiently use developable land, and to enable the cost-effective extension of utilities, services, and streets; frequent transit service; and to help sustain neighborhood businesses;
4. Foster the development of mixed-use areas that are arranged, scaled, and designed to be compatible with surrounding land uses and which provide sensitive transitions between different land uses;
5. Ensure that buildings and other development component are arranged, and designed, and oriented to facilitate pedestrian access.

#### **B. Establishment, Scope and Criteria for Approval of a Mixed-Use Overlay Assignment**

Mixed Use Overlay is established in Chapter 2 of the City of Lynden Comprehensive Plan. Locations of the Overlay are identified within the City of Lynden Comprehensive Plan land use element according to the criteria described below.

The Mixed-Use Overlay is assigned to key locations within the City of Lynden which are within one quarter of a mile of existing commercial centers.

Properties are eligible to utilize the provisions within the Mixed-Use Overlay when the following criteria are met:

1. Sub-Area: Properties located within the West Lynden Commerce Subarea are not eligible for mixed-use overlay provisions.
2. Zoning: The property zoned Commercial Services – Local (CSL) or Commercial Services - Regional (CSR)
3. Scale: The property or contiguous group of subject properties applying to construct a project using the provisions of the Mixed-Use Overlay at least one acre in size.
4. Location: The subject property(s) is within walking distance of a qualifying commercial center.
  - a. Walking distance is one quarter mile or less as measured from the edge of the subject property to the geometric center of the qualifying commercial center.

**Commented [HG14]:** See proposed revision to sub-area title and boundaries. The W. Lynden Commerce Subarea would be reserved for non-residential uses.

- b. Qualifying commercial centers are identified in the Land Use Element of the City's Comprehensive Plan. These centers have at least 20,000 square feet of gross floor area dedicated to general retail uses and at least 6 tenants which provide goods or services to the general public.
- c. New commercial centers can be added to the City's list of qualifying commercial centers through an amendment to the Land Use Element of the City's Comprehensive Plan.

**C. Small Scale Mixed-Use within the Commercial Services – Local (CSL) Zone**

Properties that are zoned CSL but do not qualify for Mixed-Use Centers provisions due to scale are permitted to establish residential uses on upper stories. Ground level space is limited to non-residential uses permitted within the CSL zone except that **handicapped adaptable** residential units may be located on the first floor.

**Commented [HG15]:** Confirm with Ted on the proper terminology per the IBC and Fair Housing Act.

**D. Separation of Uses/Transition Buffers.**

To ensure that different land uses are adequately separated, landscape buffers, as detailed in LMC 19.61.090.

**E. Mixed-Use Centers Overlay Development Standards**

1. A project developing within the Mixed-Use Overlay is subject to the following minimum area and maximum density and height requirements:

<u><b>Flex Space: Semi-public Open Space or Neighborhood Commercial Requirement</b></u>	<u><b>Residential Recreational Open Space</b></u>	<u><b>Multi- Family Housing and Parking</b></u>	<u><b>Max Residential Density (du / acre)</b></u>	<u><b>Max Residential Bldg Height</b></u>	<u><b>Max Commercial Bldg Height</b></u>
<u>20% of lot area</u>	<u>10% of lot area</u>	<u>70% of lot area</u>	<u>24</u>	<u>60 feet</u>	<u>48 feet</u>

2. Setbacks: Setbacks from adjacent properties with residential zoning must be a minimum of 20 feet or half of the building height, whichever is greater.

Setbacks from adjacent properties with commercial, industrial, or public use zoning must be a minimum of 15 feet.

Street frontage setbacks adjust based on building scale so that taller buildings are located farther from the street. These setbacks can be applied to a single building to achieve stepped height increases.

- a. Minimum of 10 feet for buildings, or portions of buildings, reaching up to 32 feet in height.
- b. Minimum of 15 feet for buildings, or portions of buildings, up to 48 feet in height.
- c. Minimum of 20 feet for buildings, or portions of buildings, up to 60 feet in height.

#### **F. Shared Parking Opportunities in Mixed-Use Commercial Centers**

A mix of non-residential and residential uses provide an opportunity to share parking resources as peak demand times for these uses vary.

1. Parking for residential uses must be provided consistent with LMC 19.51 or as established through a Planned Residential Development contract.
2. Parking for non-residential uses may be reduced by 25% when developed in conjunction with the Mixed-Use Center provisions on a shared site.
3. Mobile or seasonal commercial uses such as food trucks or fruit stands that are set up within semi-public flex spaces are not required to provide parking in association with their use.
4. Parking counts may be farther reduced than the allowance described in this section only if a parking study demonstrates feasibility. In order for a parking study to be considered, the following standards apply:
  - i. The parking study must be prepared by a professional engineer using industry accepted practices and methodologies.
  - ii. The study shall use acceptable data sources and the data shall be comparable with the uses and intensities proposed for the proposed development activity.
  - iii. If the director determines that the independent parking study more accurately captures the parking need, he or she may adjust the parking requirement in accordance with said study.
  - iv. If the director determines, in his or her sole discretion, that the independent fee calculation study is not accurate, reliable, or sufficient, the director may reject the said study and requirement parking capacity consistent with that outlined in LMC 19.51.

- v. The director may require the applicant to submit additional or different documentation for consideration at any time. If the director decides that third-party engineers are needed to review the calculation and related documentation, the applicant shall pay for the reasonable cost of a review by such engineers.
- vi. Determinations made by the director pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in LMC ...

#### **G. Residential Open Space Requirements**

Shared open space is required when residential components are introduced to a commercial property through the Mixed-Use Centers Overlay. The open space must include amenities that provide outdoor recreational / leisure spaces such as playgrounds, picnic or patio areas, sports courts, off-leash dog areas, or similar. These community open spaces will be reviewed and approved through Design Review Board approval process. The Board will review for the following criteria:

1. Minimum size of the open space is ten percent (10%) of the net lot area. Net lot area, in this case, is calculated by removing the area dedicated to public right-of-way, critical areas and protected critical area buffers from the gross lot area.
2. Inclusion of critical areas in the open space requirement is permitted, however no more than 30 percent of the required open space can be inaccessible due to critical area protection.
3. The open space must be readily accessible and visible to residents.
4. Must include active recreational uses such as trails, playground, dog park, courts, etc.
5. May be limited to resident use only.

Commented [HG16]: Discuss and rewrite to be clear.

#### **H. Required Commercial Use or Flex Space**

A priority of the Mixed-Use Centers Overlay is to facility pedestrian-oriented development and street-level activity. This serves to benefit residents within the development, nearby businesses, and the community as a whole.

Commercial properties which utilize the provisions of the Mixed-Use Centers Overlay must develop as neighborhood-oriented commercial uses or reserve space on site called Flex Space.

If commercial uses are not established prior to or simultaneously with residential components of the Mixed-Use Centers Overlay then the space must be improved as described below and dedicated as semi-public open space.

Permitted uses of Flex Space:

When flex space is used as semi-public opens space is must include the following design requirements:

1. A public access easement must be recorded?
2. A pedestrian oriented plaza area that is visible and easily accessible to the public as well as onsite residents.
3. Outdoor seating.
  - a. The seating must include at least one sitting space for each two hundred fifty (250) square feet shall be included in the plaza.
  - b. Seating shall be a minimum of sixteen inches (16") in height and thirty inches (30") in width. Ledge benches shall have a minimum depth of thirty inches (30").
  - c. Half of seating must be located in areas that would experience seasonal shade.
4. Trash receptacles must be provided in pedestrian areas. These are to be maintained by the property management / owner / association.
5. Trees and landscape. Trees in proportion to on-site plaza and sidewalk space at a minimum of one tree per eight hundred (800) square feet, at least two (2") caliper when planted;
6. Accommodations for outdoor vending and food trucks. (this includes?? Water and electricity?)
7. Stormwater facilities or critical area buffers that prevent pedestrian access may be included under the following provisions:
  - a. Inaccessible areas shall encompass no more than forty percent (40%) of the required semi-public area.
  - b. Inaccessible areas must act as amenities to the accessible portion of the required area by being visually appealing, providing landscape variety or natural habitat in a way that enhances the pedestrian experience within the remainder of the semi-public area.
8. Additionally, privately-owned public spaces shall include at least three (3) of the six (6) following elements:
  - a. Covered seating options;
  - b. Water features or public art;
  - c. Outdoor dining areas; and
  - d. Decorative pedestrian lighting;
  - e. Children's play structures. This may include interactive sculpture, or traditional playground equipment;
  - f. Other amenities not listed above that provide a public benefit.



1. **Flex Space Conversion.** The portion of the property designated as flex space semi-public open space may be converted into commercial use. When this occurs, Shared parking provisions described in LMC 19.23110(F) may be utilized. Pedestrian connections must be maintained from the residential structures to any commercial use. Design must be consistent with LMC 19.23.090 and is the development is subject to Design Review.

**Chapter 19.51 OFF-STREET PARKING**

\*see edits to 19.51 in separate document\*