

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF LYNDEN AMENDING THE CITY'S SIGN CODE CONTAINED IN LYNDEN MUNICIPAL CODE CHAPTER 19.33, AND AMENDING SIGN-RELATED DEFINITIONS CONTAINED IN LYNDEN MUNICIPAL CODE 17.01.030.**

**WHEREAS**, the City of Lynden is a noncharter code city operating under the mayor-council plan of government as set forth in RCW Chapter 35A.12; and

**WHEREAS**, the City's current sign code is contained in Lynden Municipal Code Chapter 19.33; and

**WHEREAS**, LMC Chapter 17.01.030 also contains sign-related definitions; and

**WHEREAS**, the City's current sign code was adopted in 1997; and

**WHEREAS**, since that time, there have been many state and federal court decisions which have clarified how municipalities may regulate signs; and

**WHEREAS**, in light of these developments in the case law, it is necessary to revise the current sign code contained in LMC Chapter 19.33; and

**WHEREAS**, to ensure consistency with the revised sign code, it is necessary to also revise the sign-related definitions contained in LMC 17.01.030; and

**WHEREAS**, the attached **Exhibit A**, which is hereby fully incorporated by reference, shows the proposed revisions to the Lynden Municipal Code in redline; and

**WHEREAS**, the foregoing recitals are material findings and declarations of the City Council of Lynden.

**NOW, THEREFORE**, LET IT BE ORDAINED BY THE CITY COUNCIL OF LYNDEN AS FOLLOWS:

**SECTION 1:** The definition of "Sign" contained within Lynden Municipal Code 17.01.030 is hereby amended to read follows:

"Sign" means any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or right-of-way open to the public.

**SECTION 2:** The following definitions contained within Lynden Municipal Code 17.01.030 are hereby repealed in their entirety:

~~Sign, Advertising. "Advertising sign" means a sign which directs attention to a business, commodity, service or entertainment, or other services, materials or subject matter conducted, sold or offered elsewhere than upon the same zoning lot with such sign.~~

“Sign area” means the area of the smallest rectangle that can be drawn around all parts of the sign from the viewpoint exposing the largest surface area, excluding simple support structures. Sign supporting structures which are part of the sign display shall be included in the area of the rectangle.

Sign, Attached. “Attached sign” means a sign permanently attached to or mounted on a building.

Sign, Business. “Business sign” means a non-illuminated sign which directs attention to a business or profession conducted or related to products sold upon the same zoning lot on which, or in which, the sign is located. A “For Sale” sign, or “Sold” sign, or sign “To Let,” “To Lease” or “To Rent” shall be deemed to be business sign.

“Sign face” means any sign permanently attached to or mounted on a building.

Sign, Freestanding. “Freestanding sign” means any sign not attached to a building.

Sign, Illuminated. “Illuminated sign” means either a business sign or an advertising sign designed to give forth an artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection. A flashing sign, when in use, is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times.

Sign, Off-Site. “Off-site sign” means a permanent sign not located on the same lot as the business or use it is intended to serve.

Sign, Permanent. “Permanent sign” means a sign nailed, glued, screwed or similarly fastened to foundation systems capable of holding it in position under an imposed wind load of twenty-five pounds per square foot or the design requirements of Chapter 23 of the Building Code.

Sign, Temporary. “Temporary sign” means a sign or advertising display intended to be displayed for a limited period of time or for a fixed event and not permanently affixed to a structure or the ground.

**SECTION 3:** Lynden Municipal Code Chapter 19.33 (titled “SIGNS”) is hereby amended to read as follows:

### **19.33.010 – Statement of Purpose.**

A. Purpose and Intent. The City Council finds that it is necessary to regulate signs in the City of Lynden to help assure that Lynden is a safe and attractive place in which to live and to do business. The intent of this chapter is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, and consistent sign standards and requirements, and to:

1. Promote the goals and policies of the comprehensive plan;
2. Promote the economic vitality of the City’s business districts and corridors;
3. Ensure that signs are compatible with the desired character and identity of Lynden and its various districts, including the Historic Business District;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributed to, cluttered, distracting, and/or illegible signage;

5. Ensuring that signs do not obstruct rights-of-way or obstruct the vision of pedestrians and motorists traveling on rights-of-way;
6. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or made of flimsy materials;
7. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
8. Promote sign design that is compatible with the architectural and historical qualities of Lynden;
9. Promote sign design that is appropriate to the site's existing and planned context, including the size and characteristics of the site, and the envisioned character of the applicable area per adopted plans;
10. Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the city;
11. Provide consistent design standards; and
12. Enable the fair and consistent enforcement of these sign regulations.

### **19.33.020 – Definitions.**

In addition to the definitions found in LMC 17.01.030, for the purpose of this chapter, the following definitions shall apply:

1. "Abandoned Sign" means a sign that no longer correctly identifies or advertises any business, lessor, lessee owner, service, product or activity, or for which no legal owner can be found.
2. "Awning" means a temporary or fixed structure supported entirely from the exterior wall of a building, which (1) provides shade or protection from weather and (2) is in whole or in part self-supporting.
3. "Awning Sign" means the use of an Awning attached to a building for commercial, identification, informational, or promotional purposes. Only that portion of the Awning which bears graphics, symbols, and/or writing shall be construed as being a Sign.
4. "Banner, Decorative" means an object made of cloth, fabric, or similar flexible material which displays abstract or representational forms, and which is completely devoid of letters, numbers, words, or advertising. Streamers shall not be considered Decorative Banners.
5. "Banner Sign" means any Sign intended to be hung, with or without framing, and possessing characters, letters, symbols, emblems, trademarks, illustrations, or ornamentation applied to fabric or similar flexible material. Flags, Decorative Banners, Canopy Signs, and Temporary Signs, treated elsewhere in this chapter, shall not be considered Banner Signs.
6. "Bench Sign" means a Sign located on any part of the surface of a bench or seat placed on or visible from a public right-of-way or a public park.
7. "Billboard Sign" means an outdoor Sign which contains a message that is unrelated to any use or activity on the premises on which the Sign is located, and which is supported by a substantial permanent

Sign Structure. Billboard Signs are typically larger and/or taller than would otherwise be permitted by this title.

8. "Cabinet Sign" means an internally illuminated Sign in which a removable Sign Face (usually with translucent sign graphics) is enclosed on all edges by a metal cabinet.

9. "Canopy" means an overhead structure (1) attached to or supported from the exterior wall of a building and/or from the ground that (2) provides weather protection for pedestrians.

10. "Canopy Sign" means the use of a Canopy for advertising, identification, informational, or promotional purposes. Only that portion of the Canopy which bears graphics, symbols, and/or writing shall be construed as being a Sign.

11. "Commercial Sign" means a Sign containing a commercial message directing attention to a business, commodity, service, or entertainment.

12. "Commemorative Plaque" means a memorial plaque, Sign, plate, or tablet which is (1) permanently affixed to or near the structure, object, or event it is intended to commemorate, and (2) which serves no commercial purpose.

13. "Dangerous Dog Sign" means a Sign required pursuant to LMC 6.09.080(B)(4).

14. "Directional Sign" means a Sign designed to guide or direct pedestrian and/or vehicular traffic from the public right-of-way, private road, or trail to a location, activity, or service on the site.

15. "Directory Sign" means a Sign which displays exclusively the names, logos, and locations of occupants or uses of a building or complex; which includes, but may not be limited to, Signs for (1) office buildings, (2) Houses of Worship, and (3) Signs for malls, arcades, and similar commercial buildings. No commercial message other than the name, logo, and locations of occupants or uses is included.

16. "Electrical Sign" means a Sign or Sign Structure in which electrical wiring, connections, and/or fixtures are used.

17. "Electronic Reader Board Sign" means an electrically activated Sign whose message content, either in whole or in part, may be changed by means of electronic programming. Electronic Reader Board Signs include those displaying time, temperature, and messages of an informational or commercial nature.

18. "Feather Sign" means a vertical portable Sign that contains a harpoon-style pole or staff driven into the ground or supported by means of an individual stand. A Feather Sign may also be referred to as a "Sail Sign."

19. "Flag" means a flat piece of cloth or similar flexible fabric, with distinctive colors, patterns, or symbols used to represent a country or group, having one end of the fabric attached to a vertical staff (either directly or by rope and pulley mechanism) and all other ends being unattached to another object and free flowing when subject to movement of the wind.

20. "Flashing Sign" means a Sign or a portion thereof which changes light intensity or switches on and off in a repetitive pattern or contains motion or the optical illusion of motion by use of electrical energy to provide motion or the optical illusion of motion.

21. "Freestanding Sign" means a permanent Monument Sign, Pole Sign, or other Sign attached to the ground and supported by uprights or braces attached to a foundation not connected to a building. Freestanding Signs include, but are not limited to, Monument Signs and Pole Signs. Directory Signs, including Multi-Business Complex Directory Signs, are not considered Freestanding Signs.
22. "Grade" means the average elevation of the ground surface immediately below the Sign after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the Sign. In cases in which the grade cannot reasonably be determined, Sign Height shall be based on the elevation of the nearest point of the crown of a public street or the grade of the land at the Main Entry, whichever is lower.
23. "Halo Lighting" means a method of Sign Illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface.
24. "Historic Business District" has the same meaning as in LMC 19.23.010(1). The boundaries of the Historic Business District are depicted on the Zoning Map of the City of Lynden adopted pursuant to LMC 19.09.010. The Historic Business District may also be referred to as the "HBD."
25. "Home Occupation Sign" means a Sign stating the name, address, and/or phone number associated with a home occupation permitted pursuant to LMC 19.57.140.
26. "Illuminated Sign" means any Sign illuminated in any manner by an artificial light source.
27. "Incidental Sign" means a small Sign, emblem, or decal which (1) does not exceed two square feet in size, and (2) informs the public of the goods, products, services, or facilities which are available on the premises where the Sign is located.
28. "Indirect Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign.
29. "Internal Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign.
30. "Main Entry" means the front or primary entrance to a building intended for use by residents, customers, clients, visitors, messengers, and/or the public. Each primary building shall be considered to have no more than one Main Entry, excepting a Multi-Business Complex, in which case each physically separate business which has no internal passageway to any other business premises shall be considered to have one Main Entry.
31. "Marquee" means a permanent structure attached to and supported by the building and projecting over public or private property.
32. "Monument Sign" means a Freestanding Sign which is attached to a permanent foundation or decorative base and is not attached to or dependent on support from any building, pole, posts, or similar uprights.
33. "Multi-Business Complex" means either (1) a group of structures housing more than one business or agency that share a common lot, access, and/or parking facility; or (2) a single structure housing more than one business or agency (but not including residential apartment buildings).

34. "Mural Sign" means a Sign which consists exclusively of paint applied to the wall of a building or alternate surface without application of any other material or framing.
35. "Neon Lighting" means lettering, numerals, symbols, logos, emblems, or illustrations which are directly visible and are constructed of and illuminated solely by glass tubes filled by neon gas or equivalent light-emitting gaseous elements.
36. "Noncommercial Sign" means any Sign that is not a Commercial Sign.
37. "Nonconforming Sign" means any Sign in existence within the City on the date of adoption of the ordinance codified in this chapter, or located in an area annexed to the City thereafter, which does not conform with the provisions of this chapter, but which did conform to all applicable laws in effect on the date the Sign was originally erected.
38. "Off-Premises Sign" means a Sign relating, through its message and content, to an activity, business, use, product, or service which is not located on or otherwise directly associated with the premises on which the Sign is located.
39. "Permanent Sign" means a Sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of "Temporary Sign."
40. "Pole Sign" means any Freestanding Sign composed of a Sign Cabinet, backboard, frame, or base and the Sign Pole, or pylon by which it connects to the ground, that does not meet the definition of "Monument Sign" or "Portable Sign."
41. "Portable Sign" means any Sign not permanently attached to the ground, building, or permanent structure, or a Sign designed to be transported. Portable Signs include, but are not limited to, Sandwich Board Signs, A-Frame Signs, and flags containing commercial messages.
42. "Premises" means the real property on which the entity advertised by the Sign or Signs mentioned in this chapter is situated.
43. "Primary Building" means the primary or predominate building on a lot.
44. "Primary Street Frontage" means the lineal length of the Street Frontage on which the Main Entry is located; provided that, in the event the Main Entry is located on a corner of the building or on a side other than a side which abuts the most heavily traveled street, Primary Street Frontage shall be determined as if the Main Entry were on the side which abuts the most heavily traveled street.
45. "Projecting Sign" means a Sign which is attached to and projects more than six (6) inches from a building wall or other structure not specifically designed to support the Sign.
46. "Reader Board Sign" means a Sign or part of a Sign on which writing may be easily changed from time to time without reworking, repainting, or otherwise altering the physical composition of the Sign.
47. "Revolving Sign" means a Sign which rotates or turns in motion in a circular pattern.
48. "Roof Sign" means a Sign erected upon or above a roof of a building or structure or attached to the wall of a building or structure and extending above the roofline.
49. "Sandwich Board Sign" – See "Portable Sign."

50. "Sign" means any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or right-of-way open to the public.

51. "Sign Area" means the entire area of a Sign on which the writing or symbols are to be placed, not including any supportive framework, bracing, architectural embellishments, or decorative features, of fences or wall which contain no writing, symbols, or other commercial messages and are clearly incidental to the display itself. For multi-faced Signs, if the writing or symbols on all sides of the Sign is identical, the total Sign Area shall be calculated by measuring only the entire area of the largest Sign Face.

52. "Sign Face" means any surface of a Sign upon which there are graphics, lights, symbols, and/or writing.

53. "Sign Height" means the vertical distance from Grade to the highest point of a Sign or any projection thereof.

54. "Sign Structure" means any structure which supports or is capable of supporting any Sign as defined in this chapter. A Sign Structure may be a pole or poles, or may be an integral part of a building. Structures which perform a separate use, such as, but not limited to, a telephone booth, bus shelter, recycling or used goods container, etc., shall not be considered a Sign Structure.

55. "Streamer" means an attention-attracting device consisting of two or more pennants, banners, balloons, ribbons, reflectors, fringes, or similar objects strung together on a common line, pole, or Sign Structure, or attached to one or more products offered for sale.

56. "Street Frontage" means a side of a building which (1) contains an entrance open for public use, and (2) faces an abutting street.

57. "Temporary Sign" means any Sign that is intended and designed to be displayed for a limited period of time including, without limitation, a Sign that is not permanently mounted, painted, or otherwise affixed, excluding Portable Signs as defined by this chapter, including, but not limited to, any poster, banner, placard, stake Sign, or other Sign not placed in the ground with a means to provide permanent support and stability. Temporary Signs may only be constructed of nondurable materials including, but not limited to, paper, corrugated board, flexible plastics, foamcore board, vinyl canvas, and Sign painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered Permanent Signs and are subject to the permanent Sign regulations of this chapter. Exception: Feather Signs and Sail Signs are not considered Temporary Signs.

58. "Vehicle Sign" means a Sign used to display a commercial message that is mounted or painted on a vehicle (or trailer) where (1) the vehicle (or trailer) is normally licensed by the Washington State Department of Licensing, and (2) the primary purpose of the vehicle (or trailer) is not to display said Sign. Vehicle Signs include, but are not limited to, Signs on buses, taxis, and commercial vehicles.

59. "Wall Sign" means a Sign which is attached, painted onto, or etched parallel to an extending not more than six (6) inches from the façade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the Sign parallel to the plane of said wall or façade.

60. "Window Sign" means a Sign affixed to windows or a building or placed inside the window within three feet of the window, which faces the outside and which is intended to be seen primarily from the exterior. Merchandise displayed in a window that does not contain any writing (a) visible from a street, way, sidewalk, parking area, or right-of-way open to the public, or (b) which is not part of the displayed object itself; is not considered to be a Window Sign.

### **19.33.030 – Sign Permit Administration.**

- A. Sign Permits Required. Except as exempted in subsection B of this section, no Sign shall be erected, re-erected, attached, replaced, revised, structurally altered, or relocated by any person, firm, or corporation without a Sign Permit issued by the city.
- B. Exemptions and Exceptions.
  - 1. Exemptions. The following types of Signs and activities are exempt from regulation under this chapter:
    - a. Regulatory, identification, or Directional Signs installed by, or at the direction of, a government entity;
    - b. Signs required by law;
    - c. Official public notices or official court notices;
    - d. Postal Signs;
    - e. Signs or displays not visible from streets, rights-of-way, sidewalks, trails, or parking areas open to the public;
    - f. The Flag of government or noncommercial institutions such as a school, provided that (1) such Flag does not exceed sixty (60) square feet in area, (2) such Flag shall not be flown from a pole the top of which exceeds forty (40) Feet in height, and (3) such Flag is flown in a manner that complies with all requirements of the United States Flag Code (4 U.S.C. 1);
    - g. Point-of-purchase advertising displays, such as product dispensers or vending machines;
    - h. "No trespassing," "no dumping," "no parking," "private," and other informational warning Signs which do not exceed six square feet in surface area;
    - i. Reasonable seasonal decorations within the appropriate public holiday season, or civic festival season, provided that such displays shall be removed promptly at the end of the season;



- j. Historic site markers, interpretive markers, or Commemorative Plaques;
  - k. Barber poles;
  - l. Address numbers mounted flush on the wall of a building;
  - m. Lettering or symbols painted directly onto or flush-mounted magnetically onto a licensed and operable motor vehicle operating in the normal course of business; and
  - n. Repair, cleaning, repainting, or other normal maintenance activities, and other changes that do not alter the Sign Structure.
2. Exceptions – Signs Not Requiring Permits. The following types of Signs are not required to obtain a Sign Permit, but must be in conformance with all other requirements of this chapter and other applicable city ordinances:
- a. Dangerous Dog Signs;
  - b. Directional Signs not exceeding six square feet in Sign Area which direct vehicular and/or pedestrian traffic and which contain no commercial message;
  - c. Home Occupation Signs that comply with the requirements of LMC 19.57.140(H);
  - d. Incidental Signs;
  - e. Nonelectric Signs located in a residential zone not exceeding two square feet in Sign Area;
  - f. Portable Signs meeting the requirements of this chapter;
  - g. Sandwich Board Signs (except a permit is required for a Sandwich Board Sign placed within a public right-of-way);
  - h. Temporary Signs; and
  - i. Vehicle Signs.
3. Exemptions From Overall Permitted Sign Area Requirements. The following types of Signs shall not be included when calculating the total Sign Area of a site, pursuant to the maximum Sign Area limitations established by this chapter:
- a. Directional Signs (Except for Off-Premises Directional Signs within the HBD – See LMC 19.33.090(A)(5));
  - b. Directory Signs associated with a Multi-Business Complex;
  - c. Incidental Signs;
  - d. Street numbering of buildings / Addressing;
  - e. Temporary Signs meeting the requirements of this chapter;

- f. Temporary Window Signs, so long as each letter used in said Temporary Window Sign is less than six inches in height (if said lettering is six inches in height or greater, the entire Temporary Window Sign will be included when calculating Sign Area); and
  - g. Vehicle Signs.
- C. Sign Permit Application. Applications for Sign Permits shall be made to the Planning Director upon the permit form provided by the city. Such application shall require:
  - 1. The name and title of the applicant;
  - 2. The address and/or tax parcel number of the premises where the Sign is to be located;
  - 3. The name and address of the Sign owner (if different than the record owner of the premises where the Sign will be located);
  - 4. The name and contact information of any contractors involved in the installation of the Sign;
  - 5. A complete list describing each existing Sign on the premises, including the Sign type, Sign Area, location on the premises, and installation date;
  - 6. A site plan showing the location of the premises, all buildings on the premises, and depicting both currently existing and proposed Signs;
  - 7. A scale drawing of each proposed Sign and/or Sign revision, including the location, size, height, copy, structural and footing details, material specifications, colors, method of attachment, illumination, front and end views of any Canopy Sign, and any other information required to ensure compliance with applicable laws; and
  - 8. If the applicant is not the owner of the premises where the Sign is to be erected, written consent of the owner of the premises is required.
- D. Design Review. All Permanent Signs subject to design review as provided in this chapter must obtain approval of the Design Review Board before a Sign Permit may be issued. This requirement applies to new Signs and replacement Signs.
- E. Sign Permit Fees. Permit fees shall be in accordance with the current fee schedule adopted by resolution of the City Council.
- F. Sign Permit Approval. Upon (1) approval of the proposed Sign Permit, and (2) payment of the required permit fee, the Community Development Director shall issue a Sign Permit. Sign Permits shall be numbered and shall disclose, at a minimum:
  - 1. The type and description of the Sign(s) as described in this chapter;
  - 2. The street address of the premises upon which the Sign will be installed;
  - 3. The amount of the fee paid for the permit;
  - 4. The date of issuance;
  - 5. The name of the person or company installing the Sign;

6. The name of the Sign owner.

G. Variance.

1. The intent of this variance process is to provide design flexibility that may not be possible through strict application of the Sign standards. This process may not be used to allow a Sign that is otherwise prohibited under LMC 19.33.035. The Design Review Board shall have the authority to grant a variance from the requirements of this chapter in accordance with the following procedures and considerations:

- a. The person seeking a variance, shall prepare and submit an application on forms provided by the Community Development Director accompanied by a fee in the amount adopted by resolution of the City Council.
- b. Upon receipt of an application, the Community Development Director shall first review the application for completeness. If the application is incomplete, the Community Development Director shall return it to the applicant and indicate the additional information needed to make the application complete within three business days of submittal.
- c. Within thirty (30) days of receipt of a complete application, the Design Review Board shall make a preliminary determination of whether to grant the application, grant the same under specified conditions, or to deny the variance. In making this determination, the Design Review Board may grant a variance only upon specific, written Findings of Fact setting forth and showing that at least five of the following conditions exist. Of the required conditions, at least three of the conditions must be those within the first four conditions listed below:
  - i. Literal interpretation and strict application of the provisions and requirements of this chapter would cause undue hardship on the applicant because of unique or unusual conditions pertaining to the subject property.
  - ii. The unique or unusual conditions do not result from actions of the applicant or owner of the subject property.
  - iii. Granting the variance would not confer a special privilege to the subject property that is denied to other similarly situated properties.
  - iv. Granting the variance would not be materially detrimental to the property owners in the vicinity or to the traveling public.
  - v. Granting the variance would not be contrary to the objects of this chapter relating to the placement of Signs and the reduction of clutter.
  - vi. Granting the variance would be in harmony with the purpose and intent of this chapter and would not diminish the effect of this chapter in furthering these purposes.
  - vii. Size and shape of the Sign must be in proportion to the bulk of the building.

- viii. The Sign is similar to the size and shape of Signs in the surrounding area.
- d. Variance for franchise Sign. A variance for a franchise Sign must provide proof of the franchise requirement, in the form of the franchise agreement.
- e. In granting any variance, the Design Review Board may attach thereto such conditions regarding the location, character, and other features of the proposed Sign as they may deem necessary to carry out the spirit and purpose of this chapter in the public interest.
- f. Within five (5) days of the making of the preliminary determination, the applicant shall cause to be mailed, by certified mail, a notice of the determination to the record owner or reputed record owner of the properties within 300 feet of the subject property, or 500 feet if the property is located within the CSR, ID or IBZ zones, as shown by the property tax records of the Whatcom County Assessor, and by posting notice in a conspicuous place on the subject property and at the Lynden City Hall. The notice shall identify the applicant, the street address or legal description of the subject property, the variance requested, the Design Review Board's preliminary determination and where the application and findings may be inspected and shall indicate that written comments or objections will be received and considered by the Community Development Director for a period of ten (10) days following the date of mailing. Receipts, or copies of the receipts, for this certified mailing must be delivered to the Community Development Director no later than the first day of the 10-day comment period.
- g. Within five (5) days of expiration of the comment period, the Chair of the Design Review Board shall consider any comments or objections made and render a final decision. The Community Development Director shall cause to be mailed notice of the final decision to the applicant and to each person from whom written comments or objections to the preliminary determination have been received. Such decision shall be final and binding unless appealed in writing to the City Council within fifteen (15) days of the date of mailing of the Community Development Director's final decision. Any person may file such an appeal by letter addressed to the Community Development Director, accompanied by an appeal filing fee in the amount of \$100.
- h. In the event of an appeal, the City Council will review the reasons and information set forth in the letter of appeal; the findings, conclusions, and decision of Design Review Board, together with any written material submitted by the Community Development Director; and may take public comment. The City Council shall affirm the decision of the Design Review Board unless it finds the decision to be clearly erroneous, arbitrary and capricious, or contrary to law, in which case the Council may reverse or modify the decision or any conditions in connection therewith or may remand the same to the Design Review Board for further review as directed.
- i. The final decision of the City Council shall constitute the final decision of the City.

- H. Administrative Guidelines. The Community Development Director is authorized to promulgate administrative guidelines and materials to illustrate the requirements of this chapter or to provide examples of Signs that are permitted or prohibited by this chapter. Such guidelines and materials may be revised periodically at the discretion of the Community Development Director.

### **19.33.035 – Prohibited Signs.**

The following Signs are prohibited within the City:

- A. Abandoned Signs;
- B. Bench Signs on or within thirty (30) feet of a public right-of-way;
- C. New Billboard Signs. Existing Billboard Signs will be considered Nonconforming Signs and may not be reconstructed, replaced, or relocated;
- D. Commercial Off-Premises Signs (Except (1) within the HBD as authorized by 19.33.090(A)(5), and (2) Multi-Business Complex Directory Signs located on a lot within the Multi-Business Complex as authorized by 19.33.090(E)(1));
- E. Roof Signs, including roof-mounted Signs and any Signs painted directly on the roof surface;
- F. Signs or Sign Structures which by coloring, shape, design, or location resemble or conflict with traffic control signs or devices;
- G. Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Community Development Director in consultation with the Public Works Director;
- H. Signs with flashing, rotating, or blinking lights. This category includes Signs with a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of motion or animation;
- I. Signs attached to public property without the permission of the government agency owning the same, including, without limitation: trees, utility poles, and street lights;
- J. Signs within the public right of way, except permitted Canopy Signs, Marquees, and Projecting Signs;
- K. Off-Premises Signs within an RM or RS zone;
- L. Privately installed Signs that restrict or adversely impact the use or activity of any public right-of-way without permission from the City;
- M. Signs placed on vehicles (or trailers) which are parked or located for the primary purpose of displaying said Sign (however, this provision does not apply to vehicles (or trailers) which are advertising themselves for sale);
- N. Signs in City-designated buffer zones or greenbelt areas (however, this provision does not apply to park and/or trail information signs);

- O. Streamers or inflatable objects, except for special events provided that they (1) if associated with an event, are removed within twenty-four (24) hours of said event, (2) conform to the Temporary Sign requirements, and (3) are located outside the Historic Business District;
- P. Laser lights; and
- Q. Any Sign contrary to the provisions of this chapter.

### **19.33.040 – General Provisions.**

The following provisions shall apply to all zoning districts and to all Signs regulated by this chapter, subject however to the specific regulations in each zoning district:

A. No Sign shall be erected, caused to be erected, or allowed to remain erected except in compliance with all the regulations established in this chapter. No owner or lessee of any real property located within the corporate limits of the City shall knowingly allow any sign to be erected on any such property in violation of the provisions of this chapter. No person shall take any action intending to, or having the effect of, circumventing the purpose and intent of this chapter.

B. Sign Owner Responsibility. By installing any Sign in the City of Lynden, whether or not a permit is required for said Sign, the owner of the Sign acknowledges and assumes responsibility for compliance with this chapter, for the safety of the Sign, and for any and all damage to property or injury to person resulting from the Sign.

C. Maintenance. All Signs and components thereof must be maintained in good repair and in a safe, neat, clean, and attractive condition. The owner of the premises upon which a Sign is located shall be responsible for Sign maintenance.

D. Abandoned Signs – Hazardous Signs. Abandoned Signs shall be removed by the owner or lessee of the premises upon which the Sign is located within sixty (60) days of abandonment. Signs which constitute a safety hazard to the public as determined by the Building Official or Public Works Director shall be removed or made safe immediately.

E. Design Elements. Design elements include the following: sandblasting, hand carving, graphic art, masonry materials, wood, border accents, stained glass, wrought iron, steel brackets, outlining, lighting, Dutch character or graphics, lettering style, three or more colors, gold leaf, tile, frames, and shadowing. When reviewing Signs, the Design Review Board shall consider the relationship of the design elements to one another in the design of the Sign.

F. Safe and Secure Installation. Signs, Sign Structures, and bracing systems shall be designed and constructed to meet all requirements of the Uniform Building Code and the Lynden Municipal Code. All Electric Signs shall be designed, installed, and inspected in conformance with the National Electrical Code.

G. Clearance and Sight Distance. Marquees, Canopy Signs and/or Projecting Signs which project over areas where motor trucks may be required to pass beneath them shall maintain a minimum vertical clearance of fifteen feet. No Marquee, Canopy Sign, and/or Projecting Sign may project closer than two

feet from the curb line of the street. All Marquees, Canopy Signs, and/or Projecting Signs must maintain a minimum of eight feet of vertical clearance over pedestrian ways. Freestanding Signs and Portable Signs may not be placed within the clear vision triangle at the intersection of any streets, alleys, or driveways. This clear vision triangle is defined in Title 17.

H. Sign Illumination. Signs may be illuminated by indirect, internal, and/or exposed lighting methods, subject to the following requirements:

1. For Signs using indirect lighting, such lighting shall be directed and/or minimized to reduce glare to adjoining properties and/or the public right-of-way.
2. For Signs that are illuminated by an internal lighting source, it is encouraged that the Sign Face be opaque, with only the copy and/or logo(s) illuminated.
3. For Signs using an exposed lighting method, such method must be incorporated as part of the Sign or Sign Face. Signs constructed solely of exposed neon materials are not permitted.
4. Historic Business District. Subdued, indirect lighting is encouraged for Freestanding Signs located within the HBD.
5. Residential Districts. Freestanding Signs located within a RM or RZ zone may only utilize indirect lighting for illumination. Exception: permitted Reader Board Signs located within a RM or RZ zone.
6. Illuminated Signs may not flash, rotate, or blink. See LMC 19.33.035(H).

I. Signs Placed Within the Public Right-of-Way or on City Property. For any Sign placed within the public right-of-way or property owned by the City, continuous proof of liability insurance naming the City of Lynden as an additional insured is required. The Clerk-Treasurer of the City is authorized to determine the policy provisions and coverage amounts required.

### **19.33.050 – Residential Districts (All RS and RM zones).**

In addition to the other applicable provisions of this chapter, the following regulations also apply in each residential zoning district (RS and RM zones):

A. Total Allowable Sign Area. The following maximum limits on Sign Area apply within all RS and RM zones:

1. Four (4) square feet of Sign Area for each residential unit located on a lot, up to a maximum of twenty-four (24) square feet.
2. Exception: maximum Sign Area for residences within a Planned Residential Development will be determined by the Development Contract.

B. Maximum Sign Height. The maximum Sign Height for a Sign within an RM or RS zone is five (5) feet.

### **19.33.060 – Historic Business, Local Commercial Services, and Public Use Districts (HBD, CSL, and PU zones).**

In addition to the other applicable provisions of this chapter, the following regulations also apply in the historic business, local commercial services, and public use zoning districts (HBD, CSL, and PU zones):

A. Total allowable Sign Area. The following maximum limits on Sign Area apply within HBD, CSL, and PU zones:

1. One and one-half (1.5) square feet of Sign Area for each lineal foot of Primary Street Frontage of the Primary Building.
  - a. If a building is located on a corner lot, an additional three-quarter (0.75) square feet of Sign Area per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
  - b. If a building has alley frontage, an additional one (1) square foot of Sign Area per lineal foot of alley frontage is added to the total allowable Sign Area. This additional allowable Sign Area must be used on the alley front of the building.
  - c. The total Sign Area of Signs attached to any one wall shall not exceed one-hundred and fifty (150) square feet.
2. Twenty (20) square feet for an outdoor business which operates without a building.
3. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.
4. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within an HBD, CSL, or PU zone shall not extend higher than the surface of the nearest roof or building. In addition:

1. A Freestanding Sign within the HBD shall not exceed seven (7) feet in height.
2. A Freestanding Sign within a CSL or PU zone shall not exceed seventeen (17) feet in height.
3. A Canopy Sign or Sign mounted to a Marquee (1) shall not extend higher than the highest roof surface of the Canopy or Marquee, and (2) shall not extend higher than the roof of the nearest building or cornice line.
4. A Monument Sign of a single-business or agency shall not exceed five (5) feet in height. A Monument Sign of a Multi-Business Complex shall not exceed five (5) feet plus one (1) additional foot for each separate business included on said sign, to a maximum of seven (7) feet in height in the HBD zone, or seventeen (17) feet in height in all other zones.

### **19.33.063 – Regional Commercial Services Districts (CSR Zones).**



In addition to the other applicable provisions of this chapter, the following regulations also apply in each regional commercial services zoning district (CSR zones):

A. Total allowable Sign Area. The following limits on Sign Area apply within CSR zones:

1. Two and one-half (2.5) square feet of Sign Area for each lineal foot of Primary Street Frontage.
  - a. In the event a building is located on a corner lot, an additional one and one quarter (1.25) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
  - b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.
2. Twenty (20) square feet for an outdoor business which operates without a building.
3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within a CSR zone may not exceed twenty-five (25) feet in height, except that a Sign located at least one hundred (100) feet, but not more than three hundred (300) feet from the right-of-way of a state highway may not exceed thirty-five (35) feet in height. In addition:

1. Canopy Signs or Signs mounted on a Marquee shall not extend higher than the highest roof surface of the Canopy or Marquee.
2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height. A Monument Directory Sign of a Multi-Business Complex shall not exceed five (5) feet in height plus one (1) additional foot for each separate business included on said Sign to a maximum of seventeen (17) feet.

### **19.33.065 – Industrial Districts (ID and IBZ zones).**

In addition to the other applicable provisions of this chapter, the following regulations also apply in each industrial zoning district (ID and IBZ zones):

A. Total allowable Sign Area. The following limits on Sign Area apply within all ID and IBZ zones:

1. One and one-half (1.5) square foot of Sign Area for each lineal foot of Primary Street Frontage of the primary building.
  - a. In the event a building is located on a corner lot, an additional three-quarters (0.75) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
  - b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.
2. Twenty (20) square feet for an outdoor business which operates without a building.

3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within an ID or IBZ zone shall not extend higher than the surface of the nearest roof of the building. In addition:

1. A Freestanding Sign shall not exceed seventeen (17) feet in height).
2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height). A Monument Directory Sign of a Multi-Business Complex shall not exceed in height five (5) feet plus one (1) additional for each separate business included on said Sign, up to a maximum of ten (10) feet.

### **19.33.090 – Standards for Specific Sign Types.**

In addition to the standards listed elsewhere in this chapter, the following standards shall apply in all zones. For Signs that meet the definition of more than one Sign type, the Community Development Director shall determine which standards apply based on the Sign's function, location, and orientation.

A. Directional Signs.

1. Directional Signs may be erected without a Sign Permit if restricted to posting regulations regarding the use of the lot and to identifying a parking lot with its owner, operator, or name of the business providing the lot.
2. No advertising other than the name of the business may be included.
3. Sign Area. The total Sign Area for Directional Signs shall not exceed six (6) square feet for each one thousand (1,000) square feet of parking lot area and each Sign Face shall not exceed six (6) square feet; provided that each lot shall be allowed at least one Directional Sign; and provided further that these restrictions may be exceeded to the extent required by any applicable laws of the State of Washington.
4. Sign Height. Directional Signs shall not exceed a Sign Height of six (6) feet.
5. Off-Premises Directional Signs within the Historical Business District. One Off-Premises Directional Sign may be permitted per business within the HBD. Off-Premises Directional Signs within the HBD are limited to a maximum Sign Area of sixteen square feet. Off-Premises Directional Signs in the HBD shall not be Freestanding Signs and must be mounted on a building within the HBD. Only one such Off-Premises Directional Sign may be mounted per building side.

B. Freestanding Signs (Including, but not limited to, Monument Signs and Pole Signs).

1. Setback. Freestanding Signs must be setback at least five (5) feet inside property lines.
2. Landscaped Base. All Freestanding Signs shall have a landscaped area at the base of the Sign at least twice the size of the Sign Area. All required landscaping must be contiguous to the

Sign. However, it is not required that the Sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the Sign.

3. Freestanding Signs within an RM or RS zone.

- a. Only the following types of Permanent Freestanding Signs may be permitted within an RM or RS zone:
  - i. Monument Signs;
  - ii. Pole Signs mounted on two poles placed at the outermost side of the Sign Face.
- b. A maximum of one Pole Sign per lot may be approved within an RM or RS zone.

4. Freestanding Signs within the HBD zone.

- a. Sign Area. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.
- b. Pole Signs within the HBD must be mounted on two poles placed at the outermost edge of the Sign Face.
- c. The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan.

5. Freestanding Signs within a CSL or PU zone.

- a. Each business or agency within a CSL or PU zone is allowed no more than one (1) Freestanding Sign.
- b. Sign Area. Monument Signs within a CSL or PU zone shall not exceed eighty (80) square feet in Sign Area.
- c. Additional Setback. Monument Signs within a CSL or PU zone that exceed five (5) feet in Sign Height must be setback from all property lines a distance of one (1) foot for each foot of Sign Height.
- d. Exception: The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan and/or Planned unit development.

6. Freestanding Signs within a CSR zone.

- a. Each business or agency within a CSR zone is allowed no more than one (1) Freestanding Sign per sixty (60) feet of Street Frontage. If more than one Freestanding Sign greater than five (5) feet in Sign Height is requested, the Signs must be located at least sixty (60) feet apart and each Sign must be of equal size and shape.

- b. Sign Area. Freestanding Signs within a CSR zone shall not exceed one-hundred and fifty (150) square feet in Sign Area. If more than one Freestanding Sign is requested, the maximum Sign Area for each Freestanding Sign is reduced to one-hundred (100) square feet. The combined Sign Area of all Freestanding Signs must comply with the maximum allowable Sign Area allowed pursuant to LMC 19.33.063(A).
- 7. Freestanding Signs within an ID or IBZ zone.
  - a. Each business or agency within an ID or IBZ zone is allowed no more than one (1) Freestanding Sign. Monument Signs are encouraged.
  - b. Sign Area. Freestanding Signs within an ID or IBZ zone shall not exceed eighty (80) square feet in Sign Area.
- C. Fuel Signs. Any permitted business selling motor fuel to the public may have one permanently mounted Fuel Sign not to exceed eighteen (18) square feet per Sign Face. If such Fuel Sign is incorporated into a Monument Sign allowed pursuant to this Sign Code, the allowable height of such Monument Sign may be increased by four (4) feet.
- D. Home Occupation Signs. Home Occupation Permit signs must comply with the requirements of LMC 19.57.140(H).
- E. Multi-Business Complex Directory Signs.
  - 1. Each Multi-Business Complex is allowed one Directory Sign per Street Frontage, which may be located on any lot within the Multi-Business Complex.
  - 2. Sign Area. The total Sign Area for each Multi-Business Complex Directory Sign shall not exceed thirty-two (32) square feet plus an additional six (6) square feet per business or agency located within the Multi-Business Complex, up to a maximum of eighty (80) square feet.
  - 3. The width of any Sign Face of a Multi-Business Complex Directory Sign shall not exceed ten (10) feet.
  - 4. The applicant must apportion some of the Sign Area on a Multi-Business Complex Directory Sign to each business or agency operating within the Multi-Business Complex, including businesses or agencies internal to the complex with no primary Street Frontage or access.
- F. Mural Signs. Mural Signs are only permitted within the HBD. Mural Signs must be approved by the Design Review Board and are subject to the following standards:
  - 1. A building permit must be obtained prior to the painting and/or installation of a Mural Sign.
  - 2. Mural Signs shall not contain commercial messages.
  - 3. No part of the Mural Sign shall extend beyond the building wall or freestanding wall on which it is painted, tiled, or otherwise affixed.
  - 4. Mural Signs must be aesthetically compatible with respect to the community and must compliment the associated building or structure in terms of scale, color, and pattern.

5. Mural Signs must not have electrical or mechanical components.
  6. Mural Signs must use materials, coatings, and/or other protective techniques that will resist vandalism and weathering.
  7. Mural Signs must not pose a hazard to pedestrian and/or vehicular traffic.
  8. An application to install a Mural Sign shall include a permanent plan for maintenance of the Mural Sign. The city may require the applicant to post a bond for costs associated with the maintenance and/or removal of the Mural Sign.
  9. If a Mural Sign is removed, any materials used to affix the Mural Sign to the surface including, but not limited to, mounting hardware, brackets, adhesives, glues, caulking, and/or grout must be removed at the same time.
- G. Projecting Signs.
1. Sign Area. Projecting Signs shall be no larger than thirty-two (32) square feet per side.
  2. Projecting Signs shall not project more than six (6) feet from the building.
  3. Projecting Signs that project into the right-of-way shall comply with the requirements of LMC 19.23.070.
  4. Projecting Signs shall have a minimum clearance of eight (8) feet above the sidewalk and six (6) inches from the vertical wall.
  5. Each Main Entry shall have no more than one (1) Projecting Sign.
- H. Reader Board Signs (Including Electronic Reader Board Signs).
1. Reader Board Signs are permitted within the CSL, CSR, and PU zones.
  2. New Reader Board Signs are prohibited within the HBD, RS, RM, and ID/IBZ zones.  
Exception: Reader Board Signs located within the RS and RM zones may be allowed pursuant to a permitted Conditional Use Permit.
  3. Sign Area. A Reader Board Sign located within a RM or RS zone permitted through a conditional use permit shall not exceed sixteen (16) square feet in Sign Area. Exception: if the Reader Board Sign is incorporated into a larger Sign Structure, then the total Sign Area shall not exceed forty (40) square feet. A Reader Board Sign located within an HBD, CSL, or PU zone shall not exceed thirty (30) square feet in Sign Area. In the CSR zone, a Reader Board Sign shall not exceed thirty-six (36) square feet or seventy-five percent (75%) of a lot's total allowable Sign Area, whichever is less.
  4. New Portable Reader Board Signs. No new portable Reader Board Signs shall be installed after the adoption of this code provision.
  5. Electronic Reader Board Signs.
    - a. No more than one (1) Electronic Reader Board Sign shall be permitted on a site or development complex.

- b. *Static Image Display Minimum.* Electronic Reader Board Signs with changing messages shall not blink, flash, or change their message more frequently than once every four seconds.
  - c. *No Animation or Video.* Electronic Reader Board Signs shall display one static image for no less than four (4) seconds before changing to another static image display.
  - d. *Brightness.* All Electronic Reader Board Signs shall be equipped with an automatic dimming photocell device which automatically adjusts the display's brightness to preset levels based on ambient lighting conditions. All Electronic Reader Board Signs shall operate at brightness levels of no more than 0.3 footcandles above ambient light levels. All Electronic Reader Board Signs shall also be preset to prevent luminance above 5,000 nits during daylight hours and above 300 nits during at night. An application to install an Electronic Reader Board Sign must include a certification by the developer that said Electronic Reader Board Sign will comply with these requirements.
  - e. *Advertising.* Electronic Reader Board Signs shall only be used to (1) advertise products, activities, or services available on the property or development complex on which the Sign is located, and/or (2) present public service information.
  - f. *Light Trespass Standard.* A maximum of 0.1 footcandles measured at the property line of any park or residential property.
  - g. *Malfunctioning Sign.* In the event that an Electronic Reader Board Sign is malfunctioning, such Sign shall be turned off until the Sign is repaired and functioning in full compliance with the requirements of this section.
- I. Sandwich Board Signs. Sandwich Board Signs are not permitted within RS or RM zones. Within all other zones, Sandwich Board Signs may be placed upon a public or private sidewalk, subject to the following standards:
1. Sandwich Board Signs shall be aesthetically compatible with respect to the surrounding community.
  2. Sign Area. Sandwich Board Signs shall have a maximum Sign Area of eight (8) square feet per Sign Face.
  3. A Sandwich Board Sign shall have a maximum width of thirty (30) inches.
  4. Sign Height. A Sandwich Board Sign shall have a Sign Height of not less than thirty (30) inches and not more than four (4) feet.
  5. A business shall not use more than one (1) Sandwich Board Sign.
  6. A Sandwich Board Sign shall be within twenty-five (25) feet of the Main Entry of the premises or Multi-Business Complex it is associated with.
  7. Sandwich Board Signs shall use materials, coatings, and/or other protective techniques that will resist weathering.

8. Each Sandwich Board Sign shall be of sound construction and designed to withstand high winds, to the satisfaction of the Building Official.
  9. Sandwich Board Signs shall not have electrical or mechanical components.
  10. Sandwich Board Signs shall not pose a hazard to pedestrian or vehicular traffic.
  11. Sandwich Board Signs shall not be placed closer than fifteen (15) feet from the intersection of the extension of the curb lines (the edge of the curbs on the vehicular traffic side) of each intersecting street.
  12. Sandwich Board Signs shall be placed no further than three (3) feet from the building line. Exception: Sandwich Board Signs may be placed within twenty-four (24) inches of the curb line wherever parking is prohibited in the adjacent street.
  13. Sandwich Board Signs shall not be placed close than twelve (12) inches from any tree grate or other planting.
  14. Sandwich Board Signs shall not be placed within a crosswalk.
  15. Sandwich Board Signs shall not be placed within fifteen (15) feet of another Sandwich Board Sign.
- J. Temporary Signs. See LMC 19.33.100.
- K. Window Signs. Window Signs located within the HBD zone shall not cover more than 30% of the windowpane. Window Signs located in all other zones shall not cover more than 50% of the windowpane.

### **19.33.100 – Temporary Signs.**

In addition to any other applicable provisions of this chapter, the following standards apply to all Signs meeting the definition of Temporary Sign:

#### A. General Requirements for Temporary Signs.

1. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or other type of street furniture, or otherwise create a safety hazard.
2. Duration. If a Temporary Signs is promoting a specific event, the Temporary Sign shall be removed within ten (10) days following the conclusion of said event.
3. Maximum Number of Temporary Signs. No more than four Temporary Signs (or, for multifamily complexes containing more than four residential units, no more than one Temporary Sign per unit) visible from the public right-of-way per lot are allowed.
4. A Temporary Sign shall be removed if it is worn, dilapidated, in need of repair, or if it creates a public nuisance.

**B. Temporary Signs in Public Right-of-Way.**

1. Location. Temporary Signs are only allowed in non-hard surface areas of public rights-of-way. Temporary Signs shall not be located in a right-of-way adjacent to public property owned or under the control of a unit of federal, state, or local government, or a special purpose district, unless otherwise approved by the unit of government.

2. Safety. All Temporary Signs shall be placed in a manner that is safe for all users of the public right-of-way. Temporary Signs shall not block access to structures or parked cars and shall not block vehicular sight distance at corners or intersections.

3. Permission of Owner of Abutting Property. Temporary Signs may only be placed in the public right-of-way if the Sign owner has permission from the owner of the abutting property or the person in control of the abutting property (such as a tenant).

C. Temporary Signs on Private Property. Temporary Signs may only be placed on private property with the consent of the property owner or person in control of the property (such as a tenant). The property owner or person in control of the property may remove the Temporary Sign(s) without notice.

D. Maximum Sign Area. Temporary Signs are limited in size to four square feet.

E. Maximum Sign Height. Temporary Signs shall not exceed three feet in height.

F. Temporary Banner. Each tenant space shall have no more than one temporary banner. Temporary banners are limited to thirty-two (32) square feet in size. Temporary banners may be permitted for a maximum of thirty (30) days during any consecutive three-hundred-sixty-five-day (365) period.

G. Signs that exceed the height or size requirements herein are considered Permanent Signs and must meet the standards of the applicable Sign category in this chapter.

**19.33.140 – Message Substitution.**

Signs containing noncommercial speech are allowed anywhere that Signs regulated by this chapter are allowed, subject to the same regulations applicable to such Signs including, but not limited to, requirements to obtain a Sign permit where applicable. A substitution of a noncommercial message may be made without any additional approval, permitting, or notice to the City.

**19.33.150 – Interpretations.**

Where there is any dispute concerning the interpretation of this chapter, the decision of the Community Development Director shall prevail, subject to appeal to the Hearing Examiner.

**19.33.160 – Enforcing Official—Powers and Duties.**



The enforcing official of this chapter shall be the Community Development Director who is hereby authorized and directed to enforce all the provisions of this chapter. The Community Development Director may appoint a designee to assist with the enforcement of this chapter. Signs for which a permit is required may be inspected periodically by the Community Development Director for compliance with this chapter.

### **19.33.170 – Removal of Signs.**

A. Abandoned Signs shall be removed by the owner or lessee of the premises upon which the Sign is located within sixty (60) days after the business or service advertised by the Sign is no longer conducted. This also applies to billboards advertising defunct businesses or events.

B. The Community Development Director may order the removal of any Sign erected, installed, or allowed to remain in violation of this chapter. The Community Development Director shall give at least thirty (30) days' notice in writing, to the owner of such Sign, or of the building, structure, or premises on which such Sign is located, to remove the Sign or to bring it into compliance with this chapter. The Community Development Director may order removal of the Sign at the expense of the owner of the premises if compliance with the written order is not obtained. Notice to the owner shall be deemed to be given as of the date of deposit in the United States mail addressed to the address on record that date at the office of the Whatcom County assessor.

Exception: In the case of Temporary Signs, Banner Signs, Portable Signs, or Streamers, only five (5) days' notice need be given.

C. The Community Development Director may cause any Sign which is erected or displayed in violation of this chapter to be summarily removed without notice and at the expense of the owner of the Sign and/or premises if:

1. The condition of placement of the Sign presents, in the opinion of the Community Development Director, an immediate threat to the health and/or safety of the public;
2. The Sign is placed, in violation of this chapter, in a public right-of-way, upon City property, or attached to a utility pole, tree, or traffic Sign; or
3. The Sign described in a notice issued pursuant to subsection (B) above is not removed or brought into compliance with this chapter by the expiration of the thirty (30) day period described in said notice.

### **19.33.180 – Nonconforming Signs.**

A. Nonconforming Signs shall be removed or brought into compliance with this chapter upon the loss of nonconforming status as noted in this section.

B. Those revolving or blinking Signs or Electronic Reader Board Signs granted a Sign permit prior to September 1, 1996 are considered permitted Signs under this chapter without restriction on scrolling or

changing of the message. Any change or replacement of those Signs will require that the Signs be brought into compliance with this chapter or that a variance be applied for and granted.

C. Exception Pertaining to Portable Signs, Banner Signs and Streamers. All Portable Signs, Banner Signs and Streamers made nonconforming by this chapter shall be removed within ninety days of the effective date of the ordinance codified in this chapter.

D. Loss of Nonconforming Status.

1. A Nonconforming Sign shall immediately lose its legal, nonconforming status if:

- a. The Sign is structurally altered in any way; or
- b. The Sign is damaged in excess of fifty percent (50%) of the original cost of the Sign; or
- c. The Sign is relocated; or
- d. The Sign is replaced.

2. On the occurrence of any of the events described in subsection (D)(1) of this section, the Sign shall be immediately brought into compliance with this chapter with a new permit secured therefor, or shall be removed; provided, however, that the Community Development Director may authorize specific alterations of such Nonconforming Signs if it is found that the total amount of aggregate noncompliance of the Sign Area of the existing Signs on the premises is reduced at least fifty percent (50%) by the proposed alterations.

### **19.33.200 - Severability.**

If any provision of this Chapter 19.33 is found to be invalid, the remaining provisions stand on their own and are still valid.

**SECTION 4:** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases has been declared invalid or unconstitutional, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION 5:** Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6:** This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

AFFIRMATIVE VOTE \_\_\_\_\_ IN FAVOR, AND \_\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

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Scott Korthuis, Mayor

ATTEST:

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Pamela Brown, City Clerk

APPROVED AS TO FORM:

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Robert Carmichael, City Attorney