

Chapter 2.09 Hearing Examiner

Chapter 2.09.010 – 2.09.030 - no changes

2.09.040 Jurisdiction-duties—powers.

- A. The hearing examiner shall have the power to receive and examine available information, conduct public hearings, prepare a record thereof, and enter decisions as provided by ordinance.
- B. The hearing examiner shall have the exclusive jurisdiction to hold an open record hearing and make a decision on the following matters:
 - 1. Appeals of the determinations of the fees and dedications made under Chapters 3.28, 3.40, 3.44, and 19.67 LMC;
 - 2. Appeals of dangerous dog declarations under Chapter 6.09 LMC;
 - 3. Appeals of determinations of eligibility for relocation assistance under Chapter 12.36 LMC;
 - 4. Appeals of the city's determination to suspend services, impose penalties, recover costs, establish compliance schedules, or terminate a user's wastewater and/or collection services, under Chapter 13.12 LMC;
 - 5. Appeals of the city's computation or application of the stormwater management utility service charge or FCI charges or imposition of sanctions or fines under Chapter 13.24 LMC;
 - 6. Challenges of the written interpretations and/or decisions of the public works director made under Chapter 13.28 LMC;
 - 7. Petitions for exemptions from payment of the utility fee or for conversion to exempt status, and appeals of the city's computation of the applicable fees assessed, under Chapter 13.32 LMC;
 - 8. Appeals of the determination of the community development director regarding moving buildings under Chapter 15.05 LMC;
 - 9. Appeals of the determination of the building code official as described in Chapter 15.14 LMC;
 - 10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under Chapter 16.05 LMC, including related procedural and substantive issues;
 - 11. Appeal of director's final critical area determinations;
 - 12. All applications for shoreline permits or revisions to shoreline permits under Chapter 16.08 LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;

13. Under Chapter 16.12 LMC, Floodplain Management, all appeals of determinations of the director, and variance requests where not consolidated with an underlying project application being decided upon by a different hearing body;
 14. Appeals of the imposition of penalties or of the community development director's decision on mitigation or revision under Chapter 16.16 LMC;
 15. Appeals of the administrative approvals described in LMC Sections 17.09.010 and 17.09.020;
 16. Appeals of administrative interpretations and approvals under LMC Section 17.11.010;
 17. Appeals of civil regulatory orders and civil fines issued under Chapter 1.34 LMC;
 18. Appeals of the results of concurrency tests, denials of proposed mitigation for transportation facilities, and any other determinations of capacity or calculations or assessments of any fees made under Chapter 17.15 LMC;
 19. Amortization periods for nonconforming signs;
 20. All variances from the requirements of Title 19, except variances from the requirements of Chapter 19.33 LMC and LMC Sections 19.22.030, 19.22.040, 19.22.050, 19.23.080 and 19.23.090 and except where the variance is part of a project application being decided upon by a different hearing body;
 21. Appeals of determinations of building official as described in LMC Section 19.42.040;
 22. Appeals of administrative interpretations made under Chapter 19.59 LMC;
 23. Appeals of a determination of incomplete abatement under a voluntary correction order made under LMC Section 1.34.050(F) and
 24. Other actions as required by this code.
- C. In order to avoid the city holding two hearings on one project, the hearing examiner shall only hear variance applications and shoreline permit applications or revisions that are not filed as part of an underlying project for which another hearing body will conduct a hearing. For example, if an applicant submits a long plat application along with a variance application to use an alternative cul-de-sac design, the hearing on the variance on the cul-de-sac shall be consolidated with the hearing on the long plat, and the consolidated hearing shall be before the hearing body holding the hearing on the long plat.
- D. The hearing examiner is empowered to act in lieu of the board of adjustment, the board of appeals, the city council, the planning commission and such other officials, boards, or commissions as may be assigned for those matters listed in subsection (B) of this section. Wherever existing ordinances, codes or policies authorize or direct the board of adjustment, the board of appeals, the city council,

the planning commission or other officials, boards, or commissions to undertake certain activities which the hearing examiner has been assigned under said subsection (B), such ordinances, codes or policies shall be construed to refer to the hearing examiner.

- E. The hearing examiner may include in a decision any conditions of approval that are necessary to ensure that the proposal complies with all applicable code criteria and comprehensive plan policies.
- F. The hearing examiner has such other powers as are necessary to carry out the purpose and intent of this chapter, including without limitation to conduct pre-hearing conferences; to require the submittal of information; to schedule and continue hearings; to administer oaths and affirmations; to issue subpoenas; to regulate the course of pre-hearing discovery; to preside over hearings and the conduct of parties; to question parties and witnesses at a hearing; to rule on all evidentiary, procedural and other matters, including all motions; to maintain order; to establish post-hearing procedures; to issue findings of fact and conclusions of law; to enter final decisions and orders; and to adopt procedures consistent with Section 2.09.050.
- G. With the exception of shoreline permit applications, and revisions heard by the hearing examiner, and decisions on appeals of Civil regulatory orders, the hearing examiner's decision on these the matters identified in subsection (B) shall be final unless timely appealed to the city council following the procedures in Chapter 17.11 LMC. The city council shall hear appeals of these matters as closed record appeals. The hearing examiner shall make the final decision of the city on the shoreline permit issues he or she hears and on appeals of civil regulatory orders. The determination of the hearing examiner on shoreline permit applications and revisions shall be subject to appeal to the shoreline hearings board.

Chapter 2.09.045 – 2.09.050 - no changes

Chapter 17.01 GENERAL PROVISIONS – no changes

Chapter 17.02 (reserved) – no changes

Chapter 17.03 ADMINISTRATION

Sections:

17.03.010 Roles and responsibilities.

- A. The regulation of land development is a cooperative activity including many different elected and appointed boards and city staff. The specific responsibilities of these bodies are set forth in this chapter.
- B. A developer and/or property owner is expected to read and understand the City Development Code and be prepared to fulfill the obligations placed on development by Titles 16 through 19.

17.03.020 Community Development Director. ~~Planning director.~~

The ~~planning community development~~ director shall review and act on the following:

- A. Authority. The ~~planning community development~~ director, "the director," is responsible for the administration of Titles 15, 16, 17, 18 and 19 of this code, except for Chapter 16.12.
- B. Administrative Interpretation. Upon request or as determined necessary, the director shall interpret the meaning or application of the provisions of the titles and issue a written administrative interpretation within thirty days. All requests for interpretation shall be written and shall concisely identify the issue and desired interpretation. Appeals of an administrative interpretation shall be filed in conformance with Section 17.11.020.
- C. Administrative Approvals. Administrative approvals as set forth in Sections 17.09.010(A) and 17.09.020 and as otherwise provided in Titles 15, 16, 17, 18 and 19.

17.03.030 City ~~e~~Council.

In addition to its legislative responsibility, the city council shall:

- A. Review and make the final decision of the city on development permit applications and open record appeals that were heard, reviewed, and had recommendations entered thereon by the planning commission. A nonexclusive listing of the development permit applications ~~and appeals~~ on which the planning commission will conduct open record hearings and make recommendation to the city council is set forth in Section 17.03.040(A). The

Commented [HG1]: Planning Commission does not hear appeals.

final decision of the city in such matters shall be made by the city council without conducting an additional hearing or considering additional evidence.

- B. Conduct the closed record appeal and make the final decision of the city on appeals from the decisions of the hearing examiner. A nonexclusive list of the matters for which the hearing examiner renders a decision is at LMC Section 2.09.040(B). The hearing examiner's decision on all of these matters is subject to closed record appeal before the city council except as otherwise provided.
- C. Conduct the hearing(s), review, and make the final decision of the city on the following:
 - 1. Open record hearings on requests for variances from development standards identified in Section 17.17.010 when such requests do not include another development permit application as described in Section 17.17.020(B);
 - 2. Closed record appeals of administrative design review ~~board~~ decisions;
 - 3. Closed record hearings on design review variances;
 - 4. Closed record hearings on sign variances;
 - ~~35.~~ Open record hearing on petitions for the vacation of right-of-way;
 - ~~46.~~ Open record hearings on the revocation or modification of existing permits or approvals, as provided in Section 17.13.070;
 - ~~56.~~ All other matters as are required or authorized by this code or state law.

17.03.040 Planning ~~e~~Commission.

- A. Planning Commission Open Record Hearings and Recommendation to City Council. The planning commission shall conduct an open record hearing, review, enter findings, and make recommendations to the city council on the following development permit applications and open record appeals:
 - 1. Subdivisions, binding site plans, planned unit developments, planned residential developments or planned commercial developments;
 - 2. Conditional use permits;
 - 3. Site-specific rezones, including site-specific comprehensive plan map amendments;
 - 4. Variance requests from development standards identified in Section 17.17.010 when such requests are accompanied by another development permit application as described in Section 17.17.020(A);
 - 5. Shoreline permit and revisions applications when such applications are accompanied by another development permit application to be heard by the planning commission;
 - 6. Other actions requested or remanded by the city council or as required by this code.

17.03.050 Hearing Examiner.

The hearing examiner shall review and act on the subjects over which the hearing examiner has jurisdiction pursuant to Section 2.09.040.

~~17.03.060 Design review board.~~

~~The design review board shall review and act on the following subjects:~~

- ~~A. All building permits for commercial buildings, attached single-family buildings of two or more units, and multifamily buildings of two or more units;~~
- ~~B. Landscape plans;~~
- ~~C. Signs;~~
- ~~D. Detached accessory dwelling units;~~
- ~~E. Requests for variance of adopted design standards.~~

~~The review criteria for the design review board have been adopted by the city council as part of the design review guidebook and as residential design standards adopted within Title 19. An appeal of a final decision of the design review board shall be filed in accordance with Section 17.11.020 and shall be heard by the city council as a closed record appeal.~~

~~(Ord. 1202 § 8(part), 2004).~~

~~(Ord. No. 1574, § A, 3-4-2019)~~

Chapter 17.04 (reserved) – no changes

Chapter 17.05 CONSOLIDATED APPLICATION PROCESS

Sections:

17.05.010 Application.

- A. The city shall consolidate development application and review in order to integrate the development permit and environmental review process, while avoiding duplication of the review processes.
- B. All applications for development permits, ~~administrative design review, design review approvals,~~ variances and other city approvals under the development code shall be submitted on forms provided by the ~~planning-Community Development department~~Department. All applications shall be acknowledged by the property owner.

17.05.020 Preapplication meetings.

- A. Informal. Applicants for development are encouraged to participate in an informal meeting prior to the formal preapplication meeting. The purpose of the meeting is to discuss, in general terms, the proposed development, city-design standards, design alternatives, and required permits and approval process.
- B. Formal. Every person proposing a development in the city, with exception of building permits, shall attend a preapplication meeting. The purpose of the meeting is to discuss the nature of the proposed development, application and permit requirements, fees, review process and schedule, applicable plans, policies and regulations. In order to expedite development review, the city shall invite all affected jurisdictions, agencies and/or special districts to the preapplication meeting.

17.05.030 Content of applications.

- A. All applications for approval under Titles 16 through 19 shall include the information specified in the applicable title. The director may require such additional information as reasonably necessary to fully and properly evaluate the proposal.
- B. The applicant shall apply for all permits identified in the preapplication meeting.

17.05.040 Letter of completeness.

- A. Within twenty-eight days of receiving a date stamped application, the city shall review the application and as set forth in Sections 17.05.050 and 17.05.060, shall mail or provide to the applicant in person a written determination that the application is complete or incomplete.
- B. A project application shall be declared complete only when it contains all of the following materials:

1. A fully completed, signed, and acknowledged development application and all applicable review fees;
 2. A fully completed, signed, and acknowledged environmental checklist for projects subject to review under the State Environmental Policy Act;
 3. The information specified for the desired project in the appropriate chapters of this code and as identified in Section 17.05.030;
 4. Any supplemental information or special studies identified by the director.
- C. For applications determined to be incomplete, the city shall identify, in writing, the specific requirements or information necessary to constitute a complete application. No vested rights shall accrue to until a complete application is received. Upon submittal of the additional information, the city shall, within fourteen days, issue a letter of completeness or identify what additional information is required.
- D. The city's determination of completeness shall not preclude the city from requesting additional information or studies either at the time of the notice of completeness or at some later time, if new information is required or where there are substantial changes in the proposed action. [RCW Section 36.70B.070(2).]
- E. If the applicant receives a determination from the city that an application is not complete, the applicant shall have ninety days to submit the necessary information to the city. Within fourteen days after an applicant has submitted the requested additional information, the city shall make the determination as described in Section A of this section, and notify the applicant in the same manner. If the applicant either refuses in writing to submit additional information or does not submit the required information within the ninety-day period, the application shall lapse.

17.05.050 Technical review committee.

- A. Immediately following the issuance of a letter of completeness, the city shall schedule a meeting of the technical review committee (TRC). The TRC may be composed of representatives of all affected city departments, the fire department, and any other entities or agencies with jurisdiction.
- B. The TRC shall review the development application for compliance with city plans and regulations, coordinate necessary permit reviews, and identify the development's environmental impacts.
- C. The report of the TRC shall be provided to the proponent and all affected agencies for comment prior to the public hearing, and shall be submitted to the planning commission and city council as part of the record for the hearing.

17.05.060 Environmental review.

- A. Developments and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Chapter 16.05 of this code.

- B. SEPA review shall be conducted concurrently with development project review. The following are exempt from concurrent review:
 - 1. Projects categorically exempt from SEPA;
 - 2. Components of previously completed planned actions, to the extent permitted by law and consistent with the EIS for the planned action.

17.05.070 Joint public hearings.

- A. Planning-The Community Development Director's Decision to Hold a Joint Hearing. The director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, federal, or other agency, on the proposed action, as long as: (1) the hearing is held within the city limits; and (2) the requirements of Section C of this section are met.
- B. Applicant's Request for a Joint Hearing. The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this title. In the alternative, the applicant may agree to a particular schedule if that additional time is needed in order to complete the hearings.
- C. Prerequisites to a Joint Public Hearing. A joint public hearing may be held with another local, state, regional, federal or other agency and the city, as long as:
 - 1. The other agency is not expressly prohibited by statute from doing so and/or the agency has standing in the matter;
 - 2. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
 - 3. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and
 - 4. The hearing is held within the geographic boundary of the local government.

17.05.080 Categorically exempt and planned actions.

- A. Categorically Exempt. Actions categorically exempt under Chapter 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the department of ecology (Chapter 197-11 WAC) may not be conditioned or denied under SEPA. [RCW Section 43.21C.431.]
- B. Planned Actions.
 - 1. A planned action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.
 - 2. A "planned action" means one or more types of project action that:

- a. Are designated planned actions by an ordinance or resolution adopted by the city;
 - b. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:
 - i. A comprehensive plan or subarea plan adopted under RCW Chapter 36.70A; or
 - ii. A fully contained community, a master planned resort, a master planned development or a phased project;
 - c. Are subsequent or implementing projects for the proposals listed in Section (B)(2)(b) of this section;
 - d. Are located within an urban growth area, as defined in RCW Section 36.70A.030;
 - e. Are not essential public facilities, as defined in RCW Section 36.70A.200; and
 - f. Are consistent with the city's comprehensive plan adopted under RCW Chapter 36.70A. [RCW Section 43.21C.031.]
- C. Limitations on Planned Actions. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW Section 36.70A.040. [RCW Section 43.21C.031.]
- D. Limitations on SEPA Review. Project review for a planned action shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts. [RCW Section 36.70B.030(3).]

17.05.090 Consolidated processing of development applications and appeals.

- A. Consolidated Processing Required. Except as otherwise authorized or required by provisions in city code, the city shall provide for consolidated processing of development permit applications and appeals so that there is not more than one open record hearing and one closed record hearing for the same development proposal or project, as required by RCW Chapter 36.70B.
- B. Exclusions from Consolidation Requirements.
 - 1. Appeals of SEPA Threshold Determinations. Hearings on appeals of SEPA threshold determinations shall be excluded from consolidated processing requirements for development permit applications and shall be heard and decided upon by the hearing examiner. The SEPA threshold determination appeal shall be the only matter discussed at the hearing, even where this will

result in a development proposal being subject to more than one open record hearing and one closed record appeal.

2. Grounds for Excluding Appeals of SEPA Threshold Determinations. Appeals of SEPA threshold determinations often involve technical issues best suited to the expertise of the hearing examiner. Further, from a procedural standpoint, it is efficient to resolve SEPA issues before evaluating other aspects of the project.
3. Administrative Design Review Determinations: by Design Review Board. Design review is an administrative process and is not subject to a public hearing. ~~landscape plan, and signage issues shall be excluded from consolidated processing requirements for development permit applications.~~ Design review shall be logically integrated with the consolidated review and decision process for project permits. ~~and shall be heard and decided upon by the design review board in conformance with Chapter 19.45 of this code. Aside from design review, landscape plan, and sign issues, the design review board shall not have any other development permit applications or appeals to review or decide upon, even where this will result in a development proposal being subject to more than one open record hearing and one closed record appeal.~~
4. ~~Grounds for Excluding Design Review by Design Review Board from Consolidation Requirements. The sole function and purpose of the design review board is to review and make decisions on design, landscape plan, and signage aspects of development proposals for multifamily dwellings and commercial buildings. The design review board has longstanding exclusive special expertise in the city in reviewing and deciding upon design review, landscape plan, and signage issues. Such expertise is not possessed by or readily transferred to any other hearing body in the city. Special circumstances under RCW Section 36.70B.140(1) are therefore presented warranting exclusion of design, landscape plan, and sign review as conducted by the design review board from consolidated processing requirements. In addition, design review may take place for development proposals involving only the issuance of building permits exempt from RCW Chapter 43.21C and may therefore be excluded from consolidated processing requirements pursuant to RCW Section 36.70B.140(2).~~
5. Administrative Approvals. Administrative approvals identified in Sections 17.09.010 and 17.09.020 which are categorically exempt from environmental review under RCW Chapter 43.21C shall be exempt from the consolidation requirements in this chapter and RCW Chapter 36.70B. Nothing in this section shall prevent consolidation of such administrative approvals with related development proposals, in the discretion of the director.
6. Grounds for Excluding Administrative Approvals from Consolidation Requirements. The city has authority to exclude the administrative approvals which are categorically exempt from environmental review from consolidation requirements pursuant to RCW Section 36.70B.140(2).

Chapter 17.07 PUBLIC NOTICE REQUIREMENTS – no changes

Chapter 17.08 (RESERVED) – no changes

Chapter 17.09 REVIEW AND APPROVAL PROCESS

Chapter 17.09.010 – 17.09.040 – no changes

17.09.050 City ~~e~~Council actions.

- A. Actions. Following receipt of a recommendation from the planning commission, a ~~n~~ ~~appeal of a final~~ decision ~~from the of an administrative~~ design review ~~board~~ as part of a closed record appeal, completion of an open ~~or closed~~ record hearing before the council itself, or notice of any other matter requiring the council's attention, the council shall enter the final decision of city on the matter in writing.
- B. Decisions. The city council shall make its final decision by motion, resolution, or ordinance as appropriate, and its decision shall be supported by written findings.
 - 1. A council decision on a planning commission recommendation or following any open record public hearing shall include one of the following actions:
 - a. Approve as recommended;
 - b. Approve with additional conditions;
 - c. Modify, with or without the applicant's concurrence, provided that the modifications do not:
 - i. Enlarge the area or scope of the project,
 - ii. Increase the density or proposed building size,
 - iii. Significantly increase adverse environmental impacts as determined by the responsible official;
 - d. Deny (reapplication or resubmittal is permitted);
 - e. Deny with prejudice (reapplication or resubmittal is not allowed for one year);
 - f. Remand for further proceedings and/or evidentiary hearing in accordance with Section 17.09.090.
 - 2. A council decision following a closed record appeal hearing shall include one of the following actions:
 - a. Grant the appeal in whole or in part;
 - b. Deny the appeal in whole or in part;
 - c. Remand for further proceedings and/or evidentiary hearing in accordance with Section 17.09.090.

Chapter 17.09.060 – 17.09.100 – no changes

Title 19

Chapter 19.17 RM MULTIFAMILY BUILDING ZONES

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.

Five multi-family zones are established:

- RM-1, Residential Multi-Family 1 zone; (up to two units/building)
- RM-2, Residential Multi-Family 2 zone; (up to four units/building)
- RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)
- RM-4, Residential Multi-Family 4 zone; (up to 30 units/building)
- RM-PC, Residential Multi-Family Pepin Creek zone; (up to four units/building and sometimes up to eight units/building)

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 community development director ~~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.

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	P

Duplex Units	P	P	P	P	P
Three or Four units per building	N	P	P	P	P
More than four units per building	N	N	P	P	P*
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	P
Mobile homes as defined in LMC Section 17.01.030	N	N	N	N	P
Adult Family Home	P	P	P	P	P
Permanent Supportive Housing Facilities	P	P	P	P	P
Residential Reentry Facilities - Small Scale	P	P	P	P	P
Residential Reentry Facilities - Large Scale	N	N	C	C	N
Transitional Housing Facilities - Small Scale	P	P	P	P	P
Transitional Housing Facilities - Large Scale	N	N	P	P	N

P = Permitted Use; N = Not Allowed; C = Conditional Use

(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.

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.

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. Certain community residential facilities pursuant to LMC 19.49.

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 19.57.300).
- 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. Certain community residential facilities pursuant to LMC 19.49.

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 (sq. ft.)	Lot Coverage	Open Space Required	Height in Feet
RM-1	7,200	35%	7.5%	32

RM-2	7,200	40%	7.5%	32
RM-3	7,200	40%	7.5%	32
RM-4	1 Acre	45%	7.5%	32

Minimum Building Setback				
Zone	A building's front elevation, or a side elevation that is oriented toward the primary street frontage.	A building's rear elevation.	Minimum side setback for a side elevation not oriented toward the primary street frontage.	Total minimum setbacks of side not oriented toward the primary street frontage.
RM-1	20	30	7	22
RM-2	20	30	7	22
RM-3	20	30	12	27
RM-4	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	30

- 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.

19.17.070 Required residential amenities.

- A. Multi-family residential developments that include eight 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. Private spaces such as rear yard patios and balconies shall not be counted toward this requirement.

- C. These community open spaces will be reviewed [during the administrative design review process and approved through design review board approval process. The board will review](#) for the following criteria:

1. Size of the area must be sixty square feet per unit;
2. The calculated area does not include private patios or balconies which are oriented toward specific residential units;
3. The area is safe in that it is visible, protected from vehicular traffic, and illuminated as needed for its intended use;
4. The area is easily accessible via pedestrian walkways to all residents living within the development;
5. The area is equipped 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;
6. The area is attractively landscaped;
7. Any proposed structures are consistent with the architecture of the primary structure(s).

19.17.080 (Reserved)

19.17.090 (Reserved)

19.17.100 [Administrative](#) Design ~~Review Board~~.

All multi-family developments with attached units will be subject to [administrative review during the building permit process. Refer to LMC 19.22 for Residential Design Standards. by the design review board per LMC 19.45.030.](#)

Chapter 19.18 PEPIN CREEK SUB AREA ZONES

19.18.010 – 19.18.020 – no changes

19.18.030(A-J) - Pepin Creek multi-family zone (RM-PC) and uses established – no changes

19.18.030

K. **Residential Design Requirements:** ~~All residential developments with attached units are subject to the residential design standards described in LMC 19.22 and the design review process described in LMC 19.45. All Detached residential dwelling units must meet the applicable following design standards as described in LMC 19.22 but are not subject to the design review process. Criteria unless varied by the design review board a design waiver as provided outlined under LMC Section 19.45.035:~~

- ~~1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.~~
- ~~2. All dwellings shall be oriented on the lot so that the primary pedestrian entrance faces the street or access easement. The primary roof line must have a minimum of a four: twelve pitch. This is not applicable to re-roofing or additions to existing structures.~~
- ~~3. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.~~
- ~~4. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.~~
- ~~5. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings.~~
- ~~6. All units other than a detached single family residence shall be subject to administrative design review and approval by the design review board.~~
- ~~7. No more than fifty percent of the lineal frontage of the building elevation may be occupied by garage doors. For the purposes of this section, a set of garage doors serves one dwelling unit and means one double garage door or two single garage doors separated by less than five feet.~~
- ~~8. Only one set of garage doors may face the street unless the garage doors are setback from the living area a minimum of ten feet.~~
- ~~9. All parking requirements of Section 19.51.040 must be met on site.~~

L. **RM-PC Landscape Requirements:** ~~In addition to the landscaping requirements of Chapter 19.61 LMC, all~~ All proposed multi-family and attached single-family

Commented [HG2]: These design standards still apply but have been consolidated into one section that addresses all residential development. See LMC 19.22.

development consisting of two or more attached units in this zone shall comply with LMC Section ~~19.17.140~~ 19.61.080.

19.18.040 Reserved.

19.18.050 Pepin Creek Neighborhood Commercial Overlay and Uses Described.

- A. The neighborhood commercial overlay provides opportunities for a variety of primary permitted uses in key locations. Commercial uses may be established under the following conditions:
 - 1. Uses are subject to the development and setback standards for the underlying zoning.
 - 2. Parking standards per LMC Chapter 19.51 must be met; however, up to fifty percent of the required surface parking may be shared between commercial and residential uses which occupy the same structure if commercial uses are not considered nighttime uses per LMC Section 19.51.090.
 - 3. Commercial structures are subject to applicable design standards and administrative design review approval. ~~and the approval of the design review board.~~
- B. The neighborhood commercial overlay provides opportunities for a variety of primary permitted uses in key locations. These include:
 - 1. Personal Services. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, child or adult daycare, or others that would serve the subarea.
 - 2. Sales of General Consumer Goods. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the ~~planning director~~ community development director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, and farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.
 - 3. Restaurants and Cafes. Single lane drive-thrus which are screened and oriented away from the street are permitted.
 - 4. Professional offices, banks and financial institutions.
 - 5. Second and upper story residential uses may be developed in conjunction with first floor commercial uses.

Chapter 19.20 ACCESSORY DWELLING UNITS

19.20.010 Purpose.

It is the provision of this chapter to implement the goals and policies as identified under the housing element of the city of Lynden Comprehensive Plan.

- A. The city of Lynden will encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage the preservation of existing housing.
- B. To consider other creative methods, such as cluster housing, cottage housing, accessory housing, and transfer of development rights to increase density and promote the opportunity for ownership of single-family homes.
- C. The city will also look to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the accessory dwelling unit or principal unit of the single-family dwelling.
- D. To provide a place to facilitate the care of family members who are unable to live independently.
- E. To address the State of Washington Accessory Dwelling Unit (ADU) provisions per RCW 36.70A.680 – 681.

19.20.20 Accessory dwelling unit.

Accessory dwelling unit (ADU) is a subordinate, complete living unit which includes permanent kitchen and sanitary facilities, that is secondary to a single-family home located on the same lot as defined in LMC Section 17.01.030 and further subject to the following requirements:

- A. ADUs are permitted in all residential zones including planned residential developments provided that a maximum of two (2) ADUs are allowed per lot as an accessory use to a single-family home. ADU's are permitted in multi-family zones only on lots which are restricted, by lot area, to a single-family residence.
- B. ADUs can be attached as a separate unit within the existing home or an addition to the home, or detached as a separate structure on the lot, or any configuration of attached or detached units.
- C. Two (2) ADUs are allowed per detached single-family residence. ADU's are not permitted as part of any other housing type. Accessory dwelling units are exempt from the density limitations of the underlying zone.
- D. ADUs of all types are limited to a maximum of one thousand square feet.

- E. Parking spaces dedicated to the ADU are required in addition to the parking required for the primary residence. All parking spaces for the primary structure and the ADU must be located on site.
1. On lots of 6,000 square feet or larger, one (1) parking space per ADU bedroom is required up to a maximum requirement of two (2) spaces dedicated to the ADU.
 2. On lots less than 6,000 square feet only one parking space must be dedicated to the ADU regardless of ADU bedroom count.
- F. Utilities. All utilities servicing the site may require upgrades based on the project size. Any utilities installed on site must meet the requirements of the city of Lynden Manual for Engineering Design and Development Standards.
- G. Until January 1, 2026, the primary residence or the ADU must be owner occupied. The required ADU covenant against the property, approved by the Community Development Department, must be signed by the owner and recorded with the Whatcom County Assessor's Office which specifies this requirement.
- H. The ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit except that, per RCW 36.70A.681, the city shall not prohibit the sale or other conveyance of a condominium unit independently of the primary structure solely on the grounds that the condominium unit was originally built as an accessory dwelling unit.

19.20.030 Setback and height requirements.

The following text provides regulations for height and setback requirements:

- A. All setbacks are measured from the property line to the building foundation. It is the property owner's responsibility to have the property lines clearly marked for inspection.
- B. All ADUs shall follow the setback requirements for the underlying zone.
1. Detached ADUs are subject to accessory structure setbacks except that:
 - a. ~~Detached ADUs may be situated on a lot line that abuts a public alley, and~~
 - b. Detached ADUs may utilize the side setbacks associated with the primary structure if they are less restrictive than the setback of an accessory structure.
 - 4-2. No ADU may encroach into an existing easement.
 - 2-3. Attached ADUs are subject to the setbacks associated with the primary structure.

Commented [HG3]: This is a clarification consistent with State requirements on ADUs.

- C. An existing non-conforming building shall not be used for an ADU unless the structure is brought into conformance with City Code except that existing buildings that violate setbacks or lot coverage may be converted to include an ADU. The ADU conversion shall not result in an increase in the nonconformity.
- D. On corner lots in all residential zones, the side yard setback adjacent to the street must reflect the minimum side yard of that zone.
- E. Driveway access shall be allowed according to any requirements for the underlying zone.
- F. The maximum height of any detached structure housing an ADU shall be twenty-four (24) feet even if the height of the ADU will exceed the height of the primary home.
- G. The maximum lot coverage is subject to the associated zone. Thirty-five percent (is all RS zones, thirty-five percent in the RMD zone, thirty-five percent in the RM-1 zone, forty percent in the RM-2 and RM-3 zones and forty-five percent in the RM-4 zone. For lot coverage requirements within a PRD check with the PRD contract. Lots which are existing non-conforming in that they exceed lot coverage requirements are not prevented from converted existing structures into ADUs. ADU conversion shall not result in an increase in the nonconformity. Refer to LMC 19.35 regarding permitted actions as to the maintenance and demolition of non-conforming structures.

Commented [HG4]: Clarification consistent with State requirements.

19.20.040 Permitting and enforcement.

- A. Covenant Application. In addition to any building permit that may be required for the creation of an ADU, the property owner shall apply for an ADU covenant with the Community Development Department. Application for the covenant must demonstrate that the ADU meets all requirements as listed above. The applicant must also acknowledge any private covenants such as those imposed by a homeowners association that may exist on the property.
- B. Applicable Codes. The accessory dwelling unit shall comply with all construction codes set forth in the city of Lynden Engineering Design and Development Standards and the Lynden Zoning Code however, per RCW 36.70A.681 public street improvements shall not be required as a condition of permitting ADUs.
- C. Design Requirements. A detached ADU must be reviewed consistent with applicable portions of LMC Section 19.22 Residential Design Requirements as they relate to accessory structures.
- D. Inspection. Prior to the approval of an ADU, the city may inspect the property to confirm that all applicable requirements of this code and other codes have been met. An inspection fee is required as set by the city's unified fee schedule.

- E. Recording Requirements. Prior to a request for final ADU inspection for either an attached or detached accessory dwelling unit, the property owner shall file with the Whatcom County Assessor an accessory dwelling unit covenant with all conditions and restrictions as provided by the city. The covenant will require owner occupancy of either the primary residence or the ADU until January 1, 2026. After this date owner occupancy is not required.
- F. Successors. The ADU covenant is binding upon any successor in ownership of the property. Lack of compliance shall cause the city to revoke the occupancy of the accessory dwelling unit and / or cite the property for a zoning violation and assess associated fines.
- G. Variances. Any variances to this section will be subject to Chapter 19.47 of the Lynden Municipal Code.
- H. Impact Fees. As of ~~January 1, 2026~~ July 1, 2025, the city will assess impact fees on the construction of ADUs in the amount of fifty percent (50%) of the impact fees that would be imposed on the primary unit.

Commented [HG5]: Corrected date to be consistent with Ord 24-1684 and the current unified fee schedule.

Chapter 19.22 RESIDENTIAL DESIGN STANDARDS

- [19.22.010 Establishment, relief and purpose](#)
- [19.22.015 Administrative design review, ~~authority and decision, and approval~~](#)
- [19.22.020 Residential Site Design - Setbacks, yards, building orientation, and pedestrian connections](#)
- [19.22.030 Residential architecture and attached garages.](#)
- [19.22.040 Detached garages and accessory structures](#)
- [19.22.050 Landscape, fences, screening, and lighting](#)
- [19.22.060 Design waiver criteria](#)

19.22.010 Establishment, relief, and purpose

- A. Establishment and Relief. There is established therein residential design standards and regulation by which residential structures may be permitted and maintained.
1. Relief from the required standards must be sought through the variance process.
 2. Variance requests which relate specifically to site design development standards described in Section 19.22.020, building setbacks, or building height shall be submitted to the hearing examiner consistent with Chapter 19.47 LMC.
 3. Waiver requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050 and do not relate to building setbacks or building height shall be submitted to the [Community Development Department on designated forms with supporting information with illustrates and addresses the criteria for approval outlined in LMC 19.22.060.-Design Review Board consistent with LMC 19.45.035.](#)
- B. Purpose.
1. The essential purpose of the residential design standards to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and protect and enhance property values for the community as a whole.
 - a. To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.
 - b. To create high-quality communities that have variation of architectural style and durable materials.
 - c. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.
 - d. To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance

safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

2. Residential design standards also seek to encourage low impact design (LID) techniques such as rain gardens, xeriscape, or pervious pavement to minimize adverse impacts on the natural environment.

19.22.015 — Administrative Design Review, Authority and Decision

A. Administrative design review will be conducted for all commercial or multi-family projects, waiver requests or remodels such as minor exterior updates, commercial additions, or accessory structures.

B. Authority and Decision. The Community Development Director or designee shall review each application for commercial and multi-family construction with the Lynden Municipal Code and Design Guidelines related to site layout, architecture, lighting, screening, and landscape and may grant, deny, or conditionally approve a building permit based on compliance with such guidelines.

C. Conditional approval for exterior design, shall be noted by the Building Official.

D. When granting the building permit, Community Development Staff and the Building Official shall enforce the final conclusions of the administrative decision. In addition, all designs shall be subject to the International Building Code as well as all Lynden Municipal Codes.

E. Approval shall not recommend conditions which are contrary to the requirements of any applicable development standards or building codes.

Commented [KS6]: Moved from deleted DRB section 19.45.040 and 050. I combined language from both sections.

19.22.020 Residential Site design—Setbacks, yards, building orientation, and pedestrian connections.

Objective - To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.

A. Lot Coverage.

1. Lot coverage is limited by zoning category.
2. 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.

B. Building Orientation.

1. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and

address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.

2. The side yard used for a driveway shall not be less than ten feet in width.
3. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance is obvious from the street or access easement which serves as its primary point of access.

C. Setbacks. Minimum setbacks are outlined in each zoning category.

1. All setbacks are measured from the property line to the foundation.
2. Eaves and cantilevered architectural features such as bay windows may encroach into the setback a maximum of two feet.
3. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
4. Additional fire protection may be required for structures located within ten feet of each other.
5. It is the property owner's responsibility to have the property lines clearly marked for inspection.
6. On corner lots in the RS-72 zone, one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.
7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.

D. Garage Setbacks from Property Lines.

1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five feet.
2. In all residential zones an attached garage may be built as close as the minimum zoning allowance to the side property line provided the living area setbacks total the requirement for that zoning category.

E. Pedestrian Connection.

1. Sidewalk connections must be provided in all residential zones.
2. In all RM zones, primary sidewalks must be a minimum of five feet clear width without encroachment of vehicle overhang.
3. In RM zones sites must include pedestrian walkways which provide connection to common green spaces and public sidewalks. Cross walks provided as needed in parking areas and along streets.

19.22.030 Residential architecture and attached garages.

Objective - To create high-quality communities that have variation of architectural style and durable materials. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

A. Residential Structure.

1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
2. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

1. Building height is regulated by zoning category.
2. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.

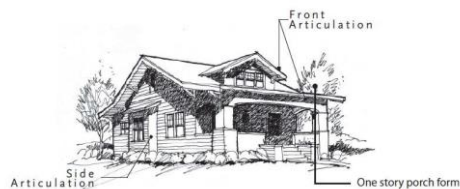
C. Roofs.

1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.
4. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

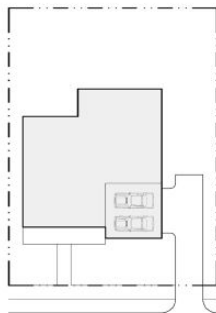
D. Building Elevations and Finishes.

1. Residential Elevations.

- a. The same architectural elevation shall be separated by a minimum of two other homes and may not be located directly across the street from each other.
- b. An articulation is an architectural element such as a one-story porch or bay window. One such element shall be used on all sides of the building that face toward a public street, shared access easement, or common green. The articulation shall be offset a minimum of twelve inches. A garage setback shall not count as an articulation.



2. Garage Elevations. To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front elevation of the building, with garage doors oriented toward the street or a shared parking lot of a multi-family complex are subject to the following standards:
 - a. At the ground level, the garage façade shall not extend forward of the living space by more than twelve (12) feet. Porches are not considered living space.
 - b. The lineal frontage of the building elevation which can be occupied by garage doors is limited.
 1. In RS zones, no more than fifty (50) percent of the building elevation can be garage doors.
 2. In RMD and RM zones, no more than sixty (60) percent of the total first floor building elevation length can be garage doors.
 - c. Attached garages or attached carports which provide a third covered or enclosed space (all adjacent to one another) must be offset a minimum of two feet from the first two covered or enclosed spaces.
3. Exterior Finishes.
 - a. The exterior of the home must be finished with a minimum of two types of materials or variation in reveals.
 - b. Exposed fastener metal siding is prohibited on residential buildings.
 - c. Exposed ends of stone and masonry façades are not permitted and must be finished with trim or end caps.
 - d. All garage sides that are visible from streets or shared access easements shall provide architectural details and trim consistent with the design of the home.



Side Loaded Garage

- E. Porches, Stoops, Decks, and Patios.
 1. General Provisions for Porches, Stoops, Decks, and Patios.

- a. All decks, porches, and patios must be included in calculations of maximum impervious lot coverage, as established in LMC 19.11.020.
 - b. All decks, patios, porches, or similar must be designed so as not to drain to surrounding properties.
 - c. No element of the deck or patio including footings may encroach into a neighboring property or an existing easement.
2. Front Entries and Front Yards
- a. Primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
 - b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
 - c. Stairs with open risers are not permitted on front porches or stoops.
 - d. Front yard porches, decks and patios.
 - i. Uncovered porches, decks, and patios may encroach into a front yard but must maintain a minimum setback of ten (10) feet and shall not exceed eighteen (18) inches above the natural grade.
 - ii. Porches, decks, and patios that are covered or those that are uncovered but exceed eighteen (18) inches above the natural grade must meet the front setback assigned to the primary structure.
3. Uncovered Decks and Patios in Rear and Side Yards.
- a. Uncovered wood decks and patios are permitted within side and rear setbacks. Uncovered decks and patios not over twenty-four (24) inches in height are permitted within six (6) feet of the rear and side property lines.
 - b. Patios and decks more than twenty-four (24) inches above the natural grade must maintain a rear setback of eighteen (18) feet and side setback of six (6) feet.
4. Covered decks and patios are subject to general provisions as well as the following standards described here. Covered decks and patios which are detached from a primary residence by six (6) or more feet are regulated as accessory structures per LMC 19.22.040.
- a. Setbacks.
 - i. Covered decks and patios may encroach into a rear yard but a minimum rear setback of eighteen (18) feet must be maintained. This setback is measured from the property line to the farthest extent of the roof structure.
 - ii. Roof structures may encroach into side yard setback as much as two (2) feet.

- b. Enclosure. Covered decks and patios attached to a residence may be screened, secured, or enclosed to extend the usefulness of these outdoor spaces however, enclosures, whether conditioned or unconditioned, are not intended to become extensions of indoor living space unless the enclosure meets all setbacks applicable to the primary residence. Screening and enclosure of covered decks and patios encroaching into a rear yard setback is subject to the following regulations:
- i. Ventilation. Exterior edges of a covered deck or patio must include air gaps or screened openings that remain vented to the outdoors at all times. Walls, windows, and doors which can be made to seal the space are not permitted on any exterior edge. Vented openings must be present at the top and bottom of rigid enclosure walls. At a minimum, venting must include a gap equal to three and one half inches at floor level, horizontally running the full perimeter of the patio's exterior between vertical supports. Additionally, an area equivalent to this floor level ventilation must be provided at the top of rigid enclosure walls. Venting an enclosed attic (such as when a ceiling is present on a patio) will not be counted toward the ventilation required for the enclosed patio/deck space.
 - ii. The portion of patio or deck enclosed with rigid and opaque screening materials may not occupy more than sixty (60) percent of the total linear length of the rear façade.
 - iii. Materials used to enclose or screen patios and decks that encroach into a rear yard may vary but the design must maintain the intent to provide ventilated outdoor, rather than indoor, living space. Examples of methods and materials include flexible and retractable opaque or transparent patio screens or sunshades; framed insect screening; railings, louvered or rigid windscreens, or privacy panels which are mounted with brackets to the floor, ceiling, or vertical supports; tinted or transparent glass or plexiglass may be used except that highly reflective or mirrored glazing is not permitted.

19.22.040 Detached garages and accessory structures.

Objective - To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than twenty-four inches. Additional fire protection may be required for structures located within ten feet of each other.

A. General Requirements.

1. All accessory structures, whether defined in this title or not, shall conform to the requirements of the International Building Code. (Currently appears in MH bulk standards)

2. Architectural style of a detached garage, shop, or shed must match the style of the primary structure. However, agriculturally themed structures such the roofline of a traditional barn may be permitted. Also, this standard is not applicable to greenhouses or open-sided structures intended only to cover recreational vehicles.
3. All accessory structures, including carports, must utilize roofing material which is compatible with the primary structure.
4. Any structure intended to be established and remain for more than seventy-two (72) hours and, as outlined in LMC 15.04.010, exceeds one hundred twenty square feet in area must obtain a building permit.

B. Accessory Structure Setbacks.

1. Detached garages may be located a maximum of twelve (12) feet forward of the first floor living space of the home but are subject to front setback required by the underlying zone. Storage sheds or other accessory structures not used as a garage are not permitted forward of the front façade of the home.
2. A detached accessory structure or garden shed located in a rear may not be built closer than six (6) feet to the side or rear property line including property lines abutting alleys with a maximum eave of twenty-four (24) inches. Structures less than one hundred and twenty (120) square feet must be setback a minimum of three (3) feet from the side and rear property line.
3. Accessory structures on corner lots which do not house an accessory dwelling unit (ADU) shall not be permitted nearer than fifteen (15) feet to the side property line adjacent to the street. Refer to LMC 19.20 for ADU setbacks.
4. Garages accessed from alleys with garage doors facing the alley must be setback a minimum of twenty-one (21) feet in all RM zones and setback twenty-five (25) feet in all RS zones.

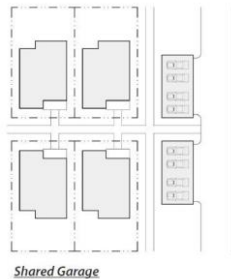
C. Accessory Structure Height.

1. The maximum height for all accessory structures shall be twelve (12) feet, except for detached garages and, shops, and detached accessory dwelling units (ADU) as noted below. Refer to LMC 19.20 for the height limitations of detached ADUs.
2. The maximum height of any detached garage that is serving as the primary garage, a secondary garage, or shop with an overhead door, or detached ADU shall be eighteen (18) feet, provided however that:
 - a. The setback shall be a minimum of six (6) feet from the side and rear property line;
 - b. Structures serving as secondary garages or shops are set behind the rear line of the house;
 - c. The roof pitch and siding shall be consistent with the primary structure on the lot;

- d. There is no living space within the building except as permitted with a legal accessory dwelling unit (ADU) and larger setbacks as outlined in Chapter 19.20; and
- e. The height of the building does not exceed the height of the primary structure.

D. Accessory Structure Area.

- 1. In MH zones, no detached garage shall exceed one thousand square feet of inside floor area or exceed square footage of the primary structure.
- 2. In RMD and RS zones, and on detached single-family residential lots within the RM-PC zone no detached garage or accessory building footprint shall exceed one thousand square feet or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive
- 3. Shared attached garages and carports are permitted in RM and RM-PC zones. Shared garages shall have a maximum of four (4) parking stalls and not exceed forty-four feet in width. (see graphic)



- 4. Detached carports are permitted to accommodate no more than four (4) vehicles and are limited to a maximum of forty-four (44) feet in width.

19.22.050 Landscape, fences, screening, and lighting.

Objective - To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

A. Landscape, Fences and Screening.

- 1. Landscape. Refer to Chapter 19.61 for full description of Residential Landscape Requirements.
- 2. Fences.
 - a. Fences shall not be built closer than three feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If

there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this three-foot setback.

- b. Refer to Chapter 19.63 for full description of Residential Fence Standards.

3. Screening.

- a. In RMD and RS zones, and on detached single-family residential lots within the RM-PC zone trash and recycling containers shall be screened and stored within side or rear yards or within enclosed garages.
- b. In RM-1 through RM-4 zones, trash and recycling containers shall be stored within side or rear yards, or within enclosed garages, or in screened enclosures as approved during the design review or building permit review process. ~~by the design review board during site plan review.~~
- c. Except for public utilities, mechanical equipment shall not be located in front yards.
- d. All mechanical equipment, including roof mounted, must be screened so as not to be visible from the street, shared access easement, or common green spaces. Screening can be accomplished by fencing, architectural screening, or evergreen landscape material. Equipment to be screened includes, but is not limited to, heating and air conditioning units, venting associated with commercial grade cooking facilities, and any mechanical equipment associated with pools or hot tubs.
- e. In RS zones and on detached single-family residential lots within the RM-PC zone, the base of exterior mechanical equipment must not exceed a height of more than eighteen inches above the finished exterior grade.
- f. Recreational vehicles may only be stored on RS zoned properties consistent with LMC 19.15.030.

B. Street Trees.

- 1. Street trees are required at the time of plat as outlined in Chapter 18. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
- 2. Street trees must be from the city's approved street tree list or an approved alternative.
- 3. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
- 4. Street trees must be installed with root barrier protection as specified in the engineering design standards.

5. Street trees shall be a minimum caliper of one and one-half inch at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of one inch. Refer to the city of Lynden Engineering Design Standards for a full description of street tree requirements.

C. Lighting.

1. All front entry ways shall have an exterior light.
2. In multi-family housing projects exterior lighting must be installed with a timer or sensors so that it operates automatically regardless of occupancy.
3. Light that is broadcast beyond the intended area and illuminates neighboring windows or beyond the lot boundary is not permitted.

D. Addressing. To facilitate first responders in the event of an emergency, address numerals on all residential structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.

E. Front and Side Yard Uses.

1. Front yards, not part of a paved driveway or designated parking area, shall be used for ornamental purposes only.
 - a. No storage sheds, portable storage tents, temporary canopies or other similar structures may be located within the front yard; provided however that portable canopies or tent structures may be used during events or yard sales but must be removed within seventy-two hours of the sale or other event.
 - b. Parking of vehicles or utility trailers on lawn or landscape areas of a front yard or a side yard adjacent to a public right-of-way is not permitted.
2. Front yards may be used for low impact development (LID) infiltration best management practices (BMPs).
3. Front yard setbacks may not be used for the storage of boats, campers, or any recreational vehicle. Refer to 19.31.020.
4. To reduce the visual impact of parking areas in RM zones, including RMD, a minimum setback of three feet is required between any property line and the surface of a parking lot. This setback must be lawn or landscaped area. This applies to rear, side, and front yards.

19.22.060 Design Waiver Criteria

Plans submitted to the ~~Design Review Board~~ Community Development Department for a waiver to the residential design criteria, processed as noted in Chapter 19.47 of the Lynden Municipal Code must meet the following criteria:

- A. Granting the waiver would not be inconsistent with privately recorded covenants, conditions or restrictions;
- B. The proposed structure would meet all building and fire codes as determined by the Building Official;

Commented [KS7]: Moved from deleted DRB section 19.45.035.

C. The applicant is not varying more than two (2) of the design criteria.

D. Granting the waiver does not negatively impact the integrity of the overall design; Or, permanent mitigating elements will be included in the design to offset impacts created by the waiver. Mitigating elements must not include features which could be easily altered or removed or considered temporary in nature such as finish color or landscape.

E. The purpose of the waiver is to support a specific design / architectural style and not simply to reduce construction costs. It is the burden of the applicant to demonstrate how the waiver, along with other design elements of the building and site, supports an identified architectural style.

The waiver decision shall be final, unless appealed within fourteen (14) days to the Lynden City Council.

Chapter 19.23 COMMERCIAL ZONING

19.23.010	Zones Defined
19.23.020	Permitted Uses
19.23.030	Accessory Permitted Uses
19.23.040	Secondary Permitted Uses
19.23.050	Commercial Development Standards
19.23.060	Design Review Approval Required
19.23.070	Projections into Public Right-of-Way
19.23.080	Commercial Design Standards Special Development Conditions for all Stores Greater than Twenty-five Thousand Square Feet Gross Floor Area (GFA)
19.23.090	Special Development Conditions for Projects Utilizing the Provisions of the Mixed-Use Center Overlay and for Retail Stores Greater than Fifty Thousand Square Feet Gross Floor Area (GFA)
19.23.100	Special Conditions for Automobile Service Stations.
19.23.110	Mixed-Use Centers Overlay

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 on 3rd Street and the Dutch Village Mall on 7th Street. 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. Residential development is also permitted in CSL areas that qualify for the mixed-use centers overlay and, on a limited scale, in the Central Lynden Sub-Area. 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 within walking distance of existing commercial centers, 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 compatible with surrounding land uses and strives to provide sensitive transitions between different land uses.

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~~[Community Development 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	MUC Overlay (1)
Adult entertainment uses	N	C(4)	N	N
Agricultural product and/or equipment parts sales	N	C	P	N
Animal auction barn	N	N	N	N
Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C	N
Auction facilities for equipment or goods (not animals or livestock)	N	P	P	N
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P	N
Banks and financial institutions with drive-thrus	P	P	P	N
Banks and financial institutions without drive-thrus	P	P	P	P
Bed and breakfast, short term rentals	P	P	N	N
Body piercing and tattoo studios	N	N	P	
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(8)	N
Business schools	P	P	P	P
Car wash	N	P	P	N

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Clubs and lodges	P	P	N	P
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P	P
<u>Commercial recreation – outdoor (includes go-kart tracks, paintball courses, skate parks)</u>	<u>N</u>	<u>N</u>	<u>C(7)</u>	<u>N</u>
<u>Commercial sporting events</u>	<u>C(7)</u>	<u>N</u>	<u>C(7)</u>	<u>N</u>
Construction material sales with outdoor yards	N	C	P	N
Contractors and construction services with equipment, fleet, or materials storage, or warehouse or shop space.	N	C	P	N
Convention center, including banquet facilities, <u>sportsplex</u> , and/or meeting halls	C	P	P	N
Day care facilities	P	P	PA	P
Eating / drinking establishments without drive-thrus including restaurants, cafes, bars, taverns, tasting rooms and microbreweries	P	P	P	P
Eating / drinking establishments with drive-thrus including restaurants, cafes, and coffee shops	N	P	P	P(6)
Emergency housing, indoor; emergency shelters - Small scale	P	P	P	N
Emergency housing, indoor; emergency shelters - Large scale	C	C	C	N
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P	N
Fitness facilities	P	P	P	P
Food trucks	P	P	P	P
Fueling stations (may include convenience store)	N	P(2)	P(2)	N
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P	N
Grocery store, food market	P	P	P	P
Home furnishings stores, flooring, lighting, window showrooms	P	P	P	P
Home improvement and hardware stores with no outdoor yards	P	P	P	N
Hospitals	N	N	N	N
Hotels, motels — includes indoor restaurants, gift shops and other	P	P	P	N

Commented [HG8]: Planning Commission recommends Outdoor recreation be permitted in industrial zones as a Conditional Use. See LMC 19.25 added within this document to address this request.

Commented [HG9]: Currently the code references 'events' which seems to indicate a temporary use. This edit proposes that the Special Event process be used for temporary events and that "Commercial Recreation" be added for permanent uses. See note #7 under the table.

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businesses associated with a hotel or motel				
House of worship	N	P	P	N
Land use	HBD	CSL	CRS	N
Laundry and dry cleaning facilities	P	P	P	P
Landscape plants and landscape materials for retail sales (see also Temporary Uses below)	N	P	P	N
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P	N
Liquor sales	P	P	P	P
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(9)	P	N
Manufactured home parks	N	N	N	N
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N	N
Medical services overlay	N	N	P	N
Motor vehicle and recreational vehicle sales and service	N	C	P	N
Multi-family residences	P(5)	P(5)	P(5)	P(5)
Non-retail communications services	P	P	P	N
Non-profit offices that include warehousing	C	C	P	N
Offices - business and professional	P	P	P	P
Offices - medical, dental, and physical therapy (see also Surgical centers)	P	P	P	P
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.	N	PA	PA	N
Permanent supportive housing	C	C	C	N

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Personal services such as barber, salon, day spa.	P	P	P	P
Pet supply store and grooming (no boarding)	P	P	P	P
Pharmacy with drive-thru	N	P	P	N
Postal / shipping services	P	P	P	P (no drive-thrus)
Printing and duplicating shops	P	P	P	P
Public use facilities	P	P	P	P
Research and development facilities	N	P	P	N
Residential reentry facilities - Small scale	P	P	P	N
Residential reentry facilities - Large scale	C	C	C	N
Retail (general retail) not otherwise defined	P	P	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P	N
Retail feed and seed stores	N	P	P	N
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P	N
Retail stores greater than 65,000 square feet	N	N	P(1)	N
Sign design, fabrication, and installation companies	N	C	P	N
Single-family residences existing prior to 1992	N	P	N	N
Skilled nursing and assisted living facilities	N	P	N	N
Storage facilities - Mini-storage	N	P	P	P(10)
Storage facilities - Large scale	N	N	P	N
Studios for art, photography, dance, martial arts, or fitness classes	P	P	P	P
Surgical centers	N	C	P	N
Theaters and movie theaters	P	P	P	P
Transitional housing facilities	P	P	P	N
Truck and trailer sales and service	N	C	P	N
Undertaking establishments	N	P	P	N
Utility facilities	C	C	P	N
Video arcades	P(3)	P(3)	P(3)	P(3)
Warehousing, including open to the public	N	N	C	N

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Wholesaling, including open to the public	N	N	C	N
Temporary Uses: All temporary uses which occupy more than 200 square feet must secure a special event permit	HBD	CSL	CSR	MUC Overlay
Farmers markets or seasonal sales (produce or flower stands, landscape plants, pumpkins, Christmas trees)	P	P	P	P
Outdoor art and craft shows	P	P	P	P
Outdoor sale of new or second-hand items (flea markets, antiques, swap meets, yard or garage sales)	P	P	P	P

- (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 ~~and minimum parcel size.~~
- (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.
- (6) Eating and drinking establishments on properties utilizing the provision of mixed-use overlay centers must restrict 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. Drive-thru areas must be heavily landscaped. Drive-thrus may split into two lanes as long as the entrance and exit of the drive-thru narrow to a single lane.
- (7) ~~Outdoor recreational facilities. Commercial sporting events are~~ may be permitted conditionally in the CSR zone. Temporary recreational or sporting events may seek a Special Event Permit in any of the City's zoning categories. 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) 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.
- (9) 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) Storage facilities within a development utilizing mixed-use provisions may provide storage as an amenity to the on-site residents or as a commercial entity for off-site customers but it cannot be counted toward the minimum commercial space requirement as it does not support the goals of the mixed-use overlay. Additionally, flex space must not be used as or converted to storage facilities of any type. If storage facilities are included within a mixed-use overlay development it shall not occupy the primary street frontage of the development.

19.23.030 Accessory permitted uses.

Accessory uses permitted 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.

19.23.040 Secondary permitted uses.

The permitted secondary uses, 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.

19.23.050 Commercial development standards.

- 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 shall be as follows:

	HBD	CSL	CSR	MUC
Rear setback	20 ft. (1)	10 ft.	25 ft.	Per LMC 19.23.110
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.	

- (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 or WSDOT indicates it is not to be needed, 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. Accessory Structures in Commercial Zones: Structures are considered accessory when they are incidental or clearly subordinate to the primary use. Structures may be considered accessory when they do not house the primary functions of the use of the property or are scaled so that the area of the structure equals only twenty percent 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 one hundred twenty square feet;
 2. Building permits are required for all structures intended to remain on the property for more than seventy-two hours;
 3. Design review board approval Administrative design review and approval is required for commercial accessory structures which have a floor area greater than twenty percent 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 of one hundred twenty one thousand five hundred (1500) square feet or less.

19.23.060 Design ~~r~~Review Required approval required.

A. Purpose. ~~Design review~~ The City's Design Guidelines standards are used as is a tool to ~~direct-ensure~~ development in the ~~e~~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 the design guidelines standards adopted ~~by the Lynden City Council in the Lynden Municipal Code.~~ These guidelines standards address site design, exterior building design and features, streetscapes, trash and mechanical areas, and signage.

A-B. Applicability

1. ~~A.~~ New commercial structures ~~which are visible from street right-of-way~~ are subject to the Design administrative rReview process, and approval by the design review board according to the Approval is based on compliance with the eCity of Lynden Design Review Guidelines Commercial Design Guidelines standards. except that some accessory structures are exempt from ~~the design review board additional approval process~~ per LMC 19.23.050(D).
2. ~~B.~~ Commercial exterior remodels will be evaluated by the planning director ~~Director to determine if the proposed remodel is substantial enough to warrant compliance with the Design Review process. Guidelines, 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 at the time

of building permit even if it is determined that the Design Review process is not required.

3. ~~C.~~ The Historic Business District (HBD) of the city of Lynden has a number of historic buildings which are more than fifty years old and play a role in the history of the city. Additionally, an 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. Alternately, exterior remodels within the HBD may be designed to restore or pay tribute to the structure's historic architecture. Designs are subject to administrative design review and approval by the design review board.

4. Additional Applicability. School buildings and houses of worship, such as churches, and their associated accessory structures which have a footprint greater than 1,500 square feet are subject to commercial design standards and the design review process.

C. Relief. Commercial design standards may only be varied through the variance process described in LMC 19.45.

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. 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 fifteen feet clearance above a sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. A minimum height clearance of eight feet is required.
- D. Projections into public right-of-way that have more than fifteen feet of clearance above the sidewalk are subject to the provisions of the International Building Code and the approval of the building official.

~~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~~ Community Development Department ~~for the~~

Commented [HG10]: Code enforcement instead of covenants used to ensure compliance with city codes.

~~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 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.~~

~~**19.23.090 Special development conditions for projects utilizing the provisions of the mixed-use center overlay and for retail stores greater than fifty thousand square feet GFA.**~~

~~Provisions described within this section do not apply to small scale mixed-use projects described in LMC 19.23.110(B).~~

~~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.~~

~~C. Parking:~~

- ~~1. Minimum parking area per LMC 19.51.~~
- ~~2. Maximum parking area six 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 19.23.110 or LMC 19.51.~~

D. ~~Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the planning departmentCommunity Development 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.~~

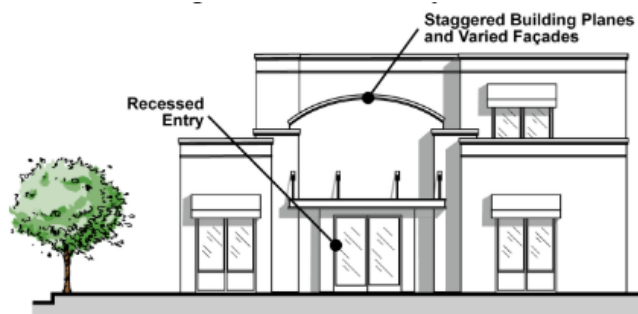
19.23.080 Commercial Design Standards

F. ~~Design Guidelines: All large format retail commercial buildings, those listed in LMC 19.23.060, and developments utilizing the provisions of the mixed-use centers~~

overlay, unless exempted per LMC 19.23.050(D), must meet the following site and building design standards described below, as part of compliance with the city's design review design requirements outlined below.

Design review focuses on the appearance of new construction, site planning, and items such as landscaping, signage, and lighting. The intent of design standards is that new construction contributes positively to the city's streetscape and the pedestrian environment. Design should be interesting, appropriate to the site, functionally efficient, and safe.

The Community Development Director is authorized to promulgate administrative guidelines and material to illustrate the requirements of this chapter or to provide examples of commercial design elements that are permitted or prohibited by this chapter. Such guidelines and material may be revised periodically at the discretion of the Community Development Director.



Example of building features expected in commercial design. Covered entryway, storefront windows, varied rooflines, and façade features and articulation.

A. Section I - Aesthetic Character Architecture

Intent: Buildings ~~should must~~ contribute to an ~~offer~~ attractive streetscape in scale and form. Facades must include variations and features which enhance visual interest. First floors and entryways must establish and inviting pedestrian scale features, spaces and amenities that make it easier and safer to walk and orient oneself to destinations, especially those with disabilities, children and the elderly. reflect the character of the community.

1. Building Scale and Transition to the Pedestrian Environment.

a. Scale. The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is required.

i. Ground floor facades that front public streets or primary parking areas shall have porticos, arcades, covered entry areas, awnings or other such features along no less than sixty (60) percent of their horizontal length.

- ii. Unenclosed, open-air porticos, arcades, or structural pedestrian covers may encroach into the front and side setbacks by as much as half of the minimum required setback.

b. Entryway Cover.

- i. All entrances that front public streets or primary parking areas shall provide a minimum of 20 square feet of cover from the weather.
- ii. All entrances intended for customers, regardless of their location, shall provide a minimum of 20 square feet of cover from the weather.

c. Entryway Design. The required portico feature should include design elements and variations which give support the character of the building as well as enhance the pedestrian scale. Each building on a site shall have clearly defined, visible entrances. Primary entrances must feature no less than three (3) of the following design elements:

- i. Arcade, plaza or portico.
 - ii. Raised parapets over entries.
 - iii. Arched elements.
 - iv. Display windows.
 - v. Outdoor patio space with pedestrian seating.
 - vi. Peaked roof forms.
 - vii. Recesses or projections.
- Decorative lighting.

Examples of covered entries.

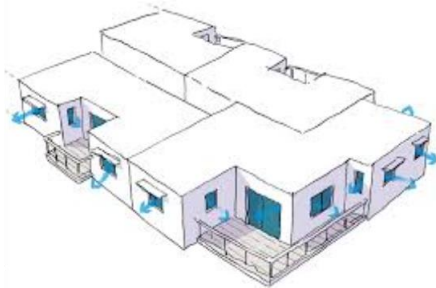


- d. Multi-business Building. Where additional businesses will be located in the principal building, each business shall have at least one exterior customer entrance that conforms to the above requirements.

- e. Adjoining Sidewalks. Entry ways may not exit directly onto a travel lane or parking aisle. Pedestrian traffic must be directed to pedestrian walkways.

4.2. Facades and Exterior Walls. Intent: Facades must be articulated to visually reduce scale and avoid walls which present a the potential of uniform and; impersonal-imposing appearance, of large, retail or residential buildings. Facades must provide features which add visual interest, that is consistent with the community's identity, character, and scale. All commercial and mixed-use projects must meet the following standards.

- a. a. —Articulation. 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 of the recess or projection must be a minimum of twenty percent of the length of the façade, but façade but should not be more than sixty percent of the façade length. Projections associated with this standard may encroach into the building setback by up to two (2) feet.



Building façade with generous articulation / modulation.

- i. ~~b. The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is required. 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).~~
- e. ~~The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is required.~~
- b. ~~Detail Features. Intent: Buildings should have architectural features and patterns that provide visual interest, accommodate the scale of pedestrians at the ground level, provide architectural transitions such as a stepped approach to reaching the full height of the building, and recognize local character. The elements in the following standards should be integral parts of the building's architecture, and not~~

~~superficially applied trim or graphics, or paint. Additional guidelines may be found in the City of Lynden Design Review Guidelines.~~

- ~~b. Landscape Enhancement. Facades that include primary entrance(s) or front a public street or the primary parking area and are greater than one hundred feet in length, measured horizontally, shall incorporate landscape enhancements along the façade of the building.~~
- ~~i. Area must be created at a ratio of fifty (50) square feet of landscape for every one hundred (100) linear feet of façade.~~
- ~~ii. Enhancements may be ground level or raised beds / planters but must installed in such a way as to be permanent features.~~
- ~~iii. The minimum landscape area may be met by the cumulative total of multiple landscape beds or planters but shall not include the landscape required per parking lot standards.~~
- ~~c. Openings. Doors and windows must make up at least forty (40) percent of total linear length of façades which front public streets or primary parking areas. This requirement is applicable to every floor of a multi-story building.~~
- ~~d. Façade Patterns. Building facades must have architectural features and patterns that provide visual interest including a repeating pattern that shall ~~include~~ incorporate no less than three (3) 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:~~
- ~~i. Sunshades.~~
- ~~ii. Canopies.~~
- ~~iii. Windows.~~
- ~~iv. Color change,~~
- ~~v. Texture change,~~
- ~~vi. Material module change, and~~
- ~~vii.~~
- ~~i. Expression of architectural or structural bay through a change in plane no less than twelve inches in width, such as an offset, reveal, or projecting rib.~~
- ~~a. b. Building materials may not include unfinished CMU blocks. This does not prohibit the use of ground face, scored, or split face architectural CMU blocks.~~



Facade with repeating pattern.

Commented [HG11]: Moved this section on building materials. - See material section below.

Additional Architectural e. — Details. The use of a combination of architectural elements is required. Structures with the Commercial Services-Regional (CSR) zone that are required to complete the design review process must include a minimum of three (3) of the following elements; structures in the Commercial Services – Local (CSF) zone must include four (4) of the following; structures in the Historic Business District (HBD) zone must include five (5) of the following elements. These elements may include, but are not limited to, the following



Example: **Architectural details** include timber accents, masonry materials, and gable detail.

- ÷
- i. Display windows on the primary ground floor façade a minimum of forty (40) percent of the linear distance of the façade;
- ii. i. — Two or more Rroof line features with a steep-pitch of 8/12 or greater; and g
- iii. Gables, or a façade replicating gables with decorative bracing, venting or scroll work;
- iv. Timber accents;
- v. Decorative textural patterns; that appearance.
- vi. Broad roof overhangs a minimum of 3 feet or greater;
- ii-vii. Arched elements.
 - 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.
- iii-viii. iv. — Quoins, or corbels, and corbelling.
- iv-ix. v. — Cornice details.

- ~~x. vi.~~ Use of brick masonry materials or stone as horizontal bands, accent facades, or columns:-
 - ~~v. xi.~~ Stucco finishes:
 - ~~xii. vii.~~ Use of color to highlight ornamentation. Repetitious use of window fenestration;
 - ~~xiii.~~ Repetitious use of wall mounted lighting fixtures which illuminate the building or pedestrian spaces;
 - ~~xiv.~~ Structural canopies or sunshades.
 - ~~xv.~~ Decorative metal;
 - ~~vi. xvi.~~ Window boxes or shutters.
- ~~2.3.~~ Rooflines. ~~Intent:~~ Variations in roof lines ~~should be used to~~ add interest and ~~to~~ reduce the scale of the buildings.
- a. Roofline Variation. Buildings with a footprint of 5,000 square feet or larger must include at least two different rooflines or heights. Height variables may be accomplished by parapets however, elevator shafts or rooftop mechanical rooms or screening features cannot be counted as a roofline variable. 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



Example of variable rooflines and high quality building materials.

- 7
- b. Parapets. 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.~~

3.4. Exterior 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. ~~a.~~ Materials. 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, architectural metal panels, and tinted and textured concrete masonry units.

b. Variation. All facades facing public streets and primary parking areas must include at least two different materials.

c.

a.

b. Color. The use of metallic colors, ~~black~~ or fluorescent colors as a building's primary color is prohibited.

b-d. ~~c.~~ Prohibited Materials. Predominant exterior materials shall not include the following items, unless they are manufactured to meet the other design criteria: unfinished concrete blocks, and smooth faced tilt-up concrete panels, ~~and pre-fabricated steel panels.~~

Materials: Examples of smooth and textured concrete block walls.



Materials: Examples of smooth and textured tilt-up concrete walls.



4. ~~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 must be directed to pedestrian walkways (refer to II. C. 1.).~~
5. Back and Side Facades. ~~Intent: All facades of a building which are visible from adjoining properties and/or public streets must be attractive and include elements from the preceding sections.~~
- a. a. Materials and Pattern. 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, the materials and façade patterns utilized on the primary façade(s).~~

- ~~b. Pedestrian Areas. All areas accessed by pedestrians, including employee entrances and loading areas must be lit in such a way as to provide safety without spreading light beyond the boundary of the parcel.~~

6. Building Signage.

- ~~a. Sign Placement. Architecture must be designed in such a way as to anticipate signage. Façade designs must indicate areas where signs are anticipated.~~

~~B. Section II—Site Design.~~

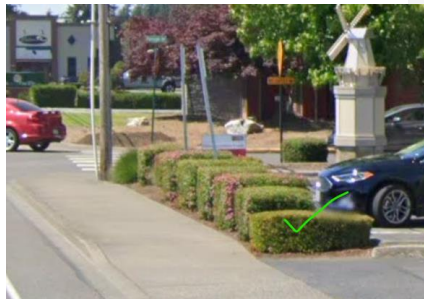
~~A. 7. Entrances. Intent: Multiple building entrances reduce walking distances from cars, facilitate pedestrian and bicycle access and provide convenience. Entrances and parking lots should be configured to be functional and inviting with walkways conveniently tied to logical destinations. It is desirable for large retail buildings to feature multiple entrances.~~

- ~~a. a. All entrances shall be architecturally prominent and clearly visible from the abutting public street. Large format retail stores must locate public entrances on all sides that include public parking located on at least two sides of the building unless the Design Review Board/Community Development Director determines it is unsafe or infeasible to do so.~~

~~B.A. 8. 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, drop-off/pick-up locations, and loading areas must be considered as integral parts of the site configuration.~~

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

- ~~1. A minimum setback of three feet is required between any property line and the surface of a parking stall. This setback must be lawn or landscaped area. This does not apply to shared drive aisles or loading areas.~~



~~4.2. b.~~ At least one pedestrian walkway shall be provided within the parking lot from each abutting street to the pedestrian walkway abutting the building.

~~2.3. c.~~ Parking lot landscaping shall meet or exceed the requirements of Section 19.61.100 of the Lynden Municipal Code.

~~3.4. d.~~ Retail stores ~~of fifty thousand square feet or more~~ that provide customers with shopping carts must also provide outdoor cart corrals. Corrals must be located throughout the parking areas in convenient and sufficient numbers and must be easily accessible. Corrals shall not be established or added to required landscape areas but may utilize required parking stalls if deemed necessary.

~~4.5. e.~~ All lighting in the parking lot shall be directed downward to minimize glare on neighboring properties.

~~5.6. f.~~ Inclusion of bicycle parking capable of accommodating two or more bicycles, is required for every Mixed-Use Center, every restaurant, and every retail store greater than fifty ten thousand square feet. Bicycle parking must be located so that it does not impede pedestrian walkways when bicycles are present.

~~C.B. 9.~~ Pedestrian Flows. Intent: Pedestrian accessibility provides multi-modal access to nearby neighborhoods, reducing traffic impacts and enabling the development to project a friendlier more inviting image.

~~a. Pedestrian walkways must 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.~~

~~b. 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 and residential entrances 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.~~

~~c. 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.~~

~~d. No parking stall shall be located further than one hundred thirty feet from an internal pedestrian walkway.~~

Commented [HG12]: Move to Mixed-Use provisions 19.23.090. Not required for other commercial uses.

1. ~~Ea.~~ Sidewalks along primary facades.

- a. ~~i.~~ — Sidewalks, no less than eight feet in width, shall be provided along the full length of commercial buildings along any façade featuring a customer entrance and along any façade abutting ~~public~~ primary parking areas. Landscape areas may replace this sidewalk requirement where continuation of a sidewalk would not provide connection to parking, amenities, or adjacent properties.
- b. ~~ii.~~ — Sidewalks, no less than seven feet in width, shall be provided ~~along the full length of residential building developed utilizing the provisions of the Mixed-Use Centers overlay.~~
- c. ~~iii.~~ — All sidewalks along building facades 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.~~

~~f.~~ — 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).

2. ~~Gb.~~ Merchandise Displays. In no instance shall outdoor displays of merchandise or shopping cart storage impede the pedestrian movement at the entrance of the store.

~~C. 40.~~ Landscape. Landscape installation is required per the commercial landscape standards found in LMC 19.61.

D. 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, must be screened, recessed, or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate, or difficult to maintain screening materials can exacerbate the problem. Loading areas must also be designed to efficiently and safely accommodate truck traffic and waste haulers.

1. ~~a.~~ — Areas for permanent outdoor storage, trash collection or compaction, loading, or other such uses shall be screened from the public and private rights-of-way.

~~4-2.~~ The City's franchise waste hauler must have the opportunity to comment on proposed site plan during the design review process. The hauler may request revisions which relate to truck movement such as minimum turning radius and may dictate the appropriate size of trash enclosures given the proposed use.

- ~~2-3.~~ b. — Storage areas shall not be constructed over required parking spaces unless the property owner demonstrates to the Community

Commented [HG13]: This provision replaced by 'landscape enhancement' provision under Architecture - Facades and exterior Walls in 19.23.080(A)(2).

Commented [HG14]: The Planning Commission requested that NV Disposal have the opportunity to review site plans (this is currently part of our design review process).

~~Development Department that the site exceeds the required parking counts per LMC 19.51.040. No areas for outdoor storage, trash collection or compaction, loading or other such uses that exceed eight hundred square feet shall be located within twenty feet of any public street or sidewalk or internal pedestrian walkway that is used by the general public.~~

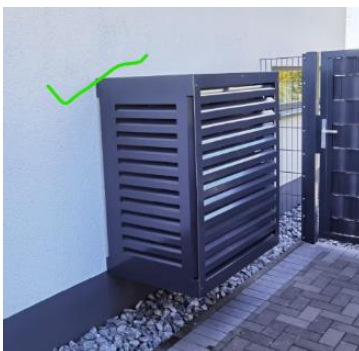
~~3-4. e.~~ Loading docks, truck parking, outdoor storage, HVAC equipment, trash and recycling dumpsters and compacters, and other service functions shall be incorporated into the overall design of the building and the site so that the visual and acoustic impacts of the functions are fully contained and out of view from primary parking areas, adjacent properties and public streets. ~~Public access to these areas should be restricted.~~

~~4-5. d.~~ Use of portable, metal storage containers ~~or truck trailers~~ as a permanent storage solution is not permitted unless the containers are screened from view of public and private streets. Temporary use, less than three months per calendar year, of these storage methods is permitted.

~~6. e.~~ Non-enclosed areas for the sale of seasonal inventory shall be clearly defined. ~~and may not~~ These areas may infringe on ~~any~~ required parking for three or fewer months and shall not impede ~~or~~ pedestrian walkways.

~~7.~~ Materials, colors and design of any screening walls and/or fences shall conform to those used as predominant materials and colors on the building. Chain link with slats, tarps, banners or privacy tape is not permitted as a screening option however chain link fence combine with a landscape hedge is allowed.

~~5-8.~~ Wall-mounted mechanical equipment including, but not limited to, heat pumps, air conditioning units, condensers, or exhaust systems must be screened or located so as not to be visible from public streets, shared access easements, or primary parking areas. Landscaping cannot be considered an adequate visual barrier if any portion of a wall-mounted



piece
of

equipment exceeds eight (8) feet in height. A physical wall-mounted or free-standing screen or cover must be used.

9. All ground-mounted or roof-mounted mechanical equipment must be screened from view when observed from adjacent public streets.

a. Screens used on rooftop equipment must coordinate with the materials, colors, and architectural style of the building.

b. Ground-mounted equipment may be screened with fencing, screens, or evergreen landscaping.



~~a.~~ Screening of rooftop equipment required so as not to be visible from adjacent roadways.

E. Site Lighting. Intent: The goal of site lighting is to provide appropriate and sufficient lighting for building security as well as pedestrian and vehicle safety while minimizing light spill-off into other properties. Lighting should also be used to highlight building entrances and architectural features.

1. Shielded light sources. All lighting must be shielded from the sky and adjacent properties either through exterior shields or through optics within the fixture.

2. All entrances and address numerals must be illuminated.

3. No light is permitted to spill over property lines so as to cause a nuisance to adjacent property owners or to interfere with passing drivers or pedestrians.

~~E.F.~~ 11. ~~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.~~

- ~~e.~~ Sign design ~~review~~, and installation must be consistent with standards of LMC 19.33.

19.23.090 Special conditions for Mixed-Use Center Projects.

Mixed-Use Centers are intended to accommodate both residential and commercial uses. Site design and architecture should be done in such a way as to prioritize pedestrian movement and facilitate neighborhood commercial uses.

In addition to those requirements described in LMC 19.23.080 those projects which utilize the provisions of the Mixed-Use Centers are subject to the regulations described below.

1. Site Design

1. Pedestrian Flows. Intent: Parking areas and outdoor recreation / open spaces within mixed-use project must be accessible and safe while providing excellent pedestrian connection. Connections should facilitate pedestrian access to on-site and nearby commercial services.

a. Pedestrian walkways must be anchored by special design features such as towers, arcades, porticos, sculptural art, water features, planter walls or other architectural elements that define circulation ways and outdoor spaces. An anchor feature and repetitious elements of this feature must create a theme which appears at building entrances, the on-site residential amenities within the designated open space, and the flex space.

b. Continuous internal pedestrian walkways, no less than six feet in width, shall be provided from the public sidewalk or right-of-way to the customer and residential entrances of all buildings on the site. Secondary 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.

Commented [HG15]: Mixed-Use Centers must comply with commercial design standards and these additional requirements found in 19.23.090. (generally more pedestrian accommodations because people are living on site.)

Example of continuous internal pedestrian walkway from entrance of building to public sidewalk.



Title 19 - ZONING

c. On-site 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.

d. 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.

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 or resident entrances.

2. Landscape / Screening buffer between public sidewalks and residential windows on Mixed-Use projects.

a. When residential units are located on the first floor of a mixed-use building landscape areas, a minimum of six (6) feet wide, are required between any public or private sidewalk and the façade of the building if the façade includes windows. This landscape area may be replaced by residential patio space if the space is enclosed by a wall or fence not less than forty-two (42) inches in height.

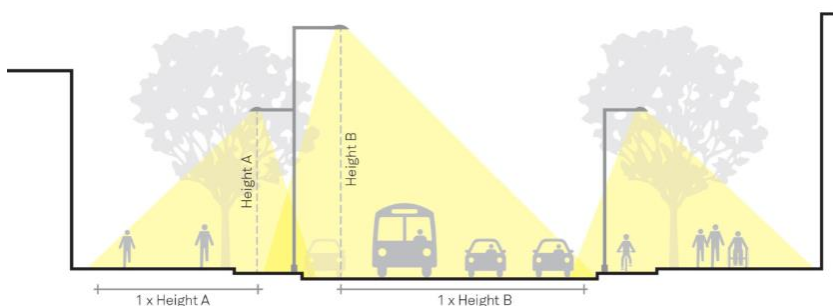
~~a.b.~~ This landscape / screening buffer standard is reduced to three (3) feet for Small-Scale Mixed-Use projects.



Landscape area is required between 1st floor residential units and sidewalks.

3. Lighting.

- a. In addition to site lighting of parking areas, pedestrian scale light fixtures are required along pedestrian spaces and walkways which connect the site to adjoining public streets as well as those walkways connecting building entrances to open space amenities and flex spaces.
- b. Pedestrian scale fixtures are light poles no more than fifteen (15) feet in height or bollards.
- c. Spacing must be such that pathways maintain a consistent level of light coverage.
- d. All pedestrian lighting must be directed downward to prevent unnecessary light spill into the night sky.



Lighting at pedestrian scale vs. vehicular / roadway scale.

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 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 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 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. Fire Department permits and inspections are required related to the storage of hazardous material. If deemed necessary, Aa policy manual for the management of hazardous material incidents is to be may be required by the Fire Department submitted to the city for review and approval prior to occupancy of the facility.

Commented [HG16]: Does the City want to maintain this spacing requirement for gas stations? If yes, a note should be added to the Permitted Uses table so it is obvious during due diligence.

Commented [HG17]: Litter control monitored through code enforcement.

19.23.110 Mixed-use centers overlay.

- A. Purpose. The primary purpose of mixed-use projects using 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 components 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 following a walkable path.
 - b. Qualifying Commercial Centers are identified in the land use element of the city's comprehensive plan. These centers have at least seventeen thousand square feet of gross floor area dedicated to general retail uses and at least six 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 Historic Business District (HBD) and Commercial Services - Local (CSL) Zones of the Central Lynden and the South Historic Business District (SHBD) sub-areas.
1. Applicability within the Historic Business District (HBD).

- a. Properties within the HBD that do not meet the criteria to utilize mixed-use center provisions due to the scale of the property/development site are permitted to establish residential uses on upper stories.
 - b. Ground level space is limited to commercial (nonresidential) uses permitted within the HBD except that up to forty percent of the ground level may be utilized for Type A and Type B adaptable residential dwelling units as defined by the International Building Code in order to facilitate the creation of accessible units for individuals with disabilities.
 - i. Commercial space used to fulfill the commercial component must equal sixty percent of the gross ground floor(s) of the building(s) constructed.
 - ii. The minimum area dedicated to the commercial component shall not include parking garage, mechanical rooms, riser rooms, or storage facilities. Refer to LMC 19.23.020 for permitted mixed-use overlay commercial uses and special requirements regarding storage facilities.
2. Applicability within the Central Lynden and SHBD Sub-areas. The CSL zones of the Central Lynden and SHBD subareas include properties that have traditionally included a wide variety of uses. These sub-areas, as a whole, represent a mixed-use district. To continue to facilitate this mixed-use identity, properties located in the Central Lynden and SHBD sub-areas that are zoned CSL but are not within the Historic Business District (HBD) and do not qualify for mixed-use centers provisions due to the scale of the property are permitted to establish new residential uses in the following situations:
- a. Mixed Use within a Single Building. Residential units are permitted in the CSL zone, in the Central Lynden and SHBD subareas, on the upper floors of a building which features commercial space on the first floor but overall building height is typically limited to thirty-two feet unless a Conditional Use Permit is granted to allow building height to reach 48 feet. Conditional Use proposals for additional height should demonstrate consistent scale with other nearby structures and address potential impacts of the additional height.
 - b. Conversion of an Existing House.
 - i. A second residential attached unit is permitted within or by adding onto structures that were constructed as single-family homes prior to 1992. All renovations and additions are subject to building permit approval. Additional units may also require utility upgrades.
 - ii. If the net lot area is eight thousand square feet or greater, up to three attached units are permitted through the renovation of an existing structure subject to the standards and design criteria listed in this subsection. This provision is only applicable for parcels that, as of 2023, due to their scale do not qualify for the mixed-use centers overlay.
 - c. New Construction.

- i. New duplex structures are permitted on CSL zoned properties within the Central Lynden and SHBD sub-areas subject to the design criteria listed in this sub-section.
 - ii. If the net lot area is eight thousand square feet or greater, up to three attached units are permitted as new construction subject to the standards and design criteria listed in this sub-section. This provision is only applicable for parcels that, as of 2023, due to their scale do not qualify for the mixed-use centers overlay.
3. Design Standards for Small Scale Mixed-Use within the Central Lynden and South Historic Business District Subareas: Commercial Services-Local (CSL) Zone

Max Lot Coverage	Max Height of a Building that includes Residential Units	Maximum Building Stories	Front Setback	Rear Setback	Side Setback
60%	32 feet (48 feet with a CUP)	3 floors	15 feet	20 feet	7 feet

- a. Design Review: New multifamily residential construction within the CSL zones in the Central Lynden and SHBD sub-areas require design review ~~board~~-approval when exterior changes are proposed. In addition to the city's design ~~guidelines-standards~~ the following criteria must be met:
 - i. New construction must match the scale of the surrounding structures. Applicants must supply images of adjacent structures when submitting an application to the design review board.
 - ii. Although multiple units are accommodated, the architectural styles of new construction must mimic that of a single-family home if the adjoining properties were constructed as single-family homes.
 - iii. Garage access, if proposed, must be from the alley if alley access is available so as to limit garage doors along street frontages.
 - iv. Front entry must be shared between units or distributed to different facades of the building so as to appear as a single-family home.
- b. Residential parking standards within the CSL zones of the Central Lynden and SHBD sub-areas: Two parking spaces are required for the first residential unit, one space per every additional unit.

D. Separation of Uses/Transition Buffers.

To ensure that different land uses are adequately separated, landscape buffers shall be instituted as detailed in LMC 19.61.090. Additionally, setbacks immediately adjacent to residentially zoned properties increase in association with greater building heights as described within this subsection.

E. Mixed-Use Overlay Development Standards

1. A project developing within a Mixed-Use Overlay, that is not meet the description of Small Scale Mixed-Use as described in LMC 19.23.110(C), is subject to the following development standards:

Flex Space: Semi-public Open Space or Neighborhood Commercial Requirement	Residential Recreation al Open Space	Multi- Family Housing and Parking	Max building stories	Max Residenti al Bldg Height	Max Commercial Bldg Height
20% of net lot area as flex space or 60% of cumulative first floor area as commercial use. See LMC 19.23.110(H).	10% of net lot area	70% of lot area	4 floors	52 feet (60 feet with a CUP)	48 feet

2. The maximum height of residential building may be increased to up to 60 feet through the successful approval of a Conditional Use Permit. Additional height proposals must demonstrate how the extra height is appropriate to the scale of the site and how it is mitigated to be cohesive with other buildings on the site and the surrounding land uses. A stepped-back façade or additional architectural articulation may be required.
3. Setbacks: If an adjacent property has a residential zoning, the setbacks along that property line must be a minimum of 20 feet or half of the proposed mixed-use overlay building height, whichever is greater. Setbacks from adjacent properties with commercial, industrial, or public use zoning must be a minimum of 15 feet. Setbacks from street frontage must be consistent with the front setbacks of the underlying CSL or CSR zoning.
4. Building articulation and façade treatment. Refer to LMC [19.23.080](#) and [19.23.090](#) for specific design requirements affecting building articulation and façade treatments.

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 further reduced from 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 Planning Director pursuant to this section may be appealed to the Hearing Examiner subject to the procedures set forth in LMC 17.11.

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 functional 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 by the Technical Review Committee (TRC) through the Design Review Board (DRB) approval process. The DRB-TRC 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. The minimum open space calculation cannot indoor common areas such as party rooms. Shared, outdoor patios or balconies may be included in the open space calculation but private patios or balconies that are specific to a residential unit may not be included.
3. Inclusion of critical areas in the open space requirement only equal to the space dedicated to a recreational trail or other accessible amenity that has been established via the appropriate permitting process. Proposed

improvements for active use within a critical area and/or its buffer are subject to critical area review (LMC 16.16.150).

4. The recreational portions of the open space must be readily accessible and visible to residents. This can include trails, playground, dog park, courts, or similar functional space that is proportionally scaled to the number of residents who will be using the amenity.
5. Open spaces may be gated or otherwise restricted so that only residents can access.
6. Lighting and landscape must be utilized to create safe and attractive spaces.

H. Required Commercial Area or Flex Space

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

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

1. Required interior commercial component.
 - a. If an interior commercial space will be used to fulfill the commercial component, it must equal sixty percent (60%) of the gross ground floor(s) of the building(s) constructed.
 - b. The minimum area dedicated to the commercial component shall not include parking garage, mechanical rooms, riser rooms, or storage facilities. Refer to LMC 19.23.020 for permitted Mixed-Use Overlay commercial uses and special requirements regarding storage facilities.
2. Flex space. If interior commercial uses are not established prior to, or simultaneously with residential components of the Mixed-Use Centers Overlay the project must reserve a portion of the property as Flex Space as described in this section.
 - a. Flex space must equal twenty percent (20%) 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.
 - b. A public access easement must be recorded which addresses policing and posting of permitted hours of access.
 - c. A pedestrian oriented plaza or irrigated lawn areas that are visible and easily accessible to the public as well as onsite residents.
 - d. Outdoor seating.
 - i. At least one sitting space for each two hundred fifty (250) square feet of flex space shall be included in the plaza or lawn areas.
 - ii. 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").

- iii. Half of the seating must be located in areas that would experience seasonal shade.
 - e. Trash receptacles must be provided in pedestrian areas. These are to be maintained by the property management / owner / association
 - f. 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.
 - g. Accommodations for outdoor vending and food trucks must be included. This includes water and electrical hook-up locations.
 - h. Stormwater facilities or critical area buffers that prevent pedestrian access may be included under the following provisions:
 - i. Inaccessible areas shall encompass no more than forty percent (40%) of the required semi-public area.
 - ii. 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.
 - i. Additionally, privately-owned public spaces shall include at least three (3) of the six (6) following elements:
 - i. Covered seating options;
 - ii. Water features or public art;
 - iii. Outdoor dining areas; and
 - iv. Decorative pedestrian lighting;
 - v. Children's play structures. This may include interactive sculpture, or traditional playground equipment;
 - vi. Other amenities not listed above that provide a public benefit.
- I. **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 19.23.110(F) may be utilized. Pedestrian connections must be maintained from the residential structures to any commercial use. Design must be consistent with LMC [19.23.080 and](#) 19.23.090 and is the development is subject to Design Review.

Title 19 - ZONING

Examples of flex space



Excerpts of Chapter 19.25 - Industrial Zones**19.25.010 – 19.25.020 – no changes****19.25.030 Primary permitted uses.**

Prior to approval, the applicant for any use will be required to provide a detailed statement describing the proposed use for approval by the planning director. This statement must include not only a narrative listing of items or materials used in the processing, assembly or manufacturing of a product, but also a site plan and a floor plan that shows the area that is proposed for each process or use on a certain site or within a building.

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.

Use Description	IBZ	ID
Industrial land uses with chemical processing facilities, subject to the performance standards shown herein	CUP	P
Manufacture, compounding, processing, refining and treatment of significant quantities of the following materials, products or operations is prohibited (for the purpose of this section "significant quantities" consists of a barrel or more at a single time): acetylene, distillation of alcohol, asphalt and tar, concrete, cement, lime, gypsum, fats oils and soaps, garbage, offal, bones and the reduction of dead animals, forging or smelting of metal, lumber and planing mills, oilcloth and linoleum, paint, shellac, turpentine, lacquer and varnish, paper and pulp, petroleum processing and storage, any explosive or highly inflammable material, slaughtering and processing of meat or fish products, tannery and curing of raw hides, chemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin, and size.	NP	NP
Food and Pharmaceutical Processing Plants	CUP	P
Manufacture, Fabrication, Assembling Products, Distribution of products, Woodworking and Metalworking Shops	P	P
Automotive Wrecking or junkyards	NP	NP

Title 19 - ZONING

Automotive Support Services such as auto repair, auto body painting and repair, window replace and replacement	P	P
Auto Parts Stores	NP	NP
Wholesaling and Warehouses	P	P
Industrial Parks	P	P
Business Parks	P	CUP
Sale of General Consumer goods except as otherwise listed in this section.	NP	NP
Retail sales for goods that require on-site storage, warehouse or outdoor yard area that is at least double the area of the retail floor area	P	NP
Medical/Dental Laboratories	P	NP
Schools - K through 12 th grade	NP	NP
Vocational schools	NP	NP
Open Storage of equipment with Type III Landscape Buffers	P	P
On-site hazardous waste treatment 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.	P	P
Liquefied Petroleum Storage Station, subject to International Fire Code standards	P	P
Medical Services Overlay	P	NP
Contractor Supplies including lumber sales	P	P
Heating, plumbing and electrical equipment sales and service	P	P
Communication Services (radio and TV stations)	P	NP
Printing and Publishing	P	NP
Paint, floor and window covering sales	P	NP
Appliance sales and services	P	NP
Mini-storage facilities	P	NP
Animal hospitals, veterinary clinics and laboratories, kennels	P	NP
Restaurants, cafes and espresso stands ¹	P IN BP	NP
Semi Truck and Trailer Sales and Services	NP	P

Title 19 - ZONING

Farm Implement and Machinery Sales and Service	P	P
Recreational Vehicle Sales and Service	P	NP
Equipment Rentals	P	P
Utility facilities	CUP	P
Postal Services including private carriers, mailbox rentals and post offices	P IN BP	NP
Postal sorting facility	P	P
Recycling facilities	CUP	CUP
Transportation facilities (staging, parking, vehicle or container storage)	NP	P
Wholesale Nursery Operations	P	NP
<u>Commercial recreation – outdoor (includes go-kart tracks, paintball courses, skate parks)</u>	<u>C</u>	<u>C</u>

¹ This use within a stand-alone building may not be used as a building in order to meet the definition of a business park.

P = Permitted
NP = Not Permitted
C = Conditional
P IN BP = Permitted in a business park

19.25.040 – 19.25.060 – no changes

19.25.070 Landscaping requirements.

~~In addition to the landscaping requirements of Section 19.61.100 of this title, a~~All proposed development in these zones shall ~~generally~~ comply with the industrial landscape standards outlined in LMC 19.61.150. ~~following standards. Variations may be authorized by the planning director where reasonable factors such as topography, other site constraints, or proposed improvements offset the need for strict compliance.~~

~~All public streets will be required to include street trees between the curb and sidewalk, unless a variance to the street section standard and design is granted.~~

~~B. The parcel's street frontage will have a ten foot Type 1 landscape buffer. Tree and plantings shall be located for interest, variety and public safety. Tree plantings shall conform to the approved selection list available from the city.~~

~~C. Entry areas and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around~~

Commented [HG18]: Planning Commission recommends Outdoor recreation be permitted in industrial zones as a Conditional Use. LMC 19.25.030 added within this document to address this request.

Commented [HG19]: Industrial landscape standards moved to consolidated landscape section of the code. See revised LMC 19.61.150.

the buildings and parking areas. The primary entrance, defined for this section as that entrance frequented by office staff and visitors to the site, shall have a landscaped area on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway curb intersect and running a distance of fifty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines.

- D. ~~Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation:~~
 - 1. ~~Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.~~
 - 2. ~~Shrubs should be a minimum of five-gallon pot size and upright shrubs should have a minimum height of eighteen inches with a minimum spread of eighteen inches. Spreading shrubs should have a minimum of eighteen to twenty-four inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan).~~
 - 3. ~~Ground covers planted from flats should have a maximum spacing of twelve inches on center or, when planted from one-gallon cans, a maximum spacing of twenty-four inches on center.~~
- E. ~~Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.~~
- F. ~~All landscaped areas shall have an appropriate irrigation system to ensure that plantings are adequately watered. Irrigation systems shall be designed to minimize water runoff onto sidewalks or streets.~~
- G. ~~There shall be a minimum Type III landscape buffer between industrial development and any residential zone. This buffer shall be a minimum of ten feet in width.~~

19.25.080 Fence location:

Except where the fence would interfere with the clear vision triangle as defined in Section 17.01.030, fences within the industrial zones must be placed a minimum of fifteen feet from the front property line. All other fencing requirements shall be as found in Chapter 19.63 of the Lynden Municipal Code.

Commented [HG20]: Moved this small section about industrial fences to the fence section of code so that it doesn't get missed. See LMC 19.63.

Chapter 19.26 MEDICAL SERVICES OVERLAY – no changes

Chapter 19.27 PU PUBLIC USE ZONE

19.27.010 Established.

A PU public use zone is established with standards and regulations by which certain land uses may be permitted therein.

19.27.020 Purpose.

The purpose for a public use zone is to provide regulations for public and quasi-public uses such as parks, public buildings, public utility sites, and quasi-public lands such as the Northwest Washington Fairgrounds.

~~19.27.030 Development Standards Setbacks.~~

- ~~A. Buildings in a public use zone shall be set back a minimum of twenty feet from the street property line and ten feet from any other property line.~~
- ~~B. Water and wastewater treatment facilities are subject to the setbacks for the ID zone.~~

Commented [HG21]: Combined development regulations into one category within this section.

~~19.27.040 Height limits.~~

~~A. A. Setbacks.~~

- ~~1. Buildings in a public use zone shall be set back a minimum of twenty feet from the street property line and ten feet from any other property line.~~
- ~~2. Water and wastewater treatment facilities are subject to the setbacks for the ID zone.~~

~~B. Height.~~

- ~~1. Except as otherwise provided in this paragraph, buildings shall not exceed a height of ~~thirty~~ forty-eight (48) feet, unless approved by a conditional use permit. The design review boardCommunity Development Director may extend the height limit to forty feet for buildings not requiring a conditional use permit in the following circumstances.~~
- ~~2. Water and wastewater treatment facilities are subject to the height limits for the ID zone.~~
- ~~3. Existing utility structures may be replaced at a height equal to or less than the previously existing height.~~

Commented [HG22]: Proposal of maximum height increase from 30 to 48 to accommodate larger park and fairground structures.

~~A.~~

- ~~C. Design Review. Structures within Public Use zoning categories are not subject to the Design Review process but must comply with the following requirements at the time of building permit:~~

1. Landscape buffers as described LMC 19.61.090.
2. Parking lot landscape as described in LMC 19.61.100(A).
3. Screening. All mechanical equipment, including roof mounted, must be screened so as not to be visible from the street, shared access easement, recreational trails or common green spaces. Screening can be accomplished by fencing, architectural screening, or evergreen landscape material. Equipment to be screened includes, but is not limited to, heating and air conditioning units, venting associated with commercial grade cooking facilities
4. Trash Enclosures. Large trash and recycling receptacles such as dumpsters or compactors must be contained in an enclosed / screened area so as not be visible from public or private streets or recreational trails.
5. Street Trees.
 - a. The installation or replacement of street trees is required unless it isn't feasible due to existing structures or hardscape which will not be altered by the proposed project or if factors exist which would significantly hinder the survival of a tree.
 - b. Street trees must be from the city's approved street tree list or an approved alternative.
 - c. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
 - d. Street trees must be installed with root barrier protection as specified in the engineering design standards.
 - e. Street trees shall be a minimum caliper of one and one-half inch at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of one inch. Refer to the city of Lynden Engineering Design Standards for a full description of street tree requirements.
6. Lighting.
 - a. Building entryways shall have exterior lighting.
 - b. Site lighting is not permitted to broadcast beyond the lot boundary or directed in such a way as to impair passing drivers.
7. Addressing. To facilitate first responders in the event of an emergency, address numerals on all structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.
8. Foundation Planting. Unless a structure is located within a public park, foundation planting is required around all areas of the building except where entries prevent this from occurring. Installation of plant material is required

prior to issuance of final occupancy unless a bond or assignment of savings is secured at 150% of the value of the landscape materials and installation.

a. Buildings with a first-floor footprint of 10,000 square feet or less must provide a planting area a minimum of four feet in width. The required area of foundation planting may be averaged but in no case may the width be less than two feet.

b. Buildings with a first-floor footprint greater than 10,000 square feet must provide a planting area a minimum of six feet in width. The required area of foundation planting may be averaged but in no case may the width be less than three feet.

~~1. That adequate public notice has been provided;~~

~~2. The design review board must find that the increased height is necessary to the design; and~~

~~3. The height is consistent with other structures in the surrounding area.~~

~~1. B. Water and wastewater treatment facilities are subject to the height limits for the ID zone.~~

~~2. C. Existing utility structures may be replaced at a height equal to or less than the previously existing height.~~

Chapter 19.33 SIGNS

19.33.010 – no changes

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 lighting displayed or reflected on the surface or face of a sign which is not inside the sign and not a part of the sign proper. 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.

Commented [HG23]: This is a correction to the code. The definition of "internal lighting" was in advertently also adopted for "indirect lighting".

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~~ approval from the Community Development Director or their designee before a Sign Permit may be issued. This requirement applies to new Signs and replacement Signs.
- D.E. Sign Permit Fees. Permit fees shall be in accordance with the current fee schedule adopted by resolution of the City Council.
- E.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.

F.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~~ City Council 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~~ Department 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 ~~Technical Review Committee (TRC)~~ Design Review Board shall ~~make create at staff report that includes a preliminary determination recommendation~~ 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~~ report must consider that the may granting of a variance only upon specific, written Findings of Fact setting forth and showing that at must be supported by 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.

Commented [HG24]: Proposed here: Sign variances would be directed to the City Council for a decision. Public comment accepted in writing but no public hearing. Decision is final.

- 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~~ TRC staff report Design Review Board may recommend attach thereto such conditions regarding the location, character, and other features of the proposed Sign as ~~they may~~ deemed necessary to carry out the spirit and purpose of this chapter in the public interest.
- f. Within five (5) days of the issuance of the staff report making of the preliminary determination, the applicant shall cause to be mailed, by certified mail, a notice of the determination recommendation 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 staff report 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. The TRC may choose to alter the staff report after reviewing written comments.

g. Within ~~five (5)~~ thirty (30) days of expiration of the comment period, the application must be added onto a City Council meeting agenda which is slated to occur within 60 days of the expiration of the comment period.

g-h. ~~Chair of the Design Review Board~~ City Council shall consider the written record and any written comments or objections made and render a final decision. A open record hearing is not required. The Community Development Director shall then cause to be mailed notice of the final decision to the applicant and to each person from whom written comments or objections to the application 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 \$400.~~

~~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.

G-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.

19.33.040 – General Provisions and Design Elements.

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 and Standards.

1. Design Elements. To provide aesthetic benefits to business districts and the community the following design elements must be included as required per the property's zoning category. 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 of two or more distinct fonts, three or more colors, gold leaf, tile, frames, and shadowing which creates the illusion of a three dimensional letter or shape. When reviewing Signs, the Design Review Board Community Development Staff review shall consider the relationship of the design elements to one another in the design of the Ssign.

- a. Commercial Services – Local (CSL). Signs place within CSL zones must include at least five (5) design elements.
- b. Commercial Services – Regional (CSR). Signs placed within CSR zones must include at least four (4) of the design elements.
- c. Residential zones (RS, RMD, RM-PC, and RM). Signs placed within these zones must include at least five (5) design elements.

- d. Industrial zones (ID and IBZ). Signs planes within these zones must include at least four (4) design elements.
- e. Historic Business District (HBD). Signs placed within the HBD must include at least seven (7) design elements.
- 2. Raceways Prohibited. Exposed raceway signs are not permitted in the Historic Business District (HBD).
- 3. Landscape Required. Permanent freestanding signs shall have a landscaped area at the base of the sign at least twice the size of the sign area for all zones except the industrial zone where landscape requirements related to public street frontages and entrances as described in LMC 19.61.150, and the HBD zone which requires none.

Commented [HG25]: These additions to code have been copied from the City's adopted design guideline pamphlet.

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.

- 1. Signs must not obstruct the vision or movement of either vehicles or pedestrians.
- 2. 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.
- 3. No Marquee, Canopy Sign, and/or Projecting Sign may project closer than two feet from the curb line of the street.
- 4. All Marquees, Canopy Signs, and/or Projecting Signs must maintain a minimum of eight feet of vertical clearance over pedestrian ways.
- 4.5. 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 tubing or similar 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, RS or MH 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 – 19.33.080 – no changes

19.33.090(A-E) – Standards for Specific Sign Types – no changes

19.33.090(F)

F. Mural Signs. Mural Signs are only permitted within the HBD. Mural Signs must be approved by the [Design Review Board-City Council](#) 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.

19.33.100 – 19.33.190 – no changes

Chapter 19.45 DESIGN REVIEW BOARD⁴

19.45.010 Intent.

The intent in conducting design review ~~and establishing a design review board~~ is to ensure that new development will enhance the character of the commercial and multi-family areas. Site design and architecture must create spaces which are readily accessible to pedestrian and vehicular traffic, allow for the function of service vehicles, minimize pedestrian and vehicular conflicts, maximize personal comfort and safety, soften the built environment with landscaped areas, and enhance the character and aesthetic appearance of neighborhoods.

The ~~guidelines design standards~~ adopted by ~~the design review board and~~ the city council are considered a tool for the implementation of ~~the Lynden Municipal Code and~~ the comprehensive plan.

~~The Design Review process is also intended to provide applicants with preliminary review of proposals before investing in engineering or developing the level of detail necessary for permit submittal. In this way, early application of the City of Lynden design requirements prevents costly revisions to permit sets and reduces the duration of permit review.~~

19.45.015-020 Design review process and relief established. ~~board establishment and scope.~~

A. Establishment and Applicability

1. ~~An administrative process is hereby established advisory board known as the design review board is established to provide recommendations written review on subjects as defined in Chapter 17.03.060 which typically includes: of site layout, parking, and lighting, exterior design of buildings, and the landscape proposed for construction of multi-family dwellings as well as; the construction, significant reconstruction, or remodeling of commercial buildings in all commercial zones, and This process also includes signs review as required in Chapter 19.33 of this code.~~

- 4.2. ~~The design review board makes a final determination on applications to waive adopted design standards.~~

Authority. The ~~planning director~~ Community Development Director will determine when ~~the Design Review process or re-review (in the event of an amended design) is required by the design review board. The planning department~~ The Community Development Department shall prepare a staff report on the design proposal summarizing requirements and conditions of permit approval. The staff report shall include findings, conclusions, and conditions for disposition of the design application.

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Small projects or minor remodels may not warrant the Design Review process but design requirements could instead be implemented at the time of grading or building permit review. The Community Development Director will determine when the Design Review process is required.

B. Relief from Standards

3. Residential Waivers. The Technical Review Committee makes a final determination on applications to provide relief from those residential design standards that are eligible for waiver as described in LMC 19.45.030 and LMC 19.22.010.

4. Variance.

a. The City Council may consider variance requests to commercial design standards of 19.23.080 and 19.23.090 per the process outlined in LMC 19.47 except that the Council will consider the matter in a closed record hearing rather than an open record hearing.

b. Applicants are subject to the provisions of LMC 19.47.110 which outlines the conditions necessary to justify a variance.

5. Appeals. Decisions made through the administrative Design Review process including decisions on waivers are appealable to the Hearing Examiner consistent with procedures used for appeals of administrative decisions. Appeals must be submitted to the Community Development Department within fourteen (14) days of the date the final decision report was issued.

Qualifications. Those appointed should be capable of the following:

A. Reading and understanding building design drawings.

B. Having an appreciation of architecture and landscape architecture.

C. Having an understanding and appreciation of historic architecture and the "European/Dutch" theme applicable to the Historic Business District.

B. 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.

19.45.020 Design review board membership.

The design review board shall consist of five members, all of whom shall serve without salary. The members shall be appointed by the mayor with the consent of the council.

In case any vacancy should occur in the membership of the board, for any cause, the mayor shall fill such vacancy by making an appointment with the consent of council.

~~The members of the design review board may be removed by the mayor, subject to the approval of the council, for such causes as he/she deems sufficient, which shall be set forth in a letter filed with the council. The membership shall consist of a four-year appointment. Each appointment hereafter shall also be for four years.~~

~~19.45.030 Design review board notice and meeting.~~

~~Meetings of the design review board shall be held as needed to accommodate design review applications within a reasonable amount of time or as the planning directorCommunity Development Director deems necessary. There shall be a fixed place of meeting or virtual application, and all regular design review board meetings shall be open to the public.~~

~~A. Notice Requirements.~~

- ~~1. The city shall publish notice of all public hearings at least ten days in advance of the meeting date.~~
- ~~2. In some cases, the owner of the property for which the review is sought shall notify all adjacent property owners accordingly:~~
 - ~~a. In the case of review of construction, or remodel within the Historical Business District, notice shall be given to all property owners along Front Street within the block where construction is proposed.~~
 - ~~b. In the case of review of construction of four or more attached units in one structure, notice shall be given to all property owners within three hundred feet of the property on which construction is proposed.~~
 - ~~c. Notification, in all cases, shall be by certified mail, and satisfactory evidence of such notice must be provided prior to the hearing date.~~

~~B. Proceedings. The design review board shall adopt its own rules or procedures and keep a record of its proceedings, findings and action in each case, and the vote of each member on each question considered in the proceedings. The presence of three members shall be necessary to constitute a quorum.~~

19.45.035-030 Residential Design waiver criteria.

Plans submitted to the ~~design review board~~Technical Review Committee for a waiver to the residential design criteria, ~~processed as noted in Chapter 19.47 of the Lynden Municipal Code~~ must meet the following criteria:

- A. Granting the waiver would not be inconsistent with privately recorded covenants, conditions or restrictions;
- B. The proposed structure would meet all building and fire codes as determined by the building official;
- C. The applicant is not varying more than two of the design criteria.

D. Granting the waiver does not negatively impact the integrity of the overall design; or, permanent mitigating elements will be included in the design to offset impacts created by the waiver. Mitigating elements must not include features which could later be easily altered or removed or considered temporary in nature such as finish color or landscape.

E. The purpose of the waiver is to support a specific design / architectural style and not simply to reduce construction costs. It is the burden of the applicant to demonstrate how the waiver, along with other design elements of the building and site, supports an identified architectural style.

19.45.040 Decision ~~by the~~through the design review ~~process.~~ board.

- A. Review. ~~The design review board~~Community Development Department shall review each application ~~referred to the board by the planning director to~~ determine if the design meets the ~~standards guidelines~~ as adopted in LMC 19.22 for residential design or LMC 19.23.080 and 19.23.090 for commercial design or LMC 19.33 the design review guidebook for signs, and commercial and multi-family construction. ~~It~~The Department shall develop a report which concludes with one of the following: recommendation to:
1. ~~A. —~~Grants approval of the proposed exterior design or sign, or
 2. ~~B. —~~Denies the proposed design, or
 3. ~~C. —~~Approves the ~~exterior~~ design with conditions, which shall be noted in the report and communicated to staff who will be reviewing and inspecting the subsequent construction permits. by the building official.

A. Enforcement.

1. Planning staff and the building official shall enforce the final conclusions of design review when granting a grading or building permit. All designs shall be subject to the International Building Code as well as all Lynden Municipal Codes. Equivalent substitutions and minor alterations which follow a design review ~~board recommendation~~report's conclusions may be approved by the ~~planning director.~~Community Development Director.:-
2. The ~~design review board~~Community Development Department shall not ~~recommend~~require conditions which are contrary to the requirements of any applicable development standards or building codes.
3. ~~The waiver decision of the design review board shall be final, unless appealed within fourteen days to the Lynden City Council.~~

Commented [HG26]: Mentioned at the start of 19.45

19.45.050 Administrative design review.

Commented [HG27]: See instead 19.45.020

~~Administrative design review will be conducted for all commercial, sign, or multi-family projects or remodels even if they do not trigger an application to the design review board such as minor exterior updates, commercial additions, or accessory structures.~~

- ~~1. Authority. The planning directorCommunity Development Director shall review the building permit for compliance with the Lynden Municipal Code and design guidelines related to site layout, architecture, lighting, screening, and landscape.~~
- ~~2. Decision. The planning directorCommunity Development Director may grant, deny, or conditionally approve a building permit based on compliance with the design guidelines.~~

Chapter 19.47 BOARD OF ADJUSTMENT HEARING EXAMINER

Commented [HG28]: Heading revision only.

19.47.010 Hearing examiner—Variances.

The hearing examiner has jurisdiction over requests for variances from the requirements of Title 19, except for Chapter 19.33 and LMC Sections 19.22.003, 19.22.040, ~~and 19.22.050, 19.23.080, and 19.23.090~~ when such variances are not applied for in conjunction with an underlying project, the application for which will be heard by a different hearing body, as provided by Section 2.09.040. The decision of the hearing examiner shall be subject to closed record appeal to the city council as provided in Chapter 17.11 LMC. Applications for variances from the requirements of Title 19 that are made in conjunction with another project application for which an open record hearing is required shall be consolidated with that project application, and the hearing body hearing the underlying project application shall also issue a decision on the variance application. Terms used in this chapter are defined in LMC Section 17.01.030.

19.47.020 – 19.47.130 – no changes

CHAPTER 19.49 COMMUNITY RESIDENTIAL FACILITIES

Commented [HG29]: Most Community Residential Facilities are subject to the multi-family or commercial design standards unless located within a single-family home.

19.49.010 Purpose.

The purpose of this chapter is to establish reasonable standards for the safe operation and appropriate siting of a wide range of community residential facilities ("CRFs") within the city of Lynden, so as to protect public health and safety for both facility residents and the broader community. Many but not all CRFs regulated under Chapter 19.49 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. Housing types include single-family homes used for cooperative living, very short-term housing such as emergency shelters, transitional housing that provides support for up to two years, or permanent supportive housing in apartment, detached home, or group settings. Other CRFs may focus on aiding with basic personal needs for adults or children through adult family homes or group homes. This chapter does not include regulations related to camping on public property (see LMC Chapter 12.40).

19.49.020 Definitions.

- A. "Adult" means a person who has attained the age of eighteen years.
- B. "Adult family home" means a residential home in which a person or persons provide personal care, special care, room, and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services. Adult family homes may provide services to up to eight adults upon approval from the Washington State Department of Social and Health Services pursuant to the requirements of RCW 70.128.066.
- C. "Child" means a person who has not yet attained the age of eighteen years.
- D. "City" means the city of Lynden unless some other meaning is apparent from context.
- E. "Community residential facility" or "CRF" is a collective term for the housing categories regulated under this chapter. This includes a wide variety of group living arrangements including adult family homes; group homes; emergency housing, indoor; emergency housing, outdoor; emergency shelter; transitional housing; and permanent supportive housing. Many but not all CRFs regulated under this chapter are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness.
- F. "Community school" means any elementary school, middle school, or high school located within the city of Lynden.
- G. "Emergency housing, indoor" means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Such facilities may or may not require occupants to

enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.

- H. "Emergency housing, outdoor" means temporary outdoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.
- I. "Emergency shelter" means an indoor or outdoor facility that provides a temporary shelter for individuals or families who are currently homeless. Such facilities may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may include day cooling and warming centers that do not provide overnight accommodations.
- J. "Evacuation center" means an indoor or outdoor facility identified in the *Whatcom County Natural Hazards Mitigation Plan* that provides temporary disaster-relief shelter, accommodations or emergency services for individuals or families displaced by disaster during an official City of Lynden Emergency State of Emergency. For the purposes of this chapter, evacuation center includes facilities identified in the *Whatcom County Natural Hazards Mitigation Plan* as "Emergency services" locations.
- K. "Group home" means a community-based, cooperative residential facility that typically serves five to twelve individuals and may provide twenty-four-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. Groups homes may function as transitional housing or permanent supportive housing. When assisting individuals exiting correctional facilities or under court supervision, refer to residential reentry facilities.
- L. "LMC" means the Lynden Municipal Code.
- M. "Permanent supportive housing" means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident's health status, and connect the resident with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

- N. "Provider" means the owner, sponsor, or managing agency (as context requires) of a particular community residential facility.
- O. "Residential reentry facilities" means a type of transitional housing that provides temporary living accommodations for children or adults exiting correctional facilities (including persons who remain under correctional supervision such as probation or parole). Such facilities are meant to provide housing until such persons can move on to permanent housing. For the purposes of this chapter, "halfway homes" and other like reentry facilities shall be classified as residential reentry facilities if such facilities provide essentially the same services and operate with essentially the same intent as residential reentry facilities.
- P. "Transient accommodation" means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than thirty days.
- Q. "Transitional housing" means a facility that provides temporary housing and supportive services to persons experiencing homelessness or at imminent risk of homelessness for up twenty-four months and that has as its purpose facilitating the movement of such persons into independent living and permanent housing. Temporary housing for those exiting correctional facilities or under court supervision is a subset of transitional housing regulated separately within this chapter (refer to residential reentry facilities for the applicable provisions).

19.49.030 Community residential facilities established.

Community Residential Facility Classification Type	Demographic Served	Maximum Scale of the Facility	Permitted Zoning Categories	Reference to Applicable Development Standards
Adult Family Home	Persons in need of permanent housing providing personal care and room and board.	6 adults, up to 8 adults with special approval.	All zoning categories permitting residential dwelling units.	LMC 19.49.050 RCW 35A.21.430 70.128
Emergency Housing, Indoor; Emergency Shelter	Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.	Small scale facility: 6 beds. Large scale facility: up to 80 beds.	Unless sited on a facility identified as an Evacuation Center in the <i>Whatcom County Natural Hazards Mitigations Plan</i> , permitted	LMC 19.49.060 RCW 35A.21.430 43.185C

			only in HBD, CSL, CSR.	
Emergency Housing, Outdoor	Individuals or families requiring shelter due to disaster during an official City of Lynden State of Emergency.	Up to 200 beds.	Must be sited on a facility identified as an Evacuation Center in the <i>Whatcom County Natural Hazards Mitigation Plan</i> .	LMC 19.49.070 RCW 35A.21.430 43.185C
Group Homes	Persons in need of permanent housing in a cooperative living environment.	Maximum occupancy determined per 19.49.080 (C).	All zoning categories permitting residential dwelling units including SF and RMD categories.	LMC 19.49.080
Permanent Supportive Housing	Persons experiencing homelessness or at imminent risk of homelessness in need of subsidized, leased housing with no limit on length of stay.	Maximum density permitted per the underlying zoning category and LMC 19.47.110.	All zoning categories permitting residential dwelling units. Conditional Use in CSR, CSL, and HBD.	LMC 19.49.110 RCW 35A.21.430
Residential Reentry Facilities	Individuals exiting the adult or juvenile correctional system or under court supervision.	Small scale facility: 3 beds.	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.090 RCW 35A.21.430
		Large scale facility: up to 12 beds.	Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	
Transitional Housing Facilities	Persons experiencing homelessness	6 individuals 30 individuals	All zoning categories permitting	LMC 19.49.100 RCW 35A.21.430

	or at imminent risk of homelessness in need of assistance transitioning into independent living and permanent housing.		residential dwelling units or hotels. Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	
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19.49.040 General provisions for all community residential facilities.

A. General Requirements.

1. When more than one CRF definition could apply to a subject facility, the subject facility shall adhere to the more restrictive requirements of this chapter.
2. The provider shall comply with all federal, state, and local laws and regulations, including Whatcom County Department of Health regulations. The provider shall be subject to inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.
3. All subject facilities must comply with the provisions of the [City of Lynden](#) Building and Construction Code (LMC Title 15).
4. Managing agencies and the Lynden Police Department (LPD) or Lynden Fire Department (LFD) shall establish reasonable requirements for appropriate access and coordination for the subject facility and its residents through the CRF approval process.
5. Maximum capacities for a subject facility does not include on-site staff who may also live temporarily or permanently within the subject facility.
6. Business licensing with the city of Lynden through the Washington State Department of Revenue is required for all subject facilities.
7. Subject facilities providing transient accommodations are not permitted within residential single-family zoning categories. This includes all RS zones as well as RMD and Planned Residential Districts where the underlying zoning category is RS or RMD.
8. All subject facilities must meet applicable residential, [multi-family](#) or commercial design standards depending on the underlying zoning category. Per LMC 19.17.100 and 19.23.060, [administrative](#) design review board approval is required for facilities constructed with multiple units or those that are located within a commercial zoning category.

B. Registration with the city of Lynden.

1. All subject facilities are required to apply for registration on the community residential facilities registry ("registry") maintained by the eCity of Lynden. Every subject facility is subject to review and approval depending on the type and scale proposed before it can be included on the Registry.
2. The registry will be publicly available although the location of a subject facility may be withheld if disclosure would jeopardize the safety of the persons housed therein.
3. The provider must provide an operation plan at the time of registration that addresses the following elements:
 - a. Name and contact information for key staff.
 - b. Roles and responsibilities of key staff.
 - c. Site and facility management, including security policies and an emergency management plan.
 - d. Site and facility maintenance.
 - e. Applicable licensing from Washington State Department of Social and Health Services or other governing agency.
 - f. Occupancy policies, including resident responsibilities and a code of conduct that addresses, at a minimum, the use or sale of alcohol and illegal drugs, threatening or unsafe behavior, and weapon possession.
 - g. Provisions for human and social services, including staffing plan, credentials or certification, and outcome measures.
 - h. Procedures for maintaining accurate and complete records.
 - i. Coordination with the Lynden Police Department and Lynden Fire Department.
4. Approval process. Refer to the specified code section associated with CRF type to determine the required review and approval process. This may include, but is not limited to, additional application processes beyond the application to the registry.

19.49.050 Adult family homes.

A. Applicability.

1. The subject adult family home ("AFH") facility must fit within the definition of such facilities set out in LMC 19.49.020.
2. Adult family homes are regulated by this chapter as well as by State Law under RCW Chapter 70.128. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.

B. Approval process.

1. Application must be made to the ~~city planning department~~Community Development Department for registration on the ~~e~~Community ~~#~~Residential ~~#~~Facilities ~~#~~Registry.
2. Review of AFHs is conducted by the ~~#~~Technical ~~#~~Review ~~e~~Committee with final approval determined by the ~~planning director~~Community Development Director. Appeal of the ~~planning~~Community Development ~~d~~Director's decision can be made to the ~~#~~Hearing ~~e~~Examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Scale. A maximum of six adults unrelated by blood or marriage to the person or persons providing services are permitted. However, the subject AFH may provide services to up to eight adults upon approval from the Washington State Department of Social and Health Services pursuant to RCW 70.128.066.
3. Zoning. AFHs are permitted in all residential zoning categories.
4. Construction and appearance. New construction or modification of an AFH must be made consistent with the development standards associated with the underlying zoning category.

~~19.49.060~~ ~~Content — Violations.~~ **Emergency Housing, Indoor; Emergency Shelter.**

A. Applicability.

1. The subject Emergency Housing, Indoor facility ("EHIF") or Emergency Shelter facility ("ESF") must fit within the definition of such facilities set out in LMC 19.49.020.
2. EHIF and ESF facilities are regulated by this chapter as well as by State Law under RCW Chapter 43.185C. In the event of a conflict between the LMC regulations and State regulations, the State regulations shall prevail.
3. This section includes regulations related to two sub-types of EHIF and ESF facilities: Small Scale facilities (six (6) or few beds) and Large Scale facilities (more than six (6) beds).
4. The approval process and development standards for EHIFs are identical to ESFs unless otherwise indicated.
5. Note Regarding Evacuation Centers.
 - a. Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan*.

Commented [HG30]: This section must be restored to what was adopted with the original Comm Res Facility code rather than how it was overwritten with the subsequent civil penalties code update. Civil penalties language shifted to 19.57.250.

- b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.
- c. EHIF and ESF facilities sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan* are not subject to the zoning restrictions otherwise applicable to such facilities within this chapter.

B. Approval process.

1. Small Scale Emergency Housing, Indoor Facility ("EHIF").

- a. A subject Small Scale EHIF must apply to the City Planning Department for registration on the Community Residential Facilities Registry.
- b. Small Scale EHIFs are reviewed and approved administratively according to the development standards set out in this chapter and the City's Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director's decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- c. The Provider of a subject Small Scale EHIF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale EHIF's property line. The Notice of Decision must provide steps for accessing the subject Small Scale EHIF's information as recorded on the Community Residential Facilities Registry.

2. Large Scale Emergency Housing, Indoor Facilities ("EHIF").

- a. A subject Large Scale EHIF is considered a conditional use and must secure a Conditional Use Permit.
- b. A subject Large Scale EHIF, in addition to the Conditional Use Hearing, must secure formal approval through the City's Design Review Process. This administrative review by the Community Development Department does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden multi-family residential Design Review standards, and the standards applicable to Large Scale EHIFs set out in this chapter.
- c. Large Scale EHIFs are to be included on the Community Residential Facilities Registry only after Design Review approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

1. EHIFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.

2. Scale.

a. A subject Small Scale EHIF shall include no more than six (6) beds.

b. A subject Large Scale EHIF shall include no more than 80 beds at any one location and there must be a minimum of 35 square feet of floor area per individual.

3. Zoning.

a. EHIFs are permitted in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.

b. EHIFs are not permitted in any residential, public use, or industrial zoning categories.

c. Notwithstanding the foregoing, a subject EHIF may be sited on a location identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.

4. Spacing.

a. An EHIF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

5. Construction and appearance.

a. All EHIFs must be made consistent with the development standards associated with the underlying zoning category, the City's multi-family residential Design Review standards, and the additional standards set out herein.

b. A subject EHIF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of an EHIF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.

c. Exterior lighting of an EHIF must comply with requirements of the City's Design Review standards for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is

contained within the subject EHI facility site in order to limit the impact on neighboring properties.

d. A subject EHIF must provide off-street parking in accordance with LMC Chapter 19.51.

e. A description of transit, pedestrian, and bicycle access from the subject EHIF site to services must be provided at time of application by the Provider.

6. Facility operations. The following standards are required of all EHIFs and must be included in the EHIF's written procedures.

a. Trash receptacles must be provided in multiple locations throughout the subject EHIF and site. A regular trash-cleanup patrol in the immediate vicinity of the EHIF site must be conducted.

b. Residents and staff of the EHIF must comply with all Whatcom County Health Department regulations applicable to food donations.

c. No children are allowed to stay overnight in the EHIF, unless accompanied by a parent or legal guardian, or unless the EHIF is licensed to provide services to children. If a child without a parent or legal guardian present attempts to stay in the EHIF not specifically licensed for providing housing to children, the Provider shall immediately contact the Child Protective Services division of the Washington State Department of Children, Youth & Families and actively endeavor to find alternative housing for the child.

d. No person under court supervision or under sex offender registration requirements is allowed to receive services from the EHIF, unless providing such services is consistent with the laws, regulations, and supervisory requirements applicable to such person.

7. Required services for Large Scale EHIFs. In addition to the other applicable standards set out in this chapter, Large Scale EHIFs must provide the services set out below and the Conditional Use Permit application must include enough detail to demonstrate compliance.

a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:

i. Medical services, including mental and behavioral health counseling.

ii. Access to resources on obtaining permanent housing and access to employment and education assistance. (Applicable to EHIFs but not ESFs).

- iii. Substance abuse assistance. (Applicable to ESFs but not EHIFs).
- b. All functions associated with the subject EHIF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject EHIF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. An EHIF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject EHIF shall coordinate with other homelessness service providers for referrals to their programs and with other providers of facilities and services for people experiencing homelessness.

~~Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed, and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter. Any such violation is a civil infraction and shall subject the person responsible for the violation to a C-9 penalty (see LMC 1.24.040) and/or revocation of the conditional use permit.~~

19.49.070 Emergency housing, outdoor.

A. Applicability.

1. An emergency housing, outdoor facility ("EHOF"), such as a tent city or the collective use of recreational vehicles to provide shelter to disaster victims, is only permitted in situations when the [City eCouncil](#) has declared a state of emergency.
2. The subject EHOF must fit within the definition of such facilities set out in LMC 19.49.020.
3. EHOFs may be established for up to sixty days to provide housing and services to address basic health, food, clothing, and personal hygiene needs of individuals or families as a form of disaster relief.
4. The city council may extend the approved time frame for a subject EHOF beyond sixty days if deemed necessary due to an extended state of emergency.

5. Note regarding evacuation centers.

- a. Evacuation center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan (NHMP)*.
- b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County NHMP*.
- c. EHO facilities must be sited on locations identified as evacuation centers in the *Whatcom County NHMP*.

B. Approval process.

1. The Whatcom County Natural Hazards Mitigation Plan (NHMP) is a countywide plan managed by the Whatcom County Sheriff's Office's Division of Emergency Management. The plan must be updated every five years and approved by the Federal Emergency Management Agency (FEMA) to remain eligible for federal funding for hazard mitigation projects.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Scale. A subject EHO shall include no more than two hundred beds.
3. Zoning. EHOs may only be sited on locations identified as evacuation centers in the Whatcom County Natural Hazards Mitigation Plan.
4. Construction and appearance.
 - a. Design and organization of EHOs is within the purview of the Whatcom County Sheriff's Office Division of Emergency Management, the city fire chief, city administrator, city chief of police, and city public works director.
 - b. EHOs must be organized in such a way as to minimize impacts to surrounding neighborhoods. These impacts may include, but are not limited to, disruptions related to traffic, noise, and light.

19.49.080 Group homes.

A. Applicability.

1. The subject group home ("GH") facility must fit within the definition of such facilities set out in LMC 19.49.020.
2. The provider of a subject GH facility may provide twenty-four-hour on-site support services.

B. Approval process.

1. Application must be made to the ~~city planning department~~Community Development Department for registration on the ~~e~~Community ~~r~~Residential ~~f~~Facilities ~~r~~Registry.
2. Review of GHs is conducted by the ~~technical~~Technical review ~~committee~~Review Committee with final approval determined by the ~~planning director~~

[Community Development Director](#). Appeal of the ~~p~~Planning ~~d~~Director's decision can be made to the ~~h~~Hearing ~~e~~Examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

3. When a subject GH facility is functioning as transitional housing or permanent supportive housing the provider is responsible for mailing a notice of decision via certified mail to all property owners within three hundred feet of the subject GH's property line. The notice of decision must provide steps for accessing the subject GH's information as recorded on the community residential facilities registry.
 - a. Mailing of a notice of decision is not required when a subject GH facility is affiliated with and adjacent to the facilities of an existing house of worship.
 - b. Mailing of a notice of decision may also be waived by the ~~planning director~~[Community Development Director](#) if such a notice would jeopardize the safety and security of a subject GH facility's residents or expose victims of crime or abuse to emotional harm.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Scale.
 - a. All bedrooms with one occupant must have at least seventy square feet.
 - b. Shared bedrooms must have at least fifty square feet per occupant.
 - c. Kitchens and other non-habitable rooms cannot be used as a bedroom.
 - d. In addition to bedroom space, every GH facility shall provide shared living and dining areas as follows: one hundred twenty square feet of living room for GH facilities with two or fewer occupants; one hundred twenty square feet of living room and eighty square feet of dining room for GH facilities with three to five occupants; and one hundred fifty square feet of living room and one hundred square feet of dining room for GH facilities with six or more occupants.
3. Zoning. GHs are permitted in all residential zoning categories (including SF and RMD).
4. Spacing. A subject GH that is functioning as ~~a~~-transitional housing or permanent supportive housing shall not be located within five hundred feet of a community school or within three hundred feet of another approved CRF.
5. Construction and appearance. New construction or modification of a GH must be made consistent with the development standards associated with the underlying zoning category.

19.49.090 Residential reentry facilities.

A. Applicability.

1. The subject residential reentry facility ("ResRF") must fit within the applicable definition of such facilities set out in LMC 19.49.020.
2. ResRFs are regulated by this chapter as well as by State Law. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.
3. This chapter includes regulations related to two sub-types of ResRF facilities: Small scale facilities (six or fewer beds) and large scale facilities (more than six beds but no more than twelve beds).

B. Approval process.

1. Application must be made to the ~~city planning department~~ Community Development Department for registration on the community residential facilities registry.
2. Small scale residential reentry facilities.
 - a. Small scale ResRFs are reviewed and approved administratively according to the development standards set out in this chapter and in the city's design review guidelines. Said review is conducted by the ~~Technical Review Committee~~ Community Development Director with final approval determined by the ~~planning~~ Community Development Director's decision can be made to the ~~Hearing Examiner~~ planning director's consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
 - b. The provider of a subject small scale ResRF is responsible for mailing a notice of decision via certified mail to all property owners within three hundred feet of the subject small scale ResRF's property line. The notice of decision must provide steps for accessing the subject ResRF's information as recorded on the community residential facilities registry.
3. Large scale residential reentry facilities.
 - a. Large scale ResRFs are considered ~~a~~ conditional use and must secure a conditional use permit.
 - b. A subject large scale ResRF, in addition to the conditional use hearing, must ~~secure formal approval of complete~~ the city's ~~administrative design review process board~~ administrative design review. ~~Review by the design review board does not require a second public hearing. The review~~ The design review must consider any conditions of approval associated with the ~~Conditional Use Permit~~ the City's standards for multi-family residential design and the standards applicable to large scale ResRFs set out in this chapter.
 - c. Large scale ResRF's are to be included on the community residential facilities registry only after administrative design review ~~board~~ approval is secured and a conditional use permit has been issued.

C. Development standards.

1. All ResRFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a conditional use permit application if one is required.
2. Scale.
 - a. A subject small scale ResRF shall include no more than six beds.
 - b. A subject large scale ResRF shall include more than six beds but no more than twelve beds at any one location.
 - c. All ResRFs shall provide a minimum of three hundred fifty square feet of floor area per adult resident.
3. Zoning.
 - a. Small scale ResRFs permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. Large scale ResRFs are permitted as conditional uses in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
4. Spacing.
 - a. A subject ResRF (whether small scale or large scale) shall not be located within five hundred feet of a community school or within three hundred feet of another approved CRF.
5. Construction and appearance. All large scale ResRFs are subject to [administrative design review](#) approval ~~by the city design review board~~. New construction or modification of [all large scale ResRFs](#) such facilities must be made consistent with the development standards associated with the underlying zoning category, the [eCity's eDesign standards for multi-family residential construction, review gGuidelines](#), any conditions of approval associated with the conditional use permit, and the additional standards set out herein.
 - a. A subject facility shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject facility must comply with [requirements](#) of the [Ceity's eDesign standards review gGuidelines](#) for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject facility must provide off-street parking in accordance with LMC Chapter 19.51.

- d. A description of transit, pedestrian, and bicycle access from the subject facility site to services must be provided at time of application by the provider.
- 6. Required services for large scale ResRFs. In addition to the other applicable standards set out in this chapter, large scale ResRFs must provide the services set out below and the registry application must include enough detail to demonstrate compliance.
 - a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - 1. For all facilities, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject facility, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject facility shall be determined by the ~~e~~City ~~b~~B~~e~~uilding ~~e~~O~~f~~ficial on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject facility shall have dedicated spaces for residents to meet with service providers
 - e. In order to encourage access to all appropriate services for residents, the provider of a subject facility shall coordinate with other providers of facilities and services for people exiting the correctional system for referrals to their programs.

19.49.100 Transitional housing facilities.

A. Applicability.

- 1. The subject transitional housing facility ("THF") must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. This chapter includes regulations related to two sub-types of THFs: Small scale facilities (six or fewer individuals) and large scale facilities (up to thirty individuals).

B. Approval process.

- 1. Application must be made to the ~~city planning~~Community Development ~~d~~D~~e~~partment for registration on the ~~e~~C~~o~~mmunity ~~r~~R~~e~~sidential ~~f~~F~~a~~ilities ~~r~~R~~e~~gistry.
- 2. Review of THFs is conducted by the ~~T~~echnical ~~r~~R~~e~~view ~~e~~C~~o~~mmunity ~~p~~lanning ~~d~~i~~r~~ectorCommunity Development ~~D~~irector. Appeal of the ~~p~~lanning ~~C~~ommunity Development ~~d~~D~~e~~partment's decision

can be made to the ~~hearing~~-~~Hearing~~ ~~e~~Examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

3. The provider of a subject THF is responsible for mailing a notice of decision via certified mail to all property owners within three hundred feet of the subject THF's property line. The notice of decision must provide steps for accessing the subject THF's information as recorded on the community residential facilities registry.
4. Before registration, a large scale THF must secure approval of a conditional use permit from the Lynden Planning Commission and City Council as well as formal-administrative design review approval. ~~of the city's design review board~~ ~~(DRB)~~. ~~DRB~~- Design review is required regardless of if the large scale THF is new construction or the conversion of an existing structure. See the development standards subsection for process.
5. Large scale THF are to be included on the ~~e~~Ccommunity ~~f~~Residential ~~f~~Facilities registry only after design review ~~board~~-approval is secured and a conditional use permit has been approved and issued.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Scale.
 - a. A subject THF shall provide a minimum of three hundred fifty square feet of floor area per adult resident.
 - b. A subject small scale THF shall house a maximum of six individuals (unless a group larger than six is a single family unit).
 - c. A subject large scale THF shall house a maximum of thirty individuals.
 - d. For the purposes of calculating the total number of individuals within a subject THF, children are not included.
3. Zoning.
 - a. Small scale THFs are permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. Large scale THFs are permitted as conditional uses in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
4. Spacing.
 - a. A subject THF shall not be located within five hundred feet of a community school or within three hundred feet of another approved CRF.

5. Construction and appearance. All large scale ResRFs are subject to [administrative design review](#) approval, ~~by the city design review board~~. New construction or modification of ~~such all large scale ResRF~~ facilities must be made consistent with the development standards associated with the underlying zoning category, the [eCity's eDesign standards for multi-family residential construction review guidelines](#), any conditions of approval associated with the conditional use permit, and the additional standards set out herein.
 - a. A subject THF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject THF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject THF must comply with requirements of the [eCity's eDesign review guidelines](#) for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject THF site in order to limit the impact on neighboring properties.
 - c. A subject THF must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject THF site to services must be provided at time of application by the provider.
6. Required services for THFs. In addition to the other applicable standards set out in this chapter, THFs must provide the services set out below and the registry application must include enough detail to demonstrate compliance.
 - a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided: medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject THF, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject THF shall be determined by the city building official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject THF shall have dedicated spaces for residents to meet with service providers

- e. In order to encourage access to all appropriate services for residents, the provider of a subject THF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.110 Permanent supportive housing

A. Applicability.

1. The subject permanent supportive housing facility ("PSHF") must fit within the definition of such facilities set out in LMC 19.49.020.

B. Approval process.

1. Application must be made to the ~~city planning department~~ Community Development Department for registration on the ~~e~~Community ~~#~~Residential ~~#~~Facilities ~~#~~Registry.
2. PSHFs are reviewed and approved administratively according to the development standards set out in this chapter and the ~~e~~City's ~~d~~Design ~~review~~ gGuidelines. Said review is conducted by the ~~t~~Technical ~~#~~Review ~~e~~Committee with final approval determined by the ~~planning director~~ Community Development Director. Appeal of the ~~planning director's~~ Community Development Director's decision can be made to the ~~h~~Hearing ~~e~~Examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
3. The provider of a subject PSHF is responsible for mailing a notice of decision via certified mail to all property owners within three hundred feet of the subject PSHF's property line. The notice of decision must provide steps for accessing the subject PSHF's information as recorded on the ~~e~~Community ~~#~~Residential ~~#~~Facilities ~~#~~Registry.
4. Notwithstanding the foregoing, PSHFs located where lodging and hotel accommodations are permitted are considered a conditional use and must secure a conditional use permit. A subject PSHF, in addition to the conditional use hearing, must secure formal approval ~~of the~~ through the city's design review ~~process board~~. Design Review ~~by the design review board~~ does not require a second public hearing. The review must consider any conditions of approval associated with the conditional use permit, the ~~e~~City of Lynden's multi-family residential design standards review gGuidelines, and the standards applicable to PSHFs set out in this chapter. A subject PSHF is to be included on the ~~e~~Community ~~#~~Residential ~~#~~Facilities ~~#~~Registry only after design review ~~board~~ approval is secured and a conditional use permit has been approved and issued.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required. This information can be combined with a conditional use permit application if one is required.

2. Scale.
 - a. All PSHFs shall provide a minimum of five hundred square feet of floor area per dwelling unit and maximum occupancy shall not exceed three hundred fifty square feet per adult resident.
3. Zoning.
 - a. PSFHs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.
 - b. PSFHs are permitted where lodging and hotel accommodations are permitted (this includes the CSL, CSR, and the HBD zoning categories) subject to a conditional use permit.
4. Spacing.
 - a. A subject PSHF shall not be located within five hundred feet of a community school or within three hundred feet of another approved CRF.
5. Construction and appearance. All PSFHs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR), whether are subject to approval by the city design review ~~board~~. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the ~~City's multi-family residential~~ eDesign standards review gGuidelines, any conditions of approval associated with the ~~eConditional uUse pPermit~~ (if applicable), and the additional standards set out herein.
 - a. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject PSHF must comply with requirements of the ~~City's eDesign standards review gGuidelines~~ for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject PSHF must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the provider.
6. Required services for PSFHs. In addition to the other applicable standards set out in this chapter, PSFHs must provide the services set out below and the registry application must include enough detail to demonstrate compliance.

- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided: medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
- b. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the ~~eCity bE~~Building ~~eO~~Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject PSHF shall have dedicated spaces for residents to meet with service providers.
- e. In order to encourage access to all appropriate services for residents, the provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.120 Construction.

- A. Measurement standard.
 - 1. For the purposes of the spacing requirements established in this chapter, distance shall be measured in a straight line between the closest property line of the subject facility and the closest property line of the community school or other approved CRF.

19.49.130 Exceptions.

- A. Reasonable accommodations.
- B. The Fair Housing Act ("FHA"), 42 U.S.C. 3604(f)(3)(B), requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The ~~planning-director~~Community Development Director is therefore authorized to make accommodations in the provisions of this chapter as applied to CRFs occupied or to be occupied by persons with disabilities as defined in the FHA, when the ~~planning director~~Community Development Director determines that such accommodations reasonably may be necessary in order to comply with the requirements of the FHA.
- C. Religious organizations.
- D. Nothing in this chapter shall be applied to the extent it would infringe upon a religious organization's ability to serve the homeless consistent with a sincere religious belief as protected under the First Amendment of the United States Constitution, Article I § 11 of the Washington State Constitution, the Religious Land

Use and Institutionalized Persons Act (42 U.S.C. 2000cc et seq.), and RCW 35.21.915 (Hosting the homeless by religious organizations).

CHAPTER 19.57 HOME OCCUPATION PERMITS, CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS

19.57.100 – 19.57.160 – no changes

19.57.200 Conditional use permit purpose.

Conditional use permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike home occupation permits, conditional use permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Conditional use process and criteria for approval.

- A. Certain uses may be allowed by a CUP granted by the city council, after it receives the recommendation of the planning commission. The planning commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.
- C. The planning commission and council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.
5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

19.57.220 Conditional use permit development standards.

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

Use	Zone	Maximum Lot Coverage	Minimum Lot Size in Square Feet
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000
Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

19.57.230 Conditional use permit expiration.

- A. Conditional use permits shall expire twelve months after issuance unless construction or the establishment of the use has commenced. The ~~planning director~~[Community Development Director](#) may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

19.57.240 Conditional use permit modifications.

Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit. The ~~planning director~~Community Development Director may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:

- A. The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and
- B. The addition or modification is determined by the ~~planning director~~Community Development Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.
- C. The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.
- D. Such additions or modifications approved administratively shall be recorded by the ~~planning director~~Community Development Director on the CUP record.

19.57.250 Conditional use permit violations.

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed, and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the ~~planning director~~Community Development Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.

~~Remedies of the city may include civil, or criminal enforcement. Any such violation is a civil infraction and shall subject the person responsible for the violation to a C-9 penalty (see LMC 1.24.040) and/or revocation of the conditional use permit.~~

Commented [HG31]: Adopted by Ord. 23-1680 but in the wrong section. Restoring the language as intended to CUP violations.

19.57.300 Bed and breakfast establishments and short-term rentals purpose.

Bed and breakfast establishments and short-term rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.

19.57.310 Bed and breakfast and short-term rental applicability.

- A. The ~~planning director~~Community Development Director is authorized to approve bed and breakfast (B&B) establishments and short-term rentals (STRs) consistent with the regulations of this chapter.
- B. Establishments meeting the conditions and criteria outlined in LMC 19.57.320 are permitted as follows:

1. B&Bs and STRs are permitted in detached homes or an ADU associated with a single-family home that is located on residentially or commercially zoned properties.
2. STRs are permitted in attached housing types such as townhomes or apartments under the following conditions:
 - a. The underlying zoning category is RM-4.
 - b. No more than ten percent of units within the complex be offered as STRs.
 - c. Local management is available to all units in the complex twenty-four hours a day, seven days a week to address noise complaints, inappropriate behavior, or maintenance issues that may arise related to the STRs.
 - d. The fee associated with a city of Lynden home occupation permit is required for each unit rented as an STR but may be filed together under one application.

19.57.320 – no changes

Chapter 19.59 COMMUNICATION FACILITIES – no changes

Chapter 19.61 LANDSCAPE REQUIREMENTS

19.61.010 Purpose and Definitions.

A. Purpose.

The purpose and intent of this chapter is to provide landscape development and buffering requirements in order to maintain and protect property values, enhance the appearance of the development, protect the aesthetic assets of the community, reduce erosion and storm water run-off, and provide screening between incompatible land uses. The landscape requirements of this chapter are minimum standards. ~~additional landscaping will be encouraged.~~

B. Definitions

As used in this chapter.

"Berm" means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

"Buffer" means a combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

"Deciduous" means a plant with foliage that sheds annually.

"Conifer" means a plant with foliage that persists and remains green year-round, commonly known as evergreens.

"Ornamental tree" means a deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

"Screen" means a method of reducing the impact if noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

"Shade Tree" means usually a deciduous tree planted primarily for its high crown of foliage or overhead canopy; normally a deciduous and rarely an evergreen.

"Shrub" means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

"Tree" means a large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or coniferous.

Commented [HG32]: Moved definitions to the start of this section from LMC 19.61.150.

19.61.020 Scope.

This chapter shall apply to all RM zones, MH zones, CS zones, I zones, public facilities, and any residential developments where the development is larger than four

lots. No building permit, shall be issued where landscaping is required until a landscaping plan has been submitted and approved by the ~~city planner~~[Community Development Director or their designee or the design review board where applicable](#). A landscaping plan is not required for a single-family building permit.

19.61.030 Landscape development plan.

Landscape development plans shall indicate all areas to be preserved and planted including proposed fencing and landscape features. The landscaping plan shall also show locations of individual trees and shrubs; and include name, size, spacing and quantity of the plant materials and all proposed irrigation lines and structures. It is recommended that a landscape architect or a professional nurseryman prepare required plans.

19.61.040 Performance bond.

No permanent occupancy permit shall be granted until landscaping required under this chapter is completed. However, a permanent occupancy permit may be granted if a performance guarantee bond in the amount of one hundred fifty percent of the anticipated cost of the unfinished landscaping is posted guaranteeing the installation of required landscaping is posted within one hundred eighty days. If landscaping is not so completed, the city may finish it, in accordance with the approved plan, using the bond to pay the completion costs. The bond may be posted by certified check payable to the city, assignment of a restricted savings account to the city, or posting an irrevocable letter of credit or a bond with the city.

19.61.050 Landscape maintenance.

Plantings including trees and shrubs shall be maintained in a healthy growing condition. Dead plants or trees shall be replaced by the property owner. If it becomes necessary for the city to take action in removal and/or replacement of required landscaping, the property owner will be billed for all costs associated with the removal and/or replacement. The property owner is also responsible to keep the landscaped areas reasonably free of weeds and trash.

19.61.060 Plant choices.

All species shall be native to the area or recognized as being easily adaptable to the climate. The city will require the applicant to conform to the city's design and development standards including modifying the plant choice to:

- A. Eliminate undesirable species which may conflict with power lines or sewers because of their growth or invasive root systems.
- B. Provide a diversity of species.
- C. Provide plant materials that will fulfill the buffering or landscaping purposes of that planting on a year-round basis.
- D. Provide visual relief on long facades.

- E. Provide species that are resistant to drought conditions.

19.61.070 Landscaping and planting strip types for side and rear yards.

- A. TYPE I. Ornamental Landscaping. This landscaping shall consist of a combination of trees, shrubs and other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it. A mixture of evergreen and deciduous plantings reaching a maximum height of thirty inches is recommended. This does not apply to non-sight obscuring trees.
- B. TYPE II. Mixed Trees, Shrubs, Low Plantings. This planting strip shall consist of one row of trees spaced a maximum of ten feet on center. The remainder of the planting strip shall be planted with plantings that will result in an attractive ground cover within two years.
- C. TYPE III. Sight Screening Evergreen Hedge. The purpose of this landscaping type is to provide a sight, sound and psychological barrier between zones with some degree of incompatibility. The spacing of evergreen plants shall be such that they form a dense hedge within three years. The minimum height, at the time of planting, shall be four feet, except where the hedge would interrupt the clear vision triangle.
- D. TYPE IV. Low Plantings, Trees, and Fencing. Evergreen conifer trees shall be spaced a maximum of fifteen feet on center, backed by a seventy-two inch fence which forms an effective barrier to sight, except where the fence would interfere with the clear vision triangle (see Chapter 15.28). The fence shall be placed on the inside of the planting strip. The remainder of the landscape area shall be planted with plantings that will result in an attractive ground cover within three years.
- E. TYPE V. Wall of Trees. The purpose of this landscape type is to provide a sight, sound and psychological barrier between zones with a high degree of incompatibility. This planting strip shall consist of two rows of trees staggered and spaced a maximum of ten feet on center, so as to form an effective visual barrier within five years. The minimum tree height, at the time of planting, shall be six feet, except where it would obscure the vision triangle.
- F. TYPE VI. Boulevard or Parking Strip. Boulevard or parking strip plantings are encouraged. The strip should be planted with non-fruit bearing, deciduous trees a minimum of fifty feet on center. At the time of planting deciduous trees shall be at least three inches in diameter at four feet in height, and all necessary root barriers shall be installed.

19.61.080 Residential landscape requirements.

Objective - To enhance the aesthetics of communities through the installation of landscape and the screening undesirable elements. Also, to enhance safety and function of residential properties through appropriate maintenance of landscape plantings.

- A. Detached Residential Single-Family (RS) Landscape Requirements.

1. Property owners may landscape adjacent to sidewalks on any city street provided that at no time the landscape encroaches into the path of the sidewalk which would impede pedestrian movement or create unsafe conditions. It is the property owner's responsibility to maintain the landscape in this manner.
2. Hedges. To facilitate visibility along streets and sidewalks, hedges which fully block visibility must not be planted within three feet of the sidewalk. View triangles, which protect sight distance, at street intersections may require additional height restrictions.
3. Street trees are required at the time of plat as outlined in Chapter 18.14. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
4. All plantings on city property are subject to removal by the property owner at the city's discretion and property owner's expense. In the case that the property owner does not remove the planting, the removal will be done by the city and the property owner will be billed.

B. Multi-Family Residential (RM) and Attached Single-Family Landscape Requirements. All proposed multi-family and attached single-family development greater than two attached units in these zones shall comply with the following standards. Variances, in accordance with the process set forth in Chapter 17.17 LMC, may be authorized by the [planning director](#) [Community Development Director](#) where factors such as but not limited to, topography, other site constraints prevent strict compliance.

1. All public streets will be required to include street trees between the curb and sidewalk, ~~unless a variance to the street section standard and design is granted. or, to better support the health of the tree, internal to the property but within ten (10) feet of the sidewalk. If located internal to the property a landscape easement must be recorded which recognizes an area as a qualified location for the required street trees. The Public Works Department may disqualify locations if tree planting will conflict with public utilities~~
2. Entry areas, access easements, and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrances to the multi-family development, defined for this section as the entrances from public roadways, shall have landscaped areas on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway intersect and running a distance of twenty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines. These areas may be utilized as rain gardens.
3. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more

Commented [HG33]: Changes here clarify that street trees may be planted inside the property instead of planting strips under certain circumstances.

mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation:

- a. Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.
 - b. At the time of installation, shrubs must be a variety of sizes (one to five-gallon pots) and upright shrubs must have a minimum height and spread of eighteen to thirty-six inches. Spreading shrubs should have a minimum of twelve to eighteen inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan). Hedge material must have a minimum height of four feet at the time of planting.
 - c. Ground covers planted from flats shall have a maximum spacing of twelve inches on center or, when planted from one-gallon pots, a maximum spacing of twenty-four inches on center.
4. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.
 5. Building foundation plantings are required around all areas of the building except immediately adjacent to entries or garage doors. Sidewalks shall not be included within these areas. Installation of plant material is required and must be appropriate to the scale of the building. Area required is as follows:
 - a. Buildings containing two—four units must provide a planting area a minimum of four feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than two feet.
 - b. Buildings containing more than four units must provide a planting area a minimum of six feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than three feet.

19.61.090 Minimum landscape standards for required landscaping.

- A. In order to reduce the incompatible characteristics of abutting properties with different land use classifications, minimum landscaping standards shall be applied to planting strips on the interior property lines of the most intense land use. In the case of a less intense land use being developed directly adjacent to an existing land use of higher intensity, the landscaping requirements may be established as a permit condition and may be placed on the interior property line of the less intense land use.

B. For the purpose of this ordinance, the following is a listing of land uses in order of intensity from the highest to the lowest: ID, CSL, HBD, CSR, IBZ, TR, MH, RM-4, RM-3, PU, RM-PC, RM-2, RM-1, RMD, RS-7,200, RS-8,400, RS-10,000.

1. All I zones adjacent to all CS zones: Type III planting strip, ten feet in width.
2. All I zones adjacent to public, semi-public or PU areas: Type III planting strip, fifteen feet in width.
3. All I zones adjacent to MH zones: Type III planting strip, ten feet in width.
4. I zones adjacent to TR zones: Type III planting strip, fifteen feet in width.
5. All I zones adjacent to RM housing: Type IV planting strip, ten feet in width. If IBZ, fencing is optional.
6. All I zones adjacent to RS housing: Type V planting strip, fifteen feet in width.
7. CS zone adjacent to all MH: Type III planting strip, ten feet in width.
8. All ~~CS~~-zones more intense than PU, at noted above, and adjacent to public or semi-public or PU areas: Type III planting strip, ten feet in width.
9. All CS zones adjacent to RM housing: Type II planting strip, ten feet in width.
10. All CS zones adjacent to RS housing: Type IV planting strip, fifteen feet in width.
11. TR zone adjacent to RM zones: Type III planting strip, ten feet in width.
12. TR zone adjacent to RS zones: Type IV planting strip ten feet in width.
13. MH zone adjacent to RS housing: Type IV planting strip, ten feet in width.
14. MH zone adjacent to RM housing: Type III planting strip, ten feet in width.
15. RM housing adjacent to RS housing: Type IV planting strip, ten feet in width. Fencing is optional.
16. PRD adjacent to all other zones: Type II planting strip five feet wide, except I and CS zones where it shall be ten feet in width.
17. Public buildings and utility sub-stations within all RS and RM zones: Type I planting strip five feet wide.

18. All PU zones adjacent to RM-PC, RM-1, RM-2, RMD, or RS zones: Type II planting strip ten feet in width.

B. Placement. Landscape buffers must always be placed along the property line of the more intense use when adjacent to residential uses. However, when adjoining properties are located within Industrial, Commercial or Public Use zones the landscape buffer may be moved into the property so that a drive aisle may be located between the property line and the required buffer.

Commented [HG34]: Buffers must be at the property line unless existing landscape on neighboring property already exists THEN the buffer may be flexed more interior to the property.
This allows for the potential of a shared driveway. Also, does not relieve the industrial property of the requirement in these areas even if the neighboring property has existing fence, hedge, or landscape (which is frequently the case).

19.61.100 Landscaping requirements for commercial and multi-family properties, schools, houses of worship, and public use facilities and industrial parking lots.

- A. Parking Lots. Landscaping requirements for parking lots should incorporate LID techniques as feasible and seek to provide cover over paved areas to slow stormwater runoff and reduce the impact of heat and glare. Parking lot designs must-and meet the following standards:
1. A. — Parking lots fronting on a public street right-of-way shall have fifty square feet of "Type I" landscaping for every thirty-five hundred square feet of parking area in addition to their required street trees. Additional landscaping is encouraged, provided that the pPlanting shall not obstruct the vision triangle at street intersections and driveways.
 2. B. — Additional plantings may be placed on street right-of-way behind the sidewalk line if the owner agrees to remove the landscaping, at the owner's expense, upon request of the city. The owner will maintain all landscaping placed in the right-of-way.
 3. C. — ~~No landscaping area shall be less than fifty square feet in area,~~
 3. D. — ~~No parking stall shall be located more than fifty feet from a landscaped area.~~ Parking Lot Landscape Islands are required for Commercial, Multi-Family, and Public Use zoned properties as well as schools and houses of worship per the following:
 - a. Only a maximum of 12 contiguous stalls are permitted without placement of a landscape island.
 - b. Landscape islands must be a minimum of 8 feet wide and 16 feet long in order to support the growth of a shade tree.
 - c. Every row of parking stalls must terminate in a landscape island that is a minimum of eight (8) feet wide except that up to half of these terminals may instead accommodate an eight (8) foot sidewalk or a combination of sidewalk and landscape area which equals a total of eight (8) feet in width.
 - a.d. The ~~planner~~Community Development Director may approve landscaping plans involving alternatives to this specification for individual properties if the proposed alternative would create an equal amount of landscape area and support the same or more shade trees internal to the parking lot. be more effective in meeting the purposes of this chapter.
 4. E. — All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in satisfaction of these requirements.

~~F. ——— Parking lots containing less than twenty parking spaces need provide only perimeter screening to satisfy the landscaping area requirements.~~

5. ~~G. ———~~ When a parking lot abuts residentially designated property along any interior property line, a "Type III" buffer, or a minimum five-foot wide "Type IV" buffer with plantings spaced to form a solid sight-obscuring screen within three years, shall be installed along the property line. An earthen berm may be substituted for the above landscaping requirements, provided that the berm acts as a substantial buffer or screen, is height and width appropriate to the area and is planted with grass or other appropriate ground cover. This requirement shall not apply when the abutting residentially designated property is six feet or more above or below the elevation of the immediately adjacent parking area.

6. ~~H. ———~~ All landscaped areas shall be protected from vehicle damage by a six-inch protective curbing and, if necessary, wheel blocks.

B. Property Perimeter Landscape.

1. Landscape buffers between zones are required as described in LMC 19.61.090.
2. All public streets will be required to include street trees between the curb and sidewalk or between the sidewalk and the property whichever is most conducive to the long-term health of the tree and meets the approval of the Public Works Director.
3. The property perimeters adjacent to public streets must have a six (6) foot Type 1 landscape buffer unimpeded by vehicle overhang or eight (8) feet when including vehicle overhang from adjacent parking. Tree and plantings shall be located for interest, variety and public safety. Tree plantings shall conform to the approved selection list available from the city. Trees planted here may be counted toward the street tree requirement if a landscape easement is recorded recognizing the area as a qualified location for required street trees, however, the Public Works Director may disqualify one of these locations if it conflicts with public utilities
4. All landscaped areas shall have an appropriate irrigation system to ensure that plantings are adequately watered. Irrigation systems shall be designed to minimize water runoff onto sidewalks or streets.
5. Landscape improvements within adjacent rights-of-way are required. At a minimum this includes the establishment of lawn within parking strips and adjacent to sidewalks. Additional landscape material in these areas is permitted provided it does not impede pedestrian movement, block vision triangles at intersections, or create a condition which is deemed unsafe by the Public Works Director.

C. Foundation planting. Landscape enhancement may be required along primary facades per LMC 19.23.080(A) depending on the scale of the building. Facades

which are visible from public streets, a shared access easement, or primary parking areas but do not include primary entrances, loading facilities, or sidewalks must incorporate foundation landscaping as described in this section.

1. These facades, on buildings with footprints of 10,000 square feet or less must include planting areas a minimum of 4 feet wide by the length of the façade.
2. These facades, on buildings with footprints greater than 10,000 square feet but less than 50,000 square feet must include planting areas a minimum of 6 feet wide by the length of the façade.
3. These facades, on buildings greater than 50,000 square feet must include planting areas a minimum of 12 feet wide by the length of the façade.

D. Plant Selection and Sizing. The following sizes and spacing are required for plant materials at time of installation.

1. Street trees shall have a minimum caliper size of one and one half (1.5) inches. Trees located elsewhere including planting islands within parking areas or adjacent to buildings shall have a minimum caliper size of one inch. Tree species which drip sap or could drop fruit must be avoided in parking lots and near sidewalks.
2. At least half of the shrubs installed must be a minimum of a three-gallon pot size. Spreading shrubs should have a minimum of eighteen to twenty-four inches of growth (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan).
3. Perennials and grasses must be at least one gallon in size at the time of installation.
4. Ground covers planted from flats must have a maximum spacing of twelve inches on center or, when planted from one gallon cans, a maximum spacing of twenty-four inches on center.

Commented [HG35]: Planning Commission requested that code include language which requires that applicants avoid trees which may damage or be nuisance to vehicles. Such as sap or fruit.

19.61.110 Tree removal or planting.

- A. No person shall remove any tree(s) or shrub from any street, alleys, boulevard or parking strips of the city of Lynden without first having applied for and received a permit from the city to do so. The application for the permit and the permit shall be on forms prescribed by the city and there will be no charge for such a permit.
- B. No person shall plant any tree(s), or shrubs on the streets, alleys, boulevard or parking strips of the city of Lynden without first having applied and received a permit from the city. There will be no charge for such a permit.

19.61.120 Boulevard or parking strip—May be required.

Boulevard or parking strips are encouraged and may be required by the city as part of development permit approval. Planting requirements are listed above as Type VI

planting strips. Where street trees are required, the trees fronting a building lot must be installed prior to final occupancy for that building constructed on the building lot. At the time of plat approval, a note shall be placed on the face of the plat indicating that it is the responsibility of the property owner to maintain all trees placed within the city right-of-way abutting their property.

19.61.130 Boulevard or parking strip—Development and maintenance.

- A. Street trees shall be planted in accordance with accepted commercial planting procedures and appropriate root barriers shall be installed at the time of planting.
- B. Street trees shall be chosen in accordance with the plantings recommended by Puget Sound Energy. Lists of recommended trees are available from the [Planning Department](#)~~Community Development Department~~.
- C. The Public Works Director will prune and maintain, or cause to be pruned and maintained at the expense of the property owner, all of the trees along Lynden streets. The city will maintain the street trees on Front Street between First and 17th Streets. The remaining trees will be the responsibility of the adjacent property owner to maintain. If said trees are not maintained, the Public Works Director may cause those trees to be maintained at the expense of the adjoining property owner.
- D. All trees along city streets shall maintain a minimum clearance of thirteen feet, six inches between the ground and lowest branch. Street trees shall not be planted within the clear vision triangle.
- E. Adjacent property owners shall be liable for any persons injured or who otherwise suffers damage due to the failure of trimming and proper maintenance of trees by adjacent property owners. This shall include the replacement of sidewalks damaged by intruding roots.

19.61.140 Maintenance of existing trees.

When a building or development is planned on a site that includes existing trees greater than twelve inches in diameter at five feet in height, every reasonable effort shall be undertaken to preserve those trees. Except however, that those trees that are diseased or that pose a threat to public safety may be removed. All landscape plans must show all existing trees, those trees to be removed and the placement of a number of trees equal to that number of trees to be removed.

19.61.150 Definitions.

~~As used in this chapter.~~

~~"Berm" means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.~~

~~"Buffer" means a combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.~~

~~"Deciduous" means a plant with foliage that sheds annually.~~

Commented [HG36]: Moved to the start of the Chapter.

~~"Conifer" means a plant with foliage that persists and remains green year-round, commonly known as evergreens.~~

~~"Ornamental tree" means a deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.~~

~~"Screen" means a method of reducing the impact of noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.~~

~~"Shade Tree" means usually a deciduous tree planted primarily for its high crown of foliage or overhead canopy; normally a deciduous and rarely an evergreen.~~

~~"Shrub" means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.~~

~~"Tree" means a large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or coniferous.~~

19.25.070-19.61.150 Industrial Zone - Landscaping requirements.

~~In addition to the landscaping requirements of Section 19.61.100 of this title, a~~
proposed development ~~in these zones within IBZ and ID zones~~ shall generally comply with the following standards. ~~Variations may be authorized by the planning director where reasonable factors such as topography, other site constraints, or proposed improvements offset the need for strict compliance.~~

- A. All public streets will be required to include street trees between the curb and sidewalk ~~or within the property if located within 10 feet of the sidewalk and a landscape easement is recorded recognizing the area as a qualified location for required street trees. The Public Works Department may disqualify one of these locations if it conflicts with public utilities, unless a variance to the street section standard and design is granted.~~
- B. The parcel's street frontage will have a ten foot Type 1 landscape buffer. Tree and plantings shall be located for interest, variety and public safety. Tree plantings shall conform to the approved selection list available from the city.
- C. Entry areas and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrance, defined for this section as that entrance frequented by office staff and visitors to the site, shall have a landscaped area on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway curb intersect and running a distance of fifty (50) feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines.
- D. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more

Commented [HG37]: Moved from the industrial zone language in 19.25 to the more logical location of 19.61 so that all landscape standards are found in the landscape chapter.

mature plant materials are ~~encouraged~~required to ensure that some immediate effect on the project's appearance will be attained within two (2) years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.

1. Street trees shall have a minimum caliper size of two (2) inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half (1 ½) inches. Trees located elsewhere are to have a minimum caliper size of one (1) inch and equivalent to a fifteen-gallon container size.
 2. Shrubs should be a minimum of five-gallon pot size and upright shrubs should have a minimum height of eighteen inches with a minimum spread of eighteen (18) inches. Spreading shrubs should have a minimum of eighteen to twenty-four (24) inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan).
 3. Ground covers planted from flats should have a maximum spacing of twelve inches on center or, when planted from one gallon cans, a maximum spacing of twenty-four inches on center.
- E. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.
- F. All landscaped areas shall have an appropriate irrigation system to ensure that plantings are adequately watered. Irrigation systems shall be designed to minimize water runoff onto sidewalks or streets.
- G. There shall be a minimum Type III landscape buffer between industrial development and any residential zone. This buffer shall be a minimum of ten (10) feet in width.

Chapter 19.63 FENCE PERMITS AND REQUIREMENTS

19.63.010 Fence permit required.

No fence shall be erected in the city limits unless a permit for construction of the fence is first obtained.

19.63.020 Fence permit fee.

The fee for obtaining a fence permit shall be set by resolution.

19.63.030 Utilities location.

It shall be the responsibility of any person placing a fence in the city limits to determine the location of all underground utilities and to take measures to avoid interfering with them.

19.63.040 Fence location.

Fences shall not be built closer than three feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. Fences erected by owners of private property shall not be erected so that they encroach on any city-owned property, including street and alley, rights-of-way, except as provided in Section 19.63.050.

19.63.050 Fences on public right-of-way—Conditions.

Private fences may be built within the public right-of-way, on the property owner's side of the sidewalk on a city street that has an overall right-of-way of more than sixty feet as follows:

- A. If there is no curb and/or sidewalk, the public works department shall determine fence location, which may be on city-owned property.
- B. Within a residential zone or for residential uses within a nonresidential zone a fence may be built as close as three feet to the sidewalk.
- C. Fences shall not be allowed on city property for nonresidential uses permitted within a residential zone.
- D. Fences will not be allowed on city-owned property unless the owner agrees to remove the fence at the owner's expense upon request of the city. The owner must sign an agreement which will be recorded with the Whatcom County auditor, evidencing such agreement and agreeing that if the owner does not remove the fence upon the city's request, the owner will reimburse the city for the cost of removal. The owner shall pay for the cost of recording the agreement with the Whatcom County auditor.

19.63.060 Fence requirements.

Fences shall be built to the following specifications:

- A. Electric, razor, and barbed wire fences are not permitted in residential zones.
- B. All gates shall swing into the owner's property.
- C. A clear vision triangle as defined in Section 17.01.030 shall be maintained on all corner lots at the street intersection. A ten-foot clear vision triangle shall be maintained at all alley, railroad, and driveway intersections with streets and all driveway/alley intersections. The driveway vision triangle shall be measured from the paved driveway sides or five feet each way from the driveway center, whichever is more restrictive. Fences of three feet or less in height, measured from curb height, are allowed in all vision triangles. Clear vision triangle is defined in [LMC Chapter 17.01](#) ~~of this code~~ and within the adopted engineering design and development standards.
- D. Fence heights for residential uses will be as follows:
 - 1. Reduced fence heights along the front and sides of a front yard must extend five feet behind the front corner of the house. The maximum fence height in this location shall be forty-two inches.
 - 2. From thirty feet from the front property line, or five feet behind the corner of the house as noted above, to the rear property line, the maximum height of any fence shall be seventy-two inches.
 - 3. Side yard fences where the side yard is the rear yard for the adjacent property may be seventy-two inches in height, on that side only, provided that there is a minimum setback of fifteen feet from the front property line and does not extend beyond the front of the house, whichever is more restrictive. No vision triangle may be obstructed and the opposing side must comply with all other setback and height requirements.

Fence height is determined by measuring from the natural ground level adjacent to the fence to the top of the fence structure, including all latticework or other decorative features allowing a maximum of two inches for ground clearance. The ~~design review board~~ [Community Development Director or their designee](#) may grant, or grant with conditions, a waiver to this height limit for no more than eighteen inches upon the following conditions:

- 1. The neighboring property owner(s) does not object;
- 2. If the side or rear yard is located immediately adjacent to a city street right-of-way, but not an alley right-of-way, the fence may not be parallel to the city street or sidewalk;
- 3. That in accordance with the requirements of the International Building Code the applicant will submit a construction permit with complete structural detail to the ~~building official~~ [Building Official](#) and other applicable departments for approval. The cost for such permit is based on the cost of the fence and such permit replaces the fence permit required by this chapter;

4. The fence is in the rear or side yard;
 5. The replacement of an existing fence that is nonconforming as to the maximum height, and is not located in the front yard, may be exempt from the variance process described above. However, the applicant must obtain all required construction permits.
- E. Fence heights for property in a residential zone being used for nonresidential permitted uses shall be subject to the requirements of Section 19.63.080.

19.63.070 Privacy fencing.

Patio and courtyard privacy fencing is allowed up to a maximum height of seventy-two inches, and an overall combined length of twenty-five feet. Privacy fences shall be considered part of the residential structure and shall meet all structure setbacks for front, rear and side yards; provided, however, that rear and side yard setbacks may be waived by the planning department if, in their opinion, there is no apparent conflict with adjoining property uses.

19.63.080 Nonresidential zone fences.

Fences in the industrial and commercial zones and for nonresidential uses in the RS zone are allowed subject to the following conditions:

- A. Maximum height for solid fencing on all nonresidential properties is eighty-four inches.
- B. Wire fencing may be allowed up to eighty-four inches on properties with a nonresidential zoning except that a maximum height of one hundred and forty-four inches is permitted on industrially zoned properties.
- C. Street, alley, railroad and vision triangle requirements of Section 19.63.060(C) shall apply, provided, however, that higher wire fencing may be allowed, if, in the opinion of the public works director, the fence will not obstruct vision in the vision triangle.
- D. Except where the fence would interfere with the clear vision triangle as defined in Section 17.01.030, fences within the industrial zones must be placed a minimum of fifteen feet from the front property line. All other fencing requirements shall be as found in Chapter 19.63 of the Lynden Municipal Code.

Commented [HG38]: Copied in its entirety from industrial standards to this fence section. Previously located in LMC 19.25.080 "Fence Location".