

## **Ordinance No. 1616**

### **AN ORDINANCE OF THE CITY OF LYNDEN AMENDING CHAPTERS 17, 18 AND 19 OF THE LYNDEN MUNICIPAL CODE REGARDING NON-CONFORMING MOBILE AND MANUFACTURED HOME COMMUNITIES**

WHEREAS, the City is responsible for enacting regulations that protect the health, safety and general welfare of the citizens of Lynden; and

WHEREAS, the Growth Management Act requires that local governments planning under the Act must adopt regulations which implement adopted comprehensive plans; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time ensure orderly review of zoning regulations within the City.

WHEREAS, The City's Comprehensive Plan is supportive of a variety of housing types and encourages development which may assist in the affordability of housing, including Manufactured Home Communities (MHCs); and

WHEREAS, Definitions related to the mobile and manufactured homes currently appear in conflict with each other as they appear in both LMC 18.22 and LMC 17.01.030. The City's definitions may not be consistent with the State of Washington definitions and provisions. Legal review has resulted an update and consolidation of the City's definitions related to MHCs; and

WHEREAS, on July 10, 2020, the City issued a SEPA Determination of Non-Significance related to this Ordinance; and

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on December 10, 2020, to accept public comments on the proposed regulations and recommended adoption to the City Council.

WHEREAS, on December 22, 2020, the City provided notification to the State's Department of Commerce pursuant to RCW 36.70A.106 regarding the proposed update to Chapters 17, 18 and 19 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on February 1, 2021, and a date for a public hearing was set; and

WHEREAS, on February 16, 2021, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments and to consider the matters of record to that date; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

**SECTION A Title 17, Title 18 and Title 19 amended as follows:**

**Title 17**

**Excerpt of 17.01.030 – Definitions**

The following definitions shall apply to Titles 16 through 19; other definitions may be found in individual titles. The definitions set forth in this chapter shall apply to the terms used in this title. Those terms not defined in this chapter, shall be as defined in the 1991 Uniform Zoning Code.

"Manufactured home, Designated" A designated manufacture home means a single-family home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes which: (a) is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long; (b) was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 4:12 pitch; and (c) has exterior siding similar in appearance to siding materials commonly used on site-built, single-family homes according to the International Building Codes.

"Manufactured home" means a single-family dwelling required to be built in accordance with the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976 under the national Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

"Mobile home" means a factory-built dwelling constructed prior to the implementation of the federal Department of Housing and Urban Development's manufactured housing construction safety standards and regulations (24 CFR 3280 et seq) adopted June 15, 1976, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since June 15, 1976.

"Mobile home awning" means a stationary structure, permanent or demountable, used in conjunction with a mobile home, other than a window awning, for the purpose of providing shelter from the sun and rain, and having a roof with supports and not more than one wall or storage cabinet substituted for a wall.

"Mobile / manufactured home community" or "MHC" means mobile or manufactured home parks or subdivisions.

"Mobile / manufactured home park" means a tract of land under single ownership or control upon which two or more mobile/manufactured homes occupied as dwellings may be located.

"Mobile/manufactured home subdivision" means two or more mobile/manufactured homes on separate lots developed under the provisions of Title 18 LMC where mobile/manufactured homes are permanently installed for residential use on individually owned lots.

"Modular home" means a home built in a factory in modules that is then transported and set up on a parcel of land.

"New manufactured home" means any manufactured home required to be titled under Title 46 RCW, which has not been previously titled to a retail purchaser and is not a "used manufactured home" as defined in RCW 82.45.032(2).

"Nonconforming building" means a building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the district in which it is located.

"Nonconforming lot" means a lawfully established lot which does not conform to the provisions of the development code.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform with the use and zoning regulations.

"Permitted use" means the specific purpose for which land and/or a building is designed, arranged and intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

"Plat" means a map or representation of a subdivision showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys, or other divisions and dedications.

"Recreational vehicle" means a vehicular unit, other than a mobile home, which is designed as a temporary dwelling for travel, recreational and vacation use, and which is either self-propelled, mounted on or pulled by another vehicle. Examples include, but are not limited to, a travel trailer, camping trailer, truck camper, motor home, fifth wheel trailer or van.

## **Title 18**

### **Excerpt of 18.22 – Mobile Home/Manufactured Home Park and Subdivision Standards**

#### **18.22.010 - Purpose.**

The purpose of this chapter is to establish the standards and criteria by which mobile/manufactured home subdivisions and parks may be sited and developed within the city. These standards are necessary to ensure the uniform, coordinated

development of the community and to assure the general health, welfare and safety of the occupants of the mobile/manufactured homes that are located within a subdivision or park developed under these standards. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.020 - Definitions. (See LMC 17.01.030)

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.030 - Requirements for a completed application.

An application must submit the information as stated in 18.16.010 LMC for preliminary plats. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.040 - Type of approval required.

- A. All mobile home parks shall be processed in the same manner as a binding site plan.
- B. All mobile/manufactured home subdivisions shall be processed in the same manner as subdivisions in this title. (Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

18.22.050 - Siting criteria.

The following minimum criteria apply to the siting of mobile/manufactured home parks and subdivisions.

- A. Minimum site development area: Five acres
- B. Maximum site development area: Twenty acres
- C. Minimum perimeter buffer: Thirty feet of Type V landscape buffer.
- D. Minimum unit site area: Four thousand two hundred square feet.
- E. Minimum common open space area: Ten percent of gross site area. Common open space consists of either an active or passive recreational area accessible and useable to all tenants within the park. Common open space is exclusive of the required perimeter buffers.
- F. Maximum density: Six units per acre.
- G. Unit type:
  - 1. Recreational vehicles which meet fire and safety regulation; hook up to utilities in a way that meets code; are appropriately skirted; and contain at least one toilet and at least one shower or that these amenities are provided to the residents of the MH community (RCW 35A.21.312(3),

2. Single, double or triple wide configuration.
3. Modular homes.

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

#### 18.22.060 - Development standards.

All plans for improvements listed below shall be designed and stamped by a professional engineer:

- A. Easements for electric, telephone, telecommunications, water, storm and sanitary sewer, gas and similar utilities shall be a minimum of ten feet to assure future maintenance.
- B. Subdivisions shall provide underground utility lines, including, but not limited to those for electricity, communications, cable TV and street lighting.
- C. All streets, curbs, gutters, sidewalks, bridges, drains, culverts, and related structures and facilities shall be constructed in accordance with the other chapters of the LMC, city's design and development standards and applicable state and federal requirements; provided however:
  1. Private roads within a mobile/manufactured home park shall be privately owned. Interior roads must have a minimum surface width of twenty-four feet with a rolled edge curb on both sides of the street. Interior roads must meet the construction requirements of the project manual for engineering design and development standards for the street section. No on-street parking will be permitted.
  2. Public roads. Roads within a mobile/manufactured home subdivision must be public streets, meeting the requirements of the City of Lynden Project Manual for Engineering Design and Development Standards for a residential access street.
- D. Water supply facilities adequate to provide potable water from a public supply to each lot within a subdivision shall be installed in conformity with the city's design and development standards. Each lot shall be provided with a connection to the city's sanitary sewer, water and stormwater system in conformity with the city's design and development standards.
- E. Prior to construction of any structures within the subdivision, all public utilities shall be installed in conformance with the city's design and development standards.
- F. Parking. Parking shall be as required per Chapter 19.51 LMC. One additional off-street parking space will be required for every five mobile/manufactured home site within a mobile/manufactured home park. These parking areas shall

be spaced through the park conveniently to the homes they are intended to serve.

- G. Outdoor lighting. Outdoor lighting shall be provided to adequately illuminate pedestrian walkways as required in the city's design and development standards. Such lighting shall be shielded so that the direct illumination shall be confined to the property boundaries of the light source. Ground mounted floodlighting or light projection above the horizontal plane is prohibited between midnight and sunrise.

- H. Landscaping. Landscaping shall be as provided in Chapter 19.61 LMC for mobile home parks or subdivisions.

(Ord. 1194 §§ 1, 10, 2004). (Ord. No. 1546, § 9, 12-4-2017)

## **Title 19**

### **Excerpt of LMC 19.15 – RS Single-Family Building Zones**

19.15.010 - Purpose and zones established.

- A. Three single family zones are established:

<b>Zone</b>	<b>Minimum Lot Size</b>	<b>Maximum Density</b>
RS-100	10,000 square feet	4 DU/acre
RS-84	8,400 square feet	4.5 DU/acre
RS-72	7,200 square feet	5 DU/acre

Existing lots may be developed with single family homes even though they do not meet the size requirements of single-family zones. Future land divisions must meet the area requirements specified in the zone; provided however, that Title 18, subdivisions, provides for methods of subdivision resulting in lots of different sizes.

The goal of this title is to: protect the character and the social and economic stability of all parts of the community and to encourage the orderly and beneficial development of the community through appropriate growth management techniques; to assure proper urban form and open space separation of urban areas; to protect environmentally critical areas and allow flexibility in site and design standards while promoting infill projects compatible with existing single-family developments.

- B. Use of Low Impact Development Techniques. When an application for single family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, as applicable, is authorized to approve land divisions even though they may not meet the lot size requirements of single-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 engineer in the State of Washington;
  3. The proposed development integrates with the character of the neighborhood;
  4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
  5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

**19.15.020 - Primary permitted uses.**

- A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.
- B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.
- C. Personal services are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.
- D. Sales of general consumer goods are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only. 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, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.
- E. Restaurants and cafes are allowed in the neighborhood commercial overlay in the Pepin Creek Subarea only.

- F. Professional offices, banks and financial institutions in the neighborhood commercial overlay in the Pepin Creek Subarea only.

(Ord. No. 1581, § B, 6-3-2019)

### **Excerpt of 19.16 – Residential Mixed Density (RMD) Zone**

#### **19.16.010 - Purpose and intent.**

The purpose of creating the residential mixed density zone (RMD) is to meet the stated goals of the comprehensive plan by allowing increased residential density to be integrated within single family neighborhoods within the community.

The intent in the creation of this zone is to allow a creative mixture of single-family and duplex housing styles and types. Development of this area should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping and open space and making low impact development (LID) the preferred and commonly used approach to site development.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

#### **19.16.020 - Permitted uses.**

Permitted uses in the residential mixed density zone are as follows:

- A. Single-family dwelling units, including detached site built single family dwellings, and new designated manufactured homes as defined in Section 17.01.030 LMC. This includes types such as large lot single family and small lot single family units. Mobile homes as defined in Section 17.01.030 LMC are prohibited.
- B. Two single-family attached dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.

(Ord. No. 1576, § B, 3-4-2019; Ord. No. 1581, § B, 6-3-2019)

### **Excerpt of 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.



Six multi-family zones are established:

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

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

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

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

RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 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 planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:

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

(Ord. No. 1581, § B, 6-3-2019)

19.17.020 - Primary permitted uses.

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

	ZONE			
	RM-1	RM-2	RM-3	RM-4
Single Family Dwelling Unit	P	P	P	P

Duplex Units	P	P	P	P
Three or Four units per building	N	P	P	P
More than four units per building	N	N	P	P
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N

P = Permitted Use; N = Not Allowed

(Ord. No. 1581, § B, 6-3-2019)

## Chapter 19.19 - MH MANUFACTURED HOME ZONE

Footnotes:

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**Editor's note**— Ord. No. 1581, § A, adopted June 3, 2019, repealed Ch. 19.19., §§ 19.19.010—19.19.170, and enacted a new Ch. 19.19 as set out herein. The former Ch. 19.19 pertained to similar subject matter. Please refer to the Code Comparative Table for full derivation.

### 19.19.010 - Established.

There is established the MH—Manufactured Home Zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. No. 1581, § B, 6-3-2019)

### 19.19.030 - Primary permitted uses.

- A. The primary uses permitted in the MH—Manufactured Home Zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site-built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

(Ord. No. 1581, § B, 6-3-2019)

19.19.040 - Accessory permitted uses.

- A. Private garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. A maintenance building containing equipment and tools for owners of manufactured homes that are necessary for the repair and preservation of a manufactured home.

(Ord. No. 1581, § B, 6-3-2019)

19.19.050 - Secondary permitted uses.

- A. Community laundry facilities used by the residents of the park or development.
- B. Community buildings for the residents of the park or development. These buildings may contain offices, recreational facilities and meeting halls.
- C. Private swimming pools, as provided in Chapter 15.16 in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.

(Ord. No. 1581, § B, 6-3-2019)

19.19.060 - Maximum density.

The maximum density of a manufactured home park or development in the MH Zone shall not exceed six units per gross acre.

(Ord. No. 1581, § B, 6-3-2019)

19.19.070 - Minimum width of individual space.

No manufactured home space in the MH Zone shall be less than forty-five feet in width.

(Ord. No. 1581, § B, 6-3-2019)

19.19.080 - Manufactured home construction requirements.

- A. Manufactured homes must meet or exceed all Federal and/or State requirements.
- B. Manufactured homes placed within the city of Lynden must meet the definition of a manufactured home as defined in Section 17.01.030 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.090 - Height, area, setback and bulk requirements.

The following provides regulations for height, area, setbacks & bulk requirements:

Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet			
						Side Yard	
		Feet	Story	Front	Rear	Minimum	Total
4,200	40%	25	2	20	20	7	17

(Ord. No. 1581, § B, 6-3-2019)

19.19.100 - Manufactured home park—Individual space boundary requirements.

The boundaries of each manufactured home space in a manufactured home park shall be clearly defined and marked by a fence, planting or other suitable means approved by the planning director, or by clearly visible, permanent markers at each corner of the space. For the purposes of this code, this boundary will be considered a property line.

(Ord. No. 1581, § B, 6-3-2019)

19.19.110 - Manufactured home park—Automobile parking requirements.

There shall be provided at least two automobile parking spaces for each manufactured home space, plus one additional automobile parking space for every five manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the park.

(Ord. No. 1581, § B, 6-3-2019)

19.19.120 - Manufactured home park—Development standards.

See Chapter 18.22 of the Lynden Municipal Code.

(Ord. No. 1581, § B, 6-3-2019)

19.19.150 - Manufactured home park—Landscaping.

Privacy landscape buffers shall be required around the entire perimeter of the manufactured home park as required under Chapter 19.61 - Landscaping and Chapter 18.22-Manufactured Home Park and Subdivision Standards.

(Ord. No. 1581, § B, 6-3-2019)

**Excerpts of 19.21 – TR – Travel Trailer and Recreational Vehicle Zone**

19.21.010 - Established.

There is established the TR travel trailer and recreational vehicle zone and the standards and regulations by which certain land uses may be permitted therein.

(Ord. 1000 § A(part), 1995).

19.21.020 - Purpose.

The essential purpose of the TR travel trailer and recreational vehicle zone is to provide for uses, buildings and/or structures in which travel trailers and recreational vehicles may be located with restrictions for their uses.

(Ord. 1000 § A(part), 1995).

19.21.060 - Special property uses—Travel trailer and recreational vehicles—  
Regulations authorized.

Travel trailer and recreational vehicles may be permitted in travel trailer and recreational vehicle zones as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter.

Recreational vehicles and travel trailers may be permitted for permanent, residential use within mobile home parks including those located within the CSR zone, provided that appropriate skirting and other performance standards are met for the recreational vehicles and travel trailers and provided that the provision of the underlying zone are met.

(Ord. 1000 § A(part), 1995).

**Excerpt of 19.23 - Commercial Zoning**

19.23.020 - Permitted uses.

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

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

Land Use	HBD	CSL	CSR
Adult entertainment uses	N	C(4)	N
Agricultural product and/or equipment parts sales	N	C	P
Animal auction barn	N	N	N
Animal hospitals, veterinary clinics and kennels and veterinary laboratories	N	C	C
Auction facilities for other goods	N	P	P
Automotive support services such as auto repair, auto body painting and repair, window repair and replacement	N	C	P

Banks and financial institutions	P	P	P
Barber shops, beauty salons	P	P	P
Bed and breakfast	P	P	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(9)
Business schools	P	P	P
Car wash	N	P	P
Carpet sales	P	P	P
Clubs and lodges	P	P	N
Commercial recreation - indoor (includes bowling alleys, skating rinks)	P	P	P
Commercial sporting events	C(7)	N	C(7)
Construction material sales	N	C	P
Contractors and construction services	N	C	P
Convention center, including banquet facilities and/or meeting halls	C	P	P
Day care facilities	P	P	PA
Day spas	P	P	P
Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)	N	C	P
Fitness facilities	P	P	P

Fueling stations (may include convenience store)	N	P(2)	P(2)
Government agency offices or government facilities where at least 20% of the GFA is office-use related.	C	P	P
Grocery store	P	P	P
Home furnishings stores	P	P	P
Home improvement and hardware stores	P	P	P
Hospitals	N	N	N
Hotels, motels — includes indoor restaurants, gift shops and other businesses associated with a hotel or motel	P	P	P
House of Worship	N	P	P
Laundry and dry cleaning facilities	P	P	P
Landscape plants and landscape materials for retail sales	N	P	P
Liquefied petroleum storage station for more than 1,000 gallons, subject to International Fire Code standards	N	N	P
Liquor sales	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(10)	P
Manufactured home parks	N	N	N
Marijuana related businesses including retail sales, production, processing, medical marijuana collective gardens, and medical marijuana cooperative	N	N	N



Martial arts or dance schools	P	P	P
Medical and dental clinics (see Surgical Centers below)	P	P	P
Medical services overlay	N	N	P
Mini-storage facilities	P(6)	P	P
Mobile / Manufactured Home Communities established prior to annexation and considered an Existing Nonconforming Use	N	N	C(11)
Motor vehicle and recreational vehicle sales and service	N	C	P
Multi-family residences	P(5)	P(5), (8)	N
Non-retail communications services	P	P	P
Non-profit offices that include warehousing	C	C	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.	PA	PA	PA
Pet supply store and grooming (no boarding)	P	P	P
Pharmacy	P	P	P
Photography studio	P	P	P
Printing and duplicating shops	P	P	P
Professional and business offices	P	P	P
Public use facilities	P	P	P

Research and development facilities	N	P	P
Restaurant — with drive thru	N	P	P
Restaurants and cafés	P	P	P
Retail (general retail) not otherwise defined	P	P	P
Retail appliance and electronic equipment sales, including parts sales and repair	P	P	P
Retail feed and seed stores	N	P	P
Retail heating, plumbing and electrical equipment sales, including parts sales and repair	N	P	P
Retail shopping center or mall	P	P	P
Retail stores greater than 65,000 square feet	N	N	P(1)
Sign design, fabrication, and installation companies	N	C	P
Single-family residences existing prior to 1992	N	P	N
Skilled nursing and assisted living facilities	N	P	N
Surgical centers	N	C	P
Theaters and movie theaters	P	P	P
Truck and trailer sales and service	N	C	P
Undertaking establishment	N	P	N
Utility facilities	C	C	P
Video arcades	P(3)	P(3)	P(3)

Warehousing, including open to the public	P(6)	N	C
Wholesaling, including open to the public	N	N	C

- (1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses.
- (2) See Section 19.23.100, Special Conditions for Automobile Service Stations.
- (3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
- (4) These uses may not be located within three hundred feet 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 as part of a mixed use development, where at least sixty percent of the ground floor area is a permitted commercial use. This is calculated based on the ground floor area of all the buildings on the site where there are multiple buildings proposed.
- (6) The use is permitted under the following conditions. These conditions may be varied through the receipt of a conditional use permit.
  - a. The use must take place in an existing building. The building may be modified for warehousing or mini-storage purposes, but construction of a new facility will require a conditional use permit. New construction must meet all Dutch/European design requirements for the CSL zone.
  - b. Primary access to these facilities may not be from Front Street or Grover Street, nor may a new facility front on either of these streets, and existing pedestrian access to Front Street, Grover Street, Riverview Road or 7th Street may not be closed.
  - c. Off-street loading and truck parking facilities must be available at the site and may not abut Front Street or Grover Street without a landscape buffer as required in Section 19.61.090.A. All off-street parking requirements must be met on site.
  - d. The site must meet the requirements of the engineering design and development standards and the Uniform Building Code and Uniform Fire Code.
- (7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone under the following conditions:
  - a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the finance director.
  - b. Off-street parking is provided and monitored to ensure emergency access at all times;

- c. Police and fire departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.
  - d. No alcohol may be sold, distributed or consumed on site.
  - e. Mixed martial arts, boxing, wrestling or other "fight-type" events must meet the requirements of RCW 67.08.
- (8) Multi-family development is permitted within the CSL zone under the following conditions:
- a. This use is permitted only within the North Lynden Sub-Area;
  - b. No residential development will be permitted at the intersections of arterial streets and/or state highways in the area determined by measuring two hundred feet along both front and side property lines and diagonally connecting the ends of the two lines.
  - c. Minimum density: Eight units per acre.
  - d. Maximum density: Twenty-four units per acre.
  - e. Off-street parking: As required by Chapter 19.51 LMC.
  - f. Height: As per Section 19.23.050.
  - g. Setbacks: As per Section 19.17.060.A.
  - h. Minimum lot size: Based on number of units and calculated under Section 19.17.060.B.
  - i. Lot coverage and open space: As per Section 19.17.060.A.
- (9) Business parks are required to formalize a development agreement with the city council after receiving a recommendation from the planning commission which:
- a. Specifies a list of permitted, conditional, and prohibited uses with the business park.
  - b. Outlines a parking and loading standards which anticipates the uses permitted.
  - c. Creates standards for and screening of outdoor storage and refuse areas.
  - d. Addresses unique signage requirements.
  - e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.
- (10) 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.

- (11) The expansion of existing, legal nonconforming mobile / manufactured home communities (MHCs) by adding addition units / pads within an existing community boundary shall be permitted only with an approved Conditional Use Permit (CUP). Approval of the CUP may be conditioned on meeting setbacks, providing buffers, and other appropriate design standards for MHCs. Connecting all units to City utilities is required. This is Conditional Use is applicable only within the CSR zone.

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

### **Chapter 19.35 – Nonconforming Uses**

This chapter shall apply to all land, all land uses and development, and all structures and facilities with the City of Lynden.

#### **19.35.010 - Existing nonconforming uses—Continuation authorized.**

Any nonconforming use, as defined in the definitions of Chapter 17.01, which lawfully existed at the time of the final passage of the ordinance codified in this title, is permitted to continue and to be maintained and operated.

(Ord. 1000 § A(part), 1995).

#### **19.35.020 - Essential use alteration—Limitation.**

A nonconforming use may be changed or altered only to uses within the same classification or to a use in a classification of higher priority in accordance with the essential use classification established in the established districts of the ordinance codified in this title.

(Ord. 1000 § A(part), 1995).

#### **19.35.030 - Nonconforming bulk only—Alteration—Variance required.**

A nonconformer as to bulk, but not as to use, may be substantially altered, renovated, enlarged or reconstructed only through the granting of a variance as provided in this title.

(Ord. 1000 § A(part), 1995).

19.35.040 - Enlargement or expansion—Conformance required.

A building or structure containing a nonconforming use shall not be enlarged or expanded unless the use is brought into conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995). 19.35.050 - Maintenance not to be construed as alteration.

Regular and ordinary maintenance shall not be construed as enlargement, expansion, change, alteration, renovation or reconstruction as used in this chapter.

(Ord. 1000 § A(part), 1995).

19.35.060 - Vacancy—Use discontinuance when.

A nonconforming use which has been discontinued for a period of one year or more shall not be reactivated nor operated, nor shall an occupancy permit be granted to such discontinued use. In such instances, an occupancy permit shall be granted only when the use has been brought into conformity with the provisions of this title. When a building or structure is vacant, the use therein shall be deemed discontinued.

(Ord. 1000 § A(part), 1995).

19.35.070 - Deterioration or destruction—Use discontinuance when.

When a building or structure containing a nonconforming use is destroyed or deteriorates to the extent to fifty percent or more, as determined by the building inspector, such nonconforming use shall be discontinued and any subsequent use of the property shall be in conformance with the provisions of this title.

(Ord. 1000 § A(part), 1995).

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

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

**SECTION D.** This ordinance shall take effect on February 16, 2021.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Signed by the Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR (Scott Korthuis)

ATTEST:

\_\_\_\_\_  
CITY CLERK (Pamela Brown)

APPROVED TO AS FORM:

\_\_\_\_\_  
CITY ATTORNEY (Robert Carmichael)