

The Following Sections have been included in a Proposed Code Amendment related to
Housekeeping and General Updates

LMC 19.19 MH Manufactured Home Zone

LMC 19.22 Residential Design Standards

LMC 19.29 Planned Residential Development Overlay

LMC 19.45 Design Review Board

LMC 19.63 Fence Permits and Requirements

Chapter 19.19 MH MANUFACTURED HOME ZONE¹

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 ~~if originally constructed prior to January 1, 2023. , 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)

Commented [HG1]: Prohibit new site-built homes in MH zones to ensure that the intent of MH zones is maintained.

¹Editor's note(s)—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 No. 1581, § A, adopted June 3, 2019, repealed Ch. 19.19., §§ 19.19.010—19.19.170, and enacted a new Ch. 19.19 as set out herein.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.

19.19.040 Accessory permitted uses.

The accessory uses permitted in the MH zone are as follows:

- 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.

The secondary uses permitted in the MH manufactured home zone are as follows:

- 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~~eight (8) 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 (45) 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			
		Feet	Story	Front	Rear	Side Yard Minimum	Total
4,200 <u>3,600</u>	40%	25	2	20 <u>15</u>	20 <u>15</u>	7	15 <u>7</u>

(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 (2) automobile parking spaces for each manufactured home space, plus one (1) additional automobile parking space for every five (5) 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)

Chapter 19.22 RESIDENTIAL DESIGN STANDARDS

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 shall be submitted to the [Hearing Examiner](#) consistent with Chapter 19.47 LMC.
 3. Variance requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050 shall be submitted to the 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.

(Ord. No. 1582, § A, 6-3-2019)

Commented [HG2]: Updated with Ord 1615 as shown

Commented [HG3]: Corrected with Ord 1615 as shown

19.22.020 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 (1%) for each ten percent (10%) 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 (15) feet from property line to living area.
2. The side yard used for a driveway shall not be less than ten (10) 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 cantilever~~ed architectural features such as~~ bay windows may encroach into the setback a maximum of two (2) 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 (10) 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 (10) feet.
7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen (15) 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 (25) feet.
2. In ~~RS-84 and RS-100~~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. ~~seven feet to the side property line provided the living area side setbacks total twenty-two feet from the building foundation to the property line.~~
3. ~~In RS-72 and RMD zones an attached garage may be built as close as seven feet to the side property line provided the living area side setbacks total seventeen feet from the building foundation to the property line.~~

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 (5) 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.

(Ord. No. 1582, § A, 6-3-2019)

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 (12) 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 (10,000) square feet in size, the height of a residential structure may be increased one (1) foot for every two (2) feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five (5) feet, or total height of thirty-seven (37) feet.

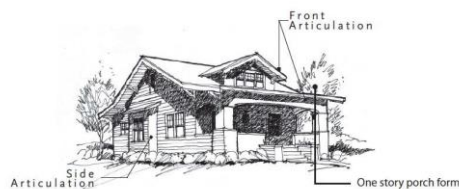
C. Roofs.

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.~~

Commented [HG4]: Proposed deletion of this standard.

D. Building Elevations and Finishes.

1. Residential Elevations.
 - a. The same architectural elevation shall be separated by a minimum of two (2) 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 (12) 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, 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 ~~home's~~ 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. c.~~ In RS zones, no more than fifty percent (50%) of the building elevation can be garage doors.

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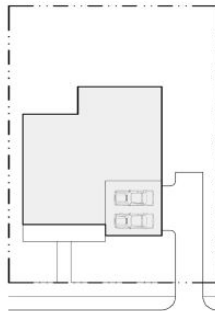
~~2. d.~~—In RMD and RM zones, no more than sixty percent (60%) of the total first floor building elevation length can be garage doors.

~~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 (2) feet from the first two covered or enclosed spaces.

Commented [HG5]: Corrected location - moved from section below and applied to all residential zones.

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

~~c.~~ In RS zones, attached garages or attached carports which provide a third covered or enclosed space must be offset a minimum of two feet from the first two covered or enclosed spaces.

Commented [HG6]: Moved to section on Garage Elevations

E. Porches, Stoops, Decks, and Patios.

1. Porches and stoops.

- a. Architecture of the 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.

2. Decks and patios.

- a. Uncovered wood decks and raised concrete patios not over twenty-four (24) inches above grade at any point may be permitted within eighteen (18) feet of the rear property line and five (5) feet of the side property line.
- b. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - (1) Remains open on three sides and is not enclosed in any way;
 - (2) Does not come within eighteen (18) feet of the rear property line;
 - (3) Does not encroach more than two (2) feet into the side yard setbacks of the underlying zone; and,
 - (4) The addition does not exceed the permitted lot coverage.
- c. Deck or patio privacy screening or fencing which is located more than six -(6) feet from the property line, may be up to eighty-four (84) inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six (6) feet above grade.

(Ord. No. 1582, § A, 6-3-2019)

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 (6) feet measured from foundation to foundation with no projections greater than twenty-four (24) inches. Additional fire protection may be required for structures located within ten (10) 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.

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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 (120) square feet in area must obtain a building permit.

B. Accessory Structure Setbacks.

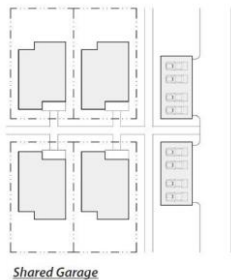
1. Detached garages may be located a maximum of twelve (12) feet forward of the first floor living space of the home but are subject to front setback required by the underlying zone. Storage sheds or other accessory structures not used as a garage are not permitted forward of the front façade of the 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 shall not be permitted nearer than fifteen (15) feet to the side property line adjacent to the street.
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, shops, and detached accessory dwelling units (ADU) as noted below.
2. The maximum height of any detached garage that is serving as the primary garage, a secondary garage, 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 (1,000) square feet of inside floor area or exceed square footage of the primary structure.
2. In RMD and RS zones, no detached garage or accessory building footprint shall exceed one thousand (1,000) square feet or ten percent (10%) 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 zones ~~and within the Pepin Creek Senior Overlay~~. Shared garages shall have a maximum of four (4) parking stalls and not exceed forty-four (48) feet in width. (see graphic)



- ~~3.~~ 4. Detached carports are permitted to accommodate no more than four (4) vehicles and are limited to a maximum of forty-four (48) feet in width.

(Ord. No. 1582, § A, 6-3-2019)

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 (3) 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 (3) 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,

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shrubs, or hedge material must be planted and maintained within this three (3) foot setback.

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

3. Screening.

a. In RS zones, trash and recycling containers shall be stored within side or rear yards or within enclosed garages.

b. In RM zones, trash and recycling containers shall be stored within side or rear yards, or within enclosed garages, or in screened enclosures as approved 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 to~~ visible from the street, shared access easement, ~~or and~~ 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, the base of exterior mechanical equipment must not exceed a height of more than eighteen (18) inches above the finished exterior grade. the height of the finished floor elevation.

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 (1 ½) inch at the time of installation except that small trees used under overhead lines shall be a minimum a

caliper of one (1) 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 (3) feet is required between any property line and the surface of a parking lot. This setback must be lawn or landscaped area. fifty square feet of landscaped area per unit must be located between the façade of the structure and the nearest public right-of-way unless otherwise approved by the design review board. This applies to both rear, side, and front yards.

(Ord. No. 1582, § A, 6-3-2019)

Chapter 19.29 PLANNED RESIDENTIAL DEVELOPMENT OVERLAY

19.29.010 Purpose.

The primary purpose of a planned residential development (PRD) ~~or master planned residential development (MPRD)~~ is to promote creativity in site layout and design, allowing flexibility in the application of the standard zoning requirements and development standards. More specifically, it is the purpose of this chapter to:

Commented [HG7]: Little to no distinction remains in the code between a PRD and an MPRD.

- A. Permit developers to use innovative methods including low impact development (LID) techniques and approaches not available under conventional zoning methods to facilitate the construction of a variety of housing types and densities serving the housing needs of the Lynden community and meeting the goals and policies of the comprehensive plan;
- B. Provide for the economic provision of public facilities and services by allowing choices in the layout of streets, utility networks and other public improvements through superior site design and the use of clustering;
- C. Allow development of land with physical constraints while preserving the natural characteristics of the site, including topography, native vegetation, critical areas and other natural amenities of value to the community;
- D. Encourage infill within areas of the city which are characterized by existing development;
- E. Create and/or preserve open space for recreation and the aesthetic enjoyment of residents; and
- F. Provide for the management and control of stormwater under current state and local regulations.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.020 Scope.

The provisions of this chapter shall apply to all single family residential zones, the RMD (residential mixed density) zone and all residential multi-family zones, provided that the project design includes areas of density within the overall project that are consistent with the density allowances of the multi-family zones.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § A, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.030 Definitions.

A. ~~A.~~ Active Recreation: Active recreation includes "recreation, outdoor" defined in LMC 17.01.030 and trails and garden areas.

~~B. Gross Land Area: The gross land area is the land area measured in square feet excluding the area included in a floodplain or floodway identified by FEMA.~~

B. ~~C.~~ Planned Residential Development: A planned residential development, (PRD), is a tract of land which is to be developed as a coordinated unit according to a detailed plan within the scope of zones permitted by this chapter to allow greater flexibility and creativity in site design.

~~D. Master Planned Residential Development: A master plan residential development, (MPRD), is a tract of land which may be developed as a planned residential development that is guided by an approved master plan and developed as a coordinated unit to allow a greater flexibility and creativity in site design.~~

C. ~~E.~~ Major Community Facility: A major community facility includes recreational facilities for use by the approved master planned residential development and planned residential development.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.040 Minimum size.

The minimum area required for a PRD shall be one (1) acre.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.050 Allowable uses.

All uses that are permitted outright or as a conditional use within the underlying zone are permitted within a PRD ~~or MPRD~~; provided that, for development of single family residences within an RS zone, at least twenty-five percent (25%) of the dwelling units within the PRD ~~or MPRD~~ shall be detached single family units.

Commercial uses which are found to be accessory and compatible with the proposed PRD may be permitted in areas specifically designated areas of the PRD.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.060 Minimum development standards for PRD ~~or MPRD~~.

While development under a PRD ~~or MPRD~~ provides measures for flexibility and creativity in the development of new home sites, there are certain minimum standards that must be met to protect Lynden's character, aesthetic values and health and safety. Additional conditions or requirements more stringent than these minimum standards may be imposed as a condition of approval. The following are minimum standards applicable to all PRD ~~and MPRD~~ proposals; provided that, said minimum standards may be reduced ~~for an MPRD~~ subject to subsection J herein:

- A. Density: The density shall be the same as the density for the underlying zone; except where the application qualifies for a density bonus under Section 19.29.070. The area included in a floodplain or floodway identified by FEMA shall not be included in the gross land area for the calculation of density. The base density for projects that include land in two (2) or more zoning designations shall be calculated for the land area in each zone and added together for the total number of units.
- B. Height: Maximum height of structures when the underlying zoning is a single family or mixed density zone is thirty-five (35) feet. The maximum height of structures when the underlying zone is a multi-family zone is forty-five (45) feet. Building height may be extended above these limits under a master planned residential development when approved in the ~~master plan~~PRD agreement. Considerations for approval of extension of the height limit include the size of the parcel, the character ~~and scale~~ of the surrounding parcel(s) and neighborhood, protection of view corridors and the existence of adequate infrastructure to supply necessary services.
- C. Parking requirements: Parking must be provided consistent with LMC 19.51. Alternate parking ratios or flexible configurations may be proposed in association with a PRD. Two parking stalls are required for each residential unit. Each twelve feet x twenty-five feet space, whether inside or outside the garage shall count as a parking stall. These are the minimum requirements and additional parking may be required as a condition of approval.
- D. Building setbacks: All PRD's ~~and MPRD's~~ are subject to the following minimum setbacks:
 - 1. Fifteen (15)-feet between the front of the house and the front property line;
 - 2. Twenty (25)-feet between garage doors and the front property line;
 - ~~3. A setback of twenty-five feet around the perimeter of the development;~~
 - 3.4. There is no minimum building separation, except as provided by the International Building and Fire Codes, but such separation may be required as a condition of approval.

~~4.5.~~ Other setbacks may be required as a condition of approval.

For purposes of this section, where the "front property line" borders on a public right-of-way, said "front property line" shall be the edge of the public right-of-way or the edge of shared access easement if public right-of-way is not established.

- E. Street widths: Arterial or collector streets or streets shown within the transportation plan must be constructed to full city standards. Within a PRD ~~or MPRD~~, a reduced street section for a residential access street that is not included in the transportation plan may be permitted as follows:
 - 1. Thirty (30) feet from face of curb to face of curb, allowing two driving lanes and room for on-street parking on one side of the street.
 - 2. A minimum five (5)-foot sidewalk fronting all residences with a four- (4) foot buffer or planting strip between the curb and sidewalk.
 - 3. Rolled curbs are not allowed adjacent to pedestrian walkways.
- F. Pedestrian Connectivity: In addition to sidewalks fronting residential lots, there must be logical pedestrian connections throughout the project including trails within or adjacent to open space areas.
- G. Maximum lot coverage: There is no maximum lot coverage established by this overlay zone; provided that, a maximum lot coverage limitation may be imposed as a condition of approval based on consideration of the size of the parcel, the character of the surrounding parcel(s) and neighborhood, protection of view corridors and the existence of adequate infrastructure to supply necessary services.
- H. Unit Distribution: When a PRD ~~or MPRD~~ is used in a single family zone ~~for development of single family residences~~ a mix of housing types is permitted, however, at least twenty-five percent (25%) of the dwelling units must be detached single family units.
- I. Minimum lot size: For detached single family residences within a PRD ~~or MPRD~~, the minimum lot size shall be no less than five thousand (5,000) square feet; provided that, smaller lots or detached condominiums may be approved ~~under a MPRD~~ subject to consideration of the factors identified in subsection J herein.
- J. Where the applicant seeks to depart from the above minimum standards in the ~~MPRD~~ process, the planning commission and council shall consider the following factors and the council may in its sole discretion approve departure from one or more of said minimum standards upon finding that the MPRD proposal clearly satisfies one or more of these factors:
 - 1. The modification of minimum standards protects or improves the character of the surrounding neighborhood in terms of architectural scale, view corridors, the aesthetic character or provision of services;

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2. The modification of minimum development standards protects critical areas and the environmental quality of the parcel(s) to be developed;
 3. The modification of minimum standards is necessary to permit reasonable development as a result of unique characteristics of the property or the proposed uses;
 4. The modification of building height (subject to Section 19.29.060(2)) or building setbacks where reasonably necessary due to arrangement of buildings and open spaces as they relate to various uses within or adjacent to the planned development; provided that any such modification shall be consistent with subsection A herein;
 5. The modification of minimum standards is adequately mitigated by reasonably related public improvements proposed in connection with the planned development.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § B, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.070 Density bonus.

Density bonuses shall be allowed for planned residential developments and master planned residential developments according to the following provisions:

- A. When at least ten percent (10%) of the land is set aside in common open space satisfying the requirements of Section 19.29.080, a five percent (5%) bonus to the base density is allowed.
- B. When twenty percent (20%) of the land is set aside in common open space and major community facilities, as approved by the city council (i.e. a swimming pool, or club house) are constructed on the remaining land, a ten percent (10%) bonus to the base density is allowed.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1443, § C, 5-6-2013; Ord. No. 1547, § 13, 12-4-2017)

19.29.080 Open space standards.

A PRD ~~or MPRD~~ shall set aside a minimum of seven and one-half (7.5%) percent of the gross land area or four thousand (4,000) square feet, whichever is greater, for active recreational uses. For purposes of this chapter, a "set aside" of open space shall require:

- (a) a recorded deed restriction or restrictive covenant which runs with the land and assures that said property will remain in open space in perpetuity, consistent with the

terms of this chapter, and which shall be held and maintained for such purposes for the common benefit of residents of the development by a homeowner's association; or

(b) a permanent dedication of property to the City, which is accepted by the city, to hold and maintain as open space consistent with the purposes of this chapter.

- A. Location: The area proposed for open space within the PRD ~~or MPRD~~ shall be within reasonable walking distance of all dwelling units within the development. The minimum open space requirement of four thousand (4,000) square feet must be met with an open space set aside at one location which shall be suitable for active recreational uses. Where the minimum requirement is greater than four thousand (4,000) square feet, at least one contiguous area meeting the minimum size requirement must be set aside at one location for common open space. Any remaining open space set aside may be otherwise distributed according to the requirements of this section.
- B. Access: All dwelling units within the PRD must have legal access to the proposed open space. Open space set aside for active recreational open space shall have reasonable access from street frontages. Design measures should accomplish the purposes of access and security.
- C. Types of Open Space: Land dedicated for open space should be useable for any of the following:
 - 1. Greenbelts that serve as a buffer between land uses (greenbelts do not include yard areas privately owned, nor do they include required landscaping surrounding a building or parking area). Open space that preserves existing native vegetation is encouraged;
 - 2. Low impact development (LID) stormwater best management practice (BMP) facilities;
 - 3. Active recreational uses, including trails and garden areas;
 - 4. Protecting environmentally sensitive areas.
- D. Use of Open Space: Except as provided below, a minimum of thirty percent (30%) of the required open space shall be suitable for active recreational purposes. The topography, soils, hydrology and other physical characteristics shall be of such quality as to provide an area suitable for recreation. These areas may be used for low impact development (LID) facilities.
 - 1. The percentage of open space required to be suitable for active recreational uses may be increased to as high as fifty percent (50%) if it is determined that anticipated recreational needs will require a larger percentage.
 - 2. The percentage of open space required to be suitable for active recreational uses may be decreased to as low as ten (10%) percent, if it is determined that the

inclusion of the buffers or environmentally sensitive areas such as wetlands would better meet the needs of residents and/or the surrounding community.

- E. Qualification for a density bonus: The provision of improved recreational or park facilities including "recreational facilities" and "outdoor recreation" such as improved playfields, basketball and tennis courts, trails, playground facilities or picnic areas or the preservation of unique natural features such as habitats of threatened or endangered wildlife or plant species, wetlands, and environmentally sensitive areas shall qualify for a density bonus, so long as the requirements described in Section 19.29.070 are fully satisfied.
- F. Implementation: The property proposed for open space shall be shown on the PRD's master plan ~~if the applicant is following the procedure for an MPRD or site plan if the applicant is following the procedure for approval of a PRD~~ and shall be set aside for management by the homeowner's association or dedicated to the eCity for public use only if acceptable to the eCity. Maintenance and operation of open space set aside to the homeowner's association shall be the responsibility of the homeowner's association. A set aside of open space is not eligible for credit against the assessment of impact fees for parks or public recreation facilities unless it meets each of the following criteria: (a) the open space is dedicated and accepted by the city for public use; and (b) the proposed location of the dedicated open space is included in the city's adopted capital facilities plan for city park acquisition. The eCity, at its sole discretion may choose to accept a dedication of open space as city park property, including the maintenance and operation thereof, when the property proposed for dedication meets the following criteria as outlined in the park and trail master plan:
1. Minimum park dedication of one-half acre in size. Developments that include ten acres or more would require a minimum park dedication of one acre in size.
 2. The proposed dedication is at least one-quarter mile away from a similar facility. If the proposed facility is greater than two acres in size, it should be located at least one-half mile from another park facility.
 3. There are opportunities for expansion of smaller park areas into larger park areas as adjoining parcels develop.
 4. The proposed dedication is geographically located in an area that is projected for substantial growth during the planning period (six years) and is consistent with the provisions of the park and trail master plan.
 5. The proposed dedication has safe and convenient access from the surrounding neighborhood and parking as necessary for public use.
 6. Drainage for the proposed site is adequate.
 7. Parcel size and shape is appropriate to park development. Oddly shaped "remainders" are discouraged.

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8. There are open lines of sight at the facility for security purposes.
 9. The proposed site meets the needs and desires of the community and considers the specific needs of the surrounding neighborhood.
 10. The proposed site meets state and federal accessibility requirements.
- G. Stormwater Detention Facilities: Stormwater detention facilities including low impact development (LID) facilities may be included by the City as part of the open space necessary for a density bonus, but not as part of the minimum required open space, subject to LMC Chapter 13.24 and satisfaction of the following criteria:
1. The detention facility does not provide drainage for public facilities including public streets unless all easements and drainage releases are approved.
 2. The detention facility shall be constructed so as to drain fully when precipitation is not occurring (i.e. no standing water shall be left) unless the facility is a pond designed as an aesthetic amenity.
 3. The side slope of the detention facility shall not exceed thirty-three percent, unless such slopes already exist naturally and are covered with vegetation. Where the facility has a hard surface wall or slope, the vertical drop shall not exceed twenty-four (24) inches without fencing appropriate to the site conditions to protect public safety.
 4. If detention facilities are located adjacent to or near a natural, year-round stream or wetland, these systems shall be left in a natural or near natural condition.
 5. The detention area shall be landscaped both in a manner consistent with maintaining high aesthetic standards and is able to withstand the inundation expected.
 6. Use of property set aside as open space area for both detention and recreation purposes shall not be acceptable if the detention area must be rendered unsuitable or unavailable for recreation use during dry weather.
 7. In the case of joint use of open space set aside (not dedicated to city) for detention and recreation, the homeowner's association shall be responsible for the maintenance in perpetuity of the facilities in the condition approved under the development contract.
- H. Rights and Duties: The owners of the private open space shall have the following rights which may be exercised in respect of such land, subject to restrictive covenants, development agreements or other restrictions:
1. The right to locate recreational facilities such as tennis courts, basketball courts, swimming pools, picnic tables designed to be used exclusively for the use of the residents of the development and their guests.

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2. The right to locate pedestrian and bicycle paths or trails.
 3. The right to take whatever lawful measures are reasonably necessary to protect and maintain such land, or property adjacent thereto, or to correct a hazardous condition posing a threat to life or limb.
 4. The right to locate and operate community gardens.
 5. The right to regulate access to or entry on the open space land and duty to maintain such land.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.090 Submittal requirements.

- A. Submittal of a master plan application is required per the minimum development standards as noted in Section 19.29.060 above and LMC Chapter 13.24. An applicant may submit a master plan application when approval of a development concept is desired, or when the applicant wishes to submit applications for the planned residential developments in phases as noted in Section 19.29.090 below. In order to be determined complete, an application for master plan approval of a MPRD shall include the information listed below:
 1. A consolidated legal description of all parcels to be included in the master plan.
 2. A map, prepared by a qualified professional, showing the following:
 - a. The primary transportation and utility corridors,
 - b. The location of common open space, and
 - c. The distribution of housing types and densities.
 3. A narrative description of the project. Narrative must indicate the scope of private infrastructure which would become the responsibility of the home owners association. If the application seeks to modify the minimum development standards, each modification must be identified and a detailed explanation of how the development will meet the criteria listed in Section 19.29.060.10 and other applicable criteria shall be included.
 4. A completed SEPA Checklist, prepared as part of a phased environmental review under WAC 197-11-060(5).
- B. To be determined complete, an application for a Planned Residential Development must include all of the information listed below. This information may be submitted for a portion of a project with the approval of a master plan. This information shall be

submitted for the entire development proposal for a project that does not use the master plan approval procedure.

1. One map showing street systems, location of utilities, preliminary plat designs and contours at five ~~(5)~~ foot or less intervals;
2. One map showing watercourses, natural drainage patterns, unique and sensitive natural features, forest cover, and critical areas;
3. One map showing locations and sizes of areas proposed to be set aside for common open space as required in Section 19.29.080, any public buildings, and similar public and semi-public uses;
4. One map showing each of the maps indicated in subsections A, B and C superimposed upon one another.
5. Areas designated for recreational buildings, clubhouses, country club facilities and the nature and extent of such facilities;
6. Proposed building areas or phases, housing types, densities, setbacks and height.
7. A development schedule indicating:
 - a. The approximate date when construction of the project can be expected to begin;
 - b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
 - c. The anticipated rate of development;
 - d. The approximate dates when the development of each of the stages in the development will be completed;
 - e. The area and location of common open space that will be provided at each stage;
8. The existing and proposed utility systems including sanitary sewers, storm sewers, water lines, electric lines, gas lines and telephone lines.
- ~~9. —Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open areas.~~
- ~~10.~~ The existing and proposed circulation system of arterial, collector and residential access streets including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way. Notations of proposed ownership, public or private, should be included where appropriate.
- ~~11~~10. The existing and proposed pedestrian circulation system, including interrelationships with the vehicular circulation system. Any special engineering

features and traffic regulation devices needed to facilitate or ensure the safety of this circulation pattern must be shown.

~~12~~11. A general landscaping and tree planting plan including the proposed treatment of the perimeter of the PRD, including materials and techniques used such as screens, fences and walls.

~~13~~12. An economic feasibility report or market analysis and a statement substantiating how the proposed PRD will be superior and provide benefit to the public beyond what is available through conventional development.

~~14~~13. The names and addresses of all persons, firms, and corporations holding interest in the property, including easement rights and drainage structures.

~~15~~14. Information on a map which shows the development in relation to the surrounding area and its uses, both existing and proposed, including land uses, zoning classifications, densities, circulation systems, public facilities and unique and sensitive natural features of the landscape.

~~16~~15. A complete environmental review package including a complete SEPA Checklist, engineered traffic impact analysis, a narrative from the project's engineer describing the proposed stormwater management system, critical areas preliminary review and other studies as required during the pre-application meeting or master plan approval.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.100 Approval process.

- A. Applications for ~~a MPRD and~~ a PRD shall follow the review and approval process listed in Chapter 17.09 of the Lynden Municipal Code. The PRD ~~or MPRD~~ shall be overlayed on the underlying zoning district.
- B. An applicant may elect to undergo either a one step or a two-step approval process for a PRD.
 - 1. A one step process would include the review and consideration of not only the general project concept, including its density and overall design, but also of all specific site and development regulations associated with the proposed development. This process entails review under the requirements of LMC Chapter 17.09.
 - 2. In a two-step process, the applicant must receive two separate city approvals under LMC Chapter 17.09. The applicant would first seek approval of a master plan and general project concepts before expending the time and resources in developing the specific site and development features of the proposal. The second approval would relate to the specific site design and development requirements defined by the

approved of the master plan and would be filed with the Whatcom County Auditor's Office as noted above. Approval of a ~~MPRD~~ constitutes the city's acceptance of a project design and concept. Once the master plan component of the ~~MPRD~~ is approved for the site, the applicant may proceed to begin the second step: submittal of the specific components of its development outlined in Section 19.29.090.2, Section 19.29.110 and as required during approval of the master plan. These specific design components are subject to City approval under LMC Chapter 17.09.

~~a.~~—The intent in establishing a two-step process is to ensure consistency with the city's comprehensive plan, decrease the applicant's expenditure of time and resources and promulgate a cohesive community and neighborhood aesthetic based upon the city's present and future needs.

C. The final development contract, with all exhibits, must be ~~presented to the planning commission submitted to the Planning Department for review and the city council for approval~~ within ~~one year~~six months of preliminary approval of an approved PRD utilizing the ~~"one step"~~ procedure in subsection ~~2-a-B~~ above or within ~~one year~~six months following approval of the proposal in the ~~"second step"~~ stage of an ~~MPRD~~ utilizing the ~~"two step"~~ approval procedure in subsection ~~2-b-B~~ above.

~~D.~~ ~~This~~The contract will include specific development requirements based on the PRD ~~or MPRD~~ approval and all special conditions and approvals applied to the property within the PRD ~~or MPRD~~. This development contract, related exhibits, and any amendment approved pursuant to Section 19.29.120.2 shall be recorded in the Whatcom County Auditor's Office. The PRD ~~or MPRD~~ shall constitute a limitation on the use and design of the site. If full build-out of the site is not achieved upon expiration of a development contract, the provisions of the underlying zoning category apply except that reconstruction of damaged or destroyed property may be done consistent with the original contract.

~~E.D.~~ In the event there is to be a subdivision of property, dedication of streets, parks or other public lands, the final plan and approval thereof shall be subject to all ordinances and laws regulating subdivisions including Chapter 18.18 LMC, and any additional requirements therein. In the event of a specific irreconcilable conflict between this chapter and other ordinances, the provisions of this chapter shall apply to PRD ~~and MPRD~~ proposals.

~~F.~~ Covenants, Conditions, and Restrictions (CCRs) must be submitted to the Planning Department in conjunction with the request for final plat approval to provide staff and legal counsel the opportunity to comment. A recorded copy of the CCRs must be provided to the Planning Department prior to issuance of building permits on the site.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.110 Criteria for approval.

In addition to the findings of fact required for approval within Section 17.09.040, the following criteria shall be met for approval of a PRD ~~or MPRD~~.

- A. Design Criteria: The design of the PRD ~~or MPRD~~ shall achieve two (2) or more of the following results:
 - 1. High quality architectural design, placement, relationship or orientation of the structures;
 - 2. Achieving the allowable density for the subject property;
 - 3. Providing housing types that effectively serve the affordable housing needs of the community;
 - 4. Improving circulation patterns;
 - 5. Minimizing the use of impervious surfacing materials;
 - 6. Increasing open space or recreational facilities on-site;
 - 7. Preserving, enhancing or rehabilitating the natural features of the property such as significant woodlands, or critical areas;
- B. Perimeter Design. The perimeter of a PRD ~~or MPRD~~ shall be appropriate in design, character and appearance with the existing or intended character of the development adjacent to the subject property and with the physical characteristics of the property.
- C. Streets and Sidewalks. Existing and proposed streets and sidewalks within a PRD or MPRD shall be suitable to carry the anticipated traffic within the proposed development and the vicinity. The design of the circulation system shall be consistent with the requirements of Chapter 18.14 LMC.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.120 Amendment or modification of an approved PRD ~~or MPRD~~.

- A. The final development plan may be amended administratively without notice if the application does not involve a change which would cause one or more of the following to occur:
 - 1. Violation of any provisions of this chapter;
 - 2. Varying the lot area requirements by more than ten (10%) percent;
 - 3. A reduction of more than ten (10%) percent of the area set aside for common open space and/or usable open space;

4. An increase in the total ground area covered by buildings by more than five (5%) percent;
5. The applicant seeks to change the housing type from a multi-family designation to a single family designation.

6. The modification is consistent with the final PRD development contract.

- B. The final development plan may be amended through the process described in Section 19.29.100 in the following circumstances and if the amendment meets the requirements of Section 19.29.110:

1. Land may be added to the overall development plan if:
 - a. The land to be added is within the same underlying zoning; and
 - b. The addition is a logical extension of services and development and the infrastructure developed for the original development can be shown adequate to serve the additional land; and
 - c. The addition will meet the minimum standards for PRD ~~or MPRD~~ development set forth in Section 19.29.060.

d. The final PRD development contract has not yet expired.

2. Changes in the parcel development requirements such as setbacks, lot coverage or other similar changes which exceed the minor modification limits in subsection 1 above.
3. Any change in infrastructure development requirements must be listed within the final development contract.

- C. The final development plan may not be amended in the following manners unless explicitly permitted within the final PRD development contract:

1. To transfer unused density from one area of the final PRD to another;
2. To change the housing type from single family to multi-family;
3. To remove land from a PRD ~~or MPRD~~.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.130 Requirement for homeowner's association and restrictive covenants.

To preserve and maintain community facilities and open space, every PRD ~~or MPRD~~ shall have a homeowner's association and agreements and enforceable covenants to fund and effectively collect funds for such an organization. Said agreements and enforceable covenants shall apply to all property within the PRD ~~or MPRD~~, shall be recorded and shall run with the

land, and shall be consistent with The Washington Uniform Common Interest Ownership Act (WUCIOA) as required per RCW 64.90.

- A. The restrictive covenants and/or homeowner's association intended to be used by the applicant in a PRD ~~or MPRD~~, which purports to restrict the use of land, the location or character of buildings or other structures thereon, set aside open space, and establish provisions for the perpetual maintenance of common grounds, must be submitted to the Planning Department in conjunction with the final development contract to provide be reviewed by the technical review committee and city attorney an opportunity to comment. The city attorney will make a written report to the planning commission which shall be subject to approval by the city council, before final approval of the PRD application and recording with the county auditor.
- B. The homeowner's association authority shall be established in restrictive covenants applicable to all property within the PRD ~~or MPRD~~. Said restrictive covenants shall provide, inter alia, for the assessment, collection and enforcement of collection of such homeowner's dues as are necessary for adequate maintenance of open space, common grounds and stormwater facilities, any private roads or utilities, and for performance of any other association obligations.
- C. At the time of final plat the developer must record on the title of each lot a notice regarding the obligations of common ownership within the PRD. A homeowner's association covenants, once reviewed and approved by the City of Lynden, shall contain the following provisions: "Changes in these documents must be approved by the City of Lynden through the Lynden City Council or if the council designates an agency or department, by that agency or department." Any changes suggested shall be reviewed by the Lynden City Attorney, who will make a written report to the Lynden City Council concerning the effect of the proposed changes. The cost of review by the Lynden City Attorney will be paid by the homeowner's association.
- D. The PRD ~~and MPRD~~ developers/property owners shall notify each buyer that it is the policy of the City of Lynden never to acquire or maintain the common grounds unless the city chooses to accept a dedicated open space under Section 19.29.080. This policy shall be clearly shown in recorded documents so that future buyers will be aware of this policy.
- E. Subsequent amendments to restrictive covenants do not supersede the requirements of the PRD final development contract and all associated develop standards. Upon expiration of a development contract the provisions of the underlying zoning category apply except that reconstruction of damaged or destroyed property may be done consistent with the original contract.

Commented [HG8]: Legal review needed.

Commented [HG9]: Add provisions to record on title.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.140 Construction start and completion limits.

If substantial construction has not commenced within twenty-four (24) months from the time of final approval of the PRD ~~or MPRD~~ contract, the permit shall lapse. The ~~planning director~~ City Council may extend this time limit by up to twelve (12) months ~~with approval of the city council~~ if the request is made in writing to the ~~planning director~~ prior to the expiration of said twenty-four (24) months following final approval. Any extension of time ~~shall~~ may be conditioned on the requirement to post a performance bond as required in Section 18.06.010(5), for one hundred fifty percent (150%) of the engineer's estimate for the completion of the infrastructure.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

19.29.150 Construction of improvements—Guarantee.

Commented [HG10]: Legal review recommended.

- A. All improvements which are to be made to City owned property or which are to become the property of the City must be either completed or bonded for completion in the manner provided in Sections 18.06.010(5) and 18.06.010(6) LMC. No sales of property in the PRD ~~or MPRD~~ may be made until such improvements are so bonded or completed and approved by the city. The ~~city~~ may allow the construction of such improvements, or the bonding thereof, in phases, if the PRD ~~or MPRD~~ is to be developed in phases and if each phase can logically be utilized independently or in conjunction with previously completed phases. In case the PRD ~~or MPRD~~ is to be developed in phases, and construction of city owned improvements is to be allowed in phases, the plan submitted and approved shall state with particularity which improvements are to be made in conjunction with each phase.
- B. All improvements to be owned in common by persons purchasing property rights in the PRD ~~or MPRD~~ must be either completed or bonded for completion in the manner provided for in Section 18.06.010(5) and 18.06.010(6). No sales of property in the PRD ~~or MPRD~~ may be made until such improvements are so bonded or completed and approved by the ~~city~~. The ~~city~~ may allow the construction of such improvements, or the bonding thereof, in phases, if the PRD ~~or MPRD~~ is to be developed in phases and if each phase can logically be utilized on its own or in conjunction with previously completed phases. In case the PRD ~~or MPRD~~ is to be developed in phases, and construction of improvements to be owned in common is to be allowed in phases, the plan submitted and approved shall state with particularity which improvements are to be made in conjunction with each phase.

(Ord. 1270 § B(part), 2006).

(Ord. No. 1547, § 13, 12-4-2017)

Chapter 19.45 DESIGN REVIEW BOARD

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 should provide a visible linkage between the downtown and other commercial areas, must be readily accessible to pedestrian and vehicular traffic, it must 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 ensure that new development maintains or enhances the character and aesthetic appearance of neighborhoods.

The guidelines adopted by the Design Review Board and the City Council will be considered as a tool for the implementation of the Lynden Municipal Code and the Comprehensive Plan.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

Design review board established.

~~A design review board is established for the purpose of reviewing: exterior design of buildings proposed for construction of multi-family dwellings, detached accessory dwelling units (ADUs), the construction, reconstruction or remodeling of commercial buildings in all commercial zones, signs as required in Chapter 19.33 of this Code, and the variance of adopted design standards. 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 the "European/Dutch" theme proposed in the Front Street area.~~

~~(Ord. 1000 § A(part), 1995).~~

~~(Ord. No. 1547, § 1, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)~~

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19.45.015 Design Review Board establishment and scope.

An advisory board known as the Design Review Board is established to provide recommendations on subjects as defined in Chapter 17.03.060 which typically includes: exterior design of buildings proposed for construction of multi-family dwellings, detached accessory dwelling units (ADUs), the construction, significant reconstruction, or remodeling of commercial buildings in all commercial zones, and signs as required in Chapter 19.33 of this Code. The Design Review Board makes a final determination on applications to waive adopted design standards.

The Planning Director will determine when review or re-review (in the event of an amended design) is required by the Design Review Board. The Planning 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.

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.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 1, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

Intent:

~~The intent in establishing the design review board is to enhance the character of the commercial and multi-family areas, provide a visible linkage between the downtown and other commercial areas, and ensure that new development maintains or enhances the character and aesthetic appearance of neighborhoods. The guidelines adopted by the design review board and the city council will be considered as a tool for the implementation of the comprehensive plan.~~

~~(Ord. 1000 § A(part), 1995).~~

~~(Ord. No. 1547, § 14, 12-4-2017)~~

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**19.45.020 ~~Design Review Board Membership.~~ ~~Appointment Term Compensation~~
~~Vacancy Removal.~~**

The design review board shall consist of five (5) members, all of whom shall serve without salary. The members shall be appointed by the ~~m~~Mayor with the consent of the ~~C~~council.

In case any vacancy should occur in the membership of the ~~B~~board, for any cause, the ~~M~~Mayor shall fill such vacancy by making an appointment with the consent of ~~C~~council. The members of the ~~D~~esign ~~R~~eview ~~b~~Board may be removed by the ~~m~~Mayor, subject to the approval of the ~~c~~council, for such causes as he/she deems sufficient, which shall be set forth in a letter filed with the ~~c~~council. The ~~initial~~ membership shall consist of ~~one member appointed for one year, one for two years, one for three years, and two for a~~ four (4) years appointment. Each appointment hereafter shall also be for four years.

(Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

**19.45.030 ~~Design Review Board Meetings and~~ ~~N~~notice ~~Rule promulgation~~ ~~Records~~
~~Quorum.~~**

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 Director deems necessary. at least once every six months, and at other times as the chairperson of the design review board may determine or a request for design review is made by an applicant. There shall be a fixed place of meeting or virtual application, and all regular ~~d~~Design ~~R~~eview ~~b~~Board meetings shall be open to the public.

A. Notice Requirements.

1. The ~~c~~City shall publish notice of all meetings at least ten (10) 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 ~~h~~Historical ~~b~~Business ~~d~~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 ~~new multi-family construction which includes a structure of more than four units, or single family~~ construction of four (4) or more attached units in one structure, notice shall be given to all property owners within three hundred (300) feet of the property on which construction is proposed.

- c. Notification, in all cases, shall be by certified mail ~~or registered mail~~, and satisfactory evidence of such notice must be provided prior to the hearing date.

- B. Proceedings. The ~~d~~Design ~~r~~Review ~~b~~B 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 ~~(3)~~ members shall be necessary to constitute a quorum.

(Ord. 1292 § E, 2007; Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017; Ord. No. 1574, § C, 3-4-2019)

19.45.035 Residential ~~d~~Design ~~r~~Review ~~b~~B Board variance-waiver criteria.

Plans submitted to the ~~d~~Design ~~r~~Review ~~b~~B Board for a ~~variance-waiver~~ to the residential design criteria, processed as noted in Chapter 19.47 of the Lynden Municipal Code must ~~be stamped by a licensed architect, registered in Washington State, and must~~ meet the following criteria:

- A. Granting the ~~variance-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 ~~b~~B uilding ~~e~~O fficial;
- C. The applicant is not varying more than two ~~(2)~~ of the criteria.
- D. Granting of the waiver would not result in negative impacts to surrounding property owners.

(Ord. 1292 § F, 2007).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.040 Decision by the ~~d~~Design ~~r~~Review ~~b~~B Board.

The design review board shall review each application referred to the Board by the Planning Director to determine if the design meets the guidelines as adopted in the design review guidebook for signs, and commercial and multi-family construction. It shall develop a recommendation to:

- A. Grant approval of the proposed exterior design or sign, or
- B. Deny the proposed design, or
- C. Approve the exterior design with conditions, which shall be noted by the ~~B~~ uilding ~~O~~ fficial ~~i~~ nspector.

Planning staff and the building official shall enforce the final conclusions ~~decisions~~ of the design review ~~board~~ when granting a 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 may be approved by the Planning Director.

The design review board shall not ~~impose~~ recommend conditions which are contrary to the requirements of any applicable development standards or building codes.

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

(Ord. 1292 § G, 2007; Ord. 1000 § A(part), 1995).

(Ord. No. 1547, § 14, 12-4-2017)

19.45.050 Administrative design review.

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.

- A. Authority. The planning 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.
- B. Decision. The planning director may grant, deny, or conditionally approve a building permit based on compliance with the design guidelines.

Chapter 19.51 OFF-STREET PARKING

see edits to 19.51 in separate document

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.

(Ord. 1292 § H(part), 2007).

19.63.020 Fence permits and requirements.

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

(Ord. 1292 § H(part), 2007).

(Ord. No. 1441, § 1, 3-18-2013)

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.

(Ord. 1292 § H(part), 2007).

19.63.040 Fence location.

Fences shall not be built closer than three (3) 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 (3) 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.

(Ord. 1292 § H(part), 2007).

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 (60) 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 (3) 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.

(Ord. 1292 § H(part), 2007).

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- (10) 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 (5) feet each way from the driveway center, whichever is more restrictive. Fences of three (3) feet or less in height, measured from curb height, are allowed in all vision triangles. Clear vision triangle is defined in 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. For the first thirty (30) feet from the front property line or five feet behind the front corner of the house, whichever is greater, the maximum fence height shall be forty-two (42) inches.
 - 2. From thirty (30) feet from the front property line, or five (5) 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 (72) inches.
 - 3. Side yard fences where the side yard is the rear yard for the adjacent property may be seventy-two (72) inches in height, on that side only, provided that there is a minimum setback of fifteen (15) 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 ~~board of adjustment~~ Design Review Board may grant , or grant with conditions, a variance-waiver to this height limit for no more than eighteen (18) inches ~~of lattice-work or other decorative feature~~ 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 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.

(Ord. 1292 § H(part), 2007).

19.63.070 Privacy fencing.

Patio and courtyard privacy fencing is allowed up to a maximum height of seventy-two (72) inches, and an overall combined length of twenty-five (25) 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.

(Ord. 1292 § H(part), 2007).

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. ~~A.~~ Maximum height for solid fencing on all non-residential properties is eighty-four (84) inches.

A.B. Wire fencing may be allowed up to eighty-four (84) inches on properties with a non-residential zoning except that a maximum height of one hundred and forty-four (144) inches ~~twelve feet high is permitted on industrially zoned properties.~~

B.C. ~~B.~~ 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.

(Ord. 1292 § H(part), 2007).