

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

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

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density
A-1	Agricultural	0.10		1 D.U./20 Acres
RS-100	Single Family Dwellings	0.35	0.60	4 D.U./Acre
RS-84	Single Family Dwellings	0.35	0.60	4.5 D.U./Acre
RS-72	Single Family Dwellings	0.35	0.60	5.0 D.U./Acre
RMD	Residential Mixed Density	0.35	0.80	8.0 D.U./Acre
MH	Mobile and Modular Home	0.40	0.80	8.0 D.U./Acre
TR	Travel/Recreational Vehicle	0.65		
RM-1	Single Family and two Family Dwellings/bldg.	0.35	0.70	8.0 D.U./Acre
RM-2	Up to 4 Dwellings/bldg.	0.40	0.70	12 D.U./Acre
RM-3	Multiple Dwellings	0.40	0.75	16 D.U./Acre
RM-4	Multiple Dwellings	0.45	0.75	<del>24-20</del> D.U./Acre
RM-PC	Detached Single Family Dwellings	0.35	See Open Space Requirements	12 D.U./Acre
	Attached Single Family Attached	0.50		
	Multi-family Dwellings	0.40		
<del>SO</del>	<del>Senior Housing Overlay in the Pepin Creek Subarea</del>	<del>0.40—0.50</del>	<del>See Open Space Requirements</del>	<del>30 D.U./Acre</del>
HBD	Historic Business District	0.80		
CN <u>Overlay</u>	Commercial Neighborhood Overlay in the Pepin Creek Subarea	N/A		
CSL	Local Commercial Services	N/A		
CSR	Regional Commercial Services	N/A		
<u>MU Overlay</u>	<u>Mixed-Use Centers Overlay</u>		<u>See Open Space Requirements</u>	<u>28 D.U. Acre</u>

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

ID	Industrial District	N/A		
IBZ	Industrial Business Zone	N/A		
PU	Public Use	N/A		

D.U. = Dwelling Unit

(Ord. 1000 § A(part), 1995).

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

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

#### 19.17.010 Purpose and zones established.

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

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

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

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

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

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

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

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

- 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;

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

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

2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
5. Written documentation of the decision on the waiver is recorded by the director in city records.

(Ord. No. 1581, § B, 6-3-2019)

**19.17.020 Primary permitted uses.**

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

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

P = Permitted Use; N = Not Allowed

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

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(Ord. No. 1581, § B, 6-3-2019)

**19.17.030 Accessory permitted uses.**

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

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.

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

(Ord. No. 1581, § B, 6-3-2019)

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

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

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

(Ord. No. 1581, § B, 6-3-2019)

#### **19.17.050 Conditional property uses.**

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

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.

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

(Ord. No. 1581, § B, 6-3-2019)

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

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

Zone	Min. Lot Size (sq. ft.)	Lot Coverage	Open Space Required	Height	<u>Minimum</u> Yard Setbacks in Feet			
					<del>Front</del> <u>Side</u> <del>Yard</del>	<u>Any</u>	<u>Building</u> <u>Rear</u> <u>Elevation</u>	<u>Minimum</u> <u>Building</u> <u>Side</u> <u>Elevations</u> <u>not</u> <u>oriented</u> <u>toward</u> <u>Primary</u>
				<b>Feet</b>	<del>Front</del> <u>Any</u> <u>Building</u> <u>Front or</u> <u>Side</u> <u>Elevation</u> <u>oriented</u> <u>toward</u> <u>Primary</u>	<u>Building</u> <u>Rear</u> <u>Elevation</u>	<u>Minimum</u> <u>Building</u> <u>Side</u> <u>Elevations</u> <u>not</u> <u>oriented</u> <u>toward</u> <u>Primary</u>	<u>Total of</u> <u>Building</u> <u>Side</u> <u>Elevations</u> <u>not</u> <u>oriented</u> <u>toward</u> <u>Primary</u>

					<u>Street Frontage</u>		<u>Street Frontage</u>	<u>Street Frontage</u>
RM-1	7,200	35%	7.5%	32	20	30	7	22
RM-2	7,200	40%	7.5%	32	20	30	7	22
RM-3	7,200	40%	7.5%	32	20	30	12	27
RM-4	1 Acre	45%	7.5%	32	20	30	15	32

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

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

- C. For the purposes of this chapter open space is as defined in Section 19.29.080(3) of the Lynden Municipal Code.
- D. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

(Ord. No. 1581, § B, 6-3-2019)

**19.17.070 Required Residential Amenities**

- A. Multi-family residential developments that include 8 or more units must provide shared on-site residential amenities.
- B. Shared community areas must include amenities that provide outdoor recreational / leisure spaces such as playgrounds, picnic or patio areas, sports courts, off-leash dog areas, or similar. These community open spaces will be reviewed and approved through Design Review Board approval process. The Board will review for the following criteria:
1. Size of the area must be 60 square feet per unit.

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2. The area is safe in that it is visible, protected from vehicular traffic, and illuminated as needed for its intended use.
  3. The area is easily accessible via pedestrian walkways to all residents living within the development.
  4. The area is supplied with amenities such as permanent site furniture, shade structures, pavilions, and / or playground equipment so as to serve its purpose of providing recreational or leisure opportunities.
  5. The area is attractively landscaped.
  6. Proposed structures are consistent with the architecture.

**19.17.100 Design review board**

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

(Ord. No. 1581, § B, 6-3-2019)

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**Chapter 19.19 MH MANUFACTURED HOME ZONE<sup>2</sup>**

**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)

**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)

**Commented [HG3]:** Prohibit new site-built homes in MH zones to ensure that the intent of MH zones is maintained.

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<sup>2</sup>Editor'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.



**19.19.050 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 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
<del>4,200</del> <u>3,600</u>	40%	25	2	<del>20</del> <u>15</u>	<del>20</del> <u>15</u>	7	<del>15</del> <u>7</u>

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(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)

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## 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 [HG4]: Updated with Ord 1615

Commented [HG5]: Corrected with Ord 1615

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**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 for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.
- B. Building Orientation.
  - 1. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.
  - 2. The side yard used for a driveway shall not be less than ten feet in width.
  - 3. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance is obvious from the street or access easement which serves as its primary point of access.
- C. Setbacks. Minimum setbacks are outlined in each zoning category.
  - 1. All setbacks are measured from the property line to the foundation.
  - 2. Eaves and cantilevered architectural features such as bay windows may encroach into the setback a maximum of two feet.
  - 3. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
  - 4. Additional fire protection may be required for structures located within 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 feet.
  - 7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.
- D. Garage Setbacks from Property Lines.

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1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five feet.
  2. In ~~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 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 inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

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

C. Roofs.

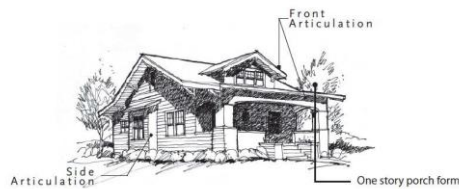
1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.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

**Commented [HG6]:** 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 other homes ~~and may not be located directly across the street from each other.~~
- b. An articulation is an architectural element such as a one-story porch or bay window. One such element shall be used on all sides of the building that face toward a public street, shared access easement, or common green. The articulation shall be offset a minimum of twelve inches. A garage setback shall not count as an articulation.



2. Garage Elevations. To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front, 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 feet.
- 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 of the building elevation can be garage doors.
- ~~2. d.~~ In RMD and RM zones, no more than sixty percent of the total first floor building elevation length can be garage doors.

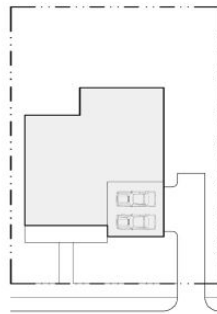
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~~d. Attached garages or attached carports which provide a third covered or enclosed space (all adjacent to one another) must be offset a minimum of 2 feet from the first two covered or enclosed spaces.~~

**Commented [HG7]:** 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*

~~e. 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 [HG8]:** 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.

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- a. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five 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;
    - (2) Does not come within eighteen feet of the rear property line;
    - (3) Does not encroach more than two 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 6 feet from the property line, may be up to eighty-four 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 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 feet measured from foundation to foundation with no projections greater than twenty-four inches. Additional fire protection may be required for structures located within ten feet of each other.

**A. General Requirements.**

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



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B. Accessory Structure Setbacks.

1. Detached garages may be located a maximum of twelve 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 feet to the side or rear property line including property lines abutting alleys with a maximum eave of twenty-four inches. Structures less than 120 square feet must be setback a minimum of 3 feet from the side and rear property line.
3. Accessory structures on corner lots shall not be permitted nearer than fifteen 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 feet in all RM zones and setback twenty-five feet in all RS zones.

C. Accessory Structure Height.

1. The maximum height for all accessory structures shall be twelve 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 feet, provided however that
  - a. The setback shall be a minimum of six feet from the side and rear property line,
  - b. Structures serving as secondary garages or shops are set behind the rear line of the house,
  - c. The roof pitch and siding shall be consistent with the primary structure on the lot,
  - d. There is no living space within the building except as permitted with a legal accessory dwelling unit (ADU) and larger setbacks as outlined in Chapter 19.20, and
  - e. The height of the building does not exceed the height of the primary structure.

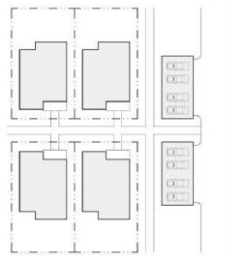
D. Accessory Structure Area.

1. In MH zones, no detached garage shall exceed one thousand square feet of inside floor area or exceed square footage of the primary structure.
2. In RMD and RS zones, no detached garage or accessory building footprint shall exceed one thousand square feet or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the

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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 parking stalls and not exceed forty-four feet in width. (see graphic)



Shared Garage

4. Detached carports are permitted to accommodate no more than four vehicles and are limited to a maximum of forty-four 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 feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this three foot setback.
  - b. Refer to Chapter 19.63 for full description of Residential Fence Standards.
3. Screening.

- a. In RS zones, trash and recycling containers shall be stored in side or rear yards or within enclosed garages.
- b. In RM zones, trash and recycling containers shall be stored in 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 be to visible from the street, shared access easement, 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 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.
3. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
4. Street trees must be installed with root barrier protection as specified in the Engineering Design Standards.
5. Street trees shall be a minimum caliper of one and one half inch at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of one inch. Refer to the city of Lynden Engineering Design Standards for a full description of street tree requirements.

C. Lighting.

1. All front entry ways shall have an exterior light.
2. In multi-family housing projects exterior lighting must be installed with a timer or sensors so that it operates automatically regardless of occupancy.

3. Light that is broadcast beyond the intended area and illuminates neighboring windows or beyond the lot boundary is not permitted.
- D. Addressing. To facilitate first responders in the event of an emergency, address numerals on all residential structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.
- E. Front and Side Yard Uses.
  1. Front yards, not part of a paved driveway or designated parking area, shall be used for ornamental purposes only.
    - a. No storage sheds, portable storage tents, temporary canopies or other similar structures may be located within the front yard; provided however that portable canopies or tent structures may be used during events or yard sales but must be removed within seventy-two hours of the sale or other event.
    - b. Parking of vehicles or utility trailers on lawn or landscape areas of a front yard or a side yard adjacent to a public right-of-way is not permitted.
  2. Front yards may be used for low impact development (LID) infiltration best management practices (BMPs).
  3. Front yard setbacks may not be used for the storage of boats, campers, or any recreational vehicle. Refer to 19.31.020.
  4. To reduce the visual impact of parking areas in RM zones, including RMD, a minimum of 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 side and front yards.

(Ord. No. 1582, § A, 6-3-2019)

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## Chapter 19.23 COMMERCIAL ZONING<sup>3</sup>

### 19.23.010 Zones defined.

The following commercial zones are hereby established and defined:

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

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<sup>3</sup>Editor's note(s)—Ord. No. 1357, § A, adopted June 1, 2009, repealed and replaced the former Ch. 19.23, §§ 19.23.010—19.23.100, and enacted a new Ch. 19.23 as set out herein. The former Ch. 19.23 pertained to CS commercial service zones and derived from Ord. 1000 § A(part), 1995; Ord. 1026 § A(part), 1996; Ord. 1036 § A, 1997; Ord. 1051 § A(part), 1997; Ord. 1081 §§ A—C, 1999; Ord. 1112 § B, 2001; Ord. 1129 § A(part), 2002; Ord. 1293 § B, 2007; Ord. 1309 § A, 2007; Ord. No. 1349 § A, adopted Jan. 20, 2009.

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

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

**19.23.020 Permitted uses.**

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

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

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

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

Commented [HG11]: Added Flooring to Home furnishing

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

Commented [HG13]: Added to Studios

Commented [HG14]: Moved to "Storage facilities". Definition needed in LMC 17



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

**Commented [HG15]:** Moved to Studios

**Commented [HG16]:** Moved to Offices – professional and business

**Commented [HG17]:** Moved to Eating / Drinking Establishments

**Commented [HG18]:** Moved to Eating / Drinking Establishments

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- A. New commercial structures which are visible from street right-of-way are subject to review and approval by the Design Review Board according to the City of Lynden Design Review Guidelines except that some accessory structures are exempt from Design Review Board approval per LMC 19.23.050(D).
- B. Commercial exterior remodels will be evaluated by the Planning Director to determine if review and approval of the Design Review Board is required. Board review will be prioritized for existing structures and sites which have historically never received approval. All commercial remodels are required to address aspects of site design such as lighting, landscape, street trees and the screening of mechanical equipment and trash disposal areas.

A-C. The Historic Business District (HBD) of the City of Lynden has a distinct aesthetic character based on the Dutch and European background of the founders of the community. To preserve this character and the community's unique identity, all new construction and commercial remodels within ~~all commercial zoning districts~~ the HBD shall ~~reflect this aesthetic~~ be subject to review and approval by the design review board.

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

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

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

- A. Additions-Projections may be made on the side of the building facing the street only, no overhang may occur in the alleys.

**Commented [HG19]:** Add section re upper story balconies per the IBC

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- B. Materials used for decorative additions to buildings must be non-combustible, except for limited wood trim which may be approved by the building official, subject to building codes.
  - C. Signs, marquees, canopies, or awnings with less than 15 feet clearance above a sidewalk shall not extend into or occupy more than two-thirds the width of the sidewalk measured from the building. ~~may be allowed at a~~ minimum height clearance of eight feet is required. ~~as permitted under the International Building Code.~~
  - D. Projections into public right-of-way that have more than 15 feet of clearance above the sidewalk are subject to the provisions of the International Building code and the approval of the Building Official.

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

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

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



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operator or landlord or of any past or prospective lessee. This restrictive covenant shall be approved by the city attorney and must be recorded at the time of permit approval.

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

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

- A. The costs of all studies and investigations reasonably necessary to grant approval of a building permit shall be borne by the applicant. If it becomes necessary for the city to hire outside professionals to review reports or studies, the cost of hiring the consultant(s) shall be borne by the applicant.
- B. All buildings are encouraged to achieve LEED certification. ~~A copy of the LEED checklist should be submitted at the time of permit application to demonstrate how the project will encourage energy efficiency and environmental responsiveness.~~
- C. Parking:
  - 1. Minimum parking area ~~4.5 stalls per one thousand square feet GFA~~ per LMC 19.51.
  - 2. Maximum parking area 6.0 stalls per one thousand square feet GFA.
  - 3. Development proposed under the provisions of the Mixed-Use Centers Overlay may be eligible for shared parking per LMC 19.51.
- D. Reuse of vacant stores: If the facility is vacated, the owner or operator shall submit a plan to the planning department for the continued maintenance of the site which addresses how the owner or operator will avoid any nuisance violations and the removal or proposed reuse of the facility. Said plan must be submitted within twelve months of the vacancy; provided however, the time limit may be extended by the city council upon showing of good cause. The plan shall include the following details:
  - 1. The owner or operator's proposed marketing efforts for obtaining an occupant for its facility.
  - 2. An executed maintenance contract for the site including landscaping, parking lot cleaning and site lighting.
  - 3. The requirements under this Section 19.23.090.D will be subject to enforcement under the provisions of Chapter 17.13 of the Lynden Municipal Code.
- E. Restrictive covenant required: Lease agreements containing provisions which limit, preclude or restrict the marketing, leasing or renting of retail stores greater than fifty thousand square feet to future lessees or future lessees operating a certain business, tend to prolong vacancy, are found to be detrimental to the public health, safety and welfare of the city, and shall not be permitted. The owner of any property for which a permit is

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granted authorizing an individual building or lease space greater than fifty thousand square feet for retail store purposes shall execute a restrictive covenant against the property for the benefit of the city as a condition of permit issuance. This restrictive covenant shall:

1. Preclude entry into any agreement which contains a provision preventing, restricting or limiting the marketing, leasing, or renting of the building or property to future lessees, including future lessees which may be competitors of any tenant or owner of the building.
  2. Require continuous occupancy of the leased premises and operation of a retail business on the leased premises during the term of any lease or rental agreement.
  3. In addition to other remedies, be enforceable by the remedy of specific performance and injunctive relief; and provide for award of reasonable costs and attorney's fees to the prevailing party in the event of enforcement of the restrictive covenant.
  4. The restrictive covenant referred to in this section shall be approved by the city attorney and must be recorded with the Whatcom County Auditor at the time of permit approval.
- F. Design guidelines: All large format retail buildings must meet the following site and building design guidelines-standards as part of compliance with the city's design review requirements.

#### Section I -Aesthetic Character

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

##### 1. Facades and Exterior Walls

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

- A. Facades greater than one hundred feet in length, measured horizontally, shall incorporate wall plane projections or recesses having a depth of at least three percent of the length of the façade. The cumulative length or the recess or projection must be a minimum of twenty percent of the length of the façade, but should not be more than sixty percent of the façade length.
- B. Ground floor facades that face public streets shall have arcades, entry areas, awnings or other such features along no less than sixty percent of their horizontal length. Display windows are encouraged as a design feature at entrances (see Section II.C.3).
- C. The use of porticos and other features to reduce the height of the front of the building to a pedestrian scale is encouraged.

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## 2. Detail Features

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

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

## 3. Roofs

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

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

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and widths to approximate the appearance of several smaller buildings or storefronts are encouraged.

#### 4. Materials and colors

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

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

#### 5. Entryways

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

- A. Each building on a site shall have clearly defined, highly visible entrances featuring no less than three of the following design elements:
  - i. Arcades, plazas or porticos.
  - ii. Raised parapets over the door.
  - iii. Arches.
  - iv. Display windows.
  - v. Outdoor patios.
  - vi. Peaked roof forms.
  - vii. Recesses or projections.
- B. Where additional stores will be located in the principal building, each store shall have at least one exterior customer entrance that conforms to the above requirements.
- C. Entry ways and their adjoining sidewalk, may not exit directly onto a travel lane or parking aisle. Pedestrian traffic should be directed to pedestrian walkways (refer to II. C. 1.).

#### 6. Back and Side Facades

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

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

## Section II - Site Design

### 1. Entrances

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

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

### 2. Parking Lot Orientation

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

- A. Large parking lots should be visibly and functionally segmented into several smaller lots with the use of landscaping, and pedestrian walkways.
- B. At least one pedestrian walkway shall be provided within the parking lot from each abutting street to the pedestrian walkway abutting the building.
- C. Parking lot landscaping shall meet or exceed the requirements of Section 19.61.100 of the Lynden Municipal Code.
- D. Cart corrals should be located throughout the parking areas in convenient and sufficient numbers and should be easily accessible.
- E. All lighting in the parking lot shall be directed downward to minimize glare on neighboring properties.
- F. Inclusion of bicycle parking is ~~strongly encouraged~~required.

### 3. Pedestrian Flows

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

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

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

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

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

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

#### 5. Signage

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

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

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

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

The purpose of this section is to promote the health, safety and general welfare in the city by establishing standards for the site design and the operation of gasoline service stations. The need for such standards is created by the high volume of traffic and the frequency with which vehicles enter and leave the sites. By establishing these standards, it is intended that the smooth flow of traffic will be facilitated and greater safety will be provided for the residents of Lynden, automobile passengers, and pedestrians.

- A. Code compliance: All gasoline service stations shall be in conformance and compliance with all federal, state and local statutes, laws and ordinances.
- B. Traffic study: A traffic impact analysis will be required for any new fueling station and the expansion of existing fueling stations.
- C. Development standards: Development standards and criteria of the zoning district/subzone shall apply unless otherwise noted in this section.

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1. Minimum lot size shall be fourteen thousand four hundred square feet.
  2. Ingress and egress must conform to the requirements of the City of Lynden Engineering Design and Development Manual.
  3. On-site lighting shall be located, directed, and/or shielded in a manner which reduces light glare or spill onto adjacent properties or rights-of-way.
  4. Separate public restrooms shall be provided for male and female and shall be barrier-free in conformance with WAC 51-20.
  5. A dumpster enclosure containing a dumpster shall be located strategically on the site in sufficient size and/or number to reduce off-site litter.
  6. Trash receptacles shall be located strategically and in sufficient number to reduce off-site litter.
  7. All portions of a gasoline service station site not utilized for landscaping or for other open space shall be paved. All perimeters shall be landscaped.
  8. No gasoline service station shall be located less than three hundred feet from any park, playground, church, school or public place of assemble. No service station shall be located closer than six hundred feet from the nearest property line of another service station unless the station is an accessory to a planned development or shopping center.

D. Operational standards:

1. No operation, service, or activity shall be permitted which would constitute a legal nuisance.
2. A formal litter control program, as approved by the city, shall be implemented.
3. Accessory truck, trailer and vehicle rental or sales shall be permitted where allowed by zoning.
4. A policy manual for the management of hazardous material incidents is to be submitted to the city for review and approval prior to occupancy of the facility.

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

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

A. Purpose

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

1. Provide for a compatible mix of multifamily housing, neighborhood commercial businesses, and semi-public open spaces



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

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

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

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

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

1. Zoning: The property zoned Commercial Services – Local (CSL) or Commercial Services - Regional (CSR)
2. Scale: The property or contiguous group of subject properties applying to construct a project using the provisions of the Mixed-Use Overlay at least one acre in size.
3. Location: The subject property(s) is within walking distance of a qualifying commercial center.
  - a. Walking distance is one quarter mile or less as measured from the edge of the subject property to the geometric center of the qualifying commercial center.
  - b. Qualifying commercial centers are identified in the Land Use Element of the City's Comprehensive Plan and generally have at least 20,000 square feet of gross floor area dedicated to general retail uses and at least 6 tenants which provide goods or services to the general public.
  - c. New commercial centers can be added to the City's list of qualifying commercial centers through an amendment to the Land Use Element of the City's Comprehensive Plan.

**C. Small Scale Mixed-Use within the Historic Business District (HBD)**

Properties within the Historic Business District (HBD) that are zoned CSL but do not qualify for Mixed-Use Centers provisions due to scale are permitted to establish residential uses on upper stories. Ground level space is limited to non-residential uses permitted within the CSL zone.

**Commented [HG20]:** Should this apply to all small CSL properties or just within the HBD?

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

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

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

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

	<u>Flex Space: Semi-public Open Space or Neighborhood Commercial Requirement</u>	<u>Residential Recreational Open Space</u>	<u>Multi-Family Housing and Parking</u>	<u>Max Residential Density (du / acre)</u>	<u>Max Residential Bldg Height</u>	<u>Max Commercial Bldg Height</u>
<u>CSL</u>	<u>20% of lot area</u>	<u>10% of lot area</u>	<u>70% of lot area</u>	<u>24</u>	<u>60 feet</u>	<u>32 feet</u>
<u>CSR</u>	<u>20% of lot area</u>	<u>10% of lot area</u>	<u>70% of lot area</u>	<u>24</u>	<u>60 feet</u>	<u>32 feet</u>

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

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

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

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

- c. Minimum of 20 feet for buildings, or portions of buildings, up to 60 feet in height.

**F. Residential Open Space Requirements**

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

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

**G. Required Commercial Use or Flex Space**

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

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

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

Permitted uses of Flex Space:

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

1. A public access easement must be recorded?

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

H. **Flex Space Conversion.** The portion of the property designated at semi-public open space may be converted into commercial use with limited requirements to add parking.

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However pedestrian connections must be maintained from the residential structures to any commercial use. Outdoor plaza space or wider sidewalks required.

## 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 [HG21]:** 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.

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~~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.

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~~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.

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(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 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 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).

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(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 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 feet. The maximum height of structures when the underlying zone is a multi-family zone is forty-five 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. 15-feet between the front of the house and the front property line;
  - 2. 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 feet from face of curb to face of curb, allowing two driving lanes and room for on-street parking.
  - 2. A minimum five-foot sidewalk fronting all residences with a four-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 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 ~~M~~PRD 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 of the land is set aside in common open space satisfying the requirements of Section 19.29.080, a five percent bonus to the base density is allowed.
- B. When twenty percent 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 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 percent of the gross land area or four thousand 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

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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 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 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 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 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 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.

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- 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 city for public use only if acceptable to the city. 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 city, 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.
  8. There are open lines of sight at the facility for security purposes.

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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 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.
  2. The right to locate pedestrian and bicycle paths or trails.

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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, 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.

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1. One map showing street systems, location of utilities, preliminary plat designs and contours at five foot 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.~~
  - ~~109.~~ 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.
  - ~~110.~~ 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.

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~~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, 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 overlaid 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 ~~M~~PRD constitutes the city's acceptance of a project design and concept. Once the master plan component of the ~~M~~PRD is approved for the site, the applicant may proceed to begin the second step: submittal



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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 of preliminary approval of an approved PRD utilizing the "one step" procedure in subsection 2.a above or within one year following approval of the proposal in the "second step" stage of an ~~M~~PRD utilizing the "two step" approval procedure in subsection 2.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. Upon expiration of a development contract the provisions of the underlying zoning category apply.

~~E.~~ 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 final development contract to provide staff and legal counsel the opportunity to comment. However, CCRs are not subject to City approval. 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~~.

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- A. Design Criteria: The design of the PRD ~~or MPRD~~ shall achieve two 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 percent;
  - 3. A reduction of more than ten 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 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.

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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 Uniform Common Ownership Interest Act (CIOA) as required per RCW 64.90.095.

- 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 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. 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.~~

~~C.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.

D. 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.

(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 months from the time of final approval of the PRD ~~or MPRD~~ contract, the permit shall lapse. The planning director may extend this time limit by up to twelve 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 months following final approval. Any extension of time shall be conditioned on the requirement

Commented [HG22]: Add provisions to record on title.

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to post a performance bond as required in Section 18.06.010(5), for one hundred fifty percent 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 [HG23]: 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)

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**Chapter 19.45 DESIGN REVIEW BOARD**

**19.45.010 Design review board established.**

Establishment and Scope. A design review board is established ~~for the purpose of to~~ review ~~and act on subjects as defined in Chapter 17.03.060 which typically includes~~ing: 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, signs as required in Chapter 19.33 of this Code, and the variance of 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 recommendations. The staff report shall include findings, conclusions, and proposed recommendation 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 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)

**19.45.015 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 Membership—Appointment—Term—Compensation—  
Vacancy—Removal.**

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

In case any vacancy should occur in the membership of the board, for any cause, the mayor shall fill such vacancy by making an appointment with the consent of council. The members of the design review board may be removed by the mayor, subject to the approval of the council, for such causes as he/she deems sufficient, which shall be set forth in a letter filed with the council. The ~~initial~~ membership shall consist of ~~one member appointed for one year, one for two years, one for three years, and two for a~~ four 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 Meetings—Notice—Rule promulgation—Records—Quorum.**

Meetings of the design review board shall be held 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, and all regular design review board meetings shall be open to the public.

A. Notice Requirements.

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

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

(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 design variance criteria.**

Plans submitted to the design review board for a variance 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 would not be inconsistent with privately recorded covenants, conditions or restrictions;
- B. The proposed structure would meet all building and fire codes as determined by the building official;
- C. The applicant is not violating more than two of the criteria.

(Ord. 1292 § F, 2007).

(Ord. No. 1547, § 14, 12-4-2017)

**19.45.040 Decision by the design review board.**

The design review board shall review each application 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:

- 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 building inspector.

The building official shall enforce the 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.

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

The decision of the design review board shall be final, unless appealed within fourteen 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 shall be conducted for all commercial, sign, or multi-family projects or remodels which 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 feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. Fences erected by owners of private property shall not be erected so that they encroach on any city-owned property, including street and alley, rights-of-way, except as provided in Section 19.63.050.

(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 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.

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- B. Within a residential zone or for residential uses within a nonresidential zone a fence may be built as close as three feet to the sidewalk.
  - C. Fences shall not be allowed on city property for nonresidential uses permitted within a residential zone.
  - D. Fences will not be allowed on city-owned property unless the owner agrees to remove the fence at the owner's expense upon request of the city. The owner must sign an agreement which will be recorded with the Whatcom County auditor, evidencing such agreement and agreeing that if the owner does not remove the fence upon the city's request, the owner will reimburse the city for the cost of removal. The owner shall pay for the cost of recording the agreement with the Whatcom County auditor.

(Ord. 1292 § H(part), 2007).

**19.63.060 Fence requirements.**

Fences shall be built to the following specifications:

- A. Electric and barbed wire fences are not permitted in residential zones.
- B. All gates shall swing into the owner's property.
- C. A clear vision triangle as defined in Section 17.01.030 shall be maintained on all corner lots at the street intersection. A ten-foot clear vision triangle shall be maintained at all alley, railroad, and driveway intersections with streets and all driveway/alley intersections. The driveway vision triangle shall be measured from the paved driveway sides or five feet each way from the driveway center, whichever is more restrictive. Fences of three feet or less in height, measured from curb height, are allowed in all vision triangles. Clear vision triangle is defined in 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 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 inches.
  - 2. From thirty feet from the front property line, or five feet behind the corner of the house as noted above, to the rear property line, the maximum height of any fence shall be seventy-two inches.
  - 3. Side yard fences where the side yard is the rear yard for the adjacent property may be seventy-two inches in height, on that side only, provided that there is a minimum setback of fifteen feet from the front property line and does not extend beyond the front of the house, whichever is more restrictive. No vision

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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 to this height limit for no more than eighteen 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 inches, and an overall combined length of twenty-five feet. Privacy fences shall be considered part of the residential structure and shall meet all structure setbacks for front, rear and side yards; provided, however, that rear and side yard setbacks may be waived by the planning department if, in their opinion, there is no apparent conflict with adjoining property uses.

(Ord. 1292 § H(part), 2007).

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**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 inches~~ seven feet.
- B. Wire fencing may be allowed up to seven feet on properties with a non-residential zoning except that a maximum height of twelve feet ~~high~~ is permitted on industrially zoned properties.
- 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).

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