## TITLE 19 ZONING

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<td>19.66 Marijuana Producer, Processor, Retailer Uses and Activities, and Medical Marijuana prohibited</td>
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</tr>
</tbody>
</table>
Chapter 19.03

COMPREHENSIVE PLAN

19.03.010 Zoning Ordinance -- Adopted

A comprehensive plan has been prepared, adopted and recommended by the planning commission for the physical and other generally advantageous development of the City. That Comprehensive Plan was originally adopted in 1995 and was updated by the Lynden City Council in 2004 and 2016. This final ordinance is hereby adopted pursuant to RCW 35A.
Chapter 19.05
GENERAL PROVISIONS

19.05.010 Zoning ordinance designated.
This ordinance shall be known as "the Zoning Ordinance for the City of Lynden."

19.05.020 Interpretation of provisions.
In their interpretation and application, the provisions of this title shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare of the city. Any land use listed in this title shall not be construed to include other uses, unless the phrasing of the provisions contained in this title clearly indicates that is intended.

Where this chapter imposes requirements that are more protective of human health or the environment than those set forth elsewhere, the provisions of this chapter shall prevail. When this chapter imposes requirements that are less protective of human health or the environment than those set forth elsewhere, the provisions of the more protective requirements shall prevail.
Chapter 19.09

MAPS AND DISTRICT BOUNDARIES

19.09.010 Map adoption
19.09.020 Zoning Boundary Interpretation
19.09.030 Zoning of new areas

19.09.010 Map Adoption
The location, size, shape, area, and boundaries of the zones to which the text of the zoning ordinance are applicable, shall be as indicated on the map which is entitled "Zoning Map of the City of Lynden," and such map, after it has been adopted by the city council, signed by the mayor and city clerk and filed with the city clerk and mounted in a conspicuous place in City Hall, shall be part of this title.

19.09.020 Zoning boundary interpretation.
The boundaries of the zones, except where otherwise referenced, are intended to follow the lines of zoning lots, and the centerlines of streets and alleys.

19.09.030 Zoning of new areas.
Any area or premise within the urban growth area, hereafter annexed to the city, shall be automatically classified according to the zone set in the Zoning Map.
Chapter 19.11
DISTRICTS ESTABLISHED

Sections:
19.11.010 Zones established -- Purpose.
19.11.020 Zones designated -- Essential use, maximum coverage, and density.

19.11.010 Zones established -- Purpose.
For the purpose of developing a comprehensive arrangement of land uses and related standards, regulations, rules and specifications, the classifications of essential uses, and the declaration of each essential use group establishing the purpose for the zones within each group set forth hereafter adopted.

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:

<table>
<thead>
<tr>
<th>Zone Symbol</th>
<th>Essential Use</th>
<th>Maximum Percent Coverage</th>
<th>Maximum Percent Impervious Coverage</th>
<th>Maximum Development Density</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-1</td>
<td>Agricultural</td>
<td>0.10</td>
<td></td>
<td>1 D.U./20 Acres</td>
</tr>
<tr>
<td>RS-100</td>
<td>Single Family Dwellings</td>
<td>0.35</td>
<td>0.60</td>
<td>4 D.U./Acre</td>
</tr>
<tr>
<td>RS-84</td>
<td>Single Family Dwellings</td>
<td>0.35</td>
<td>0.60</td>
<td>4.5 D.U./Acre</td>
</tr>
<tr>
<td>RS-72</td>
<td>Single Family Dwellings</td>
<td>0.35</td>
<td>0.60</td>
<td>5.0 D.U./Acre</td>
</tr>
<tr>
<td>RMD</td>
<td>Residential Mixed Density</td>
<td>0.35</td>
<td>0.80</td>
<td>8.0 D.U/Acre</td>
</tr>
<tr>
<td>MH</td>
<td>Mobile and Modular Home</td>
<td>0.40</td>
<td>0.80</td>
<td>8.0 D.U/Acre</td>
</tr>
<tr>
<td>TR</td>
<td>Travel/Recreational Vehicle</td>
<td>0.65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RM-1</td>
<td>Single Family and two Family Dwellings/bldg.</td>
<td>0.35</td>
<td>0.70</td>
<td>8.0 D.U./Acre</td>
</tr>
<tr>
<td>RM-2</td>
<td>Up to 4 Dwellings/bldg.</td>
<td>0.40</td>
<td>0.70</td>
<td>12 D.U./Acre</td>
</tr>
<tr>
<td>RM-3</td>
<td>Multiple Dwellings</td>
<td>0.40</td>
<td>0.75</td>
<td>16 D.U./Acre</td>
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<tr>
<td>Zone Symbol</td>
<td>Essential Use</td>
<td>Maximum Percent Coverage</td>
<td>Maximum Percent Impervious Coverage</td>
<td>Maximum Development Density</td>
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<tr>
<td>-------------</td>
<td>--------------------------------------------------</td>
<td>--------------------------</td>
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<td>----------------------------</td>
</tr>
<tr>
<td>RM-4</td>
<td>Multiple Dwellings</td>
<td>0.45</td>
<td>0.75</td>
<td>24 D.U./Acre</td>
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<tr>
<td>RM-PC</td>
<td>Detached Single Family Dwellings</td>
<td>0.35</td>
<td>See Open Space Requirements</td>
<td>12 D.U./Acre</td>
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<tr>
<td></td>
<td>Attached Single Family Attached</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multi-family Dwellings</td>
<td>0.50</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>SO</td>
<td>Senior Housing Overlay in the Pepin Creek Subarea</td>
<td>0.40-0.50</td>
<td>See Open Space Requirements</td>
<td>30 D.U./Acre</td>
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<tr>
<td>HBD</td>
<td>Historic Business District</td>
<td>0.80</td>
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<tr>
<td>CN</td>
<td>Commercial Neighborhood Overlay in the Pepin Creek Subarea</td>
<td>N/A</td>
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<td>CSL</td>
<td>Local Commercial Services</td>
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<td>CSR</td>
<td>Regional Commercial Services</td>
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<td>ID</td>
<td>Industrial District</td>
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<td>IBZ</td>
<td>Industrial Business Zone</td>
<td>N/A</td>
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<tr>
<td>PU</td>
<td>Public Use</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Chapter 19.13
AGRICULTURAL ZONE

19.13.010 Purpose
19.13.020 Primary Permitted Uses
19.13.030 Accessory Permitted Uses
19.13.040 Secondary Permitted Uses
19.13.050 Conditional Property Uses
19.13.060 Height, Area, Setback and Bulk Requirements
19.13.070 Fences

19.13.010 Established
There is established the A-1, Agricultural zone and the standards and regulations by which certain uses may be permitted therein.

19.13.020 Purpose
The purpose of an A-1, Agricultural Zone is to allow agricultural uses in areas of the City which should remain in agricultural use until other urban uses are planned and streets and utilities are either extended or have been bonded for development.

19.13.030 Primary Permitted Uses.
The primary land uses permitted in the Agricultural - 1 Zone are as follows:
A. Keeping and raising of animals.
B. Raising and selling of crops, fruits, berries and mushrooms produced on the property.
C. One single family dwelling unit per lot of record.
D. Veterinary Hospitals and veterinary testing laboratories.

19.13.040 Accessory Permitted Uses.
Accessory permitted uses in the Agricultural Zone are those uses that are ancillary to the normal permitted uses.

Secondary permitted uses in the Agricultural Zone 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. Greenhouse operations.
C. Home occupations. See Chapter 19.57
D. Gardening and fruit raising.
E. Family Day Care centers.
G. Parks and Playgrounds.

**19.13.060 Conditional Property Uses.**

The following property uses may be permitted in an agricultural zone by conditional use permit when recommended by the planning commission and approved by the City Council.

A. Public buildings and utility sub-stations.

B. Residential care homes for more than six people, but not more than twelve people.

C. Churches, provided that the lot coverage does not exceed thirty percent, the front yard is landscaped and all other parking and landscaping requirements are met. Height increases exceeding the thirty foot limitation may be waived by the Planning Commission upon review of architectural plans.

**19.13.070 - Height, area, setback and bulk requirements.**

A. The regulations for height, area, setback and bulk requirements are:
   1. Minimum parcel size: twenty acres;
   2. Maximum height of buildings: thirty feet;
   3. Yard setbacks for all buildings:
      a. From street, other than state highways: twenty feet,
      b. From state highways: one hundred feet from centerline,
      c. From side property line: ten feet,
      d. From rear property line: thirty-five feet.

All setbacks are measured to the building foundation. Eaves and bay windows are permitted to encroach into setbacks a maximum of 2 feet.

B. The side yard used for a driveway shall not be less than ten feet in width.

C. Front yards, the area immediately in front of any dwelling unit, may be used for ornamental purposes only, but at least one hundred feet from the front property line may not be used for raising of crops or pasturing of animals.

**19.13.080 Fences.**

The following table regulates the height of fences in all agricultural zones when surrounding residences:

<table>
<thead>
<tr>
<th>Allowed Height of Fences:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Distance from Front of Property</td>
<td>Height</td>
</tr>
<tr>
<td>First 45 feet:</td>
<td>42 inches</td>
</tr>
<tr>
<td>45 feet to end of property:</td>
<td>72 inches</td>
</tr>
</tbody>
</table>
Chapter 19.15
RS SINGLE FAMILY BUILDING ZONES

19.15.010 Established
19.15.020 Primary Permitted uses
19.15.030 Accessory Permitted uses
19.15.040 Secondary Permitted uses
19.15.050 Conditional Property uses
19.15.060 Height, Area, Setback and Bulk requirements

19.15.010 Purpose and Zones Established.
A. Three single family zones are established:

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

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

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

B. Use of Low Impact Development Techniques

When an application for single family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the Planning Director, Planning Commission, or City Council, as applicable, is authorized to approve land divisions even though they may not meet the lot size requirements of single-family zones presented in this Title under the following conditions:

A. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
B. Site planning and design documents are completed by a licensed engineer in the State of Washington;
C. The proposed development integrates with the character of the neighborhood;
D. The requested waiver must be specified and justified in writing to the technical review committee and the approving body.
E. Written documentation of the decision on the waiver is recorded by the Director in City records.

19.15.020 Primary Permitted Uses.

A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.

B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.

C. Personal Services are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.

D. Sales of General Consumer Goods are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the Planning Director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of General Consumer Goods is also not allowed.

E. Restaurants and Cafes are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only.

F. Professional offices, Banks and Financial institutions in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only.

19.15.030 Accessory Permitted Uses.

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

A. Private garages.
B. Carports.
C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
E. Accessory dwelling unit (ADU) per LMC 19.20.

19.15.040 Secondary Permitted Uses.

Secondary permitted uses in the Single-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.
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 (5) 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 adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.15.050 Conditional Property Uses.

The following property uses may be permitted in single family zones by conditional use permit when recommended by the Planning Commission and approved by the City Council. The conditional use permit may authorize height variations for public buildings, utility sub-stations, schools and churches.
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. House of Worship, provided that the lot coverage does not exceed thirty-five percent, the front yard be landscaped and all other parking and landscaping requirements are met.
E. Schools.
F. Bed & Breakfast Establishments and Short Term Rentals. (Refer to Section 19.49.030)
19.15.060 Height, Area, Setback, and Bulk Requirements.

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

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Lot Size (sq. ft.)</th>
<th>Lot Coverage</th>
<th>Height</th>
<th>Yard Setbacks in Feet</th>
<th>Side Yard</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>Feet</td>
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<td>Story</td>
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<td>Front</td>
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<td></td>
<td>Rear</td>
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<td>Minimum</td>
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<td>Total</td>
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<tr>
<td>RS-100</td>
<td>10,000</td>
<td>35%</td>
<td>32</td>
<td>2</td>
<td>20</td>
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<td></td>
<td></td>
<td></td>
<td>22</td>
</tr>
<tr>
<td>RS-84</td>
<td>8,400</td>
<td>35%</td>
<td>32</td>
<td>2</td>
<td>15</td>
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<td></td>
<td>22</td>
</tr>
<tr>
<td>RS-72</td>
<td>7,200</td>
<td>35%</td>
<td>32</td>
<td>2</td>
<td>15</td>
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<td>30</td>
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<td>17</td>
</tr>
</tbody>
</table>
Chapter 19.16
Residential Mixed Density Zone

19.16.010 Purpose and Intent
19.16.020 Permitted Uses
19.16.030 Accessory Permitted Uses
19.16.040 Secondary Permitted Uses
19.16.050 Conditional Property Uses
19.16.060 Development Standards – Density, Lot, Height, Setbacks
19.16.085 Subdivision Design Guidelines

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

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

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

A. Single Family Dwelling units, including detached site built single family dwellings and new manufactured homes. This includes types such as large lot single family and small lot single family units. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

B. Two Single Family Attached Dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.

C. Duplex units. This includes two attached units on one parcel.

19.16.030 - Accessory permitted uses.
Accessory permitted uses are as follows:

A. Private garages.
B. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.

C. 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.

D. Accessory dwelling unit (ADU) per LMC Chapter 19.20.

19.16.040 - Secondary permitted uses.

Secondary permitted uses 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.


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 adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.16.050 - Conditional property uses.

The following property uses may be permitted in single family zones by conditional use permit when recommended by the planning commission and approved by the city council. The conditional use permit may authorize height variations for public buildings, utility sub-stations, schools and churches.

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. Houses of Worship, provided that the lot coverage does not exceed thirty-five percent, the front yard be landscaped and all other parking and landscaping requirements are met.

E. Schools.

F. Bed and Breakfast establishments and Short Term Rentals. (Refer to Section 19.49.030)

G. Manufactured home parks or subdivisions subject to the development objectives of the applicable sub-area plan.

**19.16.060 - Development Standards - Density, Lot, Height, Setbacks**

<table>
<thead>
<tr>
<th></th>
<th>Detached Units</th>
<th>Attached Units</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Minimum Lot Size</strong>&lt;sup&gt;a, b, c&lt;/sup&gt;</td>
<td>6,000 sf</td>
<td>4,000 sf each unit</td>
</tr>
<tr>
<td>Maximum Lot Coverage on lots less than 7,000 sf</td>
<td>40%</td>
<td>35%</td>
</tr>
<tr>
<td>Maximum Lot Coverage on lots 7,000 sf or greater</td>
<td>35%</td>
<td>35%</td>
</tr>
<tr>
<td>Maximum Height</td>
<td>32’</td>
<td>32’</td>
</tr>
<tr>
<td>Maximum Stories</td>
<td>2 stories</td>
<td>2 stories</td>
</tr>
</tbody>
</table>

**Front Setback**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>ROW to Porch</td>
<td>10’</td>
<td>10’</td>
</tr>
<tr>
<td>ROW to House</td>
<td>15’</td>
<td>15’</td>
</tr>
<tr>
<td>ROW to Garage</td>
<td>25’</td>
<td>25’</td>
</tr>
</tbody>
</table>

**Side Setback**<sup>d</sup>

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Side</td>
<td>7’</td>
<td>0’ attached side, 7’ detached side</td>
</tr>
<tr>
<td>Side Total</td>
<td>14’</td>
<td>7’ each end, 14’ total</td>
</tr>
<tr>
<td>Corner Lot</td>
<td>10’</td>
<td>10’</td>
</tr>
</tbody>
</table>

**Rear Setback**<sup>d</sup>

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Alley Easement to Garage Side</td>
<td>3’</td>
<td>3’</td>
</tr>
<tr>
<td>Garage Side to Property Line</td>
<td>5’</td>
<td>5’</td>
</tr>
<tr>
<td>Alley to Garage Door</td>
<td>21’</td>
<td>21’</td>
</tr>
<tr>
<td>Alley to House</td>
<td>20’</td>
<td>20’</td>
</tr>
<tr>
<td>To House</td>
<td>20’</td>
<td>20’</td>
</tr>
</tbody>
</table>
Table Notes:

a. For the purpose of this section net land area means the gross acreage within a parcel minus all development requirements, designated critical areas and their buffers.

b. Lots developed immediately adjoining a different single family residential zone shall not be less than 80% of the minimum lot size of that adjoining zone. For the purpose of this section properties that are separated from another single family residential zone by a street are not immediately adjoining said zone.

c. A minimum of 40% of the net land area within a development shall be divided into lots with a minimum size of 7200 square feet or larger.

d. On corner lots 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 10 feet.

19.16.085 - Subdivision design guidelines.

All subdivisions must meet Chapter 18.14 of the Lynden Municipal Code, which provides minimum plat design requirements. In addition, subdivisions in the Pepin Creek Subarea must meet the Pepin Creek Subarea Residential Design Standards as adopted by the City Council. For developments outside of the Pepin Creek Subarea the following are specific design recommendations intended to improve the aesthetic design of the subdivision as a whole. The items below are not meant to be exhaustive and developers are encouraged to incorporate other creative design elements within the project.

A. It is recommended that lot sizes and lot frontage widths are included and intermixed in the design of the subdivision to provide more street interest and potential for varying house designs.

B. Curvilinear streets with connectivity are encouraged to provide a varied approach to the housing units.

Low impact design (LID) design techniques are encouraged.
19.17.010 Purpose and Zones Established.

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

Six multi-family zones are established:

RM-1, Residential Multi-Family 1 zone; (up to 2 units/building)
RM-2, Residential Multi-Family 2 zone; (up to 4 units/building)
RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)
RM-4, Residential Multi-Family 4 zone; (up to 50 units/building)
RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 units/building)
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;

2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;

3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;

5. Written documentation of the decision on the waiver is recorded by the director in city records.

19.17.020 Primary Permitted Uses.
The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

<table>
<thead>
<tr>
<th>Zone</th>
<th>RM-1</th>
<th>RM-2</th>
<th>RM-3</th>
<th>RM-4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family Dwelling Unit</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Duplex Units</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Three or Four units per building</td>
<td>N</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>More than four units per building</td>
<td>N</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>New manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Mobile homes as defined in Section 17.01.030 LMC</td>
<td>N</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
</tbody>
</table>

P = Permitted Use; N = Not Allowed

19.17.030 Accessory Permitted Uses.

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

A. Private Garages.

B. Carports.

C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.

D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.

E. Accessory dwelling unit (ADU), per LMC 19.20.,

F. Recreation areas for occupants.

G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.
19.17.040 Secondary Permitted Uses.
Secondary permitted uses in the Multi Family Zones are as follows:

A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.

B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.


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 (5) 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 adults, when approved by the Washington State Department of Social and Health Services (DSHS).

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.

19.17.060 Height, Area, Setback and Bulk Requirements.

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

<table>
<thead>
<tr>
<th>B. Zone</th>
<th>Min. Lot Size (sq. ft.)</th>
<th>Lot Coverage</th>
<th>Open Space Required</th>
<th>Height</th>
<th>Yard Setbacks in Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Side Yard</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Feet</td>
</tr>
<tr>
<td>RM-1</td>
<td>7,200</td>
<td>35%</td>
<td>7.5%</td>
<td>32</td>
<td>20</td>
</tr>
<tr>
<td>RM-2</td>
<td>7,200</td>
<td>40%</td>
<td>7.5%</td>
<td>32</td>
<td>20</td>
</tr>
<tr>
<td>RM-3</td>
<td>7,200</td>
<td>40%</td>
<td>7.5%</td>
<td>32</td>
<td>20</td>
</tr>
<tr>
<td>RM-4</td>
<td>1 Acre</td>
<td>45%</td>
<td>7.5%</td>
<td>32</td>
<td>20</td>
</tr>
</tbody>
</table>
B. The following table provides regulation regarding the maximum density allowable in each zone.

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

C. For the purposes of this chapter open space is as defined in Section 19.29.080(3) of the Lynden Municipal Code.

D. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

19.17.100 Design Review Board
All multi-family developments will be subject to approval by the Design Review Board.
Chapter 19.18
PEPIN CREEK SUB AREA ZONES

Sections:

19.18.010 Purpose and Intent
19.18.020 Primary Permitted Uses
19.18.030 Pepin Creek Multi-Family Zone (RM-PC)
19.18.040 Pepin Creek Senior Overlay
19.18.050 Pepin Creek Neighborhood Commercial Overlay

19.18.010 Purpose and Intent

A. Purpose. The purpose of the Pepin Creek Subarea is to meet the goals of the Comprehensive Plan by allowing residential development averaging about seven dwelling units per net acre and to allow a variety of housing types that will meet the needs of families throughout their lifecycle. Development in the Pepin Creek Subarea should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping, and open space. Commercial uses are allowed where they serve the neighborhood.

B. Established. The following zones and overlays are utilized within the Pepin Creek Subarea.

<table>
<thead>
<tr>
<th>Zone or Overlay</th>
<th>Uses</th>
<th>Development Standards</th>
</tr>
</thead>
<tbody>
<tr>
<td>RS-72</td>
<td>19.15</td>
<td>19.15</td>
</tr>
<tr>
<td>RMD</td>
<td>19.16</td>
<td>19.16</td>
</tr>
<tr>
<td>RM-PC</td>
<td>19.18.030</td>
<td>19.18.030</td>
</tr>
<tr>
<td>Senior Overlay</td>
<td>19.18.040</td>
<td>19.18.040</td>
</tr>
<tr>
<td>Neighborhood Commercial Overlay</td>
<td>19.18.050</td>
<td>19.18.050</td>
</tr>
<tr>
<td>Public Use</td>
<td>19.27</td>
<td>19.27</td>
</tr>
<tr>
<td>Airport Overlay</td>
<td>19.55</td>
<td>19.55</td>
</tr>
</tbody>
</table>

C. Conflicts. If there are any conflicts between the provisions of this chapter and
any other parts of the Lynden Municipal Code, this chapter shall prevail except for where standards necessary to maintain public safety related to the operation of the airport.

19.18.020 Primary Permitted Uses within the Pepin Creek Subarea

The primary permitted uses in the Pepin Creek Subarea are as follows. See Figure 19.18.010-1 to reference the location of applicable secondary, accessory, and conditional uses as well as development standards specific to each zoning category.

A. Single Family Dwelling units, including detached site built single family dwellings and new manufactured homes. This includes types such as large lot single family, small lot single family and cottages.

B. Single Family Attached Dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types.

C. Duplex Dwelling units.

D. Multi-Family Dwelling units typically limited to a maximum of four to eight units per building.

E. The Senior Overlay provides the opportunity for development to accommodate a specific user. When activated, the permitted uses within the overlay include senior cottages, attached single family units, senior Multi-family Dwelling Units, developed to standards specific to the overlay. A range of units or rooms per building are permitted, however the entire Pepin Creek Subarea is limited to a maximum of 300 total units within the Senior Overlay districts. All multi-family dwellings that contain more than four units per building within the Senior Overlay must be age restricted to persons age 55 and older.

F. Nursing home and assisted living facilities as defined in RCW 74.39A.009 are considered primary uses in Senior Overlay;

G. The Neighborhood Commercial Overlay, provide an opportunity for a variety of primary permitted uses in key locations. These include:

   1. Personal Services. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.

   2. Sales of General Consumer Goods. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the Planning Director, are not allowed. Such regional uses include fuel
sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of General Consumer Goods is also not allowed.

3. Restaurants and Cafes.
4. Banks and Financial institutions.
5. Second story residential uses may be developed in conjunction with first floor commercial uses.

19.18.030 – Pepin Creek Multi-family Zone (RM-PC) and Uses Established

A. Primary Permitted Uses

1. Multi-family Dwelling units, that is multiple dwelling units located on a single lot, are permitted with the following restrictions:
   a. Buildings containing 2 to 4 units are permitted consistent with LMC 19.18.030(F) and applicable design standards.
   b. Buildings containing 5-8 units are permitted at a ratio of one for every 25 lots created. Lot count may include those used for multi-family dwelling units, attached single family dwellings, or detached single family dwelling. Development must be consistent with LMC 19.18.030(E) and applicable design standards.

2. Single Family Attached Dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types. A maximum of 4 units may be attached to one another.

3. Single Family Dwelling units, including detached site built single family dwellings and new manufactured homes.

B. Accessory Permitted Uses. Accessory permitted uses in the RM-PC zone is as follows:

1. Private garages for single-family or single-family attached residences. No detached garage or accessory building shall exceed one thousand square feet of inside floor area or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive;

2. Single-family lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they
are not stored in the front yard and meet the requirements of Section 19.31.020(B);

3. Tool shed, satellite dish, outdoor patios and outdoor fireplaces consistent with applicable design standards;

4. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of the primary residence. No units greater than eight feet by ten feet are permitted in residential zones, other than during construction or for a period of up to thirty consecutive days within a six-month period to facilitate the moving in or moving out of a residence. Units eight feet by ten feet or smaller may be placed on a lot for not more than six months during any two-year period and must be located in the rear yard;

5. 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 Section 19.37.090;

6. Accessory dwelling unit (ADU) consistent with LMC Section 19.20 permitted in detached single family homes only.

7. No more than five, currently licensed and/or operable passenger vehicles may be stored on any single-family residential lot. Inoperable vehicles may not be stored in the front yard (refer to Section 19.31.020(A)).

8. Recreation areas for residents.

C. Secondary Permitted Uses. Secondary permitted uses in the Pepin Creek Subarea zones are as follows:

1. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes;

2. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises except in the Neighborhood Commercial Overlay;

3. Home occupations. See Chapter 19.57;

4. Gardening and fruit growing not for commercial sale;

5. 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 Chapter 19.39 of this code;

6. Family day care centers for up to eight individuals, not including the
residents of the dwelling unit;

7. Parks and playgrounds;

8. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

9. Temporary structures such as portable tents or canopies used by a business for an event or sale in the Commercial Neighborhood Overlay. The event or sale shall be limited to seven days or less and all temporary structures must be removed within 72 hours of the sale or event.

D. Conditional Permitted Uses. The following property uses may be permitted in Pepin Creek Subarea zones by conditional use permit when recommended by the planning commission and approved by the city council consistent with LMC 19.49.050.

1. Public buildings and utility sub-stations;

2. Club facilities that are directly related to the neighborhood such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas;

3. 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;

4. Nursing home and assisted living facilities as defined in RCW 74.39A.009 when located in the RS-72, RMD, or RM-PC zones;

5. Bed and breakfast establishments (see Section 19.49.030);

6. Churches, provided that the front yard is landscaped and all other parking and landscaping requirements are met; and

7. Schools

E. Front Yard Use for Residential Uses

1. Front yards shall be used for ornamental purposes only. 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 72 hours of the sale or other event.

2. No fences, growth or other obstruction over three feet in height above the
curb grade shall be allowed within the clear vision triangle.

3. Front yards setbacks may not be used for the storage of boats, campers, or any recreational vehicle. (Refer to 19.31.020 B)

F. RM-PC Development Standards. The development standards for the RM-PC zone are as follows:

1. RM-PC Height, Density, Area, Coverage, and Bulk Requirements

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Lot Size</th>
<th>Maximum Density *</th>
<th>Maximum Lot Coverage</th>
<th>Maximum Heightb</th>
<th>Maximum Stories</th>
</tr>
</thead>
<tbody>
<tr>
<td>RM-PC Single Family Detached</td>
<td>4000 sf</td>
<td>12 DU/AC</td>
<td>35%</td>
<td>32'</td>
<td>2</td>
</tr>
<tr>
<td>RM-PC Single Family Attached</td>
<td>3000 sf</td>
<td>12 DU/AC</td>
<td>50%</td>
<td>40'</td>
<td>3</td>
</tr>
<tr>
<td>RM-PC Multi-family dwelling</td>
<td>1600 sf per unit</td>
<td>12 DU/AC</td>
<td>40%</td>
<td>40'</td>
<td>3</td>
</tr>
</tbody>
</table>

* Residential densities are based on net land area.

G. RM-PC Setback Requirements

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>RM-PC Detached</th>
<th>RM-PC Attached</th>
<th>RM-PC Multi Dwelling</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front Setback</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROW to Porch</td>
<td>8'</td>
<td>8'</td>
<td>15'</td>
</tr>
<tr>
<td>ROW to House</td>
<td>10'</td>
<td>10'</td>
<td>20'</td>
</tr>
<tr>
<td>ROW to Garage</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
<tr>
<td>Green to Porch</td>
<td>4'</td>
<td>4'</td>
<td>10'</td>
</tr>
<tr>
<td>Green to House</td>
<td>6'</td>
<td>6'</td>
<td>10'</td>
</tr>
<tr>
<td>Side Setback *</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Side</td>
<td>7'</td>
<td>0' on attached sides, 10' on each unattached side</td>
<td>10'</td>
</tr>
<tr>
<td>Side Total</td>
<td>14'</td>
<td>20'</td>
<td>20'</td>
</tr>
<tr>
<td>Corner Lot</td>
<td>10'</td>
<td>10'</td>
<td>14'</td>
</tr>
</tbody>
</table>
Rear Setback *

<table>
<thead>
<tr>
<th></th>
<th>3'</th>
<th>3'</th>
<th>3'</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alley Easement to Garage Side</td>
<td>5'</td>
<td>5'</td>
<td>5'</td>
</tr>
<tr>
<td>Garage Side to Property Line</td>
<td>21'</td>
<td>21'</td>
<td>25'</td>
</tr>
<tr>
<td>Alley to Garage Door</td>
<td>15'</td>
<td>10'</td>
<td>20'</td>
</tr>
<tr>
<td>To House</td>
<td>15'</td>
<td>10'</td>
<td>15'</td>
</tr>
</tbody>
</table>

+ On corner lots 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 10 feet.

1. Additional RM-PC Development Standards:

   a. The height of any building is measured from the approved average grade level as defined in 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.

   b. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in this section. Additional fire protection may be required for structures located within 10 feet of each other. It is the property owner’s responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to March 1, 2019 are considered conforming and not subject to LMC 19.35.030.

   c. 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. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.

   d. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within 10 feet of the rear property line for detached homes on lots zoned RM-PC; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

H. Standards for Detached Accessory Buildings

   1. 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 18 inches.
2. A detached accessory structure may not be built closer than 6 feet to the side or rear property line, except where a rear property line abuts an alley a structure may not be built closer than 3 feet to the rear property line. Structures which do not require a building permit per LMC 15.04 must be setback a minimum of three feet to the side or rear property line.

3. Detached accessory structures on corner lots shall not be permitted nearer than ten feet to the side property line adjacent to the street.

4. The maximum height for all detached accessory structures shall be 12 feet, except for detached garages as noted below.

5. The maximum height of any detached garage shall be 18 feet, provided there is no living space within the building. Detached garages with living spaces shall be subject to the standards for Accessory Dwelling Units in LMC 19.20. The roof pitch and siding on any detached garage shall be consistent with the primary structure on the lot, and the height of the building shall not exceed the height of the primary structure.

6. A secondary garage or shop shall be set behind the rear line of house.

I. Transition Area Standards

1. A transition area of 100 ft. is applied to the RM-PC zone where the RM-PC zone abuts RS zoning located inside and outside of the Pepin Creek Subarea. The transition area is also applied when the Senior Overlay is activated adjacent to RS zoning located inside and outside of the Pepin Creek Subarea.

2. A ten foot wide Type IV landscape buffer and 6 foot privacy fencing are required on RM-PC properties where abutting RS zones. Alternatively, a buffer is not required if lots are limited to a primary use as a detached single-family home or pairs of attached single family homes.

3. Lots developed in the transition zone shall be limited to the maximum height of the abutting RS zone.

J. Open Space Requirements.

1. Each lot must maintain a minimum of 7.5% in open space.

2. RM-PC developments which meet or exceed 6 units to the acre in net density must also provide common open space equal to 10% of the developable parcel size. Common open space may be designed as a pocket park, common green, or access easement. Perpetual maintenance of the common open space must be addressed at the time of plat or development if a plat is not required.

3. Common open space must meet the following requirements:
a. One 2” caliper canopy tree is required for every 1000 sf

b. Spaces must be accessible to residents and suitable for passive or active recreational use. Play structures or pet friendly areas are encouraged.

c. Sidewalks or paths accessing the area must be a minimum of 4 feet wide.

d. The minimum lawn coverage of a common green area shall be 70%.

K. Residential Design Requirements

All residential dwelling units must meet the following design criteria unless varied by the design review board as provided under Section 19.45.035:

1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.

2. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

3. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.

4. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

5. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings.

6. All units other than a detached single family residence shall be subject to review and approval by the Design Review Board.

7. No more than fifty percent of the lineal frontage of the building elevation may be occupied by garage doors. For the purposes of this section, a set of garage doors serves one dwelling unit and means one double garage door or two single garage doors separated by less than five feet.

8. Only one set of garage doors may face the street unless the garage doors are setback from the living area a minimum of ten feet.

9. All parking requirements of Section 19.51.040 LMC must be met on site.
L. RM-PC Landscape Requirements: In addition to the landscaping requirements of Chapter 19.61 of this title, all proposed multi-family and attached single-family development consisting of two or more attached units in this zone shall comply with Chapter 19.17.110.

19.18.040 - Pepin Creek Senior Overlay and Uses Established.

A. The Senior Overlay provides the opportunity for development to accommodate a specific user and developed to standards specific to the overlay.

1. A range of units or rooms per building are permitted, however the entire Pepin Creek Subarea is limited to a maximum of 300 total units.

2. Utilization of the Senior Overlay standards requires the creation and recording of an associated plat or Planned Residential Development (PRD). The use of the Senior Overlay must be indicated on the face of the plat.

3. All multi-family dwellings that contain more than four units per building within the Senior Overlay must be age restricted to persons age 55 and older through a recorded covenant.

4. Any development within the Senior Overlay that is developed at densities above the maximum density allowed in the underlying zoning must be restricted, on the face of the plat, to persons age 55 and older.

B. Senior Overlay Primary Uses.

1. Multi-family Dwelling units, that is multiple dwelling units located on a single lot, are permitted.

2. Single Family Attached Dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types. A maximum of 4 units may be attached to one another.

3. Single Family Dwelling units, including detached site built single family dwellings and new manufactured homes.

4. Care Facilities. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
C. Senior Overlay Accessory Permitted Uses

1. Private garages for single-family or single-family attached residences. No detached garage or accessory building shall exceed one thousand square feet of inside floor area or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive;

2. Single-family lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they are not stored in the front yard and meet the requirements of Section 19.31.020(B);

3. Tool shed, satellite dish, outdoor patios and outdoor fireplaces consistent with applicable design standards;

4. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of the primary residence. No units greater than eight feet by ten feet are permitted in residential zones, other than during construction or for a period of up to thirty consecutive days within a six-month period to facilitate the moving in or moving out of a residence. Units eight feet by ten feet or smaller may be placed on a lot for not more than six months during any two-year period and must be located in the rear yard;

5. 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 Section 19.37.090;

6. Accessory dwelling unit (ADU) consistent with LMC Section 19.20 permitted in detached single family homes only;

7. No more than three, currently licensed and/or operable passenger vehicles may be stored on any single-family residential lot. Inoperable vehicles may not be stored in the front yard (refer to Section 19.31.020(A));

8. Recreation areas for residents;

9. Club facilities that are directly related to the neighborhood such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
D. Senior Overlay Secondary Permitted Uses

1. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes;

2. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises except in the Neighborhood Commercial Overlay;

3. Home occupations. See Chapter 19.57;

4. Gardening and fruit growing not for commercial sale;

5. 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 Chapter 19.39 of this code;

6. Adult day care centers for up to eight individuals, not including the residents of the dwelling unit;

7. Parks and playgrounds;

8. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

9. Temporary structures such as portable tents or canopies used by a business for an event or sale in the Commercial Neighborhood Overlay. The event or sale shall be limited to seven days or less and all temporary structures must be removed within 72 hours of the sale or event.

E. Conditional Permitted Uses in the Pepin Creek Senior Overlay Zones

The following property uses may be permitted in Pepin Creek Subarea zones by conditional use permit when recommended by the planning commission and approved by the city council consistent with LMC 19.49.050.

1. Public buildings and utility sub-stations.
F. Senior Overlay Development Standards

The development standards for developments utilizing the Senior Overlay are as follows:

1. Senior Overlay Height, Density, Area, Coverage, and Bulk Requirements

<table>
<thead>
<tr>
<th>Zone</th>
<th>Minimum Lot Size</th>
<th>Maximum Density</th>
<th>Maximum Lot Coverage</th>
<th>Maximum Height</th>
<th>Maximum Stories</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Overlay Detached Single Family Homes</td>
<td>4000 sf</td>
<td>12 DU/AC</td>
<td></td>
<td>32'</td>
<td>2</td>
</tr>
<tr>
<td>Senior Overlay Attached Single Family Homes</td>
<td>3000 sf</td>
<td>12 DU/AC</td>
<td>50%</td>
<td>32'</td>
<td>2</td>
</tr>
<tr>
<td>Senior Overlay Multi-family dwelling</td>
<td>1600 sf per unit</td>
<td>12 DU/AC</td>
<td>40%</td>
<td>40'</td>
<td>3</td>
</tr>
<tr>
<td>Senior Overlay Care Facilities</td>
<td>1 acre</td>
<td>30 DU/AC</td>
<td>40%</td>
<td>40'</td>
<td>3</td>
</tr>
</tbody>
</table>

* Residential densities are based on net land area.
** Any development within the Senior Overlay that is developed at densities above the maximum density allowed in the underlying zoning must be restricted, on the face of the plat, to persons age 55 and older.
### Senior Overlay Setback Requirements

<table>
<thead>
<tr>
<th>Setbacks</th>
<th>Senior Overlay Detached Single Family</th>
<th>Senior Overlay Attached Single Family</th>
<th>Senior Overlay Multi-Family Dwelling</th>
<th>Senior Overlay Care Facility</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Front Setback</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ROW to Porch (or Porte-cochere for Care Facilities)</td>
<td>8'</td>
<td>8'</td>
<td>15'</td>
<td>25'</td>
</tr>
<tr>
<td>ROW to House or Facility</td>
<td>10'</td>
<td>10'</td>
<td>20'</td>
<td>30'</td>
</tr>
<tr>
<td>ROW to Garage</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
<td>25'</td>
</tr>
<tr>
<td>Green to Porch</td>
<td>4'</td>
<td>4'</td>
<td>10'</td>
<td>10'</td>
</tr>
<tr>
<td>Green to House</td>
<td>6'</td>
<td>6'</td>
<td>10'</td>
<td>10'</td>
</tr>
<tr>
<td><strong>Side Setback</strong> *</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum Side</td>
<td>7'</td>
<td>0' on attached sides, 10' on each unattached side</td>
<td>10'</td>
<td>50% of building height specific to each side</td>
</tr>
<tr>
<td>Side Total</td>
<td>14'</td>
<td>20'</td>
<td>20'</td>
<td>50'</td>
</tr>
<tr>
<td>Corner Lot</td>
<td>10'</td>
<td>10'</td>
<td>14'</td>
<td></td>
</tr>
<tr>
<td><strong>Rear Setback</strong> *</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Alley Easement to Garage Side</td>
<td>3'</td>
<td>3'</td>
<td>3'</td>
<td>NA</td>
</tr>
<tr>
<td>Garage Side to Property Line</td>
<td>5'</td>
<td>5'</td>
<td>5'</td>
<td>NA</td>
</tr>
<tr>
<td>Alley to Garage Door</td>
<td>21'</td>
<td>21'</td>
<td>21'</td>
<td>NA</td>
</tr>
<tr>
<td>Alley to House</td>
<td>15'</td>
<td>10'</td>
<td>20'</td>
<td>NA</td>
</tr>
<tr>
<td>To House</td>
<td>15'</td>
<td>10'</td>
<td>15'</td>
<td>30'</td>
</tr>
</tbody>
</table>

+ On corner lots 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 10 feet.

1. **Additional Senior Overlay Development Standards Provisions:**

   a. The height of any building is measured from the approved average grade level as defined in 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.

   b. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in LMC 19.16.070 or, for care facilities, half of the rear setback. Additional fire protection may be required for structures located within 10 feet of each other. It is the property owner’s responsibility to have the property lines clearly marked for
inspection. Structural permits with setbacks submitted prior to March 1, 2019 are considered conforming and not subject to LMC 19.35.030.

c. 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. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.

d. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within 10 feet of the rear property line for detached homes within the Senior Overlay; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

G. Standards for Detached Accessory Buildings

1. 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 18 inches.

2. A detached accessory structure may not be built closer than 6 feet to the side or rear property line, except where a rear property line abuts an alley a structure may not be built closer than 3 feet to the rear property line. Structures which do not require a building permit per LMC 15.04 must be setback a minimum of three feet to the side or rear property line.

3. Detached accessory structures on corner lots shall not be permitted nearer than ten feet to the side property line adjacent to the street.

4. The maximum height for all detached accessory structures shall be 12 feet, except for detached garages as noted below.

5. The maximum height of any detached garage shall be 18 feet, provided there is no living space within the building. Detached garages with living spaces shall be subject to the standards for Accessory Dwelling Units in LMC 19.20. The roof pitch and siding on any detached garage shall be consistent with the primary structure on the lot, and the height of the building shall not exceed the height of the primary structure.

6. A secondary garage or shop shall be set behind the rear line of the house.

H. Senior Overlay Open Space Requirements.

1. Each lot must maintain a minimum of 7.5% in open space.
2. Senior Overlay developments which exceed 6 units to the acre in net density must also provide common open space equal to 10% of the developable parcel size. Common open space may be designed as a pocket park, courtyards, common green or access easement.

3. Common open space must meet the following requirements:
   a. One 2" caliper canopy tree is required for every 1000 sf
   b. Spaces must be accessible to residents and suitable for passive or active recreational use.
   c. Sidewalks or paths accessing the area must be a minimum of 4 feet wide.
   d. The minimum lawn coverage of a common green area shall be 70%.

I. Senior Overlay Landscape Requirements: In addition to the landscaping requirements of Chapter 19.61 of this title, proposed multi-family development totaling more than two multi-family or attached single family units in this zone shall comply with Chapter 19.17.110.

19.18.050 - Pepin Creek Commercial Overlay and Uses Established.

A. The Commercial Overlay provides opportunities for a variety of primary permitted uses in key locations. Commercial uses may be established under the following conditions:
   1. Uses are subject to the development and setback standards for the underlying zoning.
   2. Parking standards per LMC 19.51 must be met however up to 50% of the required surface parking may be shared between commercial and residential uses which occupy the same structure if commercial uses are not considered nighttime uses per 19.51.090.
   3. Commercial structures are subject to applicable design standards and the approval of the Design Review Board.

B. The Neighborhood Commercial Overlay provides opportunities for a variety of primary permitted uses in key locations. These include:
   1. Personal Services. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, child or adult daycare, or others that would serve the subarea.
2. Sales of General Consumer Goods. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the Planning Director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of General Consumer Goods is also not allowed.

3. Restaurants and Cafes. Single lane drive-thrus which are screened and oriented away from the street are permitted.

4. Professional Offices, Banks and Financial institutions.

5. Second story residential uses may be developed in conjunction with first floor commercial uses.
Chapter 19.19
MH - MANUFACTURED HOME ZONE

Sections:

19.19.010 Established.
19.19.030 Primary Permitted Uses.
19.19.080 Manufactured Home Construction Requirements
19.19.090 Height, Area, Setbacks, and Bulk Regulations
19.19.100 Manufactured Home Park -- Individual space boundary requirements.
19.19.110 Manufactured Home Park -- Automobile parking requirements.
19.19.120 Manufactured Home Park -- Development Standards

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.

19.19.030 Primary permitted uses.
A. The primary uses permitted in the MH -- Manufactured Home Zone is manufactured
   homes, and manufactured home parks, as provided in this chapter, subject to the
   minimum standards and conditions set forth in this chapter and within Chapter
   18.22.

B. Site built, detached single family dwelling units are also considered a permitted use
   within the MH zone, provided that the total number of site built houses does not
   exceed twenty percent of the total units within the manufactured home park or
   development.

C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

19.19.040 Accessory permitted uses.
The accessory uses permitted in the MH Zone are as follows:
B. Private garages.
C. Carports.
D. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
E. A maintenance building containing equipment and tools for owners of manufactured
   homes that are necessary for the repair and preservation of a manufactured home.
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.

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

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.

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.

19.19.090 Height, Area, Setback and Bulk Requirements.
A. The following provides regulations for height, area, setbacks & bulk requirements:

<table>
<thead>
<tr>
<th>Minimum Lot Size (sq. ft.)</th>
<th>Lot Coverage</th>
<th>Height</th>
<th>Yard Setbacks in Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Side Yard</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Feet</td>
</tr>
<tr>
<td>4,200</td>
<td>40%</td>
<td></td>
<td>25</td>
</tr>
</tbody>
</table>

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.
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.

19.19.120 Manufactured Home Park-- Development Standards.

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.
Chapter 19.20
Accessory Dwelling Units

Sections:
19.20.010 Purpose
19.20.020 Accessory Dwelling Unit
19.20.030 Setback and Height Requirements
19.20.040 Permitting and Enforcement

19.20.010 Purpose.
It is the provision of this Chapter to implement the Goals and Policies as identified under the Housing Element of the City of Lynden Comprehensive Plan.

A. The City of Lynden will encourage the availability of affordable housing to all economic segments of the population, promote a variety of residential densities and housing types, and encourage the preservation of existing housing.

B. To consider other creative methods, such as cluster housing, cottage housing, accessory housing, and transfer of development rights to increase density and promote the opportunity for ownership of single-family homes.

C. The City will also look to provide homeowners with a means of obtaining rental income, companionship, security and services through tenants in either the accessory dwelling unit or principal unit of the single-family dwelling.

D. To provide a place to facilitate the care of family members who are unable to live independently.

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

A. ADU’s are permitted in all residential zones including Planned Residential Developments provided that only one ADU is allowed per lot as an accessory use to a single-family home. ADU’s are permitted in multi-family zones only on lots which are restricted, by lot area, to a single family residence.

B. ADU’s can be attached as a separate unit within the existing home or an addition to the home, or detached as a separate structure on the lot.

C. Only one ADU per detached single family residence. ADU’s are not permitted as part of any other housing type. Accessory Dwelling Units are exempt from the density limitations of the underlying zone.

D. An attached ADU is limited to a maximum of 1,000 square feet and 2 bedrooms. A detached ADU is limited to a maximum of 800 square feet and 1 bedroom.
E. A detached ADU, or ADU addition, must be of the same construction type as the primary structure. The exterior finish, material, trim, and roof pitch for the ADU must be similar in type and size of the primary structure.

F. Only one entrance for the entire primary structure and ADU combined shall be visible from the primary street. A detached ADU shall not be forward to the primary unit in relation to the front yard.

G. One parking space per ADU bedroom, in addition to those required for the single-family residence, will be required for the ADU’s. All parking spaces for the primary structure and the ADU must be located on site.

H. If necessary based on building location, landscaping shall be installed to provide privacy and screening of the adjacent properties. A landscape plan must be approved by the Planning Director.

I. Utilities. All utilities servicing the site may require upgrades based on the project size. Any utilities installed on site must meet the requirements of the City of Lynden Manual for Engineering Design and Development Standards.

J. The primary residence or the ADU must be owner occupied. A perpetual covenant against the property, approved by the Planning Department must be signed by the owner and recorded with the Whatcom County Assessor’s Office which specifies this requirement.

K. The ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.

19.20.030 Setback and Height Requirements
The following text provides regulations for height and setback requirements:

A. All setbacks are measured from the property line to the foundation. It is the property owner’s responsibility to have the property lines clearly marked for inspection.

B. An attached ADU may be built as close as seven feet to the side property line provided that the living area setbacks total the minimum required within the underlying zone.

C. A detached ADU may be built as close as 10 feet to the rear property line and shall follow the side setbacks in accordance with the requirements of the underlying zone.

D. An existing non-conforming building shall not be used for an ADU unless the structure is brought into conformance with City Code.

E. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25-feet.
F. On corner lots in all residential zones, the side yard setback adjacent to the street must reflect the minimum side yard of that zone.

G. Only one driveway access is allowed per lot.

H. Detached ADU’s may not be located forward of the primary residential structure.

I. 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 18-inches.

J. The maximum height of any detached structure housing an ADU shall be eighteen feet.

K. The maximum lot coverage is subject to the associated zone. 35% is all RS zones, 35% in the RMD zone, 35% in the RM-1 zone, 40% in the RM-2 and 3 zones and 45% in the RM-4 zone. For lot coverage requirements within a PRD check with the PRD contract.

19.20.040 Permitting and Enforcement

A. Application. The property owner shall apply for an ADU permit with the Planning Department. Application must meet all requirements as listed above.

B. Applicable Codes. The accessory dwelling unit shall comply with all construction codes set forth in the City of Lynden Engineering Design and Development Standards and the Lynden Zoning Code.

C. A detached ADU must be reviewed and approved by the Design Review Board prior to building permit for compliance with LMC 19.22 Residential Design Standards.

D. Inspection. Prior to the approval of an ADU, the City shall inspect the property to confirm that all applicable requirements of this code and other codes have been met.

E. Recording Requirements. Prior to a request for final building inspection for either an attached or detached accessory dwelling unit, the property owner shall file with the Whatcom County Assessor an Accessory Dwelling Unit Covenant with all conditions and restrictions as provided by the City.

F. The covenant is binding upon any successor in ownership of the property. Lack of compliance shall cause for the City to revoke the occupancy or accessory dwelling unit permit.

G. Any variances to this section will be subject to Chapter 19.47, of the Lynden Municipal Code.
Chapter 19.21

TR TRAVEL TRAILER AND RECREATIONAL VEHICLE ZONE

Sections:
19.21.010 Established.
19.21.020 Purpose.
19.21.030 Primary permitted uses.
19.21.040 Accessory permitted uses.
19.21.050 Secondary permitted uses.
19.21.060 Special property uses -- Regulations authorized.
19.21.080 Maximum coverage of individual space
19.21.090 Minimum lot size, building height
19.21.110 Playground requirements
19.21.130 Expansion or alteration--Application for approval required.
19.21.150 Maximum stay.

19.21.010 Established.

There is established the TR -- Travel Trailer and Recreational vehicle Zone and the standards and regulations by which certain land uses may be permitted therein.

19.21.020 Purpose.

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

19.21.030 Primary permitted uses.

The primary uses permitted in the TR -- Travel Trailer and Recreational vehicle Zone are as follows:
A. Travel trailer and recreational vehicle camping
B. Tent camping
C. Camping cabins

19.21.040 Accessory permitted uses.

The accessory uses permitted in the TR -- Travel Trailer and Recreational vehicle Zone are as follows:
A. Parking garages and parking lots;
B. Maintenance facilities containing equipment and tools necessary to the operation of travel trailers and recreational vehicles.
C. Offices and ancillary facilities used for the purpose of serving the incoming vehicles.
D. Accessory sales areas primarily used by patrons of the Travel Trailer and Recreational vehicle Zone limited to three thousand square feet.

19.21.050 Secondary permitted uses.
The secondary uses permitted in the Travel Trailer and Recreational vehicle Zone are as follows:
A. Community laundry facilities used primarily by the patrons.
B. Community buildings for the patrons of the Travel Trailer and Recreational vehicle Zone. These buildings may contain recreational facilities, dining facilities, and meeting halls.
C. Swimming pools in accordance with the requirements of Chapter 15.16 of the Lynden Municipal Code.

19.21.060 Special property uses—travel trailer and recreational vehicles—regulations authorized.
Travel Trailer and Recreational vehicles may be permitted only in Travel Trailer and Recreational vehicle Zones as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter.

The maximum density of a Travel Trailer and Recreational Vehicle Zone shall not exceed an average of one unit per 1200 square feet, except in a tent area where the average density is not to exceed one unit per 1000 square feet.

19.21.080 Maximum coverage of individual space.
Not more than sixty percent of a Travel Trailer or Recreational vehicle space in the TR -- Travel Trailer and Recreational vehicle Zone may be occupied.

19.21.090 Minimum lot size and building height
A. The minimum lot area for a tent lot is one thousand square feet.
B. The minimum lot area for a cabin lot is two thousand square feet.
C. The minimum lot area for a travel trailer or recreational vehicle lot is one thousand five hundred square feet.
D. The maximum building height in the TR zone shall be twenty-five feet.

19.21.110 Playground requirements.
Travel trailer and recreational vehicle zone shall provide a separate playground restricted to that use. At least one hundred square feet of playground shall be provided per space; provided, however, that no such playground, regardless of the number of units shall be less than two thousand five hundred square feet. The playground will be protected by fences, or the equivalent, at least thirty inches in height from all streets, driveways and parking areas.
19.21.130 New, expansion or alteration--Application for approval required.

New and existing travel trailer and recreational vehicle parks may be built, expanded or altered, subject to a special property use approval from the City Planner as long as they are in the permitted travel trailer and recreational vehicle zone. The application, filed by the owner or other real party in interest, will be filed and processed in the same manner as an application for a new Travel Trailer and Recreational Vehicle park.

19.21.150 Maximum stay.

The travel trailer and recreational vehicle zone is established for short term recreational use. No travel trailer or recreational vehicle shall remain longer than ninety days.
Chapter 19.22
RESIDENTIAL DESIGN STANDARDS

Sections:

19.22.010 Establishment, Relief, and Purpose
19.22.020 Site Design – Setbacks, Yards, Building Orientation, and Pedestrian Connections
19.22.030 Residential Architecture and Attached Garages
19.22.040 Detached Garages and Accessory Structures
19.22.050 Landscape, Fences, Screening, and Lighting

19.22.010 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 Board of Adjustment consistent with Section 19.47.
   3. Variance requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050.

B. Purpose.
   1. The essential purpose of the residential design standards to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and protect and enhance property values for the community as a whole.
      a. To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.
      b. To create high-quality communities that have variation of architectural style and durable materials.
      c. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.
      d. To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.
   2. Residential design standards also seek to encourage low impact design (LID) techniques such as rain gardens, xeriscape, or pervious pavement to minimize adverse impacts on the natural environment.
19.22.020 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.
   1. Minimum setbacks are outlined in each zoning category.
   2. All setbacks are measured from the property line to the foundation.
   3. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet.
   4. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
   5. Additional fire protection may be required for structures located within 10 feet of each other.
   6. It is the property owner’s responsibility to have the property lines clearly marked for inspection.
   7. 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.
   8. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.
D. Garage Setbacks from Property Lines
   1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25 feet.
   2. In RS-84 and RS-100 zones an attached garage may be built as close as 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 5 feet clear width without encroachment of vehicle overhang.
   3. In RM zones sites must include pedestrian walkways which provide connection to common green spaces and public sidewalks. Cross walks provided as needed in parking areas and along streets.

19.22.030 Residential Architecture and Attached Garages

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

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

B. Building Height.
   1. Building height is regulated by zoning category.
   2. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.
C. Roofs
1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.

2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.

3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.

4. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

D. Building Elevations and Finishes
1. Residential Elevations
   a. The same architectural elevation shall be separated by a minimum of two other homes.

   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 12". A garage setback does 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 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 12 feet.
b. The lineal frontage of the building elevation which can be occupied by garage doors is limited.

   1. In RS zones, no more than 50 percent of the building elevation can be garage doors.
   2. In RMD and RM zones, no more than 60 percent of the total first floor building elevation length can be garage doors.

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.
      (graphic)
   e. In RS zones, attached garages or attached carports which provide a third covered or enclosed space must be offset a minimum of 2 feet from the first two covered or enclosed spaces.


E. Porches, Stoops, Decks, and Patios
   1. Porches and stoops.
      a. Architecture of the primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
      b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
      c. Stairs with open risers are not permitted on front porches or stoops.
   2. Decks and patios
      a. Uncovered wood decks and raised concrete patios not over twenty-four 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 2 feet into the side yard setbacks of the underlying zone; and,
   4. The addition does not exceed the permitted lot coverage.

c. Deck or patio privacy screening or fencing which is located more than 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 6 feet above grade.

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 10 feet of each other.

A. General Requirements
   1. All accessory structures, whether defined in this title or not, shall conform to the requirements of the International Building Code. (Currently appears in MH bulk standards)
   2. Architectural style of a detached garage, shop, or shed must match the style of the primary structure. However, agriculturally themed structures such the roofline of a traditional barn may be permitted. Also, this standard is not applicable to greenhouses or open-sided structures intended only to cover recreational vehicles.
   3. All accessory structures, including carports, must utilize roofing material which is compatible with the primary structure.
   4. Any structure intended to be established and remain for more than 72 hours and, as outlined in LMC 15.04.010, exceeds 120 square feet in area must obtain a building permit.

B. Accessory Structure Setbacks
   1. Detached garages may be located a maximum of 12 feet forward of the first floor living space of the home but are subject to front setback required by the underlying zone. Storage sheds or other accessory structures not
used as a garage are not permitted forward of the front façade of the home.

2. A detached accessory structure or garden shed 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 24 inches.

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 21 feet in all RM zones and setback 25 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 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 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 4 parking stalls and not exceed 44 feet in width. (see graphic)

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

19.22.050 Landscape, Fences, Screening, and Lighting

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

A. Landscape, Fences and Screening
   1. Landscape. Refer to Chapter 19.61 for full description of Residential Landscape Requirements.
   2. Fences.
      a. Fences shall not be built closer than three feet to the property owner’s side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this 3 foot setback.
      b. Refer to Chapter 19.63 for full description of Residential Fence Standards.
   3. Screening
      a. In RS zones, trash and recycling containers shall be stored 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 1 1/2” at the time of installation except that small trees used under overhead lines shall be a minimum caliper of 1”. 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 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 50 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.
CHAPTER 19.23
COMMERCIAL ZONING

Sections:
19.23.010 Zones Defined
19.23.020 Permitted Uses
19.23.030 Accessory Permitted Uses
19.23.040 Secondary Permitted Uses
19.23.050 Setbacks, access and queuing requirements
19.23.060 Design Review Approval Required
19.23.070 Projections into public right-of-way
19.23.080 Special Development Conditions for stores greater than 25,000 SQFT GFA
19.23.090 Special Development Conditions for stores greater than 50,000 SQFT GFA
19.23.100 Special Conditions for Automobile Service Stations

Chapter 19.23 - COMMERCIAL ZONING

Sections:
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 development is strongly encouraged. 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.
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.

<table>
<thead>
<tr>
<th>Land Use</th>
<th>HBD</th>
<th>CSL</th>
<th>CSR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult entertainment uses</td>
<td>N</td>
<td>C(4)</td>
<td>N</td>
</tr>
<tr>
<td>Agricultural product and/or equipment parts sales</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Animal auction barn</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Animal hospitals, veterinary clinics and kennels and veterinary laboratories</td>
<td>N</td>
<td>C</td>
<td>C</td>
</tr>
<tr>
<td>Auction facilities for other goods</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Automotive support services such as auto repair, auto body painting and repair, window repair and replacement</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Banks and financial institutions</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Barber shops, beauty salons</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Bed and breakfast</td>
<td>P</td>
<td>P</td>
<td>N</td>
</tr>
<tr>
<td>Body piercing and tattoo studios</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
</tbody>
</table>
Business Parks where at least 20% of the total GFA of the park is related to onsite retail, showroom, or office use.

<table>
<thead>
<tr>
<th>Activity</th>
<th>A</th>
<th>B</th>
<th>C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business schools</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Car wash</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Carpet sales</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Clubs and lodges</td>
<td>P</td>
<td>P</td>
<td>N</td>
</tr>
<tr>
<td>Commercial recreation - indoor (includes bowling alleys, skating rinks)</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Commercial sporting events</td>
<td>C(7)</td>
<td>N</td>
<td>C(7)</td>
</tr>
<tr>
<td>Construction material sales</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Contractors and construction services</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Convention center, including banquet facilities and/or meeting halls</td>
<td>C</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Day care facilities</td>
<td>P</td>
<td>P</td>
<td>PA</td>
</tr>
<tr>
<td>Day spas</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Farm implement and machinery sales and service or large machinery rentals (over 500 lb.)</td>
<td>N</td>
<td>C</td>
<td>P</td>
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<tr>
<td>Fitness facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Fueling stations (may include convenience store)</td>
<td>N</td>
<td>P(2)</td>
<td>P(2)</td>
</tr>
<tr>
<td>Government agency offices or government facilities where at least 20% of the GFA is office-use related.</td>
<td>C</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Grocery store</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Service Description</td>
<td>P</td>
<td>P</td>
<td>P</td>
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<tr>
<td>------------------------------------------------------------------------------------</td>
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<tr>
<td>Home furnishings stores</td>
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<tr>
<td>Home improvement and hardware stores</td>
<td></td>
<td></td>
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<tr>
<td>Hospitals</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Hotels, motels — includes indoor restaurants, gift shops and other businesses</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>associated with a hotel or motel</td>
<td></td>
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<tr>
<td>House of Worship</td>
<td>N</td>
<td>P</td>
<td>P</td>
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<tr>
<td>Laundry and dry cleaning facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Landscape plants and landscape materials for retail sales</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Liquefied petroleum storage station for more than 1,000 gallons, subject to</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
<tr>
<td>International Fire Code standards</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Liquor sales</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Manufacture, fabrication, assembly, woodworking and metal working shops, where</td>
<td>N</td>
<td>C (10)</td>
<td>P</td>
</tr>
<tr>
<td>at least 20% of the GFA is related to on-site retail or office space. All uses</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>subject to the performance standards of Chapter 19.25 of LMC</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufactured home parks</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Marijuana related businesses including retail sales, production, processing,</td>
<td>N</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>medical marijuana collective gardens, and medical marijuana cooperatives</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Martial arts or dance schools</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Medical and dental clinics (see Surgical Centers below)</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Medical services overlay</td>
<td>N</td>
<td>N</td>
<td>P</td>
</tr>
<tr>
<td>Mini-storage facilities</td>
<td>P(6)</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Activity</td>
<td>NC</td>
<td>P(5)</td>
<td>(5)(8)</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
<td>------</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>Motor vehicle and recreational vehicle sales and service</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Multi-family residences</td>
<td>P(5)</td>
<td>P(5)(8)</td>
<td>N</td>
</tr>
<tr>
<td>Non retail communications services</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Non-profit offices that include warehousing</td>
<td>C</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>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.</td>
<td>PA</td>
<td>PA</td>
<td>PA</td>
</tr>
<tr>
<td>Pet supply store and grooming (no boarding)</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Pharmacy</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Photography studio</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Printing and duplicating shops</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Professional and business offices</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Public use facilities</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Research and development facilities</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Restaurant — with drive thru</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Restaurants and cafés</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail (general retail) not otherwise defined</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail appliance and electronic equipment sales, including parts sales and repair</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail feed and seed stores</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Activity</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>----</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td>Retail heating, plumbing and electrical equipment sales, including parts sales and repair</td>
<td>N</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail shopping center or mall</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Retail stores greater than 65,000 square feet</td>
<td>N</td>
<td>N</td>
<td>P(1)</td>
</tr>
<tr>
<td>Sign design, fabrication, and installation companies</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Single-family residences existing prior to 1992</td>
<td>N</td>
<td>P</td>
<td>N</td>
</tr>
<tr>
<td>Skilled nursing and assisted living facilities</td>
<td>N</td>
<td>P</td>
<td>N</td>
</tr>
<tr>
<td>Surgical centers</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Theaters and movie theaters</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Truck and trailer sales and service</td>
<td>N</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Undertaking establishment</td>
<td>N</td>
<td>P</td>
<td>N</td>
</tr>
<tr>
<td>Utility facilities</td>
<td>C</td>
<td>C</td>
<td>P</td>
</tr>
<tr>
<td>Video arcades</td>
<td>P(3)</td>
<td>P(3)</td>
<td>P(3)</td>
</tr>
<tr>
<td>Warehousing, including open to the public</td>
<td>P(6)</td>
<td>N</td>
<td>C</td>
</tr>
<tr>
<td>Wholesaling, including open to the public</td>
<td>N</td>
<td>N</td>
<td>C</td>
</tr>
</tbody>
</table>

(1) See Sections 19.23.080 and 19.23.090 for special conditions for large retail uses.
(2) See Section 19.23.100 Special Conditions for Automobile Service Stations
(3) Any arcade with ten or more machines shall have an adult supervisor on the premises during all hours of operation and shall not be located within three hundred feet of a school, church or residence.
(4) These uses may not be located within three hundred from Front Street, or two hundred feet from a residentially zoned area, or within two hundred feet from the Fairgrounds, or five hundred feet from a church or school.
(5) This use is permitted as part of a mixed-use development, where at least sixty percent of the ground floor area is a permitted commercial use. This is calculated based on the ground floor area of all the buildings on the site where there are multiple buildings proposed.

(6) The use is permitted under the following conditions. These conditions may be varied through the receipt of a conditional use permit.

a. The use must take place in an existing building. The building may be modified for warehousing or mini-storage purposes, but construction of a new facility will require a conditional use permit. New construction must meet all Dutch/European design requirements for the CSL zone.

b. Primary access to these facilities may not be from Front Street or Grover Street, nor may a new facility front on either of these streets, and existing pedestrian access to Front Street, Grover Street, Riverview Road or 7th Street may not be closed.

c. Off-street loading and truck parking facilities must be available at the site and may not abut Front Street or Grover Street without a landscape buffer as required in 19.61.090(A). All off-street parking requirements must be met on site.

d. The site must meet the requirements of the Engineering Design and Development Standards and the Uniform Building Code and Uniform Fire Code.

(7) Commercial sporting events are permitted in the CSR zone and conditionally permitted in the HBD zone under the following conditions:

a. The promoter/proprietor of the event must provide proof of insurance in an amount and form approved by the Finance Director.

b. Off-street parking is provided and monitored to ensure emergency access at all times;

c. Police and Fire Departments are notified at least thirty days in advance of the event to ensure adequate personnel coverage. Costs of scheduling additional personnel may be billed to the applicant.

d. No alcohol may be sold, distributed or consumed on site.

e. Mixed Martial Arts, Boxing, Wrestling or other "fight-type" events must meet the requirements of RCW 67.08.

(8) Multi-Family Development is permitted within the CSL zone under the following conditions:

a. This use is permitted only within the North Lynden Sub-Area;

b. No residential development will be permitted at the intersections of arterial streets and/or state highways in the area determined by measuring two
hundred feet along both front and side property lines and diagonally connecting the ends of the two lines.

c. Minimum density: Eight units per acre.

d. Maximum density: Twenty-four units per acre.

e. Off-street parking: as required by Chapter 19.51 LMC.

f. Height: as per 19.23.050.

g. Setbacks: as per 19.17.060(A).

h. Minimum lot size: based on number of units and calculated under 19.17.060(B).

i. Lot coverage and open space: as per 19.17.060(A).

(9) Business parks are required to formalize a development agreement with the City Council after receiving a recommendation from the Planning Commission which:

a. Specifies a list of permitted, conditional, and prohibited uses with the business park.

b. Outlines a parking and loading standards which anticipates the uses permitted.

c. Creates standards for and screening of outdoor storage and refuse areas.

d. Addresses unique signage requirements.

e. Indicates how the building siting and architecture addresses the street frontages at a pedestrian scale.

(10) Manufacture, fabrication, assembly, woodworking and metal working shops locating within a CSL zoning category must acquire a Conditional Use Permit if the subject property is located within 300 feet of a residentially zoned property.

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.
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.

19.23.050 - Setbacks, access and queuing requirements.

A. Setbacks are established to ensure adequate circulation and access for emergency services. The setback requirements for the HBD and CS zones shall be as follows:

<table>
<thead>
<tr>
<th></th>
<th>HBD</th>
<th>CSL</th>
<th>CSR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rear setback</td>
<td>20 ft.</td>
<td>10 ft.</td>
<td>25 ft.</td>
</tr>
<tr>
<td>Front setback (2)</td>
<td>0 ft.</td>
<td>10 ft.</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Side setback (3)</td>
<td>0 / 10 ft.</td>
<td>0 / 10 ft.</td>
<td>0 / 10 ft.</td>
</tr>
<tr>
<td>Maximum building height</td>
<td>48 ft.</td>
<td>48 ft.</td>
<td>48 ft.</td>
</tr>
</tbody>
</table>

(1) Maybe 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; provide, however, that the setback between a building and a right-of-way will not be less than ten feet.

B. 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. 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.

19.23.060 - Design review approval required.

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 shall be subject to review and approval by the design review board.

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 a maximum of four inches with the following limitations:

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

B. Materials must be non-combustible, except for limited wood trim which may be approved by the building official, subject to building codes.

C. Signs, marquees or awnings may be allowed at a minimum height of eight feet as permitted under the International Building Code.

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

19.23.090 - Special development conditions for 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.
   2. Maximum parking area 6.0 stalls per one thousand square feet GFA.

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 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 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.

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 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

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.

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.

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.

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 compacters, and other service functions shall be incorporated into the overall design of the building and the site so that the visual and acoustic impacts of the functions are fully contained and out of view from 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.

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.
   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.

E. 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.
Chapter 19.25
I INDUSTRIAL ZONE

Sections:
19.25.010 Established.
19.25.020 Purpose.
19.25.030 Primary permitted uses.
19.25.035 Accessory Permitted Uses
19.25.040 Performance Standards.
19.25.050 Performance standards -- Sewage wastes.
19.25.060 Required Bulk Regulations, Height Limits and Setbacks
19.25.070 Landscaping requirements
19.25.080 Fencing

19.25.010 Established
The following industrial zones are established:
    ID (Industrial District) - An industrial zone that permits a variety of industrial uses, controlled primarily by performance standards.
    IBZ (Industrial Business Zone) - A light industrial zone that permits a mixture of industrial and commercial uses.

19.25.020 Purpose.
The intent of the industrial zones is to provide a location for business and industrial uses in order to provide employment opportunities to the residents of the City of Lynden and surrounding area. From each use located therein there shall be a minimum of air pollution, air contamination, emission of odor, gases, noise and the origin of sewage wastes which shall be controlled in accordance with the standards contained in this chapter.

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

Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the Planning Director based on the applicant’s statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.
<table>
<thead>
<tr>
<th>Use Description</th>
<th>IBZ</th>
<th>ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial land uses with chemical processing facilities, subject to the performance standards shown herein</td>
<td>CUP</td>
<td>P</td>
</tr>
<tr>
<td>Manufacture, compounding, processing, refining and treatment of significant quantities of the following materials, products or operations is prohibited (for the purpose of this section “significant quantities” consists of a barrel or more at a single time): acetylene, distillation of alcohol, asphalt and tar, concrete, cement, lime, gypsum, fats oils and soaps, garbage, offal, bones and the reduction of dead animals, forging or smelting of metal, lumber and planing mills, oilcloth and linoleum, paint, shellac, turpentine, lacquer and varnish, paper and pulp, petroleum processing and storage, any explosive or highly inflammable material, slaughtering and processing of meat or fish products, tannery and curing of raw hides, chemicals such as acid, ammonia, bleach, chlorine, dye stuff, glue, gelatin, and size.</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Food and Pharmaceutical Processing Plants</td>
<td>CUP</td>
<td>P</td>
</tr>
<tr>
<td>Manufacture, Fabrication, Assembling Products, Distribution of products, Woodworking and Metalworking Shops</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Automotive Wrecking or junkyards</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Automotive Support Services such as auto repair, auto body painting and repair, window replace and replacement</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Auto Parts Stores</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Wholesaling and Warehouses</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Industrial Parks</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Business Parks</td>
<td>P</td>
<td>CUP</td>
</tr>
<tr>
<td>Sale of General Consumer goods except as otherwise listed in this section.</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Retail sales for goods that require on-site storage, warehouse or outdoor yard area that is at least double the area of the retail floor area</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Medical/Dental Laboratories</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Schools – K through 12th grade</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Use Description</td>
<td>IBZ</td>
<td>ID</td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
<td>-----</td>
<td>----</td>
</tr>
<tr>
<td>Vocational schools</td>
<td>NP</td>
<td>NP</td>
</tr>
<tr>
<td>Open Storage of equipment with Type III Landscape Buffers</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>On-site hazardous waste treatment and storage as an accessory use to any activity generating hazardous waste and lawfully allowed in the zone, provided that such facilities meet the state siting criteria adopted pursuant to the requirements of Chapter 70.105.210 RCW.</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Liquefied Petroleum Storage Station, subject to International Fire Code standards</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Medical Services Overlay</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Contractor Supplies including lumber sales</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Heating, plumbing and electrical equipment sales and service</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Communication Services (radio and TV stations)</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Printing and Publishing</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Paint, floor and window covering sales</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Appliance sales and services</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Mini-storage facilities</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Animal hospitals, veterinary clinics and laboratories, kennels</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Restaurants, cafes and espresso stands(^1)</td>
<td>P IN BP</td>
<td>NP</td>
</tr>
<tr>
<td>Semi Truck and Trailer Sales and Services</td>
<td>NP</td>
<td>P</td>
</tr>
<tr>
<td>Farm Implement and Machinery Sales and Service</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Recreational Vehicle Sales and Service</td>
<td>P</td>
<td>NP</td>
</tr>
<tr>
<td>Equipment Rentals</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Utility facilities</td>
<td>CUP</td>
<td>P</td>
</tr>
<tr>
<td>Postal Services including private carriers, mailbox rentals and post offices</td>
<td>P IN BP</td>
<td>NP</td>
</tr>
<tr>
<td>Postal sorting facility</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Recycling facilities</td>
<td>CUP</td>
<td>CUP</td>
</tr>
<tr>
<td>Transportation facilities (staging, parking, vehicle or container storage)</td>
<td>NP</td>
<td>P</td>
</tr>
</tbody>
</table>
Use Description | IBZ | ID
---|---|---
Wholesale Nursery Operations | P | NP

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

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

19.25.035 Accessory Permitted Uses

All uses permitted above are allowed accessory uses that support the business and its employees. Uses and activities such as, but not limited to, on-site job training, licensed day care facilities in which no less than fifty percent of the children enrolled are dependents of the business’ employees, and cafeterias for employees are considered permitted accessory uses. Please refer to Section 17.01.030 (A) for the definition of accessory use.

19.25.040 Performance-Standards

A. Emissions of smoke, dust and other particulate matter, and of toxic and noxious gases are all to meet or exceed standards set by the local air pollution authority (Northwest Clean Air Authority) and all Washington State and federal standards.

B. No development or use shall create off-site vibration impacts, discernible without instruments at the property line of the affected use.

C. Heat, glare and/or steam produced by any activity shall be carried on in such a manner that the heat, glare or steam shall not intrude beyond the boundary lines of the district within which the use is located. Building materials with high light-reflective qualities shall not be used in construction of buildings such that reflected sunlight will throw intense glare on areas surrounding the industrial zone. Artificial lighting shall be hooded or shaded so that direct light on high-intensity lamps will not result in glare when viewed from surrounding areas.

D. Noise and sound levels within the industrial zones are not to exceed levels established by noise control regulations of the Department of Labor and Industries. Maximum permissible environmental noise levels to be emitted beyond the zoning boundaries to adjacent properties are established by the State of Washington Department of Ecology (WAC 173-60-040).C.

19.25.050 Performance standards -- Sewage wastes.

A. No waste shall be discharged into the public sewer system that is dangerous to the public health and safety. These standards shall apply at the point where
wastes are discharged into the public sewer, or any stream of water or other drainage course.

B. All waste discharged to the public sewer system shall comply with the standards and limitations found in Chapter 13.12 of the Lynden Municipal Code.

C. Under the provisions of Section 13.12.542 of the Lynden Municipal Code, a significant industrial user shall be required to enter into an industrial service contract.

19.25.060 Required Bulk Regulations, Height Limits and Setbacks

A. The following bulk, height and setback regulations are established for each industrial

<table>
<thead>
<tr>
<th>IBZ</th>
<th>ID</th>
</tr>
</thead>
<tbody>
<tr>
<td>Permitted Lot Coverage</td>
<td>N/A</td>
</tr>
<tr>
<td>Front Setback</td>
<td></td>
</tr>
<tr>
<td>From Centerline of the existing rights-of-way for Badger Road (State Route 546), Main Street, Tromp Road, West Front Street, Birch Bay Lynden Road, Berthusen Road</td>
<td>200 ft.</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>Per the IBC/IFC Standards</td>
</tr>
<tr>
<td>Rear Setback if adjacent to residential zone</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Side Setback</td>
<td>Per the IBC/IFC Standards</td>
</tr>
<tr>
<td>Side Setback if adjacent to residential zone</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Corner lot side yard setback to street line</td>
<td>20 ft.</td>
</tr>
<tr>
<td>Height Limit - See Section 19.37 for exemptions to height limit</td>
<td>45 ft.</td>
</tr>
</tbody>
</table>

2 Once the required right-of-way for planned improvements has been acquired through dedication, setbacks shall be consistent with the setback requirements listed above.

\(^{\text{A}}\) Setbacks may be reduced through the approval of a conditional use permit.

\(^{\text{ul}}\) Building height may be increased through the approval of a conditional use permit.

A. All setbacks are measured from the property line to the foundation.

19.25.070 Landscaping Requirements

In addition to the landscaping requirements of Section 19.61.100 of this title, all proposed development in these zones shall generally comply with the following standards. Variations may be authorized by the Planning Director where reasonable factors such as topography, other site constraints, or proposed improvements offset the need for strict compliance.
A. All public streets will be required to include street trees between the curb and sidewalk, unless a variance to the street section standard and design is granted.

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

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

D. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project’s appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.

1. Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.

2. Shrubs should be a minimum of five-gallon pot size and upright shrubs should have a minimum height of eighteen inches with a minimum spread of eighteen inches. Spreading shrubs should have a minimum of eighteen to twenty-four inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan).

3. Ground covers planted from flats should have a maximum spacing of twelve inches on center or, when planted from one gallon cans, a maximum spacing of twenty-four inches on center.

E. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.

F. All landscaped areas shall have an appropriate irrigation system to insure that plantings are adequately watered. Irrigation systems shall be designed to minimize water runoff onto sidewalks or streets.
G. There shall be a minimum Type III landscape buffer between industrial development and any residential zone. This buffer shall be a minimum of ten feet in width.

19.25.080 Fence Location

Except where the fence would interfere with the clear vision triangle as defined in Section 17.01.030, fences within the industrial zones must be placed a minimum of fifteen feet from the front property line. All other fencing requirements shall be as found in Chapter 19.63 of the Lynden Municipal Code.
Chapter 19.26
Medical Services Zoning Overlay

19.26.010  Purpose
The purpose of the Medical Services Overlay is to allow areas for the concentration of medical facilities and related uses in a campus like setting to enable the provision of a wide range of medical services to enhance the public’s health, safety and general welfare.

19.26.020  Scope
The provisions of this chapter shall apply to CSR and IBZ zones.

19.26.030  Minimum Size
The minimum size for a development using the Medical Services Overlay shall be eight acres.

19.26.040  Permitted Uses
The following uses shall be permitted within a Medical Services Overlay:

A. Medical and health care uses including hospitals, outpatient clinics, continuing/long term care services, hospice services, laboratories, medical research facilities, urgent or emergency medical services, offices of doctors, physical therapists, dentists and other health care providers.

B. Medical staff facilities and similar uses, including but not limited to administrative offices, educational and meeting facilities and staff sleeping quarters;

C. Childcare and adult care services, including respite care;

D. Short term residential uses dependent upon or directly related to medical care, including convalescent care facilities, skilled nursing facilities, group homes for the disabled and overnight accommodations;
E. Health care related retail (i.e. pharmacy, medical supplies and equipment);

F. Miscellaneous retail trade including gift stores, bookstores, newsstands, florist, jewelry, video sales/rentals, and other retail ancillary to and located within a medical services facility;

G. Cafeterias and food service within health care buildings and stand-alone restaurants on the following conditions:

1. The maximum square footage is 4,000 square feet.
2. There is no drive thru window.
3. Alcohol sales are prohibited.
4. No stand-alone restaurant may be developed until 30% of the land area is developed for other permitted uses.

H. Social service providers including counseling centers and alcohol and drug treatment facilities;

I. Accessory parking;

J. Utilities and public facilities.

19.26.050 Conditional uses

The following uses require an additional conditional use permit for approval:

A. Medical helicopter landing pad on the following conditions:

1. Refueling tanks, services or storage of helicopters are not permitted on-site;
2. The landing pad meets the recommendations of the Washington State Department of Transportation Aviation Division and the Federal Aviation Administration.
3. Use shall be limited to emergency medical use only,
4. The helipad shall be sited no closer than 100 feet to any right-of-way or property boundary;

B. Facilities for the treatment and/or temporary storage of biomedical, radioactive and hazardous waste generated within the overlay district; provided however that no materials may be transported to the site from other facilities for storage or treatment purposes.
19.26.060 Master Development Plan Required

All development within the Planned Medical Services Overlay shall be governed by a master plan.

1. The Master Development Plan shall constitute a binding site plan pursuant to RCW 58.17 and Chapter 18.24 of the Lynden Municipal Code and shall be reviewed and approved through the process described in said chapter of the Lynden Municipal Code. In addition to the requirements of Chapter 18.24, the master plan shall include the following:

   1. A transportation and circulation plan prepared by a professional transportation engineer licensed to practice in the State of Washington;
   2. A phasing plan for site improvements, landscaping and services;
   3. General building locations and types, access points and circulation within the overlay area;

19.26.070 Site Development Standards

1. Except as otherwise noted, the site development restrictions shall be as follows:

   A. Minimum area for newly created lots: 25,000 square feet
   B. Minimum setback to interior street: 15 feet
   C. Minimum setback to exterior street: 30 feet
   D. Minimum distance between buildings: 10 feet
   E. Maximum height: 45 feet
   F. Maximum lot coverage: 60%

   1. Higher height limits may be obtained through a conditional use permit.
   2. May be increased by 10% when 25% of the parking is in an approved underground or multi-level parking facility.

G. Hospital or urgent care clinic parking (parking for all other uses as outlined within Chapter 19.51.040):

   1. one space for every two beds; and
2. one space per employee on largest shift
3. All required parking must be within 300 feet of the hospital site.

19.26.080 Design Review Required

All buildings within the Medical Overlay are subject to review and approval by the Design Review Board. Buildings within this area are not subject to compliance with the Historic Dutch Design Criteria. The Design Review Board will consider the following items when reviewing the building plan:

A. Pedestrian connectivity: The campus should have accessible pedestrian connections beyond standard sidewalks along the street. Special attention should be paid to crosswalks, connections between parking lots serving adjacent uses and interior walkway connections.

B. Landscaping: Minimum landscaping shall be as required within Chapter 19.61 LMC; provided however, that additional landscaping may be required by the Design Review Board at the time of building permit to achieve the following effects:
   1. Effective screening of parking areas and eliminating monotony of parking areas;
   2. Effective buffering of adjacent residential uses;
   3. Enhance the building architecture and on-site landscaping;
   4. Coordinate with the streetscape plantings required as part of the master plan.

C. Building Design: There should be continuity of character and building materials throughout the development to enhance a campus setting. Building design should provide articulation to avoid long blank walls and a scale appropriate to the setting. Where possible, buildings should be designed to screen parking and provide useful courtyard settings for users of the facilities.

D. All load and unloading facilities shall be provided off street and screened appropriately.
19.26.090  Transportation Management Program

Medical uses are high traffic generating uses. Reducing the number of trips to the development creates a benefit to the City through less demand on the transportation system. To encourage employers within the Medical Overlay; the City of Lynden offers the following incentives:

A.  The employee parking component of each use may be reduced by up to 10% if the employer establishes a permanent commute trip reduction program that offers employees incentives such as transit passes, shuttle services or other similar programs to reduce the number of single occupant vehicles traveling to and from the site.

B.  All potential planned medical developments will occur within an economic assistance zone. In addition to the economic development credit given to developers within the CSR and IBZ zones, an additional credit of 10% of the original transportation impact fee may be given to those developers with an established permanent commute trip reduction program as noted above.
Chapter 19.27
PU - PUBLIC USE ZONE

Sections:
19.27.010 Established.
19.27.020 Purpose.
19.27.030 Setbacks.
19.27.040 Height limits.

19.27.010 Established.
A PU Public Use Zone is established with standards and regulations by which certain land uses may be permitted therein.

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

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

19.27.040 Height Limits.
A. Except as otherwise provided in this paragraph, buildings shall not exceed a height of thirty feet unless approved by a conditional use permit. The Design Review Board may extend the height limit to forty feet for buildings not requiring a conditional use permit in the following circumstances:
   1. that adequate public notice has been provided; and
   2. the Design Review Board must find that the increased height is necessary to the design; and
   3. the height is consistent with other structures in the surrounding area.
B. Water and Wastewater Treatment facilities are subject to the height limits for the ID zone.
C. Existing utility structures may be replaced at a height equal to or less than the previously existing height.
Chapter 19.29
Planned Residential Development Overlay

Sections

19.29.010 Purpose
19.29.020 Scope
19.29.030 Definitions
19.29.040 Minimum Size
19.29.050 Allowable Uses
19.29.060 Minimum Development Standards
19.29.070 Density Bonus
19.29.080 Open Space Standards
19.29.090 Application Requirements
19.29.100 Approval Process
19.29.110 Criteria for approval PRD
19.29.120 Amendment or modification of an approved M/PRD
19.29.130 Requirement for Homeowner’s Association and Restrictive Covenants
19.29.140 Construction Start and Completion Limits
19.29.150 Construction of Improvements-Guarantee

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:

1. 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;

2. 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;

3. 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;

4. Encourage infill within areas of the City which are characterized by existing development.
5. Create and/or preserve open space for recreation and the aesthetic enjoyment of residents;

6. Provide for the management and control of stormwater under current state and local regulations;

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.

19.29.030 Definitions

1. Active Recreation: Active recreation includes “recreation, outdoor” defined in LMC 17.01.030 and trails and garden areas.

2. 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.

3. 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.

4. 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.

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

19.29.040 Minimum size

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

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.

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:

1. **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.

2. **Height**: Maximum height of structures when the underlying zoning is a single family or mixed density zone is 35 feet. The maximum height of structures when the underlying zone is a multi family zone is 45 feet. Building height may be extended above these limits under a master planned residential development when approved in the master plan. Considerations for approval of extension of the height limit include 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.

3. **Parking requirements**: Two parking stalls are required for each residential unit. Each 12’ x 25’ 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.

4. **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 25-feet around the perimeter of the development;
   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.
   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.

5. **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. 30 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 4 foot buffer or planting strip between the curb and sidewalk.
3. Rolled curbs are not allowed.

6. 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.

7. 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.

8. Unit Distribution: When a PRD or MPRD is used in a single family zone for development of single family residences, at least twenty-five percent (25%) of the dwelling units must be detached single family units.

9. Minimum lot size: For detached single family residences within a PRD or MPRD, the minimum lot size shall be no less than 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 (7) herein.

10. Where the applicant seeks to depart from the above minimum standards in the MPRD process, the Planning Commission and Council shall consider the following factors and the Council may in its sole discretion approve departure from one or more of said minimum standards upon finding that the MPRD proposal clearly satisfies one or more of these factors:

   1. The modification of minimum standards protects or improves the character of the surrounding neighborhood in terms of architectural scale, view corridors, the aesthetic character or provision of services;
   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 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.

19.29.070 Density Bonus

Density bonuses shall be allowed for Planned Residential Developments and Master
Planned Residential Developments according to the following provisions:

A. When at least ten percent (10%) of the land is set aside in
common open space satisfying the requirements of Section 19.29.080, a five
percent (5%) bonus to the base density is allowed.

B. When twenty percent (20%) of the land is set aside in
common open space and major community facilities, as approved by the City
Council (i.e. a swimming pool, or club house) are constructed on the remaining
land, a ten percent bonus to the base density (10%) is allowed.

19.29.080 Open Space Standards

A PRD or MPRD shall set aside a minimum of seven and one-half percent
(7.5%) of the gross land area or 4,000 square feet, whichever is greater, for active
recreational uses. For purposes of this chapter, a “set aside” of open space shall
require: (a) a recorded deed restriction or restrictive covenant which runs with the land
and assures that said property will remain in open space in perpetuity, consistent with
the terms of this chapter, and which shall be held and maintained for such purposes for
the common benefit of residents of the development by a homeowner’s association; or
(b) a permanent dedication of property to the City, which is accepted by the City, to hold
and maintain as open space consistent with the purposes of this chapter.

1. 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 4,000 square feet must be met with an
open space set aside at one location which shall be suitable for active
recreational uses. Where the minimum requirement is greater than 4,000 square
feet, at least one contiguous area meeting the minimum size requirement must
be set aside at one location for common open space. Any remaining open space
set aside may be otherwise distributed according to the requirements of this
section.

2. 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.
3. 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.

4. Use of Open Space: Except as provided below, a minimum of 30% of the required open space shall be suitable for active recreational purposes. The topography, soils, hydrology and other physical characteristics shall be of such quality as to provide an area suitable for recreation. These areas may be used for low impact development (LID) facilities.
   1. The percentage of open space required to be suitable for active recreational uses may be increased to as high as 50% if it is determined that anticipated recreational needs will require a larger percentage.
   2. The percentage of open space required to be suitable for active recreational uses may be decreased to as low as 10%, 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.

5. 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.

6. Implementation: The property proposed for open space shall be shown on the 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 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 \( \frac{1}{2} \) 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.

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.

7. 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 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.

8. 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.

   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.
19.29.090 Submittal Requirements

1. Submittal of a master plan application is required per the minimum development standards as noted in Section 19.29.060 above and LMC 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. If the application seeks to modify the minimum development standards, a detailed explanation of how the development will meet the criteria listed in 19.29.060(10) and other applicable criteria shall be included.
   4. A completed SEPA Checklist, prepared as part of a phased environmental review under WAC 197-11-060(5).

B. To be determined complete, an application for a Planned Residential Development must include all of the information listed below. This information may be submitted for a portion of a project with the approval of a master plan. This information shall be submitted for the entire development proposal for a project that does not use the master plan approval procedure.

   1. One map showing street systems, location of utilities, preliminary plat designs and contours at five 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 sub sections (A), (B) and (C) superimposed upon one another.
   5. Areas designated for recreational buildings, clubhouses, country club facilities and the nature and extent of such facilities;
6. Proposed building areas or phases, housing types, densities, setbacks and height.

7. A development schedule indicating:
   a. The approximate date when construction of the project can be expected to begin,
   b. The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;
   c. The anticipated rate of development,
   d. The approximate dates when the development of each of the stages in the development will be completed;
   e. The area and location of common open space that will be provided at each stage;

8. The existing and proposed utility systems including sanitary sewers, storm sewers, water lines, electric lines, gas lines and telephone lines.

9. Agreements, provisions or covenants which govern the use, maintenance and continued protection of the planned unit development and any of its common open areas;

10. The existing and proposed circulation system of arterial, collector and residential access streets including off-street parking areas, service areas, loading areas and major points of access to public rights-of-way. Notations of proposed ownership, public or private, should be included where appropriate.

11. 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 insure the safety of this circulation pattern must be shown,

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

15. 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. 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.

19.29.100 Approval Process

1. Applications for a MPRD and a PRD shall follow the review and approval process listed in Chapter 17.09 of the Lynden Municipal Code. The PRD or MPRD shall be overlayed on the underlying zoning district.

2. 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 17.09.

   2. In a two step process, the applicant must receive two separate City approvals under LMC 17.09. The applicant would first seek approval of a master plan and general project concepts before expending the time and resources in developing the specific site and development features of the proposal. The second approval would relate to the specific site design and development requirements defined by the approved of the master plan and would be filed with the Whatcom County Auditor's Office as noted above. Approval of a MPRD constitutes the City's acceptance of a project design and concept. Once the master plan component of the MPRD is approved for the site, the applicant may proceed to begin the second step: submittal of the specific components of its development outlined in section 19.29.090(2), 19.29.110 and as required during approval of the master plan. These specific design components are subject to City approval under LMC 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.

3. The final development contract, with all exhibits, must be presented to the Planning Commission 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 MPRD utilizing the “two step” approval procedure in subsection 2.B above. This 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 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.

4. 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.

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.

1. 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.
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.

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.

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:

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.
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.

A. The restrictive covenants and/or homeowner’s association intended to be used by the applicant in a PRD or MPRD, which purports to restrict the use of land, the location or character of buildings or other structures thereon, set aside open space, and establish provisions for the perpetual maintenance of common grounds, must be reviewed by the Technical Review Committee. 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.

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 19.29.080. This policy shall be clearly shown in recorded documents so that future buyers will be aware of this policy.

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 to post a performance bond as required in Section 18.06.010(5), for 150% of the engineer’s estimate for the completion of the infrastructure.

19.29.150 Construction of Improvements-Guarantee

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.
Chapter 19.31
Residential Property Use Restrictions

Sections: Sections:
19.31.010 Enforcement of Zoning Regulations
19.31.020 One-family dwelling unit regulations
19.31.030 Single family and Multi Family homes in commercial areas

19.31.010 Enforcement of Zoning Regulations.
The following regulations shall apply to all residential dwellings regardless of the zone in which they are located and to all property in residential zones of the city. Authority for the enforcement of these provisions is found in Chapter 17.13 of the Lynden Municipal Code. Violation of these provisions may be subject to civil penalties and fines as provided in that chapter.

19.31.020 Residential Property Regulations.
A. Outside storage.
   1. Inoperable vehicles shall not be stored on the premises longer than thirty days (30) unless parked within an enclosed structure. Minor automotive repair on vehicles other than those registered to the occupant of the house is strictly prohibited. Automobile wrecking is also strictly prohibited.

   2. No more than five, currently licensed and/or operable passenger vehicles may be stored outdoors on any residential lot. Inoperable vehicles may not be stored in the front yard (refer to Section 19.31.020(A)).

   3. Lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they are not stored in the front yard and meet the requirements of Section 19.31.020 (B). A reasonable quantity of materials normally accessory to the primary residential use may be stored on the premises in areas other than required setback areas and open space. There shall be no outside storage of any other materials. Materials that attract rodents and other pests may not be stored on site unless properly enclosed.

   4. As per Chapter 8.04 of the Lynden Municipal Code, regular garbage / recycle pick-up is required. Garbage and recycling containers must be stored securely so as to avoid dispersal of materials on the property or neighboring properties.

   5. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of
the primary residence. No units greater than 8’ x 10’ are permitted in residential zones, other than during construction or for a period of up to 30 consecutive days within a six-month period to facilitate the moving in or moving out of a residence. Units 8’ x 10’ or smaller may be placed on a lot for not more than six months during any two-year period and must be located in the rear yard.

B. Recreational Vehicles: Trailers or Motor Homes and Boats.

1. During summer months, one recreational vehicle may be kept on single family residential (RS) properties to allow for periodic use. Summer storage must be done according to the following standards:

   a. Recreational vehicles must be kept in a designated paved or gravel parking area. This may include areas located in front yards. RV storage shall not reduce the ability of the property to maintain the minimum number of code required on-site parking spaces. Parking any vehicle on lawns or in landscaped areas is not permitted.

   b. Recreational vehicles shall not be parked on City streets for longer than a 72-hour period. At no time may an RV create a dangerous visual barrier to drivers on City streets.

   c. Applicable dates of summer months include one week prior to the Memorial Day holiday until one week after the Labor Day holiday.

2. One RV trailer or one motor home and/or one boat may be stored on the premises only if such storage is not detrimental to surrounding properties. In determining whether such storage is detrimental to surrounding properties, the zoning official shall consider whether the storage:

   a. Is properly screened from adjoining properties either by landscaping, fencing or the erection of an approved storage facility.

   b. Shall not be covered or screened by utility tarps;

   c. Is on a lot greater than or equal to ten thousand square feet.

   d. Has ingress and egress without crossing a neighbor’s property.

3. Trailers, trailer houses, campers, mobile homes, or motor homes shall not be used as living quarters at any time unless located in a duly authorized mobile home park or properly zoned area.
C. Animals.

   No more than three of any species of common household pets, four months of age or older, shall be allowed per dwelling unit.

**19.31.030 Single family and multi-family homes in commercial areas.**

Commercial sales are prohibited in the setback areas when the property is used for living purposes. Off street parking for the residents shall meet or exceed the requirements in Chapter 19.51.
A. The City Council finds that it is necessary to regulate signs in the City of Lynden to help assure that Lynden is a safe and attractive place in which to live and to do business.

B. Measures taken in this chapter to achieve this purpose reflect the City Council's consideration of:

- the vantage points of pedestrians, motorists, cyclists, visitors, residents, and occupants of homes, shops, other buildings; and real property;
- safety through care in placement, sizing and illumination of signs so as to avoid visual clutter, distraction or obstruction of vision of pedestrians and motorists, or obstruction of rights-of-way;
- communication between businesses, organizations and the general public;
- economy for those erecting signs, or maintaining or modifying already-existing signs, through care in specifying style and construction; by reducing the need to replace signs which might become obscured by unnecessarily
large neighboring signs; by providing adequate time to replace signs which do not comply with the new standards; by protecting property values; and by preserving the community character which attracts visitors and new residents, and sustains business development;

- aesthetic benefits to business districts and the community at large through consistency in style, placement, and scale and harmony of signs with buildings, natural settings and other signs;
- compatibility of signs with the architectural and historical qualities of Lynden;
- general public health, safety and welfare; and
- fair and consistent enforcement of these sign regulations.

C. The people of Lynden are proud of its historic business district, and indicated a desire and a willingness to preserve and protect the historic Dutch theme of this district and expand that theme throughout all commercial areas of the city.

19.33.030 Definitions. For the purpose of this chapter, the following definitions shall apply:

1. “Abandoned sign” means a sign that no longer correctly identifies, exhorts, or advertises any person, business, lessor, lessee owner, product, or activity conducted or available on or off the premises on which such sign is located.
2. “Advertising” means any display of letters, numerals, characters, words, symbols, emblems, illustrations, objects or registered trademarks which serve to call the attention of the public to products, services, businesses, buildings, premises, events, candidates or ballot propositions.
3. “Awning” means a temporary or fixed shelter supported entirely from the exterior wall of a building without other means of support to the ground.
4. “Awning Sign” means any sign erected on or against an awning.
5. “Banner, decorative” means an object made of multi-colored cloth, fabric or similar flexible material which displays abstract or representational forms and which is completely devoid of letters, numbers, words or advertising. Streamers shall not be considered decorative banners.
6. “Banner sign” means any sign intended to be hung, with or without framing, and possessing characters, letters, symbols, emblems, trademarks, illustrations, or ornamentation applied to fabric or similar flexible material. Flags, decorative banners, canopy signs, and temporary signs, treated elsewhere in this chapter, shall not be considered banner signs.
7. “Bench sign” means a sign located on any part of the surface of a bench or seat placed on or visible from a public right-of-way.
8. “Billboard sign” means any outdoor sign containing advertising which is not related to any use or activity on the premises on which the sign is located, but not including directional signs as defined in this chapter.
9. “Building, primary” means a fully enclosed and roofed structure, or portion thereof in separate ownership, which houses the primary uses of at least one business, residence or other establishment. Accessory buildings or outbuildings are not included in this definition.
10. “Canopy” means a fixed shelter that may be supported from the exterior wall of a building or from the ground or some combination thereof.

11. “Canopy sign” means any sign erected upon or against a canopy.

12. “Commemorative plaque” means a memorial plaque, sign, plate or tablet which is permanently affixed to or near the structure, object or event it is intended to commemorate and which displays no advertising.

13. “Community event sign” means a sign which announces an event that is listed in the official calendar of events adopted by resolution of the City Council.

14. “Directional sign” means a sign which contains specific directional information and contains no advertising.

15. “Directory sign” means a sign which displays exclusively the names, logos and locations of occupants or uses of a building or complex; which includes, but may not be limited to, signs for office buildings, church directories and signs for malls, arcades, and similar commercial buildings. No advertising other than the name, logo and locations of occupants or uses is included.

16. “Flag” means the officially-recognized symbol of a government jurisdiction displayed on cloth or similar flexible fabric.

17. “Flashing sign” means a sign or a portion thereof which changes light intensity or switches on and off in a repetitive pattern, or uses electrical energy to provide motion or the optical illusion of motion.

18. “Freestanding sign” means a sign which is supported by uprights or braces connected permanently to the ground and which is not connected to a building. (See “Pole sign”).

19. “Grade” means the average elevation of the ground surface immediately below the sign after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the grade cannot reasonably be determined, sign height shall be based on the elevation of the nearest point of the crown of a public street or the grade of the land at the main entry to the principal building, whichever is lower.

20. “Grand opening” means the celebration or promotional period beginning on or shortly after the date when a new, permanent business or use is open for business in a permanent, fixed building. Grand opening events must be related to: opening of a new business; a change of business location; construction of a new business structure; major remodeling or expansion valued at $50,000 or more; change of ownership; or change of name.

21. “Historic Business District” means that area within the City of Lynden, the boundaries of which are described as: That area which abuts Front Street from Second Street to Eighth Street and extending from Judson Street Alley, to the alley between Front Street and Grover Street.

22. “Illuminated sign” means any sign illuminated in any manner by an artificial light source.

23. “Incidental sign” means a small, non-illuminated information sign two square feet or less in area which pertains to goods, products, services or facilities which are available on the premises where the sign occurs, and intended primarily for the convenience of the public while on such premises.
24. “Indirect lighting” means a light source separated from the sign surface and illuminating the sign surface by means of spotlights or similar fixtures.
25. “Internal lighting” means an indirect, concealed light source which is recessed or contained within any element of a sign.
26. “Main entry” means the entrance from outdoors into a primary building through which most customers or other visitors pass or are expected to pass. Each primary building shall be considered to have no more than one main entry, excepting a multiple-business complex, in which case each physically separate business which has no internal passageway to any other business premises shall be considered to have one main entry.
27. “Marquee” means a permanent structure attached to and supported by the building and projecting over public or private property.
28. “Monument sign” means a ground-related, freestanding sign which is attached to the ground or to its base on grade by a solid sign structure and which structure extends from the ground or base to the sign face at the same or greater width as the sign face.
29. “Multiple-business complex” means a group of structures housing at least two separate businesses or agencies, or a single structure containing more than one business with separating walls and at least one outside access for each business which shares a common lot, access and/or parking facility. An example of a multi-business complex is the Fairway Center.
30. “Multiple-tenant building” means a single structure housing more than one business or agency which may or may not incorporate a separate outside access for each enterprise, but not including residential apartment buildings. An example of a multi-tenant building is Delft Square.
31. “Mural sign” means a wall sign which consists exclusively of paint applied to the wall of a building or alternate surface without application of any other material or framing.
32. “Neon lighting” means lettering, numerals, symbols, logos, emblems or illustrations which are directly visible and are constructed of and illuminated solely by glass tubes filled by neon gas or equivalent light emitting gaseous elements.
33. “Non conforming sign” means any sign in existence within the city on the date of adoption of the ordinance codified in this chapter, or located in an area annexed to the City thereafter, which does not conform with the provisions of this chapter, but which did conform to all applicable laws in effect on the date the sign was originally erected.
34. “Off-premises sign” means a sign relating, through its message and content, to an activity, use, product, or service which is not available on the premises on which the sign is erected.
35. “Pole sign” means any freestanding sign composed of a sign cabinet, backboard, frame or base and the sign pole, or pylon by which it connects to the ground.
36. “Political sign” means any sign which serves to influence, is intended to influence, or appears to be of the type which is commonly erected to influence an election or ballot proposition.
37. “Portable sign” means any moveable sign, such as a sandwich board sign, which is capable of being moved easily and is not permanently affixed to the ground or a structure or building.

38. “Premises” means the real property on which the business or other entity advertised by the sign or signs mentioned in this chapter is situated.

39. “Primary Sign” means the main sign for the business and may be either a free-standing sign or a wall sign.

40. “Projecting sign” means a sign which is attached to and projects from a structure, wall or building face further than six (6) inches. For the purposes of this chapter, a projecting sign includes signs affixed under an awning, canopy or marquee.

41. “Reader board” means that portion of a sign on which copy may be easily changed by manual/mechanical means or by lighting effects without reworking, repainting, or otherwise altering the physical composition of the sign.

42. “Real estate sign” means a portable or freestanding sign erected by the owner, or his/her agent, advertising the real estate upon which the sign is located for rent, lease or sale, or one directing to such property.

43. “Revolving sign” means a sign which rotates or turns in motion in a circular pattern.

44. “Roof sign” means a sign erected upon or above a roof of a building or structure.

45. “Sandwich board sign”—See “Portable sign.”

46. “Sign” means any object, structure or portion thereof, other than a flag or government symbol, which contains advertising and which is visible from any right-of-way open to the public.

47. “Sign Area” means the entire area of a sign on which the copy is to be placed including only one side of a multi-faced sign, provided that the copy on all sides of the sign is identical. Sign areas shall be calculated by measuring the area of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the advertising copy, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supportive framework, bracing, architectural embellishments or decorative features or fences or walls which contain no written copy or other advertising and when any such fences or walls otherwise meet the requirements of this Title and are clearly incidental to the display itself.

48. “Sign face” means any surface of a sign upon which there is lettering or other advertising.

49. “Sign height” means the vertical distance from grade to the highest point of a sign or any projection thereof.

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

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

52. “Street” means a public or private way open to the general public including all classes of roadways excepting alleys and driveways and including major internal circulation corridors within parking lots.

53. “Street frontage” means a side of a building which contains an entrance open for public use and which side also faces an abutting street.

54. “Street frontage, primary” means the lineal length of the street frontage on which the main entry is located; provided that, in the event the main entry is located on a corner of the building or on a side other than a side which abuts a more heavily traveled street, primary street frontage shall be determined as if the main entry were on the side which abuts the more heavily traveled street.

55. “Symbol sign” means a projecting sign consisting exclusively of a symbol, picture or object which represents the specific products or services available on the premises, and which sign does not include any lettering, numerals or registered trademarks.

56. “Temporary sign” means any sign or advertising display constructed of cloth, canvas, light fabric, paper, cardboard, or other light materials, without frames, which is displayed for a limited time only. Residential yard signs and signs painted or adhered on window surfaces which are readily removed by washing shall also be considered temporary signs.

57. “Trailer sign” means a sign used for advertising purposes mounted on a vehicle normally licensed by the state of Washington as a trailer.

58. “Wall sign” means a sign which is attached parallel to, and within six (6) inches of, a wall, which is supported by and confined within the limits of such wall, and which displays only one sign surface.

59. “Window sign” means a sign placed upon the interior or exterior surface of a window, or placed inside the window within three feet of the window, which faces the outside and which is intended to be seen primarily from the exterior.

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

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

B. All permanent signs subject to design review as provided in this chapter must obtain approval of the DRB before a sign permit may be issued. This includes all replacement signs.

C. Design elements include the following: sandblasting, hand carving, dimensional graphics, glass, stained glass, hardwood, wrought iron, steel brackets, outlining,
lighting, Dutch character or graphics, lettering style, 3 or more colors, murals, gold leaf, tile, frames, shadows, hand lettering, landscaping, character reflective of business. When reviewing signs, the Design Review Board shall consider the relationship of the design elements to one another in the design of the sign.

D. Safe and Secure Installation. Signs, sign structures and bracing systems shall be designed and constructed to meet all requirements of the Uniform Building Code and the Lynden Municipal Code. All electrified signs shall be designed, installed and inspected in conformance with the National Electrical Code.

E. Clearance and Sight Distance. Marquees, canopy signs or projecting signs which project over areas where motor trucks may be required to pass beneath them shall maintain a minimum vertical clearance of fifteen feet. No marquee, canopy sign or projecting sign may project closer than two feet from the curb line of the street. All marquees, and canopy signs and projecting signs must maintain a minimum of eight feet of vertical clearance over pedestrian ways. Freestanding and portable signs may not be placed within the clear vision triangle at the intersection of any streets, alleys or driveways. This triangle is defined in Title 17.

F. Light and Glare from Signs. The light source for signs which are illuminated by indirect lighting shall be no farther away from the sign than the height of the sign and shall be shielded so that direct rays from the light are visible only on the lot where the sign is located and in such a manner that hazardous glare to motorists or pedestrians will not occur.

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

A. Total allowable sign area.
   1. Each residential building is allowed one permanent, wall-mounted identification sign per street frontage and one temporary yard sign and each such sign may not exceed four (4) square feet in sign area. No sign permit is required for either sign.
   2. Each multifamily complex over five units in size, or subdivision in residential zones is allowed twenty-four (24) square feet of sign area. Exception: Signs within a Planned Residential Development will be determined by the Development Contract.
   3. Home occupations are allowed one wall-mounted sign not to exceed six (6) square feet in sign area which must be unlighted or have indirect lighting.
   4. Government buildings, schools and churches are allowed one identification sign not to exceed twenty four (24) square feet, one permanent reader board sign not to exceed sixteen (16) square feet for a total of forty (40) square feet. The reader board must be incorporated in the main sign structure. No product or company name, product symbol or product slogan may be included in the sign face of any freestanding sign.

B. Maximum sign height is five (5) feet. For government buildings, schools and churches, the maximum height will be decided through a conditional use permit.
approved by the Design Review Board imposing the minimum standards of the CSL zone.

C. Freestanding signs.
   1. Permanent freestanding signs must be monument signs or pole signs mounted on two poles placed at the outermost sides of the sign face, and must be approved by the Design Review Board. The Design Review Board may, upon review of the sign design, approve one pole signs.
   2. All freestanding signs shall have a landscaped area at the base of the sign at least twice the size of the sign area.
   3. Temporary yard signs may be displayed for up to fifteen (15) days and may be mounted on a single pole or stake.
      Exceptions:
      a) Garage or rummage sale signs pursuant to Article IV, Special Category Signs.
      b) Real estate and political signs pursuant to Section 19.33.070.
   4. Freestanding signs must be setback at least five (5) feet inside property lines.
   5. No other pole signs, portable, sandwich board, sidewalk or other freestanding signs are allowed.

D. Off-premises signs are not permitted. Exception: Signs authorized to be erected off-premises pursuant to Section 19.33.90, Special Category Signs and those sandwich board signs approved under Section 19.33.070.

E. Illuminated signs. Only indirect lighting is permitted, except for those signs permitted in section A(4) above.

19.33.055 Historic Business District. In addition to the regulations under Section 19.33.060, the following sign regulations shall apply within the HBD zoning district.

A. Sign Graphics. It is encouraged that all signs within the HBD contain elements related to the Dutch Theme and/or Dutch wording.

B. Tour assembly signs. Each business which has been authorized by the city to conduct public tours within the public rights-of-way may, if such business does not have business premises within the historic district, place one portable sandwich board sign on the sidewalk at a location and in a manner approved by the City Planner. The business owner shall also obtain and submit to the City Planner written permission of the owner of the property immediately abutting the location of the proposed sign, and shall also submit proof of liability insurance naming the City of Lynden as an additional insured. The City Administrator shall approve the amount and policy provisions of such liability insurance. The sign area of such sign shall not exceed six (6) square feet per sign face and such sign area shall not be included in the allowable sign area of the abutting property.

C. Kiosks. The City Planner is hereby authorized to permit erection of kiosks by the City of Lynden or by one or more non-profit community organizations representing a large number of retail businesses. Such kiosks must be shown to provide community bulletin board services of broad public interest. No more
than one such kiosk may be placed within the Historic Business District, or any other commercial district.

D. Off premise directional signs. One off premise directional sign may be permitted per business within the historical business district. Signs are limited to a maximum of sixteen square feet. These signs shall not be freestanding signs and must be mounted on a building within the historic business district. Only one such sign may be mounted per building side and may not exceed the total sign square footage permitted for the building.

E. Prohibited signs. In addition to those signs listed as prohibited in Section 19.33.080, off-premises real estate signs and portable readerboards are not permitted in the Historic Business District, except those readerboards associated with a community theater.

19.33.060 Historic Business, Commercial Business and Public Use Districts (HBD, CSL and PU zones). In addition to the other applicable provisions of this chapter, the following regulations also apply in the historic business, commercial services and public use zoning districts:

A. Total allowable sign area is determined as follows:
   1. One and one half square foot of sign area for each lineal foot of primary street frontage of the primary building. In the event a building is located on a corner lot, an additional three quarter (0.75) square foot per lineal foot of primary street frontage may be included in the total allowable sign area. Businesses with alley frontage may have additional sign square footage based on one square foot per each lineal foot of alley frontage. This sign allowance must be used on the alley front of the building.
   2. Each multiple-business complex is allowed one sign per street frontage as a directory sign. The square footage allowance for each directory sign is equal to thirty-two (32) square feet plus an additional six (6) square feet per business to a maximum of eighty (80) square feet. The width of the sign face may not exceed ten (10) feet. Sign area for each business within a multi-business complex is determined by the frontage each business has on the street or primary customer access, including major internal circulation corridors within parking lots.
   3. Tenant signage in multiple-tenant buildings may not exceed their percentage of building square footage times the total allowable signage square footage. Each multiple-tenant building is allowed one (1) directory sign not to exceed forty-eight (48) square feet. Tenant signs must be mounted below the primary sign and may not be roof mounted.
   4. Twenty (20) square feet for an outdoor business which operates without building.
   5. Government buildings, schools and churches are allowed one identification sign not to exceed thirty-six (36) square feet and one permanent reader board sign not to exceed twenty-four (24) square feet for a total of sixty (60) square feet. The reader board must be incorporated in the main sign
structure. No product or company name, product symbol or product slogan may be included in the sign face of any freestanding sign.

6. Includes all types of signs on all sides and all stories of the building or premises. **Exceptions:** parking lot identification signs, symbols, menu boards, commemorative plaques, incidental signs, window sign lettering less than six (6) inches in height, mural signs approved pursuant to subsection 19.33.050(I), motor fuel price signs erected pursuant to subsection (G) below, monument signs erected as a directory sign for a multiple-business complex pursuant to subsection (G) (2) below, service club signs authorized pursuant to Section 19.33.090, and signs listed as exempt in Section 19.33.070 are not included in the determination of allowable sign area.

**B. Maximum sign height** is as follows:

1. Freestanding signs: seventeen feet, seven feet in the historic business district, but in no event may signs extend higher than the nearby surface of the roof of the building.
2. Canopy signs or signs mounted on a marquee may not extend higher than the highest roof surface of the canopy or marquee, but in no event may extend higher than the nearby roof surface of the building or the cornice line within the historic business district.
3. Five (5) feet for a monument sign of a single-business or multiple-tenant building, and. Five (5) feet plus one foot per each separate business advertised on a monument directory sign of a multiple-business complex to a maximum of seventeen (17) feet.

**C. Wall signs**

1. Within the total allowable sign area determined in subsection (A), the total area of signs attached to any given wall shall not exceed one hundred fifty (150) square feet.

**D. Illuminated signs.**

1. All signs may be illuminated by indirect or internal lighting methods. For those signs that are illuminated by an internal lighting source, it is encouraged that the sign face be opaque and only the copy and logos illuminate.

**E. Projecting signs** are subject to the following additional regulations:

1. No larger than thirty-two (32) square feet per side.
2. May project no more than four (4) feet from the building.
3. Minimum clearance of eight (8) feet must be maintained above the sidewalk and six (6) inches from the vertical wall.
4. Only one projecting sign, including symbol signs, is allowed for each main entry.

**F. Permanent window signs.**

Permanent window signs shall not have temporary lettering.

**G. Freestanding signs in CSL and PU zones.**
1. Each single-business or multiple-tenant building shall be allowed one freestanding sign not to exceed a sign area of eighty (80) square feet.
2. Each multiple-business complex is allowed one sign per street frontage for a directory sign. The sign area of such directory sign is not to exceed thirty-two (32) square feet plus six (6) square feet per separate business advertised to a maximum of eighty (80) square feet. Directory signs may not exceed ten feet in width.
3. Monument signs must be set back from property lines a distance of one foot for each one foot of sign height in excess of five (5) feet.
4. Exception: The City Planner is authorized to permit alternate monument sign placement as part of a streetscape improvement project in conformance with any public streetscape improvement plan and planned unit development.
5. Permanent freestanding signs shall have a landscaped area at the base of the sign at least twice the size of the sign area. All required landscaping must be contiguous to the sign; however, it is not required that the sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the sign.
6. No other pole signs, portable, sidewalk or other freestanding signs are allowed, unless expressly authorized herein.
7. All signs must be setback a minimum of five (5) feet from the property line.

H. Freestanding signs within the HBD
1. Monument signs shall be no more than twelve (12) square feet in sign area per side.
2. Pole signs are permitted only if mounted on two poles placed at the outermost sides of the sign face.
3. Sandwich board signs may be placed upon a public or private sidewalk subject to approval of the Design Review Board and the following restrictions and requirements:
   a) Written permission must be obtained from the owner of the property in front of which the sign is to be placed.
   b) Signs may be placed near markings separating parking spaces, but not within a crosswalk and not closer than fifteen (15) feet from the intersection of the extension of the curb lines (edge of curbs on the vehicular traffic side) of each intersecting street or from another sandwich board sign.
   c) Maximum sign area is eight (8) square feet per sign face; maximum sign width is thirty (30) inches; maximum sign height is four (4) feet; minimum sign height is thirty (30) inches. A sign may be higher than four feet in height if the width is less than twenty-four inches for the upper fifteen inches of the sign, and the design is approved by the Design Review Board.
   d) Signs must be placed no further than three (3) feet from the building line. Exception: Signs may be placed within twelve (12) inches of the curb line wherever parking is prohibited in the adjacent street.
   e) Signs may not be placed closer than twelve (12) inches from any tree grate or other planting.
f) The sign area of each sandwich board sign shall be included in the total allowable sign area calculated pursuant to subsection (A) of this section for the premises in which the business advertised is located. Exception: The sign area of tour assembly signs erected pursuant to subsection (H) of this section shall not be included in the sign area calculation of any building.

g) Continuous proof of liability insurance must be provided naming the City of Lynden as additional insured in amount and policy provisions as approved by the Clerk-Treasurer of the City when the sign is placed within the public right-of-way.

h) Each sign must be of sound construction and designed to the satisfaction of the Building Official to withstand high winds.

i) No more than one sandwich board sign may be erected for each business. Each sandwich board must be within 15 feet of the main entrance of the business or multi-tenant building.

j) All sandwich board signs must include at least three design elements from the adopted design criteria and should be of a Dutch character, or be reflective of the business.

4. No other pole signs, portable, sandwich board, sidewalk or other freestanding signs are allowed, unless expressly authorized herein.

5. Subdued, indirect lighting of signs is encouraged.

I. Reader board signs are included in the total square footage calculation and may not exceed 75 percent of the sign area for the sign or thirty (30) square feet, which ever is less. Electronic reader boards are permitted as part of the total allowable square footage for reader boards as noted above.

J. Exceptions:
1. In addition to the sign area allowed pursuant to subsection (A), above, any business selling motor fuel to the public may have one permanently-mounted motor fuel price sign not to exceed eighteen (18) square feet per sign face. If such sign is incorporated as part of the monument sign allowed pursuant to this section, the allowable height of such monument sign may be increased by four (4) feet.

2. The City Planner is authorized to permit one permanently-mounted reader board sign for community event announcements on premises owned by the city or a non-profit organization under contract with the city. Such sign may not exceed a sign area of fifty (50) square feet per sign face.

3. Portable reader board signs are not permitted.

19.33.063 Regional Commercial Services (CSR). In addition to the other applicable provisions of this chapter, the following regulations also apply in each commercial business and public use zoning district:

A. Total allowable sign area is determined as follows:
1. Two and one half (2.5) square feet of sign area for each lineal foot of primary street frontage. In the event a building is located on a corner lot, an additional one and one quarter (1.25) square feet per lineal foot of primary
street frontage may be included in the total allowable sign area. The maximum size of any one sign cannot exceed one hundred fifty (150) square feet.

2. Each multiple-business complex is allowed one sign per street frontage as a directory sign. The square footage allowance for each directory sign is equal to thirty-two (32) square feet plus an additional six (6) square feet per business to a maximum of eighty (80) square feet. The width of the sign face may not exceed ten (10) feet. Sign area for each business within a multi-business complex is determined by the frontage each business has on the street or primary customer access, including major internal circulation corridors within parking lots, and is subject to the same restrictions as in A. 1. above.

3. Tenant signage in a multiple-tenant building cannot exceed their percentage of building square footage times the total allowable signage square footage. Each multiple-tenant building is allowed one (1) directory sign not to exceed forty-eight (48) square feet. Tenant signs must be mounted below the primary sign if a primary sign is present and may not be roof mounted.

4. Twenty (20) square feet for an outdoor business which operates without a building.

5. Government buildings, schools and churches are allowed one identification sign not to exceed thirty-six (36) square feet and one permanent reader board sign not to exceed twenty-four (24) square feet for a total of sixty (60) square feet. The reader board must be incorporated in the main sign structure. No product or company name, product symbol or product slogan may be included in the sign face of any freestanding sign.

6. Includes all types of signs on all sides and all stories of the building or premises. Exceptions: parking lot identification signs, symbol signs, menu board signs, commemorative plaques, incidental signs, window sign lettering less than six (6) inches in height, mural signs approved pursuant to subsection 19.33.050(I), motor fuel price signs erected pursuant to subsection (I) below, monument signs erected as a directory sign for a multiple-business complex pursuant to subsection (F) (2) below, service club signs authorized pursuant to Section 19.33.090, and signs listed as exempt in Section 19.33.070 are not included in the determination of allowable sign area.

B. Maximum sign height is as follows:

1. Signs are limited to twenty-five (25) feet in height. If the sign is located at least one hundred (100) feet, but no more than three hundred (300) feet, from the right-of-way of a state highway, the sign may be thirty-five (35) feet in height.

2. Canopy signs or signs mounted on a marquee may not extend higher than the highest roof surface of the canopy or marquee. Roof signs are not allowed.

3. Five (5) feet for a monument sign of a single-business or multiple-tenant building.
4. Five (5) feet plus one foot per each separate business advertised on a monument directory sign of a multiple-business complex to a maximum of seventeen (17) feet.

C. Wall signs
   1. Within the total allowable sign area determined in subsection (A), the total area of signs attached to any given wall shall not exceed one hundred fifty (150) square feet.

D. Projecting signs are subject to the following additional regulations:
   1. Not larger than thirty two (32) square feet per side.
   2. May project no more than four (4) feet from the building.
   3. Minimum clearance of eight (8) feet must be maintained above the sidewalk and six (6) inches from the vertical wall.
   4. Only one projecting sign, including symbol signs, is allowed for each main entry.

E. Permanent Window signs.
   Permanent window signs shall not have temporary lettering.

F. Freestanding signs.
   1. Each single-business or multi-tenant building shall be allowed a maximum of one (1) sign per sixty (60) feet of frontage. Minimum distance between signs is sixty (60) feet. Freestanding signs are not to exceed one hundred fifty (150) square feet. If more than one freestanding sign is requested, the maximum sign size is one hundred (100) square feet and each of the signs must be of equal size and shape. The total number of signs may not exceed the total square footage allowed in 19.33.063(A) above.
   2. Each multiple-business complex is allowed one sign per street frontage for a directory sign. The sign area of such directory sign is not to exceed thirty-two (32) square feet plus six (6) square feet per separate business advertised to a maximum of eighty (80) square feet. Directory signs may not exceed ten feet in width.
   3. Monument signs must be set back from property lines a distance of one foot for each one foot of sign height in excess of five (5) feet. Signs must be setback a minimum of five (5) feet.
   4. Exception: The City Planner is authorized to permit alternate monument sign placement as part of a streetscape improvement project in conformance with any streetscape improvement plan and planned unit development.
   5. Permanent freestanding signs shall have a landscaped area at the base of the sign at least twice the size of the sign area. All required landscaping must be contiguous to the sign; however, it is not required that the sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the sign.
   6. No other pole signs, portable, sidewalk or other freestanding signs are allowed, unless expressly authorized herein.
   7. All signs must be setback a minimum of five (5) feet from the property line.
G. **Reader board signs** are included in the total square footage calculation and may not exceed 75 percent of the sign area for the sign or thirty (36) square feet, which ever is less. Electronic reader boards are permitted as part of the total allowable square footage for reader boards as noted above.

I. **Exceptions:**
   1. In addition to the sign area allowed pursuant to subsection (A), above, any business selling motor fuel to the public may have one permanently-mounted motor fuel price sign not to exceed eighteen (18) square feet per sign face. If such sign is incorporated as part of the monument sign allowed pursuant to this section, the allowable height of such monument sign may be increased by four (4) feet.
   2. The City Planner is authorized to permit one permanently-mounted reader board sign for community event announcements on premises owned by the city or a non-profit organization under contract with the city. Such sign may not exceed 25% of the sign face of the permitted sign.

J. Portable reader board signs are not permitted.

**19.33.065 Industrial Districts (ID & IBZ).** In addition to the other applicable provisions of this chapter, the following regulations also apply in each industrial zoning district:

A. **Total allowable sign area** is determined as follows:
   1. One and one half square foot of sign area for each lineal foot of primary street frontage of the primary building. In the event a building is located on a corner lot, sign area equal to one half the allowable sign area for the primary frontage may be included in the total allowable sign area. No one sign may exceed 150 square feet in size.
   2. But, each separate business in a multiple-tenant building or industrial park complex shall be allowed at least thirty-two (32) square feet of sign area, but no more than sixty-four (64) square feet.
   3. Each multiple-tenant building is allowed an additional six (6) square feet for a directory sign.
   4. Government buildings, schools and churches are allowed one identification sign not to exceed thirty-six (36) square feet and one permanent reader board sign not to exceed twenty-four (24) square feet for a total of sixty (60) square feet. The reader board must be incorporated in the main sign structure. No product or company name, product symbol or product slogan may be included in the sign face of any freestanding sign.
   5. Includes all types of signs on all sides and all stories of the building or premises.
   6. **Reader board signs** are included in the total square footage calculation and may not exceed 75 percent of the sign area for the sign or thirty (36) square feet, which ever is less.

**Exceptions:** Parking lot identification signs, incidental signs, monument signs, window sign letters less than six (6) inches in height, and signs listed as exempt in Section 19.33.070 are not included in determining allowable sign area.
B. **Maximum sign height** is as follows:
   1. Five (5) feet for monument signs, plus one foot for each separate business advertised on the sign, but no higher than ten (10) feet.
   2. Seventeen (17) feet for other freestanding signs.
   3. Signs may not extend above the roof line. No roof signs will be permitted.

C. **Projecting signs** are subject to the following additional regulations:
   1. No larger than thirty-two (32) square feet per side.
   2. May project no more than four (4) feet from the building.
   3. Minimum clearance of eight (8) feet must be maintained above the sidewalk and six (6) inches from the vertical wall.
   4. Only one projecting sign, including symbol signs, is allowed for each main entry.

D. **Window signs** may not include temporary lettering.

E. **Freestanding signs.**
   1. Each single-business or multiple-tenant building shall be allowed one freestanding sign not to exceed a sign area of eighty (80) square feet. Monument signs are encouraged.
   2. Each multiple-business complex is allowed one monument sign per street frontage for a directory sign. The sign area of each such directory sign shall not exceed thirty-two (32) square feet plus six (6) square feet per separate business advertised, but not larger than sixty-four (64) square feet.
   3. Permanent freestanding signs shall have a landscaped area at the base of the sign at least equal to the size of the sign area. All required landscaping must be contiguous to the sign; however, it is not required that the sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the sign.
   4. No other pole signs, portable, sidewalk or other freestanding signs are allowed, unless expressly authorized herein.
   5. All freestanding signs must be setback a minimum of five (5) feet from the property line. Signs must setback from property lines a distance of one foot for each one foot of sign height in excess of five feet.

**19.33.070 Exemptions.** The following types of signs are allowed in all areas without a sign permit. These exemptions shall not be construed as relieving the owner of any sign for the responsibility of its erection and maintenance, or for compliance with the provisions of this chapter, or any other law or ordinance regulating same.

A. Fund raising signs pertaining to a specific proposed public construction project or fund raising campaign for a non-profit or religious organization; provided, that only one such sign may be erected by that organization at any one time, the sign area may not exceed thirty-two (32) square feet and each organization is limited to six such signs per year. The sign may be displayed for up to seven (7) days prior to the event and must be removed within twenty-four (24) hours after the conclusion of the event or campaign. Signs for long term fund raising campaigns may be approved by the City Council.
B. **Real estate signs** limited to one sign of four and one-half (4.5) square feet maximum area per sign face on each parcel of property offered for sale in residential zones. In other zones, one sign is allowed up to sixteen (16) square feet per sign face on each separate parcel of property offered for sale. Each real estate sign must be removed no later than five (5) business days after closing of sale of the property advertised. Closing of sale shall be considered the date of recording with the Whatcom County Auditor. Off-premises real estate signs are not permitted.

**Exception:**

a) Off-premises real estate signs are not allowed under any circumstances in the historic district.

b) Real estate signs are not permitted within any public right-of-way.

c) Real estate signs advertising an open-house may be placed off-premises if:
   i. placed on private property with owner’s permission;
   ii. signs are no larger than three (3) square feet per sign face; and
   iii. displayed for no longer that four (4) consecutive days.
   iv. Two open house directional signs for each such open house may be placed in the unpaved portion of the street right-of-way, but only during daylight hours and only when seller or agent is in attendance of property for sale. No such sign shall be placed in such a way as to block the sidewalk.

C. **On-premises or on-vehicle incidental signs** not exceeding two (2) square feet each. This does not apply to licensed vehicles used for daily service.

D. **On-premises directional signs** not exceeding six (6) square feet, the sole purpose of which is to provide for vehicular and pedestrian traffic direction and which display no advertising. (See 19.33.080)

E. **Political signs** erected on private property up to four and one-half (4.5) square feet per sign face in residential zones and sixteen (16) square feet per sign face in other zones and must be removed within ten (10) days after the final election involving the candidate or ballot proposition advertised by the sign.

F. **Temporary construction signs** limited to a total sign area of thirty-two (32) square feet per construction site, displayed no longer than one year and removed no later than ten (10) days after completion or occupancy of the project.

G. **Traffic, directional or informational signs** lawfully installed, or required to be installed, by a government entity; provided that, in the even of any conflict between the provisions of this chapter and the provisions of any applicable state law, the provisions of this chapter shall govern unless expressly preempted by the laws of the State of Washington.

H. **Signs not intended to be viewed from, and which are not readable from, a public right-of-way.**

I. **Window merchandise displays.**

J. **Flags** of the United States, the state, the city, the county, foreign nations, and any other flag adopted or sanctioned by an elected legislative body of competent
jurisdiction, provided that such a flag shall not exceed sixty (60) square feet in
sign area and shall not be flown from a pole the top of which is more than forty
(40) feet in height. Such flags must be flown in accordance with protocol
established by the Congress of the United States for the Stars and Stripes. Any
flag not meeting any one or more of these conditions shall be considered a
banner sign and be subject to regulation as such.

K. Decorative banners if no more than five (5) per each premises, and provided
they are consistent with theme, and displayed for a maximum of six (6) months.
This does not include decorative banners installed by the City of Lynden or the
Chamber of Commerce.

L. Legal notices required by law.

M. Barber poles;

N. Grave markers.

O. Incidental, non illuminated signs identifying small specialized community service
structures, such as phone booths, public transit shelters, and collection
containers for used goods or recyclable materials.

P. Incidental, non-illuminated signs limited to three per storefront.

Q. Non-illuminated informational signs pertaining to motor fuel which are affixed to
the surface of fuel pumps. These may not exceed two square feet and may not
be used for advertising purposes.

R. Temporary signs. Each temporary sign is limited to a maximum of 30 days. No
one business may have more than two temporary signs up at any one time.
Temporary signs include banners, hanging signs and freestanding signs.
Temporary window lettering intended for view from the right-of-way is also
included in this category. Searchlights may be utilized as a temporary sign for up
to twelve hours within a single twenty-four hour period. All searchlights must be
shut off by midnight.

S. Lettering or symbols painted directly onto or mounted magnetically onto an
operable motor vehicle operating in the normal course of business; provided no
part of such signs shall project higher than the roof surface of any such vehicle
other than vehicles for hire.

T. Signs attached to buses or taxis for hire.

U. One non-illuminated bulletin board not larger than twelve (12) square feet in area
for each public, charitable or religious institution when the same is erected on the
premises of the institution.

V. Mural signs within the historic business district in existence on the effective date
of the ordinance codified in this chapter.

W. Non-illuminated religious symbols mounted on church premises.

X. On premise, directional signs for churches, schools, and government offices not
to exceed eight (8) square feet and provided that they may not be placed in the
public right-of-way and that the signs are portable and of a sandwich board design.

**19.33.075 Special Exemption—Grand Opening/Going out of Business Signs**

A. During a grand opening or going out of business sale not to exceed ninety (90) days, temporary signs may be displayed on the premises without a sign permit and regulations with respect to sign area, roof placement, sign height and type of signs are temporarily suspended.

B. All other regulations provided herein and not expressly suspended by this section shall apply to grand opening signs.

C. The provisions of this section may not be applied to more than one grand opening or going out of business event at any business location within any 12-month period; provided that each separate business location within a multiple-business complex shall be entitled to a grand opening or going out of business event separate from a grand opening event for the complex as a whole.

**19.33.080 Prohibited signs.** The following signs are prohibited within the city:

A. Abandoned signs.

B. Bench signs on, or within thirty (30) feet of, the Public right-of-way.

C. New Billboards. Existing Billboards will be considered non-conforming and may not be reconstructed, replaced or re-located.

D. Flashing, revolving or any other moving signs; provided, that the moving hands of a clock or changing numerals of a time and/or temperature device may be permitted subject to the other regulations provided in this chapter. This clause is not intended to prohibit signs specifically permitted in other sections of this ordinance.

E. Off-premises signs except real estate open house signs, political signs, community event signs, mural signs, and garage sale signs specifically authorized or exempted herein.

F. Off-premises real estate signs within the historic business district.

G. Portable reader board signs, except as allowed under 19.33.070 (A). No exceptions will be permitted in the Historic Business District (See section 19.33.050 (K)

H. Roof-mounted signs, including any signs painted directly on the roof surface.

I. Signs or sign structures, which by coloring, shape, working or location resemble or conflict with traffic-control signs or devices.

J. Signs which create a safety hazard for pedestrian or vehicular traffic.

K. Signs larger than two (2) square feet in area attached to or placed on a vehicle or trailer on public or private property; provided, however, that this provision shall not be construed as prohibiting the identification of a firm or its products on a
licensed vehicle operating during the normal course of business. For hire buses and taxis are exempt from this provision.

L. Signs attached to utility poles or traffic signs.

M. Signs within the public right-of-way except community event signs, kiosks and signs which overhang the public right-of-way as specifically authorized herein.

N. Signs in city-designated buffer zones or greenbelt areas. This does not include park and trail informational signs.

O. Signs contrary to the provisions of this chapter.

P. Streamers or inflatable objects, except for special events provided that they are removed within twenty-four (24) hours of the event, conform to the temporary sign requirements and are outside of the Historic Business District.

Q. Laser lights.

19.33.090 Special category signs. The following regulations shall apply to the special categories of signs set forth below, in addition to all the other requirements of this chapter which may be applicable.

A. Parking Lot Identification Signs. Parking lot identification signs may be erected without a sign permit if restricted to posting regulations regarding the use of the lot and to identifying a parking lot with its owner, operator, or name of the business providing the lot. No advertising other than the name of the business may be included. The total sign area for parking lot identification signs shall not exceed six (6) square feet for each one thousand (1,000) square feet of parking lot area and each sign face shall not exceed six (6) square feet; provided that each lot shall be allowed at least one parking lot identification sign; and provided further that these restrictions may be exceeded to the extent required by any applicable laws of the State of Washington. Parking lot identification signs shall not exceed a sign height of six (6) feet.

B. Community Event Signs. Community Event signs are signs that announce an event sponsored by the City of Lynden or the Chamber of Commerce and is listed in the official calendar of community events. Signs for events not listed on the official calendar of events may be considered temporary signs under Section 19.33.070 (S). Banner signs are limited to seventy-five (75) square feet per sign face, and may be placed over public right-of-way, or on public property provided that the ground clearance, vision clearance and methods of construction in suspension are approved by the Public Works Director. Freestanding or wall signs may be no larger than 32 square feet per sign face and may be located in the public right-of-way or on public property, provided that the location of the sign is approved by the Public Works Director. Community event signs may be displayed no longer that 14 days prior to an event and must be removed within 48 hours after the event.

C. Service Club Signs. Service club signs are signs which display the recognized shield, logo or symbol of an international service club which has an established
chapter in Lynden, has regularly scheduled meetings, but does not own or lease premises within the city. Each such sign may not exceed five (5) square feet. Service club signs require a sign permit and may be displayed only at a single location which as been approved by the City Planner. Additional signage may be permitted for service project recognition at the site of the public service project.

D. Garage or Rummage Sale Signs. Garage or rummage sale signs are temporary signs not to exceed four (4) square feet per sign face which provide direction to a household sale. Up to three (3) such signs may be placed without a sign permit on the property on which the sale is held and/or in nearby public rights-of-way. Signs placed in public rights-of-way must be self-supported by a stake or similar device and may not be attached to utility poles or traffic signs. Care must be taken to assure that the placement of such signs will not create a hazard to the public by obstructing the view or passage of pedestrians, cyclists or motorists. Garage or rummage sale signs may not be displayed for longer than three (3) days and must be removed within twenty-four (24) hours after the sale. Garage or rummage sale signs may not be displayed more than three times during any twelve (12) month period for direction to a sale on the same premises.

E. Special Purpose Sign. A special purpose sign is a temporary sign to be displayed less than thirty(30) consecutive days for a purpose not anticipated by this chapter, but not in conflict with it, or in a unique situation as determined by the City Planner. The total area of all special purpose signs intended to be displayed on any one premises shall be determined by the City Planner; provided, however, that the total area shall not exceed thirty-two (32) square feet. All special purpose signs shall require a sign permit.

F. Mural signs. Mural signs are allowed subject to prior recommendation of the Lynden Design Review Board and approval of the City Council. Upon application, and recommendation by the Design Review Board, the City Council may authorize such mural signs upon a finding that the design and placement of the proposed sign contributes to the historic business district. All murals must depict the history of the community and enhance the character of the commercial center. Murals may not be used for commercial or advertising purposes. The City Council may also authorize specific placement of such mural signs off-premises or in a manner which exceeds the applicable size or height limits prescribed herein.

19.33.100 Permit—Required. No sign or portion of any sign, except those exempted in Section 19.33.070 or Section 19.33.090, shall be erected, re-erected, replaced, revised, attached, structurally altered, or relocated by any person, firm or corporation from and after the effective date of the ordinance codified in this chapter without a permit issued by the city. No permit shall be required for repair, cleaning, or other normal maintenance, nor for changing the message on a reader board sign, as long as the sign structure is not modified in any way.

19.33.110 Permit—Application. Applications for sign permits shall be made to the City Planner upon permit forms provided by the city. Such application shall require:
A. Name of business and address where the work is to be performed; also the tax parcel number for the parcel where the work is to be performed.
B. Name and title of applicant;
C. Name, address and telephone number of the firm doing installation work;
D. Name and address of the sign owner if other than the business installing the sign;
E. A complete list describing each existing sign on the premises, including sign type, copy, sign area, location on premises, and date installed.
F. A site plan showing the location of the affected lot, buildings, and signs, showing both existing signs and proposed signs;
G. A scale drawing of each proposed sign or sign revision, including location, size, height, copy, structural and footing details, material specifications, colors, method of attachment, illumination, front and end views of canopies and any other information required to ensure compliance with appropriate laws;
H. Written consent of the owner of the building, structure, or property where the sign is to be erected.

19.33.120 Permit—Fees and approval. Permit fees shall be in accordance with the current fee schedule adopted by city resolution. Upon approval of plans, by the Building Official and the Design Review Board, where required, and payment of the required fee, the City Planner shall issue the sign permit. Permits shall be numbered in the order of their issuance and shall disclose:

A. The type and description of sign (s) as defined in this chapter;
B. The street address of the property upon which the sign will be installed;
C. The amount of the fee paid for the permit;
D. The date of issuance;
E. The name of the person or company installing the sign;
F. The name of the sign owner.

19.33.140 Variances. The Design Review Board shall have the authority to grant a variance from the requirements of this chapter in accordance with the following procedures and considerations:

A. The person seeking a variance, shall prepare and submit an application on forms provided by the City Planner accompanied by a fee in the amount as adopted by the resolution of the City Council.
B. Upon receipt of an application, the City Planner shall first review the application for completeness. If the application is incomplete, the City Planner shall return it to the applicant and indicate the additional information needed to make the application complete within three days of submittal.
C. Within thirty (30) days of receipt of a complete application, the Design Review Board shall make a preliminary determination of whether to grant the application, grant the same under specified conditions, or to deny the variance. In making this determination, the Design Review Board may grant a variance only upon specific, written Findings of Fact setting forth and showing that at least five of the
following conditions exist. Of the required conditions, at least three of the conditions must be those within the first four conditions listed below:

1. Literal interpretation and strict application of the provisions and requirements of this chapter would cause either (a) undue hardship on the applicant because of unique or unusual conditions pertaining to the subject property; or (b) loss or substantial modification to a sign which has been found by the Design Review Board to contribute significantly to the historic Dutch theme.
2. The unique or unusual conditions do not result from actions of the applicant or owner of the subject property.
3. Granting the variance would not confer a special privilege to the subject property that is denied to other similarly situated properties.
4. Granting the variance would not be materially detrimental to the property owners in the vicinity or to the traveling public.
5. Granting the variance would not be contrary to the objects of this chapter relating to the placement of signs and the reduction of clutter; and
6. Granting the variance would be in harmony with the purpose and intent of this chapter and would not diminish the effect of this chapter in furthering these purposes.
7. Size and shape of the sign must be in proportion to the bulk of the building.
8. The sign should conform to the size and shape of signs in the surrounding area.
9. A variance for a franchise sign must provide proof of the franchise requirement, in the form of the franchise agreement.

D. In granting any variance, the Design Review Board may attach thereto such conditions regarding the location, character and other features of the proposed sign as they may deem necessary to carry out the spirit and purpose of this chapter in the public interest.

E. Within five (5) days of the making of the preliminary determination, the Proponent shall cause to be mailed, by certified mail, a notice of the determination to the owner or reputed owner of the properties within 300 feet of the subject property, 500 feet if the property is located within the CSR, ID or IBZ zones, as shown by the property tax records of the Whatcom County Assessor, and by posting notice in a conspicuous place on the subject property and at the Lynden City Hall. The notice shall identify the applicant, the street address or legal description of the subject property, the variance requested, the Design Review Board’s preliminary determination and where the application and findings may be inspected, and shall indicate that written comments or objections will be received and considered by the City Planner for a period of ten (10) days following the date of mailing. Receipts, or copies of the receipts, for this certified mailing must be delivered to the City Planner no later than the first day of the 10 day comment period.

F. Within five (5) days of expiration of the comment period, the Chair of the Design Review Board shall consider any comments or objections made and render a final decision. The City Planner shall cause to be mailed notice of the final decision to the applicant and to each person from whom written comments or
objections to the preliminary determination have been received. Such decision shall be final and binding unless appealed in writing to the City Council within fifteen (15) days of the date of mailing of the City Planner’s final decision. Any person may file such an appeal by letter addressed to the City Council, accompanied by an appeal filing fee in the amount of $100.

G. In the event of an appeal, the City Council will review the reasons and information set forth in the letter of appeal; the findings, conclusions, and decision of Design Review Board, together with any written material submitted by the City Planner; and may take public comment. The City Council shall affirm the decision of the Design Review Board unless it finds the decision to be clearly erroneous, or arbitrary and capricious, or contrary to law, in which case the Council may modify the decision or any conditions in connection therewith, or remand the same to the Design Review Board.

H. No action to set aside or modify the decision of the City Council may be brought in any Court or other tribunal unless the action shall be filed within thirty (30) days of the effective date of the City Council’s decision.

19.33.150 Interpretations. Where there is any dispute concerning the interpretation of this chapter, the decision of the City Planner shall prevail, subject to appeal to the City Council as provided in this title.

19.33.160 Enforcing official—Powers and duties. The enforcing official of this chapter shall be the City Planner who is hereby authorized and directed to enforce all the provisions of this chapter. Signs for which a permit is required may be inspected periodically by the City Planner for compliance with this chapter.

19.33.170 Removal of signs.

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

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

Exception: In the case of temporary signs, banner signs, portable signs or streamers, only five (5) days notice need be given.

C. The City Planner may cause any sign which is erected or displayed in violation of this chapter to be summarily removed without notice and at the expense or the owner of the sign and/or premises if
1. the condition of placement of the sign presents in the opinion of the City Planner an immediate threat to the safety of the public, or
2. the sign is placed in a public right-of-way or upon city property or attached to a utility pole, tree or traffic sign in violation of this chapter.

19.33.180 Non conforming signs.

A. Non conforming signs shall be removed or brought into compliance with this chapter upon the loss of non-conforming status as noted below.

B. Those revolving or blinking signs or electronic readerboards granted a sign permit prior to September 1, 1996 are considered permitted signs under this ordinance without restriction on scrolling or changing of the message. Any change or replacement of those signs will require that the signs be brought into compliance with this ordinance or that a variance be applied for and granted.

C. Exception pertaining to portable signs, banner signs and streamers. All portable signs, banner signs and streamers made non conforming by this ordinance shall be removed within ninety (90) days of the effective date of this ordinance.

D. Loss of non conforming status.
   1. A non conforming sign shall immediately lose its legal, non conforming status if:
      a) The sign is structurally altered in any way, (See section 19.33.080(C); or
      b) The sign is damaged in excess of fifty (50) percent of the original cost of the sign; or
      c) The sign is relocated; or
      d) The sign is replaced.
   2. On the occurrence of any of the events described in subsection (D) (1) of this section, the sign shall be immediately brought into compliance with this chapter with a new permit secured therefor, or shall be removed; provided, however, that the City Planner may authorize specific alterations of such non conforming signs if it is found that the total amount of aggregate noncompliance of the sign area of the existing signs on the premises is reduced at least fifty (50) percent by the proposed alterations.

19.33.190 Liability. This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, building, altering, constructing, or removing or moving any sign in the city for damages to anyone injured or damaged either in person or property by any liability by reason of permit or inspection authorized in this chapter or a certificate of inspection issued by the city or any of its agents.
Chapter 19.35
NON CONFORMING USES

Sections:
19.35.010 Existing non conforming uses -- Continuation authorized.
19.35.020 Essential use alteration -- Limitation.
19.35.030 Non conforming bulk only -- Alteration -- Variance required
19.35.040 Enlargement or expansion -- Conformance required.
19.35.050 Maintenance not to be construed as alteration.
19.35.060 Vacancy -- Use discontinuance when.
19.35.070 Deterioration or destruction -- Use discontinuance when.

19.35.010 Existing non conforming uses -- Continuation authorized.
Any non conforming use, as defined in the definitions of this title, which lawfully existed
at the time of the final passage of this ordinance, is permitted to continue and to be
maintained and operated.

19.35.020 Essential use alteration -- Limitation.
A non-conforming use may be changed or altered only to uses within the same
classification or to a use in a classification of higher priority in accordance with the
essential use classification established in the established districts of this ordinance.

19.35.030 Non conforming bulk only--Alteration -- Variance required.
A non-conformer as to bulk, but not as to use, may be substantially altered, renovated,
enlarged or reconstructed only through the granting of a variance as provided in this
title.

19.35.040 Enlargement or expansion -- Conformance required.
A building or structure containing a non-conforming use shall not be enlarged or
expanded unless the use is brought into conformance with the provisions of this title.

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

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

19.35.070 Deterioration or destruction -- Use discontinuance when.
When a building or structure containing a non conforming use is destroyed or
deteriorates to the extent to fifty percent or more, as determined by the building
inspector, such non conforming use shall be discontinued and any subsequent use of
the property shall be in conformance with the provisions of this title.
Chapter 19.37
MISCELLANEOUS PROVISIONS

Sections:
19.37.010 Multiple use or structure on lot -- Permitted when.
19.37.020 Multiple use in building or structure -- Use classification determination.
19.37.040 Double frontage or through lot -- Yard requirements.
19.37.050 Lot sans frontage or right-of-way to street -- Uses or structures prohibited.
19.37.060 Projections part of building not yard.
19.37.070 Height limitations not applicable to certain structures.
19.37.080 Residential uses in non-residential zones
19.37.090 Private Swimming Pools – Yards and Setbacks

19.37.010 Multiple use or structure on lot -- Permitted when.
No portion of any lot, lot of record or zoning lot shall again be used as part of another zoning lot for the purpose of allowing another building, structure or use to exist at the same time as the original use, building or structure, unless the remaining area is sufficient to comply with the bulk requirements of the original use, building or structure.

19.37.020 Multiple use in building or structure -- Use classification determination.
Whenever there is a combination of any two uses in a building or structure, the more intensive use will be deemed the classification and character of the building use.

19.37.040 Double frontage or through lot -- Yard requirements.
On double frontage or through lots, the rear yard shall be equal to the front yard requirement.

19.37.050 Lot sans frontage or right-of-way to street - Uses or structures prohibited.
No building, structure or use shall be placed or erected on any lot which does not have either immediate frontage on a street, a permanent unobstructed right-of-way to a street, or as permitted per Chapter 18.14.

19.37.060 Projections part of building not yard.
Outside stairways, fire escapes, fire towers, porches, platforms, balconies, flues and other projections shall be considered as part of the building and not as part of the yards, courts or unoccupied spaces.

19.37.070 Height limitations not applicable to certain structures.
The height limitations of this title shall not apply to churches, schools, hospitals, sanitariums, theaters, radio and television stations, church spires, belfries, cupolas, domes, monuments, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts and aerials, bulkheads, water tanks, cooling towers and such other structures relating to the public welfare. The maximum height of these structures in any zone shall be eighty feet, except where limited by the Planning Commission and City Council during the Conditional Use Permit process. All heights are subject to the Uniform Building Code.
19.37.080 Residential Uses in Non-Residential Zones

Residential uses as a primary use in zones other than residential shall comply with all regulations of the RS 7200 zone, until such a time the use conforms to the zone in which it exists.

19.37.090 Private swimming pools – Yards and Setbacks

All private swimming pools shall be constructed or placed so as to have a side yard of not less than six feet in width on each side, a rear yard of not less than six feet in width and a front setback of not less than thirty feet.
Chapter 19.39

AGRICULTURAL USES IN RESIDENTIAL AND AGRICULTURAL ZONES

Sections:
19.39.010 Purpose.
19.39.030 Special Development Standards.

19.39.010 Purpose
These regulations provide standards for permitted agricultural uses in single family residential (RS-72, RS-84, RS-100, and MH) zones, multi-family residential (RM-1, RM-2, RM-3, RM-4, RM-5) zones and agricultural (A-1) zones.

19.39.020 Animals Allowed in Residential Zones and Agricultural Zones
A. Large animals.
   1. Limited raising or keeping of large livestock as defined below:
      a. Horses, ponies, mules, donkeys, burros, and similar animals;
      b. Dairy cattle, beef cattle, buffalo and similar animals;
      c. Sheep, goats and similar animals.

A maximum of two animal units (one animal unit equals approximately one thousand pounds of animal weight) may be kept per one acre gross pasture area. Gross pasture area is that portion of a lot which is fenced and used solely for the grazing and keeping of large livestock. The minimum gross pasture area for keeping large livestock is one acre. The maximum number of large animals per acre is five. The following are examples of animal unit usages:
   1. 1 horse and 1 cow per gross pasture acre;
      2 cows or 2 horses per gross pasture acre;
      5 sheep or 5 goats per gross pasture acre;
      3 sheep and 2 goats per gross pasture acre.
   2. If any animal born on the premises causes the maximum allowable number of animals to be exceeded, adjustments must be made to bring the total number of animals into compliance with this section within the corresponding time limits specified below:
      a. Horses and similar animals: one year from date of birth;
      b. Cattle and similar animals: one year from the date of birth;
      c. Sheep, goats and similar animals: six months from the date of birth.
If any additional animal(s) are acquired by means other than by birth, and cause the maximum allowable number of animals to be exceeded, adjustments must be made to bring the total number of animals into compliance with this section within thirty days after placement of the additional animals on the premises.

In addition, a fence must be constructed prior to the acquisition of any large livestock to ensure containment of the livestock on the premises.

B. Small Animals.

1. Limited raising or keeping of small livestock as defined below:
   a. Rabbits and similar animals;
   b. Chickens, ducks, geese, turkeys and other similar fowl.

2. A maximum of twelve animals or fowl, as defined above, may be raised or kept per one acre gross lot area.

3. In addition, a shed, coop, hutch or similar containment structure must be constructed prior to the acquisition of any small livestock to ensure containment of the livestock on the premises.

C. The intent of these agricultural provisions are not to preclude the above stated permitted accessory uses from being allowed as principal permitted uses.

1. The raising and keeping of household pets;

2. Home occupations.

19.39.030 Special development standards.

The following standards relate to the raising and keeping of livestock in the Residential zone.

A. Standings under roofed stable must be made of material which provides for proper drainage so as not to create offensive odors, fly or insect breeding, or other nuisances.

B. Manure must be collected at least once a week and shall be disposed of in one or more of the following manners:

1. Placement of manure in a fly-proof container with periodic removal of manure from lot;

2. Adequate burying of the manure;

3. Removal of manure from the lot.

C. Fences, pens, corrals or similar enclosures must be of sufficient height and strength to retain animals. Fences shall not be closer than fifty feet to any residence.

D. Any barns, stables, pens, coops, corrals, or other structures used for the containment or housing of livestock shall not be located closer than fifty feet from the property line, except for fencing around the perimeter of a pasture or garden.
area which shall not be less than fifty feet from any residential structure. Any detached accessory buildings not used for the containment or housing of livestock shall not be located closer than ten feet from any residential structure.

19.39.040 Prohibited uses.

The following uses and any other use not expressly permitted are prohibited in a Residential zone:

A. Any commercial uses other than those expressly permitted;
B. Kennels;
C. Feedlots, dairies, slaughterhouses or any other similar uses;
D. The raising or keeping of swine, hogs or roosters, except that the raising and keeping of swine or hogs may be permitted by conditional use permit when located at an educational facility.
Chapter 19.41
BUILDING PERMITS

Sections:
19.41.010 Permit required when -- Application requirements.

19.41.010 Permit required when -- Application requirements.
Any person, firm or corporation desirous of erecting, enlarging, renovating, constructing or reconstructing any building or structure, or using any parcel of land, including placing a mobile or modular home upon any parcel of land, shall prepare an application for a use permit to be submitted to the building inspector, and a plot plan showing precisely the size of the zoning lot upon which the use is to be located and including the precise size and location of any proposed and existing buildings, structures, or mobile or modular homes located on the zoning lot.
Chapter 19.42
BUILDING OFFICIAL

Sections:
19.42.010  Office Created
19.42.020  Appointment
19.42.030  Powers and Duties

19.42.010  Office Created
There is created the office of Building Official.

19.42.020  Appointment
The office of Building Official shall be filled by appointment, made by the City Administrator with the approval of the City Council.

19.42.030  Powers and Duties
The Building Official shall interpret the provisions contained in the building codes, shall enforce the provisions and shall have all of the power necessary to perform these duties,
Chapter 19.43
ZONING OFFICIAL

Sections:
19.43.020 Appointment
19.43.030 Powers and Duties

19.43.020 Appointment
The office of the zoning official shall be filled by the Planning Director.

19.43.030 Powers and Duties
The zoning official shall interpret the provisions contained in this title, shall enforce the provisions, and shall have all of the power necessary to perform these duties.
Chapter 19.45
DESIGN REVIEW BOARD

Sections:
19.45.010 Established
19.45.015 Intent
19.45.020 Membership--Appointment--Term--Compensation--Vacancy--Removal
19.45.030 Meetings--Notice--Rule promulgation--Records--Quorum
19.45.035 Residential Design Variance Criteria
19.45.040 Decisions

19.45.010 Design Review Board Established
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.

B. Proceedings
   The design review board shall adopt its own rules or procedures and keep a
   record of its proceedings, findings and action in each case, and the vote of each
   member on each question considered in the proceedings. The presence of three
   members shall be necessary to constitute a quorum.
19.45.015 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.

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 four years. Each appointment hereafter shall be for four years.

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.

Notice of all meetings shall be given at least ten days in advance of the meeting date. The owner of the property for which the review is sought shall notify all adjacent property owners. 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. In the case of review of new multi-family construction, notice shall be given to all property owners within three hundred feet of the property on which construction is proposed. 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.

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

19.45.035 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 varying more than two of the criteria.

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 building codes.

The decision of the design review board shall be final, unless appealed within ten days to the Lynden City Council.
Chapter 19.47
BOARD OF ADJUSTMENT

Sections:
19.47.010 Established.
19.47.020 Membership -- Appointment -- Term -- Compensation -- Vacancy-Removal.
19.47.030 Meetings-- Notice --Rule promulgation -- Records -- Quorum.
19.47.040 Special exception or variance--Request--Hearing
19.47.050 Special exception or variance -- Opposition petition.
19.47.060 Special exception or variance -- Review by board.
19.47.070 Special exception or variance-- Application procedure.
19.47.080 Special exception or variance -- Stay authorized when.
19.47.090 Jurisdiction -- Review of building inspector's decision.
19.47.110 Jurisdiction -- Variances -- Power to vary rules and regulations when.
19.47.120 Findings
19.47.130 Decision by board -- Effective when.

19.47.010 Established.
A board of adjustment is established. The word "board" when used in this title shall mean the board of adjustment.

19.47.020 Membership, Appointment, Term, Compensation, Vacancy & Removal.
The board shall consist of five members, all of whom shall serve without salary. The board members shall be appointed by the mayor with consent of the council and shall consist of citizens having an understanding of the benefits of zoning to the municipality. 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 the council. The members of the board may be removed by the mayor, subject to the approval of the council, for such causes as he shall deem 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 four years, and each appointment thereafter will be for four years.

19.47.030 Meetings-- Notice-- Rule promulgation -- Records -- Quorum.
Meetings of the board shall be held at least once each month, for not less than six months of each year, and at such other times as the chairman of the board may determine. There shall be a fixed place of meeting, and all regular board meetings shall be open to the public.

Notice of said meeting shall be given at least ten days in advance of the meeting date. The owner of the property for which the adjustment is sought shall notify all property owners within three hundred feet of the property. Notification shall be by certified mail or registered mail, and satisfactory evidence of such notice must be provided prior to the hearing date. The board shall adopt its own rules or procedures and keep a record of its proceedings, findings and action in each case, and the vote of each member on
each question considered in the proceedings. The presence of three members shall be necessary to constitute a quorum.

19.47.040 **Special exception or variance -- Request -- Hearing.**

Any interested or aggrieved person, or any officer, official of any department, board or commission of the city, jointly or severally, may be the appellant, and may make a request to the board for a special exception for relief from bulk provision of the zoning ordinance or any determination of the building inspector in the application of the provision of the zoning ordinance to the appellant's land and/or structure; provided, however, that a variance shall not be granted in favor of any property which has previously had a boundary line adjustment described in Section 18.08.180. The appellant shall appear at the public hearing, at the time and place fixed by the board, in person, by agent, or by attorney.

19.47.050 **Special exception or variance -- Opposition petition.**

Any interested or aggrieved person or persons, jointly or severally, and any officer or official of any department, board or commission of the city, jointly or severally, may support or oppose, by petition or letter, any applicant's request for a special exception, or variance. The petition or letter shall specify the reasons for supporting or opposing the appellant's request, and shall contain the signature and description of the land of each property owner signing the petition or letter. The petition or letter shall be submitted to the board at or by the time designated in its rules or procedure.

19.47.060 **Special exception or variance -- Review by board.**

The board may by motion initiate a review of the building inspector's interpretation of the provisions of the zoning ordinance upon a vote by a majority of the members shall if those present constitute a quorum. It also shall review any interpretation of the provision of the zoning ordinance made by the building inspector and any order, requirement, decision or determination relating thereto, upon receipt of any application or petition requesting a review of any application or petition requesting a review of the interpretation, and it shall hear and decide all applications for special exceptions and variances.

19.47.070 **Special exception or variance-- Application procedure.**

See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code.

19.47.080 **Special exception or variance -- Stay authorized when.**

A request to the board for any special exception stays all proceedings, in furtherance of the action from which the request for a special exception was taken, unless the building inspector from whom the request for a special exception is taken, certifies to the board after the notice of a request for a special exception shall have been filed with him that by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property, in which case such action shall not be stayed otherwise than by a restraining order which may be issued by the Superior Court. The decision of the board on the request for a stay shall be transmitted to the building inspector.
19.47.090 Jurisdiction -- Review of building inspector's decision.

The board may review any interpretation of the provisions of the zoning ordinance made by the building inspector, and any order, requirement, decision or determination relating thereto, in the application of the specific provisions of the zoning ordinance to any parcel of land and/or structure. The board may affirm or reverse the interpretation of the provisions of the zoning ordinance made by the building inspector, and any order, requirement, decision or determination relating thereto, and the board's decision shall be based upon the record and the findings in each case, and to that end it shall have all of the powers of the building inspector.

19.47.110 Jurisdiction -- Variances -- Power to vary rules and regulations when.

Where there are unnecessary hardships and practical difficulties which render it difficult to carry out the provision of the zoning ordinance, the board shall have power, in passing upon requests therefore, to grant a variance in harmony with the general purpose and intent of the provisions contained in this title, and such variances may vary any rules, regulations or provisions of the zoning ordinance relating to the use of land and/or structures and any construction, structural or equipment changes, or alteration of structures relating to the zoning ordinance, so that the spirit of the ordinance will be observed; public safety secured; and substantial justice done. However, the board shall not vary any of the rules, regulations or provisions of the ordinance unless it shall find that all of the following conditions exist in each case of a request for a variance from the provisions of this title:

A. The variance shall not constitute a grant of special privilege inconsistent with the limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application is located;

B. That such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with rights and privileges permitted to other properties in the vicinity and zone in which the subject property is located;

C. That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is located.

19.47.120 Findings

The board's findings shall include a report, in which a comparison is made of the appellant's request for a variance in harmony with the provisions of the zoning ordinance, and of the present land utilization pattern within the neighborhood area of the appellant's land. Such report may contain other pertinent information regarding any existing or pre-existing conditions relating to topography, geology, utilization, and such conditions set forth by the official plans, development plans, and the comprehensive plans, as may be included in the board's findings. The board's findings shall include all of the relevant facts which support and oppose the contention of the appellant.
19.47.130 Decision by board -- Effective when.

The decision of the board granting or denying a special exception and/or variance, shall not become final until the expiration of five days from the date of entry of such decision in the official records of the board, unless the board shall find that the making of the decision effective immediately is necessary for the preservation of property or personal rights, and shall so certify on the record; and if a building permit and/or occupancy permit is not obtained by the appellant within one year from the date of the board's decision, the board's decision shall cease to be effective. The decision of the board shall be final, subject to review by the Superior Court.
Chapter 19.49
CONDITIONAL USE PERMITS

Sections:
19.49.010  Purpose.
19.49.020  Standards and criteria for granting conditional use permits.
19.49.030  Special conditions for approval of a bed and breakfast.
19.49.040  Special conditions for approval of CUP within West Lynden Sub-Area.
19.49.045  Special conditions for approval of CUP for Assembly and Distribution of Products.
19.49.050  Maximum coverage and minimum lot size for certain conditional uses.
19.49.060  Content – Violations
19.49.070  One-year validity
19.49.080  Modification of or addition to, existing conditional uses.
19.49.090  Application Process

19.49.010  Purpose.
The purpose of the Conditional Use Permit (CUP) is to allow the proper integration of specific land uses which may be suitable only under certain conditions in specific locations in a zoning district, or when the site is regulated in a particular manner. It is the intent of this section to allow certain uses which, because of their unusual size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses.

19.49.020  Standards and criteria for granting a CUP
A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this ordinance, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.

B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district.

C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings:

1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district;
2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
   i) traffic and pedestrian circulation,
   ii) noise, smoke, fumes, glare or odors generated by the proposed use,
   iii) building and site design,
   iv) the physical characteristics of the subject property

3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services; and

4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.

6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.

7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.

8. The proposed use is generally consistent with the purposes and objectives of the City Comprehensive Plan and applicable Sub-Area Plan.

19.49.030 Special conditions for the approval of a bed and breakfast establishment

Bed and breakfast establishments require a CUP in all single-family zones and the RM-3 and RM-4 zones and are permitted within the RM-1, RM-2, HBD and CSL zones. All proposed bed and breakfast establishments, regardless of zone, shall be required to show compliance with the standards listed below. Bed and breakfast establishments proposed within an area requiring a CUP will be required to meet the standards and criteria listed in Section 19.49.020 as well as those conditions listed below.

A. A bed and breakfast establishment shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.

B. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.
C. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.

D. Proprietors of the bed and breakfast establishment shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.

E. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.

F. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each application and renewal. The Public Works Director, Building Inspector or, Fire Chief may require inspections.

G. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "TRANSIENT ACCOMMODATIONS."

H. The operator of the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.

I. No other business, service or commercial activity may be conducted on the premises. Breakfast only may be served and no meals may be served to the general public.

19.49.040 Special Conditions for the approval of CUP within West Lynden Sub-Area.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden Sub-Area shall also meet the below listed criteria.

A. Multi-tenant buildings with separate entrances for each tenant shall not be oriented to the Guide Meridian.

B. Any retail establishment, or combination of retail establishments, in a single building greater than 15,000 square feet shall incorporate the following elements in the design:

1. Facades in excess of 100 horizontal feet shall incorporate recesses and projections.

2. Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.

3. Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured concrete masonry units. Smooth faced concrete block, tilt-up concrete panels, and prefabricated steel panels are discouraged.
C. Restaurants, cafes, and service stations within the CSR zone must be located within 700 feet of the Guide Meridian and have frontage on West Main Street.

**19.49.045 Special conditions for approval of CUP for Assembly and Distribution of Products.**

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria listed below.

A. The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use.

B. A complete section of the products assembled must be prominently displayed and offered for retail sale on-site.

C. All storage of supplies and materials must be enclosed or screened from view.

D. Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.

**19.49.050 Maximum coverage and minimum lot size for certain conditional uses.**

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

<table>
<thead>
<tr>
<th>Use</th>
<th>Zone</th>
<th>Maximum Lot Coverage</th>
<th>Minimum Lot Size in Square Feet</th>
</tr>
</thead>
<tbody>
<tr>
<td>Churches</td>
<td>All residential zones</td>
<td>30%</td>
<td>12,000 sq. ft.</td>
</tr>
<tr>
<td>Schools</td>
<td>Residential</td>
<td>30%</td>
<td>12,000 sq. ft.</td>
</tr>
<tr>
<td>Schools</td>
<td>Non-residential</td>
<td>35%</td>
<td>12,000 sq. ft.</td>
</tr>
<tr>
<td>Utility Substations</td>
<td>All zones</td>
<td>35%</td>
<td>8,000 sq. ft.</td>
</tr>
<tr>
<td>Libraries and post offices</td>
<td>All zones</td>
<td>35%</td>
<td>8,000 sq. ft.</td>
</tr>
</tbody>
</table>

**19.49.060 Content -- Violations.**

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planner. If at any time it is found that the use no longer complies with the conditions specified therein, the owner shall be declared in violation of this chapter. Remedies of the City may include criminal enforcement and/or revocation of the conditional use permit.
19.49.070  One-year validity.
A. Conditional use permits shall expire twelve months after issuance unless construction or the establishment of the use has commenced. The Planner may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

19.49.080  Modification of or addition to, existing conditional uses.
A. Modifications of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit; provided that, in lieu of a new application the Planner may administratively consider, approve or disapprove a one-time addition or modification to an approved conditional use when such addition or modification meets the following criteria:
   1. The addition or modification to the building(s) shall constitute less than ten percent of the total floor area originally approved; and
   2. The addition or modification is determined by the Planner not to have a significant impact beyond the site based on the criteria listed Section 19.49.020 above or the criteria specific to the sub-area.
B. Such additions or modifications approved administratively shall be recorded by the Planner on the CUP on record.

19.49.090  Application process.
See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code.
Chapter 19.51
OFF STREET PARKING

Sections:
19.51.010 Requirements.
19.51.030 Location of Parking Spaces.
19.51.040 Off-street parking spaces required.
19.51.050 Parking Standards
19.51.060 Parking for Unspecified Uses.
19.51.070 Reduction of Required Spaces When Effective Alternatives to Automobile Access are Proposed.
19.51.080 Mixed Occupancy.
19.51.090 Joint Uses
19.51.100 Conditions for Joint Use.
19.51.110 Loading Space.
19.51.120 Parking Lot Surfacing Requirements.
19.51.130 Illumination.
19.51.140 Landscaping Requirements.
19.51.150 Handicapped Parking
19.51.160 Special Conditions for Historic Business District Off-Street Parking

19.51.010 Requirements.
Every building hereafter erected, moved, reconstructed, or structurally altered shall be provided with parking areas as provided in this chapter, and such parking areas shall be made permanently available and shall be maintained for parking purposes.

No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved as conforming to the standards of this chapter. Every lot or parcel of land used as a public or private parking area or new or used car sales area and having a capacity of three or more vehicles shall be developed and maintained in accordance with this chapter.

Where off-street parking is required and provided according to this chapter, the primary users of the building such as but not limited to, the property owner, lessors, lessees, residents, invitees, employers and employees shall first utilize the off-street parking in lieu of parking on the street.

The Director of Public Works, in conjunction with the police chief and fire chief, shall have authority to fix the location, width and manner of approach of vehicular ingress or egress from a building or parking area to a public street and to order alteration of existing ingress and egress as may be required to control traffic in the interest of public safety and general welfare.
19.51.030 Location of Parking Spaces.

Off-street parking spaces shall be located as specified herein. Where a distance is specified, the distance shall be the walking distance measured from the nearest point of the parking facilities to the nearest point of the building which it serves.

A. Parking for single and multiple family dwellings shall be on the same lot or building site with the building it serves;

B. Parking for all Hotels, Motels, or Bed and Breakfasts in all zones, and RM-3 dwellings in the HBD zone, must be located within four hundred fifty feet of the building. There will be no exceptions or variances to location or number of spaces to be provided.

C. Parking for uses not specified above shall not be over three hundred feet from the building it serves;

D. All off-street parking spaces shall be located on land zoned in a manner which would allow the particular use the parking will serve; and

E. Parking shall be located at least twenty-five feet from any body of water.

F. Streets in residentially zoned areas shall not be utilized as parking for the property owner, lessors, lessees, residents, invitees, employers, employees, clients, or distributors of any commercial or industrial uses in adjacent commercial or industrial zones when there is off-street parking as required under section 19.51.040 below.

19.51.040 Off-street Parking Spaces Required.

The required number of off-street parking spaces shall be as follows. The pertinent approving body may reduce these requirements if the applicant submits a request for a waiver and can incorporate one or more of the following LID techniques:

A) Shared parking

B) Proximity to transit

<table>
<thead>
<tr>
<th>Land Use</th>
<th>Parking Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single family units, duplex units and townhouse and</td>
<td>2 per dwelling unit</td>
</tr>
<tr>
<td>mobile home units</td>
<td></td>
</tr>
<tr>
<td>Multi-family dwelling units</td>
<td>2 per dwelling unit up to 25 units</td>
</tr>
<tr>
<td></td>
<td>1.5 per unit for each unit after 25</td>
</tr>
<tr>
<td>Retirement Housing</td>
<td>1 per dwelling unit</td>
</tr>
<tr>
<td>Assisted Living</td>
<td>1 per dwelling unit plus 1 per employee on</td>
</tr>
<tr>
<td></td>
<td>biggest shift</td>
</tr>
<tr>
<td>Fraternity, Sorority, rooming and boarding houses</td>
<td>1 per person accommodated</td>
</tr>
<tr>
<td>Land Use</td>
<td>Parking Requirements</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hospitals and Emergency Medical Clinics</td>
<td>1 per 2 beds plus 1 per employee on shift with the greatest number of employees³</td>
</tr>
<tr>
<td>Nursing home, institutions for the aged and children, welfare or correctional institutions</td>
<td>1 per 4 beds plus 1 per employee on shift with the greatest number of employees³</td>
</tr>
<tr>
<td>Retail Uses</td>
<td>4.5 per 1000 sq. ft. GLA</td>
</tr>
<tr>
<td>Banks and Financial Institutions</td>
<td>3 per 1000 sq. ft. GFA</td>
</tr>
<tr>
<td>Professional and Business Offices</td>
<td>3 per 1000 sq. ft. GFA -- min. 5</td>
</tr>
<tr>
<td>Medical and Dental Clinics</td>
<td>1 per 200 sq. ft. GFA</td>
</tr>
<tr>
<td>Barber Shops, Beauty Parlors, Personal Services</td>
<td>3 per operator</td>
</tr>
<tr>
<td>Day Care Facilities</td>
<td>1 per employee plus off-street loading and unloading space equivalent to one space per 10 children</td>
</tr>
<tr>
<td>Communications Services (radio and TV stations, publishing services)</td>
<td>1 per 1000 sq. ft. GFA or 1 per employee, whichever is greater³</td>
</tr>
<tr>
<td>Laundry and Dry Cleaning Facilities</td>
<td>1 per 2 washing or drying machine</td>
</tr>
<tr>
<td>Theaters and Movie theaters</td>
<td>1 per 4 seats</td>
</tr>
<tr>
<td>Bowling Alleys</td>
<td>5 per lane</td>
</tr>
<tr>
<td>Skating Rinks</td>
<td>1 per 165 sq. ft. GFA</td>
</tr>
<tr>
<td>Video Arcades</td>
<td>1 per 150 sq. ft. GFA</td>
</tr>
<tr>
<td>Athletic Facilities, or gymnasiums</td>
<td>1 per 200 sq. ft. GFA</td>
</tr>
<tr>
<td>Tennis Courts, racquet clubs, handball courts and other similar commercial recreation.</td>
<td>One per 40 sq. ft. of gross floor area used for assembly plus two per court.</td>
</tr>
<tr>
<td>Dance Halls and Dancing Schools</td>
<td>1 per 75 sq. ft.</td>
</tr>
<tr>
<td>Restaurants, Cafes and Taverns</td>
<td>1 per 100 sq. ft. GFA -- min. 5</td>
</tr>
<tr>
<td>Photography Studio</td>
<td>1 per 300 sq. ft. GLA</td>
</tr>
<tr>
<td>Business Schools</td>
<td>1 per 4 seats plus 1 per employee³</td>
</tr>
<tr>
<td>Printing and Duplicating Shops</td>
<td>1 per 600 sq. ft GFA</td>
</tr>
<tr>
<td>Country clubs, social clubs, fraternal lodges</td>
<td>1 per 400 sq. ft. GFA</td>
</tr>
<tr>
<td>Funeral Parlors, mortuaries and cemeteries</td>
<td>1 per 4 seats or 8 ft. of bench or pew or 1 per 40 sq. ft. of assembly room used for services if no fixed seating is provided.</td>
</tr>
<tr>
<td>Warehouse, storage buildings or structures used exclusively for storage purposes except for mini storage.</td>
<td>1 per 2000 sq. ft. GFA or 1 per employee (whichever greater)</td>
</tr>
<tr>
<td>Land Use</td>
<td>Parking Requirements</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Mini-Storage Facilities</td>
<td>1 per 50 storage cubicles equally distributed and proximate to storage building. In addition, one space for each fifty storage cubicles to be located at the project office.</td>
</tr>
<tr>
<td>Animal hospitals, veterinary clinics and kennels and veterinary laboratories</td>
<td>1 per 500 sq. ft. GFA</td>
</tr>
<tr>
<td>Hotels, Motels - includes indoor restaurants, gift shops and other businesses associated with a hotel/motel</td>
<td>1 per room + required spaces for restaurant/convention facilities</td>
</tr>
<tr>
<td>Bed and Breakfast</td>
<td>2 per owner/occupant + 1 per available room</td>
</tr>
<tr>
<td>Stadiums, churches, theaters, sports arenas, auditoriums, clubs and lodges, and all assembly places with fixed seats.</td>
<td>1 per 4 seats or 8 feet of pew or bench space</td>
</tr>
<tr>
<td>Commercial Garages &amp; Automotive Repair</td>
<td>1 per 200 sq. ft. GFA</td>
</tr>
<tr>
<td>Auto Body Shops</td>
<td>1 per bay and mechanic</td>
</tr>
<tr>
<td>Service Stations</td>
<td>4 spaces plus 1 per bay plus queuing</td>
</tr>
<tr>
<td>Motor Vehicle Sales and Service</td>
<td>1 per 1000 sq. ft. GFA plus 1 per 1500 outdoor display</td>
</tr>
<tr>
<td>Motor vehicle or machinery repair without sales.</td>
<td>One per 200 sq. ft. of gross floor area.</td>
</tr>
<tr>
<td>Mobile Home and recreational vehicle sales.</td>
<td>1 per 3000 sq. ft. of outdoor display area.</td>
</tr>
<tr>
<td>Manufacturing and industrial uses of all types, except buildings used exclusively for warehouse purposes.</td>
<td>1 per 1000 GFA or 1 per employee based on largest shift -- whichever is greater.</td>
</tr>
<tr>
<td>Passenger Terminals</td>
<td>One per 100 sq. ft. of gross area used for passenger waiting area.</td>
</tr>
<tr>
<td>Libraries, art galleries, museums</td>
<td>One per 250 sq. ft. of gross floor area.</td>
</tr>
<tr>
<td>Public swimming pools</td>
<td>1 per 10 swimmers, based on pool capacity as defined by the Washington State Department of Health.</td>
</tr>
<tr>
<td>Schools, public and private for elementary, intermediary, middle, junior high, and high school.</td>
<td>1 per 12 seats in auditorium or assembly room plus 1 space for each employee, plus sufficient off-street space for safe loading of students from school buses.</td>
</tr>
<tr>
<td>Land Use</td>
<td>Parking Requirements</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>-----------------------------------------------------------</td>
</tr>
<tr>
<td>Colleges or commercial schools for adults.</td>
<td>1 per four seats in class-room plus one per employee. ³</td>
</tr>
<tr>
<td>Auto wrecking yards.</td>
<td>15 spaces for yards less than ten acres in size and 25 spaces for yards ten acres and larger in size.</td>
</tr>
<tr>
<td>Utility and communications establishments without regular employment.</td>
<td>One space.</td>
</tr>
<tr>
<td>Automobile Service Stations.</td>
<td>4 spaces plus one space for each greasing facility. ²</td>
</tr>
</tbody>
</table>

1. If an enclosed single car garage is provided per dwelling unit, a minimum of two outside parking spaces must be provided. If an enclosed garage for two or more vehicles is provided, a minimum of one outside parking space must be provided. Open carports may be counted as parking spaces to meet parking requirements, provided they shall not be enclosed. If enclosed, additional parking spaces shall be provided as required.

2. In order not to block public streets in Lynden, it is mandatory for each service station operator to provide off-street waiting facilities for customers. No on street waiting for gasoline sales is allowed.

3. The Planning Director may require that uses which rely on the number of employees as part of the calculation of required parking spaces to agree at the time of parking approval, to provide additional parking stalls if there is insufficient parking for the number of employees.

19.51.050 Parking Space Standards.

A. The following parking standards shall apply, however the pertinent approving body can reduce these requirements if the applicant submits a request for a waiver and incorporates one or more of the following LID techniques:
   1. Shared Parking
   2. Proximity to Transit

B. Building sites which contain more than one hundred parking spaces shall be designed with access lanes and fire lanes to less than twenty-five feet in width. Mini-self-storage complexes shall be designed with access lanes not less than twenty-eight feet in width, within which loading areas, access and fire lanes, and any parking shall be located. Access lanes shall be designed so as to provide continuous, unrestricted vehicular movement and shall connect to public streets. In parking lots containing less than one hundred parking spaces emergency access shall be provided subject to approval of the fire marshal. Emergency access shall be provided to within fifty feet of any multiple family building. If any of these requirements are impractical due to the peculiarities of the site and/or building, other provisions for emergency access may be approved by the fire
marshal. Parking in fire lanes shall be prohibited, and indicated as being unlawful by signs and/or painting on the parking lot surface.

C. All parking stalls and aisles shall be designed according to the tables shown below unless all parking is to be done by parking attendants on duty at all times that the parking lot is in use for the storage of automobiles. When parking standards require ten or more parking spaces, up to thirty percent may be designated compact cars. Such compact car spaces shall be individually marked in the parking plan and on each constructed parking stall as for being for compact only. Parking at any angle other than those shown is permitted, providing the width of the stalls and aisles is adjusted by interpolation between the specified standards. Parking shall be so designed that automobiles shall not back out into public streets.

The parking space standards are shown in the table below.

**DESIGN STANDARDS IN FEET**

<table>
<thead>
<tr>
<th>Parking Angle</th>
<th>Stall Width</th>
<th>Curb length</th>
<th>Stall Length</th>
<th>Aisle Width</th>
<th>Unit Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>0°</td>
<td>8.5</td>
<td>8.0</td>
<td>20</td>
<td>10</td>
<td>26</td>
</tr>
<tr>
<td>45°</td>
<td>8.5</td>
<td>17.0</td>
<td>18</td>
<td>13</td>
<td>47</td>
</tr>
<tr>
<td>60°</td>
<td>8.5</td>
<td>18.0</td>
<td>18</td>
<td>15</td>
<td>52</td>
</tr>
<tr>
<td>75°</td>
<td>8.5</td>
<td>17.5</td>
<td>18</td>
<td>19</td>
<td>54</td>
</tr>
<tr>
<td>90°</td>
<td>8.5</td>
<td>16.0</td>
<td>18</td>
<td>22</td>
<td>54</td>
</tr>
</tbody>
</table>

Reduced aisle width is for one way traffic only. If two-way traffic is proposed, then the minimum aisle width is 22 feet.

The two figures are for compact cars and full size cars, shown in that order for each angular parking facility.
19.51.060 Parking for Unspecified Uses.

Where the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the Planning Director. Such determination shall be based upon staff investigation, parking requirements for comparable uses, and comparative data as may be available and appropriate for the establishment of minimum parking requirements.

19.51.070 Reduction of Required Spaces When Effective Alternatives to Automobile Access are Proposed.

Upon demonstration to the Planning Director that effective alternatives to automobile access are proposed to be implemented, the director may reduce by not more than forty percent the parking requirements otherwise prescribed for the use or combination of uses, except those listed below, on the same or adjoining sites, to an extent commensurate with the permanence, effectiveness, and demonstrated reduction in off-street parking demand effectuated by such alternative programs. Alternative programs which may be considered by the director under this provision include, but are not limited to van pooling, ride matching for carpools, and provision of subscription bus service.

A. Retirement Apartments. Approved building plans shall show two parking spaces per dwelling unit. Installation of up to fifty percent of the required spaces may be deferred by the Planning Director, and held in reserve as landscaped area. Installation of the deferred parking space and landscaping will be required at such time the building is no longer used as a retirement apartment. A performance bond or alternate surety may be required in the amount of one hundred and fifty percent of the cost of the deferred improvements to assure installation at a future date.

B. Retirement Housing. The requirement of one space per dwelling unit may be reduced to no less than one space for every three dwelling units as determined by the Planning Director. The determination shall be based on the following:
   1. Demonstrated availability of private, convenient, regular transportation services to meet the needs of the retirement apartment occupant;
   2. Accessibility to and frequency of public transportation;
   3. Direct pedestrian access to health, medical and shopping facilities.

19.51.080 Mixed Occupancy.

In the case of mixed occupancies in the building or of a lot, the total requirements for off-street parking shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities of a particular use shall not be considered as providing required parking facilities for any other use except as hereinafter specified for joint use.

19.51.090 Joint Uses

The Planning Director may, upon application of the owner or lessee of any property, authorize the joint use of parking facilities by the following uses or activities under the conditions specified herein:
A. Up to fifty percent of the parking required for a theater, bowling alley, dance hall, bar, restaurant, roller or ice skating rink, auditoriums, churches or other similar primarily nighttime use may be supplied by the off-street parking by other uses as approved by the Planning Director.

B. Up to fifty percent of the parking facilities required by this chapter for a use considered to be primarily a daytime use may be provided by the parking facilities of a use consider to be primarily a nighttime use or vice versa, PROVIDED that the reciprocal parking area shall be subject to the conditions set forth in set forth in Section 19.51.100, Conditions for joint use;

C. Up to one hundred percent of the Sunday and/or nighttime parking facilities required by this chapter for a church or auditorium incidental to a public or parochial school may be supplied by parking facilities required for the school use, PROVIDED, the reciprocal parking area shall be subject to the conditions set forth in set forth in Section 19.51.100, Conditions for joint use; and

D. For purposes of this section, the following uses are typical daytime uses: business offices, barber and beauty shops, manufacturing or wholesale buildings. The following uses are typical nighttime and/or Sunday uses: auditoriums incidental to a public or parochial school, churches, dance halls, theaters and taverns.

19.51.100 Conditions for Joint Use.

A. The building or use for which application is made for authority to utilize the existing off-street parking facilities provided by another building or use shall be located within one hundred and fifty feet of the parking facilities;

B. The applicant shall show that there is not substantial conflict in the principal operating hours of the buildings or uses for which the joint use of the parking facility is proposed; and

C. Parties concerned in the joint use of off-street facilities shall submit a proper written agreement defining the conditions of the joint use for review and approval of the Planning Department and City Attorney.

D. In the event of a change in ownership or use, the joint use instrument may be terminated upon mutual agreement by all parties if reviewed and approved by the Planning Director. The existing and/or new uses shall comply with all parking and landscaping requirements of the City of Lynden for said uses.

19.51.110 Loading Space.

On the same premises with every building, structure, or part thereof, erected and occupied for manufacturing, storage, warehouse, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, or other use involving the receipt or distribution of vehicles, material or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services in order to avoid undue interference with the public uses of the streets or alleys. The space, unless otherwise adequately provided for, shall include a ten foot by twenty-five foot loading space, with fourteen foot height clearance for every 20,000 sq.
ft., or fraction thereof, of gross building area used or land used for above mentioned purposes. The space shall be so situated that no part of a truck or van using the loading space will project into the public right-of-way.

19.51.120 Parking Lot Surfacing Requirements.
   A. All required off-street parking areas for commercial or industrial uses— not including vehicle or agricultural implement display areas - shall be graded and before occupancy permit for the building use is issued, surfaced to standards for permeable pavement, asphaltic concrete or other surfacing material sufficient to eliminate dust or mud, provide for proper storm drainage and allow for making of stalls and installation of other traffic control devices as set forth by the Director of Public Works and this chapter.

   B. All traffic control devices such as parking strips designating car stalls, directional arrows or signs, curbs, and other developments shall be installed and completed as shown on the approved plans. Hard surfaced parking areas shall use paint or similar devices to delineate parking stalls and directional arrows. Pedestrian walks shall be curbed or raised six inches above the lot surface. Once installed, they shall be maintained in good condition.

19.51.130 Illumination.
   Any lights to illuminate any public parking area, any semi-public parking area, or used car sales area permitted by this ordinance shall be arranged so as to reflect the light away from any dwelling unit and the public right-of-way. Approval shall be obtained from the State of Washington Department of Transportation and/or the Director of Public Works for any lights which flash or blink, simulating traffic signals.

19.51.140 Landscaping Requirements for Parking Areas.
   Landscape plans for parking areas shall conform to LMC 19.61 and are to be approved by the Planning Department.

19.51.150 Handicapped Parking.
   Handicapped parking shall be installed in accordance with the "Regulations for Barrier-Free Facilities" as adopted by the Washington State Building Code Advisory Council or 2% of the required parking stalls, whichever is greater.

19.51.160 Special Conditions for off-street parking in Downtown Lynden.
   The Historic Business District is a special district that has developed over a period of time, including times when there were no parking requirements. To encourage remodeling and site improvements, it is recognized that special considerations are required. The following parking exceptions are made for an area from the Judson Street Alley to the alley between Front Street and Grover Street and between Third Street and Seventh Street:

   A. Renovation of any building in the historic business district in existence on or before July 1, 2002, for commercial or residential purposes, shall be exempt from meeting the parking requirements of Section 19.51.030; provided, however, if the renovation adds gross floor area to the building, the additional gross floor
area shall be considered new commercial or residential construction and shall be subject to the parking requirements listed in section 19.51.160(B) and (C) below. Renovations which decrease gross floor area shall not be eligible for any parking credit or reimbursement.

B. The parking requirement for all new commercial construction within the area north of Judson Alley, south of Grover Street, west of Third Street and east of 7th Street, shall be one off-street parking stall per 500 square feet of gross floor area, or any fraction thereof.
   a. Instead of providing the required off-street parking, the owner may choose to pay a fee for every parking stall required by this ordinance that cannot be supplied. The fee shall be set by resolution and placed in a special fund by the City of Lynden for the purchase and/or development of additional off-street parking facilities, or for repair or alteration of existing city owned off-street parking.

C. All new residential construction in the area defined in subsection (B) above shall be required to provide one off-street parking space per residential unit. Off-street parking for new residential uses shall be located within three hundred feet of the dwelling unit.

D. Any new building erected in the historic business district on a lot in place of a building in existence on or before July 1, 2002 on the same lot, shall be granted a credit toward satisfying the parking requirement set forth in this section. The amount of the credit shall be determined by subtracting the gross floor area of the previously existing building from the gross floor area of the new building constructed in its place on the same lot. The resulting difference in gross floor area shall be the gross floor area from which the parking requirement is determined in accordance with Sections 19.51.160(B) and (C) above; provided that, if the gross floor area difference is a negative number because the new building is smaller, the City shall not be liable for any reimbursement or additional credits. Parking credits shall not be transferable between lots.
CHAPTER 19.55
AIRPORT OVERLAY ZONE

Sections:
19.55.010 Established
19.55.020 Purpose
19.55.030 Permitted Uses
19.55.040 Restricted Uses
19.55.050 Definitions
19.55.060 Setbacks from Airport Runway
19.55.070 Residential Hangar Density
19.55.080 Residential Setbacks
19.55.090 Hangar Setbacks
19.55.100 Maximum Hangar Size and Lot Coverage within the AO zone.
19.55.110 Off-Street Parking
19.55.120 Marking and Lighting
19.55.130 Access Permits

19.55.010 Established
There is established an AO zone—Airport overlay zone and the regulations and standards for land uses permitted within. This zone includes the land owned and leased by the city of Lynden for the purpose of owning and operating a municipal airport, together with the land adjacent with said property extending one hundred fifty feet north and one hundred fifty feet south of the edge of the runway pavement. Also included are Lots 1 through 6 of the Milky Way Subdivision, providing they have access to a paved taxiway. All land within the AO zone is located with frontage on the Lynden Municipal Airport, a paved taxiway, or a designated runway safety zone.

19.55.020 Purpose
The purpose of this chapter is to protect the lives and property of people who live or work in the vicinity of the airport, and the aircraft pilots and their passengers, by regulating the land use and the height of structures and trees to prevent the establishment of airport hazards, restricting the establishment of incompatible land uses near the airport, and requiring the marking and lighting of new and existing obstructions within the AO Zone.

19.55.030 Permitted Uses
1. Landing, take-off, and flight of private aircraft by licensed pilots.
2. Business incidental to and necessary for airport operations including:
   A. Airport offices,
   B. Public restrooms,
   C. Hangers,
D. Gas and oil sales, for aircraft only,
E. Light repair shops,

Providing however, that these uses take place in an area with an underlying zone of IBZ.

3. Residentially based aircraft and hangars, providing however, that no repair work is done except exchange of parts and maintenance requiring no open flame, welding or the use of a Class I or II liquids as defined by the Uniform Fire Code. This use may only occur where the underlying zone is RS-100.

19.55.040 Restricted Uses
A. The airport shall not be used by unlicensed pilots or by persons not registered by the United States Ultralight Association.
B. No uses shall be permitted that interfere with the normal flight of aircraft.
C. No uses shall be permitted that interfere with communications with other aircraft or base units.
D. No uses shall be permitted which would make it difficult for pilots to distinguish between airports and other lights or result in glare in the eyes of pilots using the airport.
E. No uses shall be permitted that would impair visibility of the airport.

19.55.050 Definitions
AIRPORT -- means any area of land designed and set aside for the landing and taking off of aircraft and utilized in the interest of the public for such purpose. In this chapter, airport refers to the Lynden Airport.
AIRPORT HAZARD -- means any structure or tree or use of land which obstructs the air space required for the flight, landing or taking off of aircraft.
AIRPORT HAZARD AREA -- means any area of land upon which an airport hazard might be established if not prevented as provided in this chapter.
RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.
STRUCTURE - An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.
19.55.060 Setbacks from Airport Runway

No residential dwelling unit, office space, fueling facility or repair shop shall be located closer than 95 feet to the runway centerline. Aircraft hangars and tie down facilities shall not be located closer than 75 feet to the runway centerline.

19.55.070 Residential Hangar Density

Residentially based aircraft are permitted in the AO zone based on a density of one aircraft per two hundred feet of frontage on the airport property; 13 aircraft permitted north of the airport and seven aircraft permitted south of the airport for a total of 20 residentially based aircraft. This aircraft allowance may be transferred between residential lots as property ownership, aircraft ownership or pilot licensing capability changes.

19.55.080 Setbacks

Except as noted below and in Section 19.55.060, all residential setbacks are permitted in 19.15.060, and setbacks in the industrial zone are as noted in Section 19.25.120.

19.55.090 Hangar Setbacks

Except as noted in Section 19.55.060, hangars may be permitted as close as five feet to the property line, provided, however, that no openings are located on those walls, as provided in Table 5-A of the Uniform Building Code. Openings within twenty feet of the property line must be one hour fire restrictive construction as provided in the Uniform Building Code.

19.55.100 Maximum Hangar Size and Lot Coverage within the AO zone.

Residential hangars may be a maximum of 2500 square feet in size and a maximum of twenty-five feet in height and are considered accessory structures to a single family home. The maximum lot coverage on a residential lot within the AO zone shall be thirty-five percent. Lot coverage on industrial lots shall be forty-five percent.

19.55.110 Off-Street Parking

All business located within the AO zone must meet those parking requirements outlined in Chapter 19.48. The airport must provide 5 parking spaces per airplane based at the Lynden Airport.

19.55.120 Marking and Lighting

A. Any permit or variance issued for any structure or use in any airport zone where there are height limitations may be conditioned on the installation, operation, and maintenance of markers and lights indicating the presence of an airport hazard. Required markers shall not interfere with the safe flight of aircraft (See Restricted Uses, this chapter). These markers and/or lights shall be installed, operated, and maintained by the owner of the hazard.

B. The owner of any existing structure, tree, or use that is considered an airport hazard may be required to permit the installation, operation, and maintenance of markers or lights. The marking and lighting of existing airport hazards shall be installed, operated, and maintained at the owner's expense.
19.55.130 **Access Permits.**

All aircraft based from the Lynden Airport will require an access permit to be granted by the Airport Board, with fees set by resolution of the City Council. There will be a total of twenty residentially based permits granted, provided, however that no more than thirteen such permits shall be granted to residential properties to the north and no more than seven such permits shall be granted to residential properties to the south. The total number of access permits to be granted shall be set out by the Lynden Municipal Airport Master Plan.
Chapter 19.57
HOME OCCUPATION PERMITS

Sections:
19.57.010 Purpose
19.57.020 Applicability
19.57.030 Exemptions
19.57.040 Ineligible Activities
19.57.050 Permit Conditions
19.57.060 Permit Procedure
19.57.070 Violations

19.57.010 Purpose.
The purpose of this chapter is to allow for home occupations which are limited commercial activity within residences while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood.

19.57.020 Applicability.
A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.

B. Home occupations shall be permitted as an accessory use to residential single family and residential multi-family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.

C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.

D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.

19.57.030 Exemptions.
The following activities are exempt from the permit requirements of this chapter, and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.
A. Those activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.

B. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.

19.57.040 Ineligible Activities
The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.

A. Retail store fronts with set hours.
B. Rental of products;
C. Vehicle repair, automobile detailing or automobile servicing activities;
D. Medical or professional clinics;
E. Hospitals and mortuaries;
F. Eating and/or drinking establishments;
G. Stables and kennels;

19.57.050 Permit Conditions
The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.

A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.
B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.
C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.
D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.
E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any
outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.

F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.

G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.

H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.

Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.

19.57.060 Permit Procedure.

A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:

1. Permanent Permit

   a) An application may be filed on forms provided by the Planning Department for a permanent home occupation permit. A fee as established by resolution of the City Council shall accompany the application.

      A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.

   b) Within seven days of the submittal, a copy of the application shall be mailed to the list of property owners, other departments within the City, and any other affected government agency. The notice shall state the proposed action of the Planning Director, comments will be considered and final action taken within fifteen days of the date of the notice. Any affected party may request a hearing in front of the Planning Commission to determine if the home occupation will be detrimental to the neighborhood.

   c) If a hearing is requested or required it shall be published and held before the Planning Commission in accordance with Title 17 of the
Lynden Municipal Code. In addition, the Planning Commission shall use the standards and criteria found in Lynden Municipal Code 19.49.020 to determine whether the application will be detrimental to the neighborhood for its recommendation on the application. The City Council shall make the decision on the application in accordance with Lynden Municipal Code 19.49.020.

d) If no public hearing is required or requested, the Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may arise from the proposed use. In approving the application the Planning Director shall find:

1) The application is consistent with the conditions of section 19.57.050 above, and
2) The application meets the standards and criteria listed in Lynden Municipal Code 19.49.020 and the request will not cause detrimental effects to the surrounding neighborhood.

Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.

19.57.070 Violations.

A. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of the notice. Should no hearing be requested, the Planning Director’s decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director’s decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.
CHAPTER 19.59
WIRELESS COMMUNICATIONS

Sections:
19.59.010 Statement of purpose.
19.59.030 Definitions.
19.59.040 Exemptions
19.59.050 Applicability
19.59.055 Preferred Applications
19.59.065 Historic Business Zones.
19.59.075 Multi-Family and Mobile Home Zones.
19.59.090 Setback Requirements.
19.59.100 Permit—Required.
19.59.110 Permit—Application.
19.59.120 Supplemental Application Requirements.
19.59.130 Permit—Conditions.
19.59.170 Permit—Fees and Approval.
19.59.175 Permit—WRITTEN ACTION.
19.59.180 Variances.
19.59.190 Interpretations.
19.59.210 Obsolescence.
19.59.220 Non Conforming Facilities.
19.59.240 Violation—Penalty.

19.59.010 STATEMENT OF PURPOSE.
The purpose of this chapter is to assure greater compatibility between communications facilities and adjacent land uses and to provide for the communication needs of the region by:

A. Establishing construction and design standards for communications facilities;
B. Encouraging the location of towers in non residential areas.
C. Minimizing the proliferation of towers by encouraging the use of new and existing tower sites (co-location).
D. Minimizing adverse visual impacts upon the community.

19.59.030 DEFINITIONS.
For the purpose of this chapter, the following definitions shall apply:
Antennas.
“Antennas” means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radiofrequency signals.

Directional Antenna.
“Directional antenna” (also known as a "panel" antenna) means an antenna that transmits and receives radiofrequency signals in a specific directional pattern of less than 360 degrees.

Guyed Tower.
“Guyed tower” means a wireless communications support structure which is usually over 100 feet tall, which consists of metal crossed strips or bars and is steadied by wire guys in a radial pattern around the tower. Guyed towers are often constructed in rural areas and are used to support antennas and related equipment.

Lattice Tower.
“Lattice tower” means a wireless communications support structure which consists of metal crossed strips or bars to support antennas and related equipment.

Monopole I.
“Monopole I” is a wireless communications facility which consists of a support structure, the height of which shall not exceed 60 feet.

Monopole II.
“Monopole II” is a wireless communications facility which consists of a wireless communications support structure, greater than 60 feet in height erected to support wireless communications antennas and connecting appurtenances.

Omni-Directional Antenna.
“Omni-directional antenna” (also known as a “whip” antenna) means a antenna that transmits and receives radiofrequency signals in a 360 degree radial pattern. For the purpose of this document, an omni-directional antenna is up to 15 feet in height and up to 4 inches in diameter.

Parabolic Antenna.
“Parabolic antenna” (also known as a dish antenna) means a bowl shaped device for the reception and/or transmission of communication signals in a specific directional pattern.

Personal Communication Services.
“Personal Communication Services” (PCS) means digital wireless telephone technology such as portable phones, pagers, faxes and computers.

Radiofrequency Facility.
“Radiofrequency facility (RF)” means any structure not entirely within an enclosed building or vehicle that sends and/or receives telecommunications signals, including antennas, guy wires, microwave dishes or horns, structures or towers to support receiving and/or transmitting devices, accessory buildings i.e. equipment storage.
buildings, energy powergenerating housing, and the land on which they all are situated, that is one or more of the following:

1) A facility that operates with continuous transmissions at or above 1000 watts of effective radiated power.
2) Earth station satellite transmission dish which has a plane in excess of 160 square feet.
3) Transmission towers equal to or greater than 60 feet in height.

**Related Equipment.**
“Related equipment” means all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to, cable, conduit and connectors.

**Transmission Towers.**
Transmission towers” means a structure that is constructed above ground or water, or is attached to or on top of another structure, and is intended to support an antenna and accessory equipment, or which is itself an antenna.

**Up-and-Coming Microcell Technology.**
"Up-and-coming microcell technology” means one four-foot whip antenna mounted on an existing utility pole with associated communications gear housed in an underground vault.

**Wireless Communications Facility.**
“Wireless communications facility” means an unstaffed facility for transmission and reception of low-power radio signals consisting of a support structure, antennas, an equipment shelter or cabinet, and any other related equipment. Wireless communications facilities are required for personal wireless services including cellular telephone systems, personal communication services, mobile radio services, and any other FCC licensed wireless common carrier.

**Wireless Communications Support Structures.**
“Wireless communications support structures” means transmission towers, including monopoles, lattice towers, guyed towers and wood poles, erected to support wireless communications antennas and connecting appurtenances.

**19.59.040 EXEMPTIONS.**
The following are exempt from the provisions of this chapter and shall be permitted in all zones:

A. An antenna that is designed to receive direct broadcast satellite service, including direct-to-home satellite services, that is one meter or less in diameter.
B. An antenna that is designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services,
instructional television fixed services, and local multipoint distribution services, and that is one meter or less in diameter or diagonal measurement.

C. An antenna that is designed to receive television broadcast signals;
D. Licensed amateur (Ham) radio stations and citizen band stations.
E. The storage, shipment or display for sale of transmission equipment in commercial zones other than the HBD;
F. Hand-held, mobile, and portable radio transmitters and or receivers;
G. Any maintenance or repair of a conforming or nonconforming communications facility, transmission equipment, transmission structure or transmitter building.
H. Minor modifications of existing wireless communications facilities, including support structures and antennas, whether emergency or routine, provided there is little or no change in the visual appearance. Minor modifications are those modifications, including the addition of antennas, to conforming wireless communications facilities that meet the requirements of this document.
I. In the event a permit is required for any emergency application, filing of the permit application shall not be required until 30 days after the completion of such emergency activities. In the event a permit is required for non-emergency maintenance, reconstruction, repair or replacement, filing of the building permit application shall be required prior to the commencement of such non-emergency activities.

19.59.050  APPLICABILITY

Wireless communications facilities, including the following:

A. Wireless communications support structures:
   1. Monopoles
      a) Monopole I
      b) Monopole II
   2. Lattice tower
   3. Guyed tower
   4. Wood Poles

B. Antennas:
   1. Omni-directional antenna (also known as a "whip" antenna).
   2. Directional antenna (also known as a "panel" antenna).
   3. Parabolic antenna (also known as a dish antenna).

C. Equipment shelter or cabinet.

D. Related equipment.

19.59.055  PREFERRED APPLICATIONS

The following shall be considered "Preferred Applications", and may receive preferential treatment regarding placement:

A. Building mounted antennas.
B. "Up-and-coming" microcell technology.
C. Co-location on an existing support structure.

19.59.060 GENERAL PROVISIONS

The following provisions shall apply to all zoning districts and to all wireless communications facilities regulated by this chapter, subject however to permit conditions and specific regulations for each zoning district.

A. No wireless communications facility shall be erected, caused to be erected, or allowed to remain erected except in compliance with all the regulations established in this chapter. No owner or lessee of any real property located within the corporate limits of the City of Lynden shall knowingly allow any wireless communications facility to be erected on any such property in violation of the provisions of this chapter. No person shall take any action intending to, or having the effect of, circumventing the purpose and intent of this chapter. A permit is required for all wireless communications facilities erected in the city that are not exempted by Section 19.59.040.

B. All Monopole I, Monopole II, Lattice Towers, and accessory equipment and facilities subject to review as provided in this chapter must obtain approval of the Planning Commission before a building permit may be issued. This includes replacement of major facilities.

C. Structural safety. Any wireless communications facility transmission tower or structure, or equipment to be placed on such tower, shall not cause applicable wind and deadload standards of the Uniform Building Code to be exceeded.

D. Shock and burn standard.
The communications facility shall not emit radiation such that the public will be exposed to shock and burn in excess of the standards contained in ANSI C-95.1 or subsequent amendments thereto by a qualified organization recognized by ANSI.

E. Fencing and warning signs.
Communications facility sites shall be:
1. Fenced in a manner which prevents access by the public to transmission structures and/or areas of the site where shock/burn levels are exceeded. This may be modified if natural features, such as an adjoining waterway, or topographic feature preclude access;
2. Signed to warn the public of areas of the site where potential risks for shocks or burns are present.

F. Interference.
Permit applications for communications facilities shall include:
1. A statement describing the nature and extent of interference which may be caused by the proposed communications facility and the applicant's responsibilities under FCC rules and regulations;
2. Unless the department determines that there will be no noticeable interference from the proposed communications facility, notification of expected interference shall be provided as specified in 19.59.160.

3. General information concerning the causes of interference and steps which can be taken to reduce or eliminate it.

4. The City shall request notification by the Federal Communications Commission of any application submitted to the FCC for new or expanding major communications facilities. At the time FCC reviews such application, the City shall request that the applicant provide targeted community notice regarding electromagnetic interference, informing residents of remedial procedures the applicant is required to offer under federal regulations. The City shall promote cooperation between broadcasters and the community with respect to interference problems.

G. Color and lighting standards.
Except as specifically required by the Federal Aviation Administration (FAA) or the FCC, transmission structures shall:
1. Use colors such as gray, blue or green which reduce their visual impacts; provided, wooden poles do not have to be painted; and
2. Not be illuminated, except transmitter buildings may use lighting for security reasons which is compatible with the surrounding neighborhood.

H. Landscaping requirements.
Any communications facility site which includes a Monopole I, Monopole II or Lattice tower shall provide landscaping as follows:
1. When the facility is located in:
   a) The IBZ, ID, CSL or CSR zones, the base of any transmission structure or transmitter building shall be landscaped with eight feet of Type I landscaping consistent with City standards for landscaping, if no acceptable landscaping already exists along the lot line abutting RS or A-1 zoned properties.
   b) The RM or MH zones, the base of the transmission structure or transmitter building shall be landscaped with 10 feet of Type II landscaping (groundcover may be excluded) consistent with City standards for landscaping, if the base of such structure or transmitter building is within 300 feet of any lot line abutting RS or A-1 zoned property.
   c) The RS or A-1 zones, the base of any transmission structure or transmitter building shall be landscaped with 10 feet of Type IV landscaping consistent with City standards for landscaping.
2. When a security fence is used to prevent access onto a transmission structure or transmitter building, any landscaping required pursuant to LMC 19.59.060(H)(1) shall be placed outward of such security fence.
3. When a security fence is used:
   a) In the IBZ, ID, CSL, or CSR zones, wood slats shall be woven into the security fence if made of chain-link material.
b) In the A-1, MH, RS or RM zones, climbing evergreen shrubs or vines capable of growing on the fence shall supplement any landscaping required pursuant to LMC 19.59.060(H)(1).

4. Landscaping shall be planted according to accepted practice in good soil and maintaining in good condition at all times. Landscaping shall be planted as a yard improvement at or before the first structure or within a reasonable time thereafter, considering weather and planting conditions.

5. Existing vegetation may be used and/or supplemented with additional vegetation to comply with the requirements of LMC 19.59.060(H)(1).

I. Modifications.

1. Cumulative modifications of conforming communications facilities, transmission structures or transmission equipment which do not increase the overall height of the facility by more than 30 percent shall be allowed provided:
   a) The modifications do not result in a Monopole I facility that exceeds 75 feet in height, or a Monopole II or Lattice tower facility that exceeds 150 feet, including appurtenances.
   b) A nonconformance with respect to the transmission structure shall not be created or increased except as otherwise provided above as to height;
   c) Existing perimeter vegetation or landscaping shall not be reduced; and

2. Except for consolidations allowed by LMC 19.59.060(J), modifications which increase the overall height of transmission structure or transmission equipment by more than 30 percent shall be subject to all other provisions of this chapter.

J. Consolidation.

Consolidation of two or more existing transmission structures may be permitted subject to the following:

1. If the consolidated transmission structure cannot meet the setback requirements of LMC 19.59.090, it shall be located on the portion of the parcel on which it is situated which, giving consideration to the following, provides the optimum practical setback from adjacent properties.
   a) topography and dimensions of the site;
   b) in the case of a consolidation, any existing structures to be retained.

Consolidated transmission structures shall be set back from abutting residential property a minimum of ten percent of the height of the consolidated transmission structure, but in all cases no less than 100 feet;

2. If consolidation involves the removal of transmission structures from two or more different sites and if a consolidated transmission structure is to be erected on one of those sites, it shall be erected on the site which provides for the greatest compliance with the standards of this chapter;

3. All existing transmission equipment on the site of a communications facility which does not comply with the provisions of this chapter shall be relocated to the consolidated transmission structure before the relocation
of transmission equipment from a non-exempt off-site, conforming communications facility is permitted;

4. Any transmission structure to be removed as part of a consolidation shall be removed within 12 months of relocation of the transmitting equipment;

5. Consolidation shall result in a net reduction in the number of transmission structures; and

6. Consolidated facilities shall require a conditional use permit, granted in accordance with LMC Chapter 19.49.

<table>
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<tr>
<th>Support Structures:</th>
<th>A-1</th>
<th>RS-100</th>
<th>RM 1</th>
<th>RM 2</th>
<th>RM 3</th>
<th>HBD</th>
<th>CSL</th>
<th>CSR</th>
<th>IBZ</th>
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<td>N⁴</td>
<td>N⁴</td>
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<td>N⁴</td>
<td>CU</td>
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<td>P⁶</td>
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<td>CU²</td>
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<td>N⁴</td>
<td>N⁴</td>
<td>N⁴</td>
<td>N⁴</td>
<td>N¹</td>
<td>N¹</td>
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<tr>
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<td>N⁵</td>
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N = Not Permitted

CU = Conditional Use

P = Permitted Outright. Rooftop features provision. Small communication devices such as dishes less than 4 feet in diameter, panels less than four feet in height, and whip antennas, are exempt from height limit. Dishes over 4 feet in diameter, panels over 4 feet in height, horns, and minor communication utility transmission towers may exceed the height limit of multi-family and commercial zones by 4 feet (or the rooftop, if above the current height limit) and may exceed the height limit of commercial zones by 15 feet (or the rooftop, if above the current height limit) if the total roof coverage by all rooftop features does not exceed 20 percent.
¹ Unless existing wood pole or building mounted, co-located or micro-cell technology, then CU.
² Unless co-located, then P.
³ Except the facility shall not be allowed on buildings with a solely residential use.
⁴ New utilities are prohibited; physical expansion of existing utilities may be allowed with a Conditional Use Permit (LMC Chapter 19.49) if a) the expanded facility will be a shared use facility and another broadcaster has contracted to relocate its transmitter to the expanded facility; and b) another existing tower of similar size and in the immediate vicinity is removed.
⁵ Receive-only dishes accessory to residential use are permitted outright but must be screened if adjacent to or across the street from residential zoned lot; not permitted on roof in Single Family, RM-1 and RM-2 zones; may be permitted on roof through a variance if reception window would otherwise be blocked.
⁶ Permitted outright, even if it exceeds height limit, unless adjacent to single family zone, in which case a Conditional Use Permit will be required.

19.59.065  HISTORIC BUSINESS DISTRICT
A. Antennas may be permitted in the Historic Business District, provided that they are not allowed on buildings with a solely residential use.
B. Monopole I and Lattice Towers are prohibited, except that the expansion of such facilities may be permitted by a Conditional Use Permit granted in accordance with LMC Chapter 19.49 and Section 19.59.150.
C. Where possible, antennas shall be located on existing buildings, poles or other existing support structures.
D. Pole or tower mounted antennas shall comply with the height limitation specified in the HBD zone, except omni directionial antennas which may exceed the height limit by 10 feet.
E. Rooftop features provision: Small communication devices such as dishes less than 4 feet in diameter, panels less than four feet in height, and whip antennas, are exempt from height limit. Dishes over 4 feet in diameter, panels over 4 feet in height, horns, and minor communication utility transmission towers may exceed the height limit by 4 feet (or the rooftop, if above the current height limit) if the total roof coverage by all rooftop features does not exceed 20 percent.
F. The shelter or cabinet used to house radio electronics equipment must be concealed, camouflaged or underground.
G. If a Monopole I facility or a Lattice tower is permitted in the HBD, development of such shall meet the requirements of Sections 19.59.080(D), 19.59.080(F), 19.59.080(J) and 19.59.080(L), and must meet the conditional use provisions of LMC 19.49 and Section 19.59.150.
H. Any facility not expressly permitted by this section, nor exempted by Section 19.59.040, is prohibited.

19.59.070 SINGLE FAMILY RESIDENTIAL DISTRICTS AND THE AGRICULTURAL ZONE (RS-100, RS-84, RS-72 AND A-1)

A. Antennas consisting of receive-only dishes (parabolic antennas) accessory to a residential use are permitted outright but must be screened if adjacent to or across the street from a residentially zoned lot.

B. Antennas are not permitted for placement on the roof in the Single Family or Agricultural zones. Placement upon the roof may be permitted through a variance if the reception window would otherwise be blocked.

C. Antennas are not permitted in Single Family or Agricultural zones, except that those mounted upon existing wood poles or buildings, are co-located with other facilities, or utilize micro-cell technology may be allowed by a conditional use permit, granted in accordance with LMC Chapter 19.49.

D. Monopole I Facilities and Lattice towers are not permitted in Single Family or Agricultural zones, except that those which utilize an existing wood pole, or serve co-located or micro-cell technology facilities may be allowed by a conditional use permit granted in accordance with LMC Chapter 19.49.

E. The shelter or cabinet used to house radio electronics equipment must be concealed, camouflaged or underground.

F. If Monopole I Facilities or Lattice towers are permitted in the Single Family or Agricultural zones, development of such shall meet the requirements of Sections 19.59.080(D), 19.59.080(F), 19.59.080(J) and 19.59.080(L), and must meet the conditional use provisions of LMC 19.49 and Section 19.59.150.

G. Any facility not expressly permitted by this section, nor exempted by Section 19.59.040, is prohibited.

19.59.075 MULTI-FAMILY AND MOBILE HOME ZONES (RM 1, RM 2, RM 3, RM 4, AND MH)

A. Antennas consisting of receive-only dishes (parabolic antennas) accessory to a residential use are permitted outright but must be screened if adjacent to or across the street from a residentially zoned lot.

B. Antennas may be permitted with a conditional use permit granted in accordance with LMC Chapter 19.49, except the attachments shall not be allowed on buildings with a solely residential use.

C. Where possible, antennas shall be located on buildings, poles or other existing support structures.
D. The shelter or cabinet used to house radio electronics equipment must be concealed, camouflaged or underground.

E. Monopole I Facilities and Lattice towers are not permitted in Multi-Family or MH zones, except that those which utilize an existing wood pole, or serve co-located or micro-cell technology facilities may be allowed by a conditional use permit granted in accordance with LMC Chapter 19.49.

F. If Monopole I Facilities or Lattice towers are permitted in Multi-Family or MH zones, development of such shall meet the requirements of Sections 19.59.080(D), 19.59.080(F), 19.59.080(J) and 19.59.080(L), and must meet the conditional use provisions of LMC 19.49 and Section 19.59.150.

G. Any facility not expressly permitted by this section, nor exempted by Section 19.59.040, is prohibited.

19.59.080 COMMERCIAL BUSINESS, INDUSTRIAL AND PUBLIC USE ZONES (CS 1, CS 2, CS 3, I1, I2 AND PU)

A. Antennas are permitted in the Commercial, Industrial and PU Districts, provided that they are not allowed on buildings with a solely residential use.

B. Where possible, antennas shall be located on buildings, poles or other existing support structures.

C. Pole or tower mounted antennas shall comply with the height limitation specified in the respective zone, except omni directional antennas which may exceed the height limit by 15 feet.

D. Antennas which extend above the wireless communications support structure shall not be calculated as part of the height of the wireless communications support structure. For example, the maximum height for a Monopole I shall be 60 feet and the maximum height for antennas which may be installed on the support structure could be 15 feet, making the maximum permitted height of the support structure and antennas 75 feet (60 feet plus 15 feet).

E. Rooftop features provision: Small communication devices such as dishes less than 4 feet in diameter, panels less than four feet in height, and omni-directional antennas, are exempt from height limit. Dishes over 4 feet in diameter, panels over 4 feet in height, horns, and minor communication utility transmission towers may exceed the height limit by 15 feet (or the rooftop, if above the current height limit) if the total roof coverage by all rooftop features does not exceed 20 percent.

F. The City Planner may decide whether a pole no more than 100 feet tall will be wood or steel based on a determination of which material would be more appropriate at the proposed location.

G. Monopole I or Wood pole mounted wireless communications facilities are permitted outright in CSR, IBZ and ID, unless adjacent to a single family zone, in which case a conditional use permit granted in accordance with LMC Chapter
19.49 will be required. A conditional use permit is required for Monopole I or Wood pole mounted facilities in the CSL and PU zones.

H. Monopole II facilities and Lattice towers may be permitted in the commercial, industrial and PU zones with a conditional use permit granted in accordance with LMC Chapter 19.49 and Section 19.59.150. Permission in the CSL zone is contingent upon utilization of the structure for co-location of multiple (two or more) facilities or micro-cell technology. Monopole II facilities and Lattice towers are permitted outright in the CSR and industrial zones, if facilities are co-located.

I. Any Monopole II or Lattice tower which exceeds 150 feet in height shall require a conditional use permit granted in accordance with LMC Chapter 19.49 and Section 19.59.150.

J. A co-location upon an existing support structure shall be permitted.

K. The shelter or cabinet used to house radio electronics equipment and the associated cabling connecting the equipment shelter or cabinet to the Monopole I, Monopole II or Lattice Tower must be concealed, camouflaged or underground.

L. When a Monopole I, Monopole II or Lattice Tower is adjacent to a single family zone, the wireless communications support structure must be set back a distance equal to or greater than the height of the wireless communications support structure from the nearest single family lot line.

M. Any facility not expressly permitted by this section, nor exempted by Section 19.59.040, is prohibited.

19.59.090 SETBACK REQUIREMENTS.

Except as outlined for modifications and consolidations pursuant to sections 19.59.060(I) and 19.59.060(J) communications facilities shall comply with the following setbacks.

A. Transmission structures for the transmission or reception of cellular radio signals, which do not exceed the height limit of the zone in which they are located, shall be set back from the property line as required for other structures by the zone in which such transmission structure is located, except that no transmission structure shall be less than 20 feet from any property line abutting a residential zone;

B. Transmission structures for the transmission or reception of cellular radio signals, which exceed the height limit of the zone in which they are located, shall be set back from property lines either a minimum of 50 feet or one foot for every foot in height, whichever results in the greater setback, except:

1. Transmission structures located in the IBZ, ID, CSL, CSR and PU zones shall be set back from the property line as required for other structures by the zone in which such transmission structure is located, except that no transmission structure shall be less than 20 feet from any property line abutting a residential zone.
2. Transmission structures located in any zone not specifically addressed in Section 19.59.090(B)(1) shall be subject to the setback requirements provided in the following table:

<table>
<thead>
<tr>
<th>TYPE OF TRANSMISSION STRUCTURE</th>
<th>ZONE</th>
<th>SETBACKS¹</th>
</tr>
</thead>
</table>
| Monopole I                    | A-1 RS zones | Front: 35 feet  
|                               |            | Side: 20 feet  
|                               | RM zones HBD | Rear: 20 feet  
|                               |            | Front: 30 feet  
|                               |            | Side: 10 feet  
|                               |            | Rear: 10 feet  
|                               | Other Zones | 10 feet ² |
| Monopole II                   | A-1 RS zones | NA  
|                               | RM zones HBD | NA  
|                               | Other Zones | 10 feet ² |
| Lattice Towers                | A-1 RS zones | One for one ⁴ |
|                               | RM zones HBD | One-half for one ³ |
|                               | Other Zones | 20 feet ² |

¹ The setback requirements apply to the transmission pole or tower and transmission equipment placed on the pole or tower. The City may permit a reduced setback, through a CUP or variance, if the applicant demonstrates that the facility will be adequately screened from public view;

² Transmission structures shall be set back an additional 20 feet from any property line abutting any A-1 or RS zoned properties; and

³ “One-half for one” and “one for one” means the transmission structure shall be set back from all property lines one-half foot or one foot, respectively, for every foot of pole or tower height.

⁴ In the A-1 zone, five additional feet is required for the front setback.

C. When two or more communications facilities share a common boundary, the setback from such boundary shall comply with the requirements of the zone in which the facilities are located, unless easements are provided:

1. On the adjoining sites which limit development to communications facilities;
2. Of sufficient depth to provide the setbacks required in subsections A and B; and
3. Which provide for the City of Lynden as a third party signatory to the agreement.
D. Transmitter buildings shall be subject to the setback requirements of the zone in which they are located.

19.59.100 PERMIT—REQUIRED.
No wireless communications facility, or attachment thereof, except those exempted in Section 19.59.040, 19.59.060(l) or 19.59.060(J) shall be erected, re-erected, replaced, revised, attached, structurally altered, or relocated by any person, firm or corporation from and after the effective date of the ordinance codified in this chapter without a permit issued by the city. No permit shall be required for repair, cleaning, or other normal maintenance, as long as the facility support structure is not modified in any way.

19.59.110 PERMIT—APPLICATION.
Applications for wireless communications facility permits shall be made to the City Planner upon permit forms provided by the city. Such applications shall require:

A. Address and Tax parcel number where wireless communications facility is to be erected and operated.
B. Name and title of applicant
C. Name, address and telephone number of the firm doing the installation work;
D. Name and address of the facility owner and/or operator.
E. Written consent of the owner of the building, structure, or property where the facility is to be erected.

19.59.120 PERMIT—SUPPLEMENTAL APPLICATION REQUIREMENTS FOR WIRELESS COMMUNICATIONS SUPPORT STRUCTURES.
In addition to the above, a permit application for any wireless communications support structure (Section 19.59.050(A)) shall also include:

A. A site development plan showing the location, size, and design of all existing and proposed buildings and structures, including fences, the location, size, and nature of outdoor equipment, and the location, number, and species of all proposed landscaping. The plan should also include warning signs and access restrictions;
B. A report by a licensed professional engineer demonstrating compliance with applicable structural standards of the UBC, and describing the general structural capacity of proposed transmission structure(s), including:
   1. The number and type of antennas that can be accommodated; and
   2. The basis for the calculation of capacity;
C. A report by a state licensed professional engineer that includes the following:
   1. A description of any proposed transmission towers(s) or structure(s), including height above grade, materials, color and lighting; and
   2. Information related to interference required by Section 19.59.060(F).
D. Where a permit for a non-exempt wireless communications facility and support structure is required, the application shall also include the following information:
1. The name and address of the operator(s) of proposed and existing antennas on the site;
2. The height of any proposed antennas;
3. The manufacturer, type, and model of such antennas;
4. The frequency, modulation and class of service.

19.59.130 PERMIT—CONDITIONS.

The following special procedures and conditions shall apply to the review and issuance of permits:

A. The applicant shall demonstrate that the proposed facility complies with all applicable laws and that it requires placement at a particular location to meet the needs of the service provider, including procedures involved in the site selection and an evaluation of the alternative sites;

B. The height of proposed facilities is the minimum height necessary to fulfill the cell site’s function. If the proposed wireless communications facility exceeds the permitted height of the zone, the applicant shall demonstrate a justification for the proposed height of the structures and shall include an evaluation of alternative designs which might result in a lower height.

C. The applicant shall include an analysis of the feasibility and impacts of consolidated use of facilities with other service providers.

D. The proposed towers and antennas are not being built on a speculative basis, but are immediately needed for the proper functioning of the system.

E. If the wireless communications facility is located in City right-of-way, compensation may be required as recommended by the administration and set by City Council.

19.59.140 SUPPLEMENTAL PERMIT CONDITIONS FOR RESIDENTIAL ZONES.

A. In residential zones, the City Planner shall determine if the use is appropriate at the proposed location based on the following criteria:
   A. The visibility of the facility is minimized through location, screening, or otherwise camouflaging the utility by painting it the same color as the building upon which it is located.
   B. The facility would not result in a commercial intrusion that is detrimental to the residential character of the area.

B. If the facility includes a transmission tower, or if the facility would exceed the height limit for the zone including rooftop features provisions, the following additional criteria shall be used:
   A. The applicant shall demonstrate the need for the proposed utility to be in the zone and provide a justification for the proposed height.
B. The materials, shape, and color of the proposed utility or device are planned to minimize the negative visual impacts on adjacent or nearby residential areas to the greatest extent possible.

C. The proposed utility will not be detrimental to the residential character of an area; for example, through the demolition of residential dwelling units in a residential zone.

19.59.150 CONDITIONAL USE PERMIT CRITERIA FOR WIRELESS COMMUNICATIONS SUPPORT STRUCTURES.

In addition to the Conditional Use Permit criteria specified in chapter 19.49 LMC, the following specific criteria must be met before a Conditional Use Permit can be granted:

A. Visual Impact
   1. Antennas may not extend more than 15 feet above their supporting Monopole, lattice tower, building or other underlying structure.
   2. Towers should be screened or otherwise blended into surrounding vegetation and topography. In no case shall a tower project more than 20% above vegetation, topography, or existing building structures within a radius equal to the towers height.
   3. Accessory equipment facilities used to house wireless communications equipment should be located within buildings when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be screened and landscaped in conformance with Section 19.59.060(H) of this chapter.

B. Noise
   1. No equipment shall be operated above 45 dB as measured from the nearest property line on which the wireless communications facility is located.

19.59.160 PERMIT—NOTIFICATION REQUIREMENTS.

For Monopole I, Monopole II and Lattice Tower mounted facilities, notification of a permit application shall be given to adjacent property owners within a 500-foot radius, the Planning Commission and the City Council. The area within which mailed notice shall be expanded to include at least 20 different owners in rural or lightly inhabited areas or in other appropriate cases to the extent the enforcing official (City Planner) determines is necessary. The standards of published notice and posting of property required by Section 19.59.160 shall be pursuant to Chapter 17.07.
19.59.170 PERMIT—FEES AND APPROVAL.

Permit fees shall be in accordance with the current fee schedule adopted by city resolution. Upon approval of plans by the Building Official, where required, and payment of the required fee, the City Planner shall issue the wireless communications facility permit. Permits shall be numbered in the order of their issuance and shall disclose:

A. The type and description of the wireless communications facility as defined in this chapter;
B. Evidence to support the application’s compliance with the regulations of this chapter.
C. The street address of the property upon which the facility will be installed;
D. The amount of the fee paid for the permit;
E. The date of issuance;
F. The name of the person or company installing the facility;
G. The name of the facility owner.

19.59.175 PERMIT—WRITTEN ACTION.

Approval or denial of a permit request for wireless communications facilities, regulated by this chapter, shall be in writing.

19.59.180 VARIANCES.

The Board of Adjustment shall have the authority to grant a variance from the requirements of this chapter in accordance with the procedures and considerations provided in Chapter 19.47.

19.59.190 INTERPRETATIONS.

Where there is any dispute concerning the interpretation of this chapter, the decision of the City Planner shall prevail, subject to appeal to the Code Appeals Board as provided in LMC Title 15.04.

19.59.200 ENFORCING OFFICIAL—POWERS AND DUTIES.

A. The enforcing official of this chapter shall be the City Planner who is hereby authorized and directed to enforce all the provisions of this chapter. Upon presentation of proper credentials, the City Planner may enter at reasonable times any building, structure, or premises to perform any duty imposed upon the City Planner by this chapter. Facilities for which a permit is required may be inspected periodically by the City Planner for compliance with this chapter.
19.59.210 OBsolescence

A. A wireless communications facility, or attachment thereof, shall be removed by the facility owner within 6 months of the date it ceases to be used.

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

C. The City Planner may cause any wireless communications facility which is erected or used in violation of this chapter to be summarily removed without notice and at the expense of the owner of the facility and/or premises if:
   1. The condition of placement of the facility presents in the opinion of the City Planner an immediate threat to the safety of the public, or
   2. The facility is placed in a public right-of-way or upon city property or attached to a utility pole, tree or traffic facility in violation of this chapter.

19.59.220 NON CONFORMING FACILITIES.

A. Non conforming facilities shall be removed or brought into compliance with this chapter no later than the expiration of the amortization period of each such facility, determined as follows:
   1. For facilities made non conforming by passage of this ordinance, January 1, 2002.
   2. For facilities made non conforming by passage of any subsequent ordinance, 5 years after the effective date of said ordinance.

B. Loss of non conforming status.
   1. A non conforming wireless communications facility shall immediately lose its legal, non conforming status if:
      a) The facility is altered in any way in structure or color, or if the structure exceeds the allowable number of appurtenance facilities.
      b) The facility is damaged in excess of fifty (50) percent of the original cost of the facility; or
      c) The facility is relocated; or
      d) The facility is replaced.
   2. On the occurrence of any of the events described in subsection (B) (1) of this section, the wireless communications facility shall be immediately brought into compliance with this chapter with a new permit secured
therefore, or shall be removed; provided, however, that the City Planner may authorize specific alterations of such non conforming facilities if it is found that:

a) the end of the non conforming facility’s amortization period is more than two years away; and

b) the total amount of aggregate noncompliance of the facility area of the existing facilities on the premises is reduced at least fifty (50) percent by the proposed alterations; and

c) the alteration shall not affect the original amortization period for the non conforming facility.

C. Notice of non conforming facilities. The City Planner shall endeavor to give notice of the legal non conformance and amortization periods set forth in this section to the owners of wireless communications facilities required to be removed. Such notice should be given to the owners of the facilities as shown by city records within one hundred twenty (120) days of the effective date of the ordinance which renders the facilities non conforming, whichever occurs later. Only one such notice need be given. Failure of the City Planner to give the notice specified herein, or failure of the facility owner to receive any such notice shall not limit or affect the city’s power to enforce this chapter, or in any way reduce the ability of the city to require removal of the non conforming facilities as provided by law.

D. Administrative Appeal. The owner of a non conforming wireless communications facility may appeal to the City Planner to request an extended period of use of such facility beyond the amortization period determined by this section. Any such appeal must be made to the City Planner upon forms provided by the city and must be accompanied by an appeal filing fee as set by resolution of the City Council. The City Planner shall require that the appellant provide as part of the appeal a general description of the facility, its dimensions and physical position; evidence sufficient to establish the date and cost of the facility as originally constructed and installed; the amount of depreciation claimed and the depreciation schedule used for such facility as reflected by Internal Revenue Service schedules for prior years; the estimated cost of relocation or alteration of such facility, where applicable; together with any other information or documents specified by the City Planner which are reasonably necessary to assist the city in making a determination on the appeal. The City Planner shall consider the statements and documentary evidence contained in the application and any supplementary information which may reasonably be required. In addition the City Planner shall inspect the subject facility to determine its general condition, state of repair, and the extent to which the facility does not conform to the requirements and limitations of this ordinance. The City Planner may also request that the facility is inspected by the Building Official for structural soundness and building details. In making the determination, the City Planner shall consider the unrecoverable cost invested in the facility, the estimated remaining life of the facility, and the degree of nonconformity. The City Planner shall prepare and make available for public inspection the specific method used
in processing such appeals. All determinations of appeals made pursuant to this section shall be made in writing with specific findings of fact and conclusions in support of the decision. All such determinations of the City Planner are subject to appeal to the City Council as provided by this title.

19.59.230  LIABILITY.

This chapter shall not be constituted to relieve from or lessen the responsibility of any person owning, building, altering, constructing, or removing or moving any facility in the city for damages to anyone injured or damaged either in person or property by any liability by reason of permit or inspection authorized in this chapter or a certificate of inspection issued by the city or any of its agents.

19.59.240  VIOLATION—PENALTY.

A. Any person who violates any term or provision of this chapter or of any permit hereunder, or have failed to comply with a lawful order of the City Planner as provided in this chapter, shall be guilty of a misdemeanor, and shall be punishable as set forth in Section 9.04.040 of the Lynden Municipal Code.

B. Each calendar day of a any continuing violation shall be deemed a separate and distinct violation.
CHAPTER 19.61
LANDSCAPE REQUIREMENTS

Sections:

19.61.010 Purpose
19.61.020 Scope
19.61.030 Landscape Development Plan
19.61.040 Performance Bond
19.61.050 Landscape Maintenance
19.61.060 Plant Choice
19.61.070 Landscaping and Planting Strip Types for Side and Rear Yards
19.61.080 Residential Landscape Requirements.
19.61.090 Minimum Landscape Requirements for Required Landscaping
19.61.100 Requirements for Commercial and Industrial Parking Lots
19.61.110 Tree Removal
19.61.120 Boulevard or Parking Strips – May be required
19.61.130 Boulevard or Parking Strips – Development and Maintenance
19.61.140 Maintenance of existing vegetation
19.61.150 Definitions

19.61.010 Purpose.

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

19.61.020 Scope.

This chapter shall apply to all RM zones, MH zones, CS zones, I zones, public facilities, and any residential developments where the development is larger than four lots. No building permit, shall be issued where landscaping is required until a landscaping plan has been submitted and approved by the City Planner or the Design Review Board where applicable. A landscaping plan is not required for a single family building permit.

19.61.030 Landscape Development Plan.

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

No permanent occupancy permit shall be granted until landscaping required under this chapter is completed. However, a permanent occupancy permit may be granted if a performance guarantee bond in the amount of 150% of the anticipated cost of the unfinished landscaping is posted guaranteeing the installation of required landscaping is posted within 180 days. If landscaping is not so completed, the City may finish it, in accordance with the approved plan, using the bond to pay the completion costs. The bond may be posted by certified check payable to the city, assignment of a restricted savings account to the City, or posting an irrevocable letter of credit or a bond with the City.

19.61.050 Landscape Maintenance.

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

19.61.060 Plant Choices.

All species shall be native to the area or recognized as being easily adaptable to the climate. The City will require the applicant to conform to the City’s Design and Development Standards including modifying the plant choice to:

A. Eliminate undesirable species which may conflict with power lines or sewers because of their growth or invasive root systems.

B. Provide a diversity of species.

C. Provide plant materials that will fulfill the buffering or landscaping purposes of that planting on a year-round basis.

D. Provide visual relief on long facades.

E. Provide species that are resistant to drought conditions.

19.61.070 Landscaping and Planting Strip Types for Side and Rear Yards.

A. TYPE I. Ornamental Landscaping

This landscaping shall consist of a combination of trees, shrubs and other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it. A mixture of evergreen and deciduous plantings reaching a maximum height of thirty inches is recommended. This does not apply to non-sight obscuring trees.
B. TYPE II. Mixed Trees, Shrubs, Low Plantings

This planting strip shall consist of one row of trees spaced a maximum of ten feet on center. The remainder of the planting strip shall be planted with plantings that will result in an attractive ground cover within two years.

C. TYPE III. Sight Screening Evergreen Hedge

The purpose of this landscaping type is to provide a sight, sound and psychological barrier between zones with some degree of incompatibility. The spacing of evergreen plants shall be such that they form a dense hedge within three years. The minimum height, at the time of planting, shall be four feet, except where the hedge would interrupt the clear vision triangle.

D. TYPE IV. Low Plantings, Trees, and Fencing

Evergreen conifer trees shall be spaced a maximum of fifteen feet on center, backed by a seventy-two inch fence which forms an effective barrier to sight, except where the fence would interfere with the clear vision triangle (see Chapter 15.28). The fence shall be placed on the inside of the planting strip. The remainder of the landscape area shall be planted with plantings that will result in an attractive ground cover within three years.

E. TYPE V. Wall of Trees

The purpose of this landscape type is to provide a sight, sound and psychological barrier between zones with a high degree of incompatibility. This planting strip shall consist of two rows of trees staggered and spaced a maximum of ten feet on center, so as to form an effective visual barrier within five years. The minimum tree height, at the time of planting, shall be six feet, except where it would obscure the vision triangle.

F. TYPE VI. Boulevard or Parking Strip

Boulevard or parking strip plantings are encouraged. The strip should be planted with non-fruit bearing, deciduous trees a minimum of fifty feet on center. At the time of planting deciduous trees shall be at least three inches in diameter at four feet in height, and all necessary root barriers shall be installed.

19.61.080 Residential Landscape Requirements.

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

A. Detached Residential Single Family (RS) Landscape Requirements
   1. Property owners may landscape adjacent to sidewalks on any city street provided that at no time the landscape encroaches into the path of the sidewalk which would impede pedestrian movement or create unsafe
conditions. It is the property owner’s responsibility to maintain the landscape in this manner.

2. Hedges. To facilitate visibility along streets and sidewalks, hedges which fully block visibility must not be planted within 3 feet of the sidewalk. View triangles, which protect sight distance, at street intersections may require additional height restrictions.

3. Street trees are required at the time of plat as outlined in Chapter 18.14. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.

4. All plantings on city property are subject to removal by the property owner at the City's discretion and property owner's expense. In the case that the property owner does not remove the planting, the removal will be done by the City and the property owner will be billed.

B. Multi-Family Residential (RM) and Attached Single Family Landscape Requirements

All proposed multi-family and attached single-family development greater than two attached units in these zones shall comply with the following standards. Variances, in accordance with the process set forth in Chapter 17.17 LMC, may be authorized by the planning director where factors such as but not limited to, topography, other site constraints prevent strict compliance.

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

2. Entry areas, access easements, and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrances to the multi-family development, defined for this section as the entrances from public roadways, shall have landscaped areas on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway intersect and running a distance of twenty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines. These areas may be utilized as rain gardens.

3. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two
years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.

a. Street trees shall have a minimum caliper size of one and one-half inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.

b. At the time of installation, shrubs must be a variety of sizes (one to five-gallon pots) and upright shrubs must have a minimum height and spread of eighteen to thirty-six inches. Spreading shrubs should have a minimum of twelve to eighteen inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan). Hedge material must have a minimum height of four feet at the time of planting.

c. Ground covers planted from flats shall have a maximum spacing of twelve inches on center or, when planted from one-gallon pots, a maximum spacing of twenty-four inches on center.

4. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.

5. Building foundation plantings are required around all areas of the building except immediately adjacent to entries or garage doors. Sidewalks shall not be included within these areas. Installation of plant material is required and must be appropriate to the scale of the building. Area required is as follows:

a. Buildings containing 2-4 units must provide a planting area a minimum of 4 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 2 feet.

Buildings containing more than 4 units must provide a planting area a minimum of 6 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 3 feet.

19.61.090 Minimum Landscape Standards for Required Landscaping.

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

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

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

19.61.100 Landscaping Requirements for Commercial and Industrial Parking Lots

Landscaping requirements for parking lots should incorporate LID techniques as feasible and meet the following:

A. Parking lots fronting on a public street right-of-way shall have fifty square feet of "Type I" landscaping for every thirty-five hundred square feet of parking area.
Additional landscaping is encouraged, provided that the planting shall not obstruct the vision triangle at street intersections and driveways.

B. Additional plantings may be placed on street right-of-way behind the sidewalk line if the owner agrees to remove the landscaping, at the owner's expense, upon request of the City. The owner will maintain all landscaping placed in the right-of-way.

C. No landscaping area shall be less than fifty square feet in area,

D. No parking stall shall be located more than fifty feet from a landscaped area. The Planner may approve landscaping plans involving alternatives to this specification for individual properties if the proposed alternative would be more effective in meeting the purposes of this chapter.

E. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in satisfaction of these requirements.

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

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

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

19.61.110 Tree Removal or Planting.

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

B. No person shall plant any tree(s), or shrubs on the streets, alleys, boulevard or parking strips of the City of Lynden without first having applied and received a permit from the City. There will be no charge for such a permit.

19.61.120 Boulevard or Parking Strip – May be required

Boulevard or parking strips are encouraged and may be required by the City as part of development permit approval. Planting requirements are listed above as Type VI planting strips. Where street trees are required, the trees fronting a building lot must be installed prior to final occupancy for that building constructed on the building lot. At the
time of plat approval, a note shall be placed on the face of the plat indicating that it is the responsibility of the property owner to maintain all trees placed within the City right-of-way abutting their property.

19.61.130 Boulevard or Parking Strip – Development and Maintenance

A. Street trees shall be planted in accordance with accepted commercial planting procedures and appropriate root barriers shall be installed at the time of planting.

B. Street trees shall be chosen in accordance with the plantings recommended by Puget Sound Energy. Lists of recommended trees are available from the Planning Department.

C. The Public Works Director will prune and maintain, or cause to be pruned and maintained, all of the trees along Lynden streets. The City will maintain the street trees on Front Street between First and 17th Streets. The remaining trees will be the responsibility of the adjacent property owner to maintain. If said trees are not maintained, the Public Works Director may cause those trees to be maintained at the expense of the adjoining property owner.

D. All trees along City streets shall maintain a minimum clearance of thirteen feet, six inches between the ground and lowest branch. Street trees shall not be planted within the clear vision triangle.

E. Adjacent property owners shall be liable for any persons injured or who otherwise suffers damage due to the failure of trimming and proper maintenance of trees by adjacent property owners. This shall include the replacement of sidewalks damaged by intruding roots.

19.61.140 Maintenance of existing trees

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

19.61.150 Definitions.

As used in this chapter.

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

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

“Deciduous” means a plant with foliage that sheds annually.

“Conifer” means a plant with foliage that persists and remains green year-round, commonly known as evergreens.
“Ornamental tree” means a deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

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

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

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

“Tree” means a large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or coniferous.
Chapter 19.63

FENCE PERMITS AND REQUIREMENTS

Sections:

19.63.010 Fence permit required
19.63.020 Permit fee
19.63.030 Utilities location
19.63.040 Fence location
19.63.050 Fences on public right-of-way--Conditions
19.63.060 Fence requirements
19.63.070 Privacy fencing
19.63.080 Nonresidential zone fences

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

19.63.020 Permit fee. The fee for obtaining a fence permit shall be twenty-five dollars or such other figure as the council shall from time to time fix by resolution.

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

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

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

A. If there is no curb and/or sidewalk, the public works department shall determine fence location, which may be on city-owned property.

B. Within a residential zone or for residential uses within a nonresidential zone a fence may be built as close as three feet to the sidewalk.

C. Fences shall not be allowed on city property for nonresidential uses permitted within a residential zone.

D. Fences will not be allowed on city-owned property unless the owner agrees to remove the fence at the owner's expense upon request of the city. The
owner must sign an agreement which will be recorded with the Whatcom County auditor, evidencing such agreement and agreeing that if the owner does not remove the fence upon the city's request, the owner will reimburse the city for the cost of removal. The owner shall pay for the cost of recording the agreement with the Whatcom County auditor.

19.63.060 Fence requirements. Fences shall be built to the following specifications:

A. Electric 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(C) 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 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 30 feet from the front property line or five feet behind the front corner of the house, whichever is greater, the maximum fence height shall be 42 inches.

2. From 30 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 72 inches.

3. Side yard fences where the side yard is the rear yard for the adjacent property may be seventy-two inches in height, on that side only, provided that there is a minimum setback of fifteen feet from the front property line and does not extend beyond the front of the house, whichever is more restrictive. No vision triangle may be obstructed and the opposing side must comply with all other setback and height requirements.

Fence height is determined by measuring from the natural ground level adjacent to the fence to the top of the fence structure, including all latticework or other decorative features allowing a maximum of two inches for ground clearance. The board of adjustment may grant 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.

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

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

A. Maximum height for solid fencing is eighty-four inches. Wire fencing may be allowed up to twelve feet high.

B. Street, alley, railroad and vision triangle requirements of Section 19.63.060(B) shall apply, provided, however, that higher wire fencing maybe allowed, if, in the opinion of the Public Works Director, the fence will not obstruct vision in the vision triangle.
Chapter 19.65

HISTORIC PRESERVATION

19.65.010 Purpose
The purpose of this ordinance is to provide for the identification, evaluation, designation, and protection of designated historic and prehistoric resources within the boundaries of the City of Lynden and preserve and rehabilitate eligible historic properties within the City of Lynden for future generations through special valuation, a property tax incentive, as provided in Chapter 84.26 RCW in order to:

A. Safeguard the heritage of the City of Lynden as represented by those buildings, districts, objects, sites and structures which reflect significant elements of the City of Lynden’s history;

B. Foster civic and neighborhood pride in the beauty and accomplishments of the past, and a sense of identity based on the City of Lynden’s history;

C. Stabilize or improve the aesthetic and economic vitality and values of such sites, improvements and objects;

D. Assist, encourage and provide incentives to private owners for preservation, restoration, redevelopment and use of outstanding historic buildings, districts, objects, sites and structures;

E. Promote and facilitate the early identification and resolution of conflicts between preservation of historic resources and alternative land uses; and,

F. Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

19.65.020 SHORT TITLE
The following sections shall be known and may be cited as the “Historic Preservation Ordinance of the City of Lynden.”

19.65.030 DEFINITIONS
The following words and terms when used in this ordinance shall mean as follows,
unless a different meaning clearly appears from the context:

A. “City of Lynden Historic Inventory” or “Inventory” means the comprehensive inventory of historic and prehistoric resources within the boundaries of the City of Lynden.

B. “City of Lynden Historic Preservation Commission” or “Commission” means the commission created by Section 19.65.040 herein.

C. “City of Lynden Register of Historic Places”, “Local Register”, or “Register” means the listing of locally designated properties provided for in Section 19.65.050(B) herein.

D. “Actual Cost of Rehabilitation” means costs incurred within twenty-four months prior to the date of application and directly resulting from one or more of the following: a) improvements to an existing building located on or within the perimeters of the original structure; or b) improvements outside of but directly attached to the original structure which are necessary to make the building fully usable but shall not include rentable/habitable floor-space attributable to new construction; or c) architectural and engineering services attributable to the design of the improvements; or d) all costs defined as “qualified rehabilitation expenditures” for purposes of the federal historic preservation investment tax credit.

E. A “building” is a structure constructed by human beings. This includes both residential and nonresidential buildings, main and accessory buildings.

F. “Certificate of Appropriateness” means the document indicating that the Commission has reviewed the proposed changes to a local register property or within a local register historic district and certified the changes as not adversely affecting the historic characteristics of the property which contribute to its designation.

G. “Certified Local Government” or “CLG” means the designation reflecting that the local government has been jointly certified by the State Historic Preservation Officer and the National Park Service as having established its own historic preservation Commission and a program meeting Federal and State standards.

H. “Class of properties eligible to apply for Special Valuation in City of Lynden” means all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until City of Lynden becomes a Certified Local Government (CLG). Once a CLG, the class of properties eligible to apply for Special Valuation in City of Lynden means all properties listed on the Local and National Register of Historic Places or properties certified as contributing to a Local and National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.
I. “Cost” means the actual cost of rehabilitation, which cost shall be at least twenty-five percent of the assessed valuation of the historic property, exclusive of the assessed value attributable to the land, prior to rehabilitation.

J. A “district” is a geographically definable area urban or rural, small or large—possessing a significant concentration, linkage, or continuity of sites buildings, structures, and/or objects united by past events or aesthetically by plan or physical development.

K. “Emergency repair” means work necessary to prevent destruction or dilapidation to real property or structural appurtenances thereto immediately threatened or damaged by fire, flood, earthquake or other disaster.

L. “Historic property” means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is listed in a local register of a Certified Local Government or the National Register of Historic Places.

M. “Incentives” are such rights or privileges or combination thereof which the Lynden City Council, or other local, state, or federal public body or agency, by virtue of applicable present or future legislation, may be authorized to grant or obtain for the owner(s) of Register properties. Examples of economic incentives include but are not limited to tax relief, conditional use permits, rezoning, street vacation, planned unit development, transfer of development rights, facade easements, gifts, preferential leasing policies, beneficial placement of public improvements or amenities, or the like.

N. “Local Review Board”, or “Board” used in Chapter 84.26 RCW and Chapter 254-20 WAC for the special valuation of historic properties means the Commission created in Section 19.65.040 herein.

O. “National Register of Historic Places” means the national listing of properties significant to our cultural history because of their documented importance to our history, architectural history, engineering, or cultural heritage.

P. An “object” is a thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Q. “Ordinary repair and maintenance” means work for which a permit issued by the City of Lynden is not required by law, and where the purpose and effect of such work is to correct any deterioration or decay of or damage to the real property or structure appurtenance therein and to restore the same, as nearly as may be practicable, to the condition prior to the occurrence of such deterioration, decay, or damage.

R. “Owner” of property is the fee simple owner of record as exists on the Whatcom County Assessor’s records.
S. “Significance” or “significant” used in the context of historic significance means the following: a property with local, state, or national significance is one which helps in the understanding of the history or prehistory of the local area, state, or nation (whichever is applicable) by illuminating the local, statewide, or nationwide impact of the events or persons associated with the property, or its architectural type or style in information potential. The local area can include Lynden, Washington. Local significance may apply to a property that illustrates a theme that is important to one or more localities; state significance to a theme important to the history of the state; and national significance to property of exceptional value in representing or illustrating an important theme in the history of the nation.

T. A “site” is a place where a significant event or pattern of events occurred. It may be the location of prehistoric or historic occupation or activities that may be marked by physical remains; or it may be the symbolic focus of a significant event or pattern of events that may not have been actively occupied. A site may be the location of ruined or now non-extant building or structure of the location itself possesses historic cultural or archaeological significance.

U. “Special Valuation for Historic Properties” or “Special Valuation” means the local option program which when implemented makes available to property owners a special tax valuation for rehabilitation of historic properties under which the assessed value of an eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation. (Chapter 84.26 RCW).

V. “State Register of Historic Places” means the state listing of properties significant to the community, state, or nation but which may or may not meet the criteria of the National Register.

W. A “structure” is a work made up of interdependent and interrelated parts in a definite pattern of organization. Generally constructed by man, it is often an engineering project.

X. “Universal Transverse Mercator” or “UTM” means the grid zone in metric measurement providing for an exact point of numerical reference.

Y. “Waiver of a Certificate of Appropriateness” or “Waiver” means the document indicating that the Commission has reviewed the proposed whole or partial demolition of a local register property or in a local register historic district and failing to find alternatives to demolition has issued a waiver of a Certificate of Appropriateness which allows the building or zoning official to issue a permit for demolition.

Z. “Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties” or “State Advisory’s Council’s Standards” means the rehabilitation and maintenance standards used by the City of Lynden Historic Preservation Commission as minimum requirements for determining
whether or not an historic property is eligible for special valuation and whether or
not the property continues to be eligible for special valuation once it has been so
classified.

19.65.040   LYNDEN HISTORIC COMMISSION

A.  Creation and Size
There is hereby established a City of Lynden Historic Preservation Commission,
consisting of five members, as provided in subsection 19.65.040(B) below. Members of the City of Lynden Historic Preservation Commission shall be appointed
by the Mayor and approved by the Lynden City Council and shall be residents of the
City of Lynden, except as provided in subsection 19.65.040(B) below.

B.  Composition of the Commission
1.  All members of the Commission must have a demonstrated interest and
competence in historic preservation and possess qualities of impartiality and
broad judgement.

2.  The Commission shall always include at least two professionals who have
experience in identifying, evaluating, and protecting historic resources and are
selected from among the disciplines of architecture, history, architectural history,
planning, prehistoric and historic archaeology, folklore, cultural anthropology,
curation, conservation, and landscape architecture, or related disciplines. The
Commission action that would otherwise be valid shall not be rendered invalid by
the temporary vacancy of one or all of the professional positions, unless the
Commission action is related to meeting Certified Local Government (CLG)
responsibilities cited in the Certification Agreement between the Mayor and the
State Historic Preservation Officer on behalf of the State. Furthermore,
exception to the residency requirement of Commission members may be granted
by the Mayor and City Council in order to obtain representatives from these
disciplines.

3.  In making appointments, the Mayor may consider names submitted from any
source, but the Mayor shall notify historical related organizations of vacancies so
that names of interested and qualified individuals may be submitted by such
organizations for consideration along with names from any other source.

C.  Terms
The original appointment of members to the Commission shall be as follows: three
for two years, two for three years. Thereafter, appointments shall be made for a
three year term. Vacancies shall be filled by the Mayor for the unexpired term in the
same manner as the original appointment.

D.  Powers and Duties
The major responsibility of the Historic Preservation Commission is to identify and
actively encourage the conservation of the City of Lynden’s historic resources by
In carrying out these responsibilities, the Historic Preservation Commission shall engage in the following:

1. Conduct and maintain a comprehensive inventory of historic resources within the boundaries of the City of Lynden and known as the City of Lynden Historic Inventory, and publicize and periodically update inventory results. Properties listed on the inventory shall be recorded on official zoning records with an “HI” (for historic inventory designation). This designation shall not change or modify the underlying zone classification.

2. Initiate and maintain the City of Lynden Register of Historic Places. This official register shall be compiled of buildings, structures, sites, objects, and districts identified by the Commission as having historic significance worthy of recognition and protection by the City of Lynden and encouragement of efforts by owners to maintain, rehabilitate, and preserve properties.

3. Review nominations to the City of Lynden Register of Historic Places according to criteria in Section 19.65.050 of this ordinance and adopt standards in its rules to be used to guide this review.

4. Review proposals to construct, change, alter, modify, remodel, move, demolish, or significantly affect properties or districts on the register as provided in Section 19.65.060; and adopt standards in its rules to be used to guide this review and the issuance of a certificate of appropriateness or waiver.

5. Provide for the review either by the Commission or its staff of all applications for approvals, permits, environmental assessments or impact statements, and other similar documents pertaining to identified historic resources or adjacent properties.

6. Conduct all Commission meetings in compliance with Chapter 42.30 RCW, Open Public Meetings Act, to provide for adequate public participation and adopt standards in its rules to guide this action.

7. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic and prehistoric resources.

8. Establish liaison support, communication and cooperation with federal, state, and other local government entities which will further historic preservation objectives, including public education, within the City of Lynden area.

9. Review and comment to the City Council on land use, housing and redevelopment, municipal improvement and other types of planning and programs undertaken by any agency of the City of Lynden, other neighboring communities, Whatcom County, the state or federal governments, as they relate to historic resources of the City of Lynden.
10. Advise the City Council and Mayor on matters of City of Lynden history and historic preservation.

11. Perform other related functions assigned to the Commission by the City Council or the Mayor.

12. Provide information to the public on methods of maintaining and rehabilitating historic properties. This may take the form of pamphlets, newsletters, workshops, or similar activities.

13. Officially recognize excellence in the rehabilitation of historic buildings, structures, sites and districts, and new construction in historic areas; and encourage appropriate measures for such recognition.

14. Be informed about and provide information to the public and City of Lynden departments on incentives for preservation of historic resources including legislation, regulations and codes which encourage the use and adaptive reuse of historic properties.

15. Review nominations to the State and National Registers of Historic Places.

16. Investigate and report to the City Council on the use of various federal, state, local or private funding sources available to promote historic resource preservation in the City of Lynden.

17. Serve as the local review board for Special Valuation and:
   a) Make determination concerning the eligibility of historic properties for special valuation;
   b) Verify that the improvements are consistent with the Washington State Advisory Council’s Standards for Rehabilitation and Maintenance:
   c) Enter into agreements with property owners for the duration of the special valuation period as required under WAC 254-20-070(2);
   d) Approve or deny applications for special valuation;
   e) Monitor the property for continued compliance with the agreement and statutory eligibility requirements during the 10 year special valuation period; and
   f) Adopt bylaws and/or administrative rules and comply with all other local review board responsibilities identified in Chapter 84.26 RCW.

18. The Commission shall adopt rules of procedure to address items 3, 4, 6, and 18 inclusive.

E. Compensation

All members shall serve without compensation.

F. Rules and Officers

The Commission shall establish and adopt its own rules of procedure, and shall
select from among its membership a chairperson and such other officers as may be necessary to conduct the Commission’s business.

G. Commission Staff

Commission and professional staff assistance shall be provided by the Planning Department with additional assistance and information to be provided by other departments or qualified consultants as may be necessary to aid the Commission in carrying out its duties and responsibilities under this ordinance.

19.65.050 LYNDEN REGISTER OF HISTORIC PLACES

A. Criteria for Determining Designation in the Register

Any building, structure, site, object, or district may be designated for inclusion in the Lynden Historic Register if it is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community; if it has integrity; is at least 50 years old, or is of lesser age and has exceptional importance to the Lynden Community; and if it falls in at least one of the following categories:

1. It is associated with events that have made a significant contribution to the broad patterns of national, state, or local history.

2. It embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction.

3. It is an outstanding work of a designer, builder, or architect who has made a substantial contribution to the art.

4. It exemplifies or reflects special elements of the City’s cultural, special, economic, political, aesthetic, engineering, or architectural history.

5. It is associated with the lives of persons significant in national, state, or local history.

6. It has yielded or may be likely to yield important archaeological information related to history or prehistory.

7. It is a building or structure removed from its original location but which is significant primarily for architectural value, or which is the only surviving structure significantly associated with an historic person or event.

8. It is a birthplace or grave of an historical figure of outstanding importance and is the only surviving structure or site associated with that person.

9. It is a cemetery which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns.

10. It is a reconstructed building that has been executed in a historically accurate manner on the original site.

11. It is a creative and unique example of folk architecture and design created by
persons not formally trained in the architectural or design professions, and which does not fit into formal architectural or historical categories.

B. Process for Designating Properties or Districts to the Lynden Historic Register

1. Only property owners may nominate a building, structure, site, object, or district for inclusion in the Lynden Historic Register. Members of the Historic Preservation Commission or the Commission as a whole may generate nominations with the agreement of the affected property owner. In its designation decision, the Commission shall consider the City of Lynden Historic Inventory and the Lynden Comprehensive Plan.

2. In the case of individual properties, the designation shall include the UTM reference and all features—interior and exterior—and outbuildings that contribute to its designation.

3. In the case of districts, the designation shall include description of the boundaries of the district; the characteristics of the district justifying its designation; and a list of all properties including features, structures, sites, and objects contributing to the designation of the district.

4. The Historic Preservation Commission shall consider the merits of the nomination, according to the criteria in Section 19.65.050 and according to the nomination review standards established in rules, at a public meeting. Adequate notice will be given to the public, the owner(s) and the authors of the nomination, if different, and lessees, if any, of the subject property prior to the public meeting according to standards for public meetings established in rules and in compliance with Chapter 42.30 RCW, Open Public Meetings Act. Such notice shall include publication in the Lynden Tribune or another newspaper of general circulation in the City of Lynden and any other form of notification deemed appropriate by the City of Lynden. If the Commission finds that the nominated property is eligible for the Lynden Historic Register, the Commission shall list the property in the register with owner’s consent or make a recommendation to the City Council that the property be listed in the register with owner’s consent. In the case of historic districts, the Commission shall consider a simple majority of property owners or percentage of property owners to be adequate for owner consent. Owner consent and notification procedures in the case of districts shall be further defined in rules. The public, property owner(s) and the authors of the nomination, if different, and lessees, if any, shall be notified of the listing.

5. Properties listed on the Lynden Historical Register shall be recorded on official zoning map with an “HR” (for Historic Register) designation. This designation shall not change or modify the underlying zone classification.

C. Removal of Properties from the Register

In the event that any property is no longer deemed appropriate for designation to the Lynden Historical Register, the Commission may initiate removal from
such designation by the same procedure as provided for in establishing the designation, Section 19.65.050. A property may be removed from the Lynden Historical Register without the owner’s consent.

D. Effects of Listing on the Register

1. Listing on the Lynden Historical Register is a designation denoting significant association with the historic, archaeological, engineering, or cultural heritage of the community. Properties are listed individually or as contributing properties to an historic district.

2. Prior to the commencement of any work on a register property, excluding ordinary repair and maintenance and emergency measures defined in Section 19.65.060, the owner must request and receive a Certificate of Appropriateness from the Commission for the proposed work. Violation of this rule shall be grounds for the Commission to review the property for removal from the register.

3. Prior to whole or partial demolition of a register property, the owner must request and receive a waiver of a Certificate of Appropriateness.

4. Once the City of Lynden is certified as a Certified Local Government (CLG), all properties listed on the Lynden Historic Register may be eligible for Special Tax Valuation on their rehabilitation (Section 19.65.070).

19.65.060 REVIEW REQUIRED FOR PROPERTIES ON THE LYNDEN HISTORIC REGISTER

A. Review Required

No person shall change the use, construct any new building or structure, or reconstruct, alter, restore, remodel, repair, move, or demolish any existing property on the Lynden Historic Register or within an historic district on the Lynden Historic Register without review by the Commission and without receipt of a Certificate of Appropriateness, or in the case of demolition, a Waiver, as a result of the review.

The review shall apply to all features of the property, interior and exterior, which contribute to its designation and are listed on the nomination form. Information required by the Commission to review the proposed changes are established in rules.

B. Exemptions

The following activities do not require a Certificate of Appropriateness or review by the Commission: ordinary repair and maintenance—which includes painting—or emergency measures defined in Section 19.65.030.
C. Review Process

1. Requests for Review and Issuance of a Certificate of Appropriateness or Waiver

The Planning Director shall determine whether the application requires review under LMC 16.05 and shall report any application for a permit to work on a property listed on the Lynden Historic Register or within a registered historic district to the Commission and whether LMC 16.05 is applicable. If the activity is not exempt from Commission review, the Commission or professional staff shall notify the applicant of the review requirements. The Planning Director shall not issue any such permit until a Certificate of Appropriateness or a Waiver is received from the Commission but shall work with the Commission in considering building and fire code requirements.

2. Commission Review

The owner or his/her agent (architect, contractor, lessee, etc.) shall apply to the Commission for a review of proposed changes on a listed property or within a listed historic district and request a Certificate of Appropriateness or, in the case of demolition, a Waiver. Each application for review of proposed changes shall be accompanied by such information as is required by the Commission established in its rules for the proper review of the proposed project.

The Commission shall meet with the applicant and review the proposed work according to the design review criteria established in rules. Unless legally required, there shall be no notice, posting, or publication requirements for action on the application, but all such actions shall be made at regular meetings of the Commission. The Commission shall complete its review and make its recommendations within thirty (30) calendar days of the date of receipt of the application. If the Commission is unable to process the request, the Commission may ask for an extension of time from the Planning Director.

The Commission’s decision shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. If the owner agrees to the Commission’s decision, a Certificate of Appropriateness shall be awarded by the Commission according to standards established in the Commission’s rules.

The Commission’s decision and, if awarded, the Certificate of Appropriateness shall be transmitted to the Planning Director. If a Certificate of Appropriateness is awarded, the Planning Director or another City of Lynden official charged with authority may then issue the permit.

3. Demolition

A waiver of the Certificate of Appropriateness is required before a permit may be
issued to allow whole or partial demolition of a listed property or in a historic district. The owner or his/her agent shall apply to the Commission for a review of the proposed demolition and request a waiver. The applicant shall meet with the Commission in an attempt to find alternatives to demolition. These negotiations may last no longer than 45 calendar days from the initial meeting of the Commission, unless either party requests an extension. If no request for an extension is made and no alternative to demolition has been agreed to, the Commission shall act and advise the official in charge of issuing a demolition permit of the approval or denial of the waiver of a Certificate of Appropriateness. Conditions in the case of granting a demolition permit may include allowing the Commission up to 45 additional calendar days to develop alternatives to demolition. When issuing a Waiver the Commission may require the owner to mitigate the loss of the listed property by means determined by the Commission at the meeting between the applicant and the Commission described in this paragraph. Any conditions agreed to by the applicant in this review process shall become conditions of approval of the permits granted. After the property is demolished, the Commission shall initiate removal of the property from the register.

4. **Appeal of a Certificate of Appropriateness or Approval or Denial of a Waiver of a Certificate of Appropriateness.**

The Commission’s decision regarding a Certificate of Appropriateness or Waiver of a Certificate of Appropriateness may be appealed to the Lynden City Council within ten calendar days from the Commission’s issuance of its decision on the requested Certificate of Appropriateness or Waiver of a Certificate of Appropriateness. The appeal must meet the requirements listed within Chapter 17.11 of the Lynden Municipal Code.

The appeal is a closed record appeal and shall be reviewed by the City Council only on the records of the Commission. Appeal of the Council’s decision regarding a Certificate of Appropriateness or waiver of a Certificate of Appropriateness may be appealed to Superior Court.

19.65.070 **REVIEW AND MONITORING OF PROPERTIES FOR SPECIAL PROPERTY TAX VALUATION**

A. **Time Lines**

1. Applications for Special Property Tax Valuation shall be forwarded to the Commission by the Assessor within 10 calendar days of filing.

2. Applications for Special Property Tax Valuation shall be reviewed by the Commission before December 31 of the calendar year in which the application is made.

3. Commission decisions regarding the applications for Special Property Tax Valuation shall be certified in writing and filed with the Assessor within 10
calendar days of issuance.

B. **Procedure**

1. The Assessor forwards the application(s) for Special Property Tax Valuation to the Commission.

2. The Commission reviews the application(s) for Special Property Tax Valuation, consistent with its rules of procedure, and determines if the application(s) are complete and if the properties meet the criteria set forth in WAC 254-20-070(1) and listed in Section 19.65.050(A) of this ordinance.

   a. If the Commission finds the properties meet all the criteria, then, on behalf of the City of Lynden, it enters into a Historic Preservation Special Valuation Agreement (set forth in WAC 254-20-120 and in Section 19.65.050(B) of this ordinance) with the owner. Upon execution of the agreement between the owner and Commission, the Commission approves the application(s).

   b. If the Commission determines the properties do not meet all the criteria, then it shall deny the application(s) for Special Property Tax Valuation.

3. The Commission certifies its decisions in writing and states the facts upon which the approvals or denials are based and files copies of the certifications with the Assessor.

4. For approved applications for Special Property Tax Valuation:

   a. The Commission forwards copies of the agreements, applications, and supporting documentation (as required by WAC 254-20-090 (4) and identified in Section 19.65.070(A) of this ordinance) to the Assessor,

   b. The Commission notifies the state review board that the properties have been approved for special valuation, and

   c. The Commission monitors the properties for continued compliance with the agreements throughout the 10-year special valuation period.

5. The Commission determines, in a manner consistent with its rules of procedure, whether or not properties are disqualified from special valuation either because of

   a. The owner’s failure to comply with the terms of the agreement or

   b. Because of a loss of historic value resulting from physical changes to the building or site.

6. For disqualified properties, in the event that the Commission concludes that a property is no longer qualified for special valuation, the Commission shall notify the owner, Assessor, and state review board in writing and state the facts supporting its findings.
C. **Criteria**

1. **Historic Property Criteria:**
   
The class of historic property eligible to apply for Special Valuation in the City of Lynden means all properties listed on the National Register of Historic Places or certified as contributing to a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW, until the City of Lynden becomes a Certified Local Government (CLG).

   Once a CLG, the class of property eligible to apply for Special Valuation in the City of Lynden means only those properties listed on the Lynden Historic Register and the National Register of Historic Places or properties certified as contributing to a locally registered historic district or a National Register Historic District which have been substantially rehabilitated at a cost and within a time period which meets the requirements set forth in Chapter 84.26 RCW.

2. **Application Criteria:**
   
   Complete applications for Special Property Tax Valuation shall consist of the following documentation:
   
   a. A legal description of the historic property,
   
   b. Comprehensive exterior and interior photographs of the historic property before and after rehabilitation,
   
   c. Architectural plans or other legible drawings depicting the completed rehabilitation work, and
   
   d. A notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed and documentation of both to be made available to the Commission upon request, and
   
   e. For properties located within historic districts, in addition to the standard application documentation, a statement from the secretary of the interior or appropriate local official, as specified in local administrative rules or by the local government, indicating the property is a certified historic structure is required.

3. **Property Review Criteria:**

   In its review the Commission shall determine if the properties meet all the following criteria:
   
   a. The property is historic property;
   
   b. The property is included within a class of historic property determined eligible for Special Valuation by the City of Lynden under Section 19.65.070 of this ordinance;
   
   c. The property has been rehabilitated at a cost which meets the definition
set forth in RCW 84.26.020(2) (and identified in Section 19.65.030(H) of this ordinance) within twenty-four months prior to the date of application; and

d. The property has not been altered in any way which adversely affects those elements which qualify it as historically significant as determined by applying the Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties (WAC 254-20-100(1) and listed in Section 19.65.030(Z) of this ordinance).

4. **Rehabilitation and Maintenance Criteria:**
   The Washington State Advisory Council’s Standards for the Rehabilitation and Maintenance of Historic Properties in WAC 254-20-100 shall be used by the Commission as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified.

D. **Agreement:**
   The historic preservation special valuation agreement in WAC 254-20-120 shall be used by the Commission as the minimum agreement necessary to comply with the requirements of RCW 84.26.050(2).

E. **Appeals:**
   Any decision of the Commission acting on any application for classification as historic property, eligible for special valuation, may be appealed to Superior Court under Chapter 34.05.510 -34.05.598 RCW in addition to any other remedy of law. Any decision on the disqualification of historic property eligible for special valuation, or any other dispute, may be appealed to the Whatcom County Board of Equalization.
Chapter 19.66
MARIJUANA PRODUCER, PROCESSOR, RETAILER USES AND ACTIVITIES, AND MEDICAL MARIJUANA PROHIBITED

Sections:
19.66.010 - Definitions Illegal Uses
19.66.020 - Illegal uses prohibited—Marijuana producer, processor, retailer, medical marijuana collective gardens and cooperatives.

19.66.010 - Definitions Illegal Uses.

"Marijuana" or "marihuana" means all parts of the plant cannabis, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

"Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term "marijuana-infused products" does not include useable marijuana or marijuana concentrates.

"Marijuana processing," means a person or business, processing marijuana into useable marijuana and/or marijuana-infused products, and/or packaging and labeling useable marijuana and/or marijuana-infused products for sale in retail outlets, and/or selling useable marijuana and marijuana-infused products at wholesale to marijuana retailers.

"Marijuana producing," means a person or business producing and/or selling marijuana at wholesale to marijuana processors and other marijuana producers.

"Marijuana retailing" or "marijuana retailer" means a person or business, selling useable marijuana, marijuana concentrates, and/or marijuana-infused products in a retail outlet.

"Marijuana, useable" or "useable marijuana" means dried marijuana flowers. The term "marijuana, useable" does not include either marijuana concentrates or marijuana-infused products.

"Medical marijuana collective garden" means the growing of medical cannabis by qualifying patients as provided in RCW Chapter 69.51A, now or hereafter amended, and subject to the provisions of this section. A collective garden may also include ancillary processing and distribution of medical cannabis to support the collective garden. Medical marijuana collective gardens are a prohibited land use in the city. In
addition, a location used solely for processing or distributing medical cannabis, or not meeting the requirements of this section, shall not be considered a collective garden and is prohibited.

"Medical marijuana cooperative" means a cooperative formed by qualifying patients or designated providers that share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative pursuant to session law, 2015 c 70 § 26.

19.66.020 - Illegal uses prohibited—Marijuana producer, processor, retailer, medical marijuana collective gardens and cooperatives.

A. The production, processing and retail sales of marijuana and marijuana-infused products, all as defined in Initiative Measure No. 502, as codified in RCW Title 69, and implementing regulations in WAC Chapter 314-55 and the operation of medical marijuana collective gardens and medical marijuana cooperatives are each prohibited and not allowed in any zone in the city. Marijuana processing, marijuana producing, marijuana retailing, and the operation thereof, and medical marijuana collective gardens and medical marijuana cooperatives are each individually considered a prohibited use in all zones in the city. This prohibition is supplemental to and in no way limits the scope or effect of subsection (B) or (C) of this section.

B. No person holding, or claiming to hold, a license from any state regulatory agency or county regulatory agency to produce, process, sell or distribute marijuana, marijuana-infused products, or any derivatives or resin-based derivatives of the cannabis plant, including but not limited to licenses issued pursuant to RCW Chapter 69.50 and WAC Chapter 314-55 and RCW Chapter 69.51A, shall operate, maintain, cause or allow to exist any marijuana-based business or a medical marijuana collective garden or a medical marijuana cooperative in any zoning district within the city. This prohibition is supplemental to and in no way limits the scope or effect of subsection (A) or (C) of this section.

C. No use that is illegal under, or contrary to any city, state or federal law or statute shall be allowed in any zoning district within the city, unless otherwise specifically and expressly allowed for in this code. This prohibition is supplemental to and in no way limits the scope or effect of subsection (A) or (B) of this section.