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TOWN OF LYMAN

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# Zoning Code

*Adopted: March, ~~2002~~2005*

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## Chapter 10.03

### GENERAL PROVISIONS

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#### **10.03.010 Short Title.**

The ordinance shall be known as "The Comprehensive Zoning Ordinance" of the Town of Lyman which shall constitute Title 10 of the Lyman Municipal Code and shall hereafter be referred to as this Title.

#### **10.03.020 Purpose.**

- A. The purpose of this Title is to implement the Town of Lyman's Comprehensive Plan. This Title will be used to further the growth and development of the Town of Lyman consistent with the adopted Comprehensive Plan and its implementing elements. This Title will also further the purpose of promoting the health, safety, morals, convenience, comfort, prosperity, and general welfare of the Town's population.
- B. The specific zones and regulations herein are designed to facilitate adequate provisions of utilities, schools, parks and housing with essential light, air, privacy, and open space; to lessen congestion on streets and facilitate the safe movement of traffic thereon; to provide safe non-motorized trails and pedestrian walkways; to stabilize and enhance property values; to prevent the overcrowding of land; to facilitate adequate provisions for doing public and private business and thereby safeguard the community's economic structure upon which the prosperity and welfare of all depends and through such achievements help ensure the safety and security of home life, foster good citizenship, create and preserve a more healthful, serviceable and attractive municipality and environment in which to live.
- C. To most effectively accomplish these purposes, this Title divides the Town into zones wherein the location, height and use of buildings, the use of land, the size of yards and other open space, and the provision of off-street parking and loading are regulated and restricted in accordance with the Comprehensive Plan for the Town of Lyman. These zones and regulations are hereby deemed necessary and are made with reasonable consideration, among other things, as to the character of each zone and its particular suitability for specific uses, the need for such uses, the common rights and interests of all within the zone as well as those of the general public, and with the view of conserving and encouraging the most appropriate use of land throughout the Town.

#### **10.03.030 Scope.**

- A. The provisions of this Title shall apply to both public and private use of land within the corporate limits of the Town of Lyman.
- B. Hereafter, no use shall be conducted, and no building, structure and appurtenance shall be erected, relocated, remodeled, reconstructed, altered or enlarged unless in compliance with the provisions of this Title, and then only after securing all permits and approvals required hereby. It shall be unlawful to build or use any building or structure or to use premises in the Town for any purpose or use other than the uses listed as being permitted in the district in which such building, land, or premises are located.

- C. Any building, structure or use lawfully existing at the time of passage of this Title, although not in compliance therewith, may continue as provided in Chapter 10.66 herein.
- D. In interpreting and applying the provisions of this Title, they shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. It is not intended by this Title to interfere with, abrogate or annul any easements, covenants or other agreements between private parties. However, where this Title imposes a greater restriction upon the use of land and/or building or in general requires higher standards than other ordinances, rules, or private agreements, the provisions of this Title shall govern.
- E. No division of land shall occur unless in compliance with the provisions of this Title.
- F. This Title is not intended to regulate the erection, construction, or reconstruction of public streets, power poles, street lights, utility lift stations, transmission lines, or other public uses necessary to support the general public welfare, carried on by the Town of Lyman, or agents of the Town working under the appropriate contract or franchise.
- G. A Land Use Permit issued pursuant to Chapter 10.68 shall be required to establish or change use as provided by this Title. Issuance of a building permit shall constitute the Land Use Permit for a Type I decision as described in Section 10.68.030A.

**10.03.040 Administrative interpretations.**

- A. The Town Planner shall be authorized to interpret the meaning of words, phrases and sentences which relate to the determining of uses permitted in the various districts, approval or disapproval of development plans, or other related zoning actions.
- B. The Town Planner may permit other uses in a zone other than those which are listed, if the Planner determines the use is consistent with the intent of the zone and is of the same general character of the uses permitted within the zone.
- C. The Town Planner may promulgate Administrative Rules in accordance with the State Administrative Procedures Act to clarify the application and interpretation of the code.
- D. Administrative rules may be appealed to the Town Council as prescribed in Chapter 10.68.

**10.03.050 Zoning for annexed land.**

Prior to any parcel of land being annexed to the Town, the property may be zoned consistent with the Lyman zoning districts and the Comprehensive Plan amended if necessary.

Application for the rezone and necessary amendment may be done simultaneously with the request for annexation.

For property that is not zoned prior to annexation the property shall assume the R-A designation upon annexation.

If applicable, the Planner may be empowered to initiate a rezone application from the R-A designation to a zone compatible with the Comprehensive Plan. This rezone process shall occur within six (6) months of the date of annexation.

**10.03.060 Relationship to other Titles, Chapters and Codes.**

The administrative provisions of this Title including Chapter 10.68, Land Use Permit Process and Chapter 10.84 Enforcement of the Zoning Code, shall apply to Subdivisions, State Environmental Policy Act , Critical Areas, and Construction of Streets, Sidewalks and Storm Drains.

## Chapter 10.06

### DEFINITIONS

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**10.06.010                      Generally.**

Except where specifically defined herein, all words used in this title shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "Shall" is always mandatory, the word "May" denotes a use of discretion in making a decision: the words "Used" or "Occupied" shall be considered as though followed by the words "Or intended, arranged or designed to be used or occupied".

**10.60.020                      Accessory building.**

A subordinate building, the use of which is incidental to the use of the main building on the same lot.

**10.06.030                      Accessory use.**

A use incidental and subordinate to the principal use and located on the same lot or in the same building as the principal use.

**10.06.040                      Alley.**

A public thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

**10.06.050                      Alterations.**



A change or rearrangement of the structural parts or exit facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another. In buildings for business, commercial, industrial or similar uses the installation or rearrangement of partitions affecting more than one-third (1/3) of a single floor area shall be considered an alteration.

**10.06.060                    Area, building.**

The total ground coverage of a building or structure which provides shelter measured from the outside of its external walls or supporting members or from a point four (4) feet in from the outside edge of a cantilevered roof.

**10.06.070                    Area, site.**

The total horizontal area within the property lines excluding external streets.

**10.06.080                    Boarding house.**

A dwelling in which not more than four roomers and/or boarders are housed or fed.

**10.06.090                    Building.**

A building is a structure as herein defined. When separated by division walls without openings each portion so separated shall be considered a separate building.

**10.06.100                    Building height.**

Height of building means the vertical distance measured from the finished grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs. If a structure has none of the above features then the height shall be measured from the finished grade to the highest portion of the structure.

**10.06.110                    Building line.**

A corner of part of a building nearest the property line.

**10.06.120                    Building site.**

See Area Site, Section 10.06.070

**10.06.130                    Conditional use.**

Uses which may be permitted as principal or accessory uses when authorized by the Council pursuant to specified standards.

**10.60.140                    Council.**

The term "council" or "town council" shall mean the Town Council of the Town of Lyman.

**10.06.150                    Court.**

An unoccupied open space bounded on three or more sides by buildings or lot lines on which walls are permitted.

**10.06.160                    Coverage.**

The area of a lot which is covered by a roofed structure.

**10.06.170                    Density.**

The permitted ratio of residential units to land area and/or the permitted ratio of building size to land area.

**10.06.180                    Detached building.**

A building surrounded on all sides by open space.

**10.06.190                    Developed land area.**

Those parts of a land parcel that have been extensively improved for an existing land use including building coverage, parking and loading areas, service yards and landscaped areas.

**10.06.200 Director, or Planning Director.**

The Town Council generally serves as the Director, unless staff support is available.

**10.06.200 Discontinue.**

To cease to operate, use, or take; to end.

**10.06.210 Dwelling, single-family.**

A detached building containing but one kitchen, designed for and occupied exclusively by one family.

**10.06.220 Dwelling, two-family.**

A building containing two kitchens and designed to be occupied by two families living independently of each other.

**10.06.230 Dwelling, multi-family.**

A building designed to house three or more families living independently of each other.

**10.06.240 Dwelling unit.**

A building or portion thereof providing complete housekeeping facilities for one family.

**10.06.250 Family.**

One person or two or more related or unrelated persons living together as a single, nonprofit housekeeping unit.

**10.06.260 Floor area.**

The sum of the gross horizontal areas of the floors of a building or buildings, measured from the exterior faces of exterior walls and from the center line of division walls. Floor area shall include: Basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of 7 feet, 6 inches or more, penthouse floors, interior balconies and mezzanines, enclosed porches. Floor area shall not include: Accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than 7 feet, 6 inches, exterior steps or stairs, terraces, breezeways and open spaces. See also 10.54.010(F).

**10.06.270 Garage, private.**

A sheltered or enclosed space designed and used for the storage of the motor vehicles or boats of the residents of the premises.

**10.06.280 Garage, public.**

A building or portion thereof designed and used for the storage, repair or servicing of motor vehicles or boats as a business.

**10.06.290 Gas station.**

Any area of land, including the structures thereon, that is used for the sale of gasoline or other motor fuels, oils, lubricants and auto accessories and which may or may not include washing, lubricating, motor tuning and other minor servicing but not painting operation, body work or major auto repair.

**10.06.300 Home occupation.**

An occupation or profession which is customarily incident to or carried in a dwelling place and not one in which the use of the premises as a dwelling place is largely incidental to the occupation carried on, and which occupation is carried on by a member of the family residing within the dwelling place.

**10.06.310 Hospital.**

A building designed and used for the medical and surgical diagnosis, treatment and housing of persons under the care of doctors and nurses. Rest homes, nursing homes, convalescent homes and clinics are not included.

**10.06.320 Hotel.**

A building or portion thereof designed or used for the transient rental of five or more units for sleeping purposes. A central kitchen and dining room and accessory shops and services catering to the general public can be provided. Not included are institutions housing persons under legal restraint or requiring medical attention or care.

**10.06.330 Inoperable vehicle.**

A car, truck, bus or van that cannot be started and moved under its own power. A vehicle that is not currently licensed, including a recreational vehicle or trailer, that is designed for travel on the public roads, is also considered an inoperable vehicle.

**10.06.340 Junk storage.**

The temporary or permanent storage outdoors of junk, waste, discarded, salvaged or used materials or inoperable vehicles or vehicle parts. This definition shall include but not be limited to the storage of used lumber, scrap, metal, tires, household garbage, furniture, and inoperable machinery, and as further defined in the current edition of the Uniform Fire Code. This definition shall not include outdoor storage of normal residential equipment and related activities such as garden tools lawn mowers, wood piles, grass clippings, and similar items.

**10.06.350 Junk yard.**

A lot, land or structure, or part thereof, used for the collection, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage, salvaging or sale of parts or machinery or vehicles not in running condition.

**10.06.360 Kennel.**

More than three dogs and/or two litters of unweaned pups constitutes a kennel.

**10.06.370 Land use.**

The type of use activity occurring on a land parcel or within a building situated upon a land parcel.

**10.06.380 Land use permit.**

The document issued to an applicant which records all land use decisions which are made by the town on a land use application. Construction permits are excluded.

**10.06.390 Lot.**

A lot in the meaning of this title is a single tract of land, no matter how legally described, whether by metes and bounds and/or by lot or lots and block designation as in a recorded plat, that at the time of applying for a building permit is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control and assigned to the particular use for which the building permit is being secured.

**10.06.400 Lot, corner.**

A lot at the junction of and fronting on two or more intersecting streets. A corner lot has two front and two side yards.

**10.06.410 Lot depth.**

The mean dimension of the lot from the front street line to the rear line.

**10.06.420 Lot interior.**

A lot fronting on one street.

**10.06.430                    Lot width.**

The dimension of the lot line at the street, or in an irregular shaped lot the dimension across the lot at the building line, or in a corner lot the narrow dimension of the lot at a street or building line.

**10.06.440                    Mailed notice.**

Notice mailed to all property owners, commercial lessees and all residents of the area within a specified distance of the boundaries of the site of a proposed action.

**10.06.450                    Major auto repair.**

Vehicular repair involving welding or the removal, replacement or opening of the radiator, motor block, transmission or differential for other than fluid check or fill.

**10.06.460                    Manufactured home.**

Manufactured home means a structure, transportable in one or more sections from its manufacturer, retailer or wholesaler to its destination. A manufactured home is designated primarily for residential occupancy by human beings and the term includes mobile home or modular home.

**10.06.470                    Mean depth.**

The mean depth of a lot is the depth of such lot measured on a line approximately perpendicular to the fronting street and midway between the side lines of such lot.

**10.06.480                    Mobile home.**

Mobile home shall mean a factory constructed residential unit with its own independent sanitary facilities, that is intended for year-round occupancy and is composed of one or more major components which are mobile in that they can be supported by wheels attached to their own integral frame or structure over the public highway under license or by special permit.

**10.06.490                    Mobile home park.**

An area of land occupied or designed for the occupancy of two or more mobile homes.

**10.06.500                    Nonconforming structure.**

A structure which was lawful when established which does not now conform to the development standards of the zone in which it is located. A structure shall be considered established if it conformed to applicable zoning regulations at any time, or when it is built under permit, a permit for the structure has been granted and has not expired, or the structure is substantially underway as evidenced by timely called inspections complying with the Uniform Building Code.

**10.06.510                    Nonconforming use.**

A use of land or a structure which was lawful when established and which does not now conform to the use regulations of the zone in which it is located. A use shall be considered established if it conformed to applicable zoning regulations at any time, or when it has commenced under permit, a permit for the use has been granted and has not expired, or a structure to be occupied by the use is substantially underway as evidenced by timely called inspections complying with the Uniform Building Code.

**10.06.520                    Parking space.**

An off-street space used to temporarily park a motor vehicle and having access to a public street or alley.

**10.06.530                    Permitted use.**

Any use authorized or permitted alone or in conjunction with another use in specific district and subject to the limitations of the regulations of such use district.

**10.06.535                    Planner, Town.**

The Town Council shall be authorized to designate the Town Planner for individual permits or specific actions, or may function as the Town Planner.

**10.06.540                    Primary use (or principal use).**

The use for which a lot, structure or building, or the major portion thereof, is designed or actually employed.

**10.06.550                    Public hearing.**

A duly advertised public meeting called by the Town Council, board, or commission of the Town for the purpose of taking formal public comment, both in favor and opposition to a proposed action.

**10.06.560                    Recreational Vehicle Park.**

A facility designed to accommodate recreational vehicles or trailers no longer than 40 feet and capable of being pulled with a one half ton truck, designed to provide the amenities necessary for permanent residents and accommodating overnight guest. Units shall at all times be prepared for evacuation in event of flood warning.

**10.06.570                    Rezone.**

Means an amendment to the Official Zoning Map to change the zone classification of an area.

**10.06.580                    Service or storage yard.**

An accessory yard used for the storage of equipment, vehicles or materials and/or outdoor fabrication or processing of materials or devices.

**10.06.590                    Setback.**

Yard requirements. The distances that buildings or uses must be removed from their lot lines.

**10.06.600                    Sign.**

Any visual presentation or representation whatsoever which is displayed outside in view of the general public so as to bring attention to the subject thereof. This definition specifically includes billboards, ground-mounted signs, free-standing signs, wall signs, roof signs, logo signs, and signs on marquees, awnings, canopies and furniture. Specifically excluded are house numbers; the flag, badge or insignia of any government or government agency and any authorized traffic control sign. Each display surface of the sign shall be considered to be a sign.

**10.06.610                    Sign area, or surface area.**

The area, on the largest single face of a sign, within a perimeter which forms the outside shape of a sign. If the sign consists of more than one module, the total area of all modules will constitute the sign area. The area of a sign having no such perimeter or border shall be computed by enclosing the entire copy area within the outline of either a parallelogram, triangle, circle or any other easily recognized geometric shape and then computing the area. Where a sign is of a three-dimensional, round or irregular shape, the largest cross section shall be used in flat projection for the purpose of computing sign area.

**10.06.620                    Sign, electronic message center.**

A sign, display or device, or portion thereof, whose message may be changed by electronic process or remote control and includes electronic time and temperature displays and the device known in the advertising industry as a commercial electronic variable message sign.

**10.06.630                    Sign, free-standing.**

A sign erected and maintained on a free-standing frame, mast or pole and not attached to any building but does not include ground-mounted signs.

**10.06.640                    Sign, ground-mounted.**

A sign which extends from the ground or which has a support which places the bottom thereof less than three (3) feet from the ground and which does not exceed an overall height of six (6) feet.

**10.06.650                      Sign, logo.**

A sign consisting of a trademark or symbol.

**10.06.660                      Sign, message.**

Anything displayed on an electronic message center sign, including copy and graphics. A "traveling message" is any message which appears to move across an electronic message center sign.

**10.06.670                      Sign, off-premises.**

A sign which advertises goods, products or services which are not sold, manufactured, or distributed on or from the premises or facilities on which the sign is located.

**10.06.680                      Sign, public service information.**

Any sign or message on an electronic message center sign which provides the time, date, temperature, weather or information concerning civic, charitable or other non-commercial activities.

**10.06.690                      Sign, segmented message.**

Any message or distinct subunit of a message presented by means of at least one display change on an electronic message center sign.

**10.06.700                      Solid planting.**

A planting of evergreen trees and shrubs which will prevent a through and unobscured penetration of sight or light.

**10.06.710                      Story.**

The part of a building lying between two floors or between the floor and ceiling of the highest usable level in the building.

**10.06.720                      Street.**

A public thoroughfare which affords the principal means of access to abutting properties.

**10.06.730                      Structure.**

A combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground. Not included are residential fences six (6) feet or less in height, retaining walls less than three (3) feet in height, rockeries and similar improvements of a minor character.

**10.06.735                      Town or Town Council.**

The elected officials and staff of the Town of Lyman, who generally administer this code.

**10.06.740                      Tract.**

A lot, usually several acres in area.

**10.06.750                      Variance.**

Relief from certain provisions of this Title as authorized by the town council after determining that the criteria established for the granting of variances have been satisfied.

**10.06.760                      Yard.**

An unoccupied space open to the sky, on the same lot with a building or structure. Eaves and masonry chimneys may protrude a maximum of 36 inches into a required yard.

**10.06.770                      Yard, front.**

An open unoccupied space extending from the principal street line to the nearest wall of a building on the lot and including the full width of the lot to its side lot lines. See Yard.

**10.06.780                      Yard, rear.**

An open unoccupied space extending from the rear lot line to the nearest wall of the main building on the lot and including the full width of the lot to its side lines. See Yard.

**10.06.790                      Yard, side.**

An open unoccupied space extending from the front yard to the rear yard and from the nearest wall of the main building to the side lot line. See Yard.

Chapter 10.09

DISTRICT ESTABLISHMENT, MAPS AND BOUNDARIES

Sections:

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10.09.040	District boundaries--Shown on zoning map.
10.09.050	District boundaries--Rules for interpretation.
10.09.060	Conformity with district regulations required.

**10.09.010 Districts established.**

In order to classify, segregate, and regulate the uses of land, buildings, and structures, the town is divided into the following use districts:

- R-1 Single Family Residence district
- B-C Business and Commercial district,
- M-C Heavy Commercial and Industrial district,
- O-S Open Space and Parks district,
- P Public Lands district.

**10.09.020 Unclassified areas.**

All lands not classified according to the aforementioned classifications on the official zoning maps, and all lands, if any, of the town not shown on officially adopted zoning maps, shall be considered unclassified and, pending future classification, shall be subject to other restrictions and regulations of the R-1 district.

**10.09.030 District boundaries--Established.**

The boundaries of such use districts as are shown upon any zoning map adopted by this title, or amendments thereto, are adopted and approved and the regulations of this title governing the uses of land, buildings and structures, the height of buildings and structures, the sizes of yards about buildings and structures, and other matters as set forth in this title are hereby established and declared to be in effect upon all land included within the boundaries of each and every use district shown upon each zoning map.

**10.09.040 District boundaries--Shown on zoning map.**

The boundaries of use districts shall be determined and defined or redefined from time to time, by the adoption of zoning maps covering the town and showing the geographical area and location of said use districts. Each zoning map shall be, upon its final adoption, a part of the zoning ordinance codified in this title, and said map, and all notations, references and other information shown thereon, thereafter shall be as much a part of this title as though all matters and information set forth on said map were fully described in this title.

**10.09.050 District boundaries--Rules for interpretation.**

When uncertainty exists as to the boundaries of any use district shown on zoning maps, the following rules of construction shall apply:

- A. Where district boundaries are indicated as approximately following the centerline of streets, alleys or highways, the actual centerline shall be construed to be the boundary.
- B. Where district boundaries are indicated as running approximately parallel to the centerline of a street, the boundary line shall be construed to be parallel to the centerline of the street.



- C. Where district boundaries are indicated on such map as approximately following the lot or tract lines, the actual lot or tract lines shall be construed to be the boundary of such use district.
- D. Where a district boundary on such zoning map divides a tract in unsubdivided property, the location of such use district boundary, unless the same is indicated by dimensions thereon, shall be determined by use of the scale appearing on such zoning map.
- E. Where a public street or alley is officially vacated or abandoned, the regulations applicable to the abutting property to which the vacated portion shall revert shall apply to such vacated or abandoned street or alley.
- F. Where district boundaries are indicated on such map as approximately following the baseline of a steep slope that forms a natural barrier this baseline shall be construed to be the boundary of such use district.
- G. In case uncertainty exists which cannot be determined by application of the foregoing rules, the town council shall determine, the location of such use district boundaries.

**10.09.060 Conformity with district regulations required.**

Except as otherwise provided in this title:

- A. No building or structure shall be erected and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building structure or premises be used, designed or intended to be used for any purpose or in any manner other than a use listed in this title or amendments thereto or permitted in the use district in which such land, building, structure or premises is located.
- B. No building or structure shall be erected, nor shall any building or structure be moved, altered, enlarged or rebuilt, nor shall any open spaces surrounding any building or structure be encroached upon or reduced in any manner, except in conformity with the building site requirements and the area, yard and height regulations established by this title or amendments thereto for the use district in which such building or structure is located.
- C. No yard or other open spaces provided about any building or structure for the purpose of complying with the regulations of this title or amendments thereto shall be considered as providing a yard or open space for any other building or structure.

**Chapter 10.15**

**R-1 LAND USE DISTRICT**

**Sections:**

10.15.010	Intent.
10.15.020	Permitted primary uses.
10.15.030	Uses requiring permit.
10.15.040	Additional regulations.
10.15.050	Area and dimensional regulations.

**10.15.010                      Intent.**

The R-1 single-family residential zones are intended to create a living environment of optimum standards for single-family dwellings. It is further intended to limit development to relatively low degrees of density. This district will provide for the development of single-family detached dwellings, not more than one such dwelling on each lot, and for such accessory uses as are related, incidental and not detrimental to the residential environment.

**10.15.020                      Permitted primary uses.**

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this Title:

- A. One detached single-family dwelling, not to exceed one dwelling on any lot;
- B. Keeping of not more than three (4) household pets, which can be kept in the home. This limit shall not include birds, fish, or suckling young of pets;
- C. Municipal parks, playgrounds;
- D. Schools.

**10.15.025                      Permitted Accessory Uses.**

- A. Accessory uses to include residential garage, guest cottage, recreation room, tool shed, non-commercial greenhouse and swimming pool;

**10.15.030                      Uses requiring permit.**

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of this code:

- A. Day-care limited to a mini day-care center; family day-care home, as defined by the State Department of Social and Health Services (DSHS).
- B. Duplex.
- C. Government facilities;
- D. Home occupations;
- E. Kennels;
- F. Neighborhood recreational buildings and facilities;
- G. Private country clubs and golf courses, excluding driving ranges;
- H. Religious institutions;
- I. Utility substations.

**10.15.040 Additional Regulations.**

- A. A manufactured home may be allowed to be placed within any residential zone that allows single-family homes, provided the following conditions are met:
1. The home is comprised of at least two fully enclosed parallel sections each of not less than twelve feet wide by thirty-six feet long;
  2. The home must be placed on a permanent foundation similar to that required of other residential construction;
  3. The home was originally constructed with and now has a pitched roof with a slope no less than 3 " rise to 12" run, and the roof must be an integral part of the home and shall be made of either composition, shakes or shingles (wood or metal);
  4. The home has exterior siding similar in appearance to siding materials commonly used on conventional site-built Uniform Building Code single-family residences;
  5. All requirements of this Title and other applicable regulations must be met.
- B. Rooms may be rented to no more than two persons, other than the family occupying a single-family dwelling, provided there is compliance with health and building code requirements.
- C. Accessory buildings and structures as defined in Chapter 10.06 are permitted provided that they are within the setbacks required of the main building, that they are at least 10 feet from each other and the main building if detached.
- D. Accessory buildings may be located in the rear yard but not nearer than 5 feet to rear or side property lines, except where on an alley in which case they may be on the rear property line.
- E. Horses, beef cattle or other domestic farm animals are permitted on the condition that the number of animals not exceed a ratio of 1 per 1 acre of fenced pasture area. The keeping of mink or foxes is prohibited.
- F. No recreational vehicle, trailer, bus, or van shall be used as a place of habitation except as provided in subsection I below.
- G. See Chapter 10.54 for parking requirements.
- H. Junk storage and the keeping of more than one (1) inoperable vehicle is prohibited outdoors unless in a solid fenced yard and not visible from the street. See also Nuisance Code.
- I. Accessory dwelling units shall be permitted as an additional means of providing opportunities for affordable housing in an existing owner occupied residence. The following criteria for approval shall be met in order to establish an accessory dwelling unit:
1. Maintain single-family appearance and character.
  2. New entrances only on side or rear.
  3. Provide one off-street parking space.
  4. Location shall be within or attached to the residence; not in detached accessory structures such as guest house or garage unless the lot is in excess of 12500 feet<sup>2</sup> in area, provided that a recreational vehicle or trailer may be used as an accessory dwelling for a period not to exceed six months in any consecutive 12-month period.
  5. An additional water service fee will be charged for the accessory dwelling unit after 30 days usage.
  6. The primary dwelling or the accessory dwelling shall be occupied by the owner. The residence must have been owner occupied for at least three years since the construction date. Covenants regarding ownership requirements shall be filed with the county.

7. The immediate neighbors shall be notified and a public hearing shall be held before the Town Council.
8. The Council shall have the final authority to grant, grant with conditions, or deny the request.

J. Home occupations are allowed subject to compliance with Section 10.45.080.

**10.15.050 Area and dimensional regulations.**

A. Minimum Lot Requirements.

1. Minimum Lot Area: 12,500 square feet, or such area as necessary to meet applicable state or county on-site septic systems requirements, whichever is greater.
2. Minimum lot width at building line: 60 feet.
3. Minimum lot width at street line: 20 feet.
4. Minimum mean depth of lot: 80 feet.
5. Access to lots shall be from a dedicated street, unless the director determines that the following conditions exist, and permits access by a permanent private easement:
  - a. Access by easement would not compromise the goals of the zoning code to provide for adequate light, air and usable open space between structures; and
  - b. The dedication and improvement of a street is not necessary or desirable to facilitate adequate water supply for domestic water purposes or for fire protection, or to facilitate adequate storm drainage; and
  - c. The dedication and improvement of a street is not necessary or desirable in order to provide on-street parking for overflow conditions; and
  - d. No potential safety hazards would result from multiple access points between existing and future developments onto a roadway without curbs and with limited sight lines; and
  - e. There is no potential for extending the street system.
  - f. Minimum width of an easement shall be thirty (30) feet.

B. Minimum Setback Requirements.

1. Front yard minimum mean depth: 20 feet.
2. Side yard minimum mean width: 5 feet. The total of the two side yards shall be 15 feet. Side of building means the out face of any part of the building roof eaves.
3. Rear yard minimum mean depth: 20 feet.

C. Maximum land coverage by buildings:

1. Total: 35 percent.
2. Accessory buildings 50 percent of rear yard.

D. Maximum building height: two and one-half stories (2-1/2), but not more than 35 feet except that churches may exceed this height when approved by plan review (see Sections 10.68.030 and 10.68.040).

## Chapter 10.33

### B-C BUSINESS AND COMMERCIAL DISTRICT

#### Section:

10.33.010	Intent.
10.33.020	Permitted primary uses.
10.33.030	Accessory uses.
10.33.040	Uses requiring permits.
10.33.050	Area and dimensional regulations.
10.33.060	Supplemental development standards.

#### **10.33.010**                      **Intent.**

To preserve the existing central business district of the town and provide for its expansion. The intent and objective of this classification and its application is to set apart that portion of the Town which forms the center for financial, commercial, governmental, professional, and cultural activities all of which have common or similar performance standards in that they represent types of enterprises involving the rendering of services, both professional or to the person, or on-premise retail activities. This zone encourages leisure shopping and provides amenities conducive to attracting pedestrian shoppers.

#### **10.33.020**                      **Permitted primary uses.**

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this Title:

- A. Apartments, provided they are located in a multi-story building the ground floor of which must contain a permitted use as listed in Section 10.33.020. Where public sewer is available, no density limitations shall apply.
- B. Art, music and photography studios;
- C. Automobile parking facilities;
- D. Bakery and pastry shops, products made must be sold at retail on premises;
- E. Banking and related financial institutions, excluding drive-in facilities;
- F. Caretaker apartment;
- G. Civic, social, and fraternal clubs;
- H. Convenience stores;
- I. Day-care, including family day-care homes and child day-care centers as defined by DSHS, preschools or nursery schools;
- J. Delicatessens;
- K. Dry cleaning and laundry services;
- L. Funeral homes;
- M. Grocery stores;
- N. Hobby shops;
- O. Hospitals, to include small animal, but does not allow outside runs or kennels;
- P. Hotels;
- Q. Laundry, self service;
- R. Liquor store;
- S. Meeting rooms and/or reception facilities;
- T. Motels;
- U. News syndicate services;
- V. Newsstands;
- W. Nursing homes;
- X. Personal service shops;
- Y. Pharmacies;

- Z. Printing and publishing;
- AA. Professional offices;
- BB. Radio and television broadcasting studios;
- CC. Retail stores and shops, including department and variety stores which offer for sale the following and similar related goods:
  - 1. Antiques;
  - 2. Art supplies;
  - 3. Automobile parts and accessories, excludes service and machine shops;
  - 4. Baked goods;
  - 5. Beverages;
  - 6. Bicycles;
  - 7. Books and magazines;
  - 8. Candy, nuts, and confectionery;
  - 9. Clothing;
  - 10. Computers;
  - 11. Dairy products;
  - 12. Dry goods;
  - 13. Flowers and house plants;
  - 14. Fruits and vegetables;
  - 15. Furniture and home furnishings;
  - 16. Hardware, including electrical, heating, plumbing, glass, paint, wallpaper and related goods;
  - 17. Home garden supplies;
  - 18. Household appliances;
  - 19. Household pets;
  - 20. Housewares;
  - 21. Jewelry and clocks;
  - 22. Meat, fish and poultry, pre-processed;
  - 23. Notions;
  - 24. Office supplies and equipment;
  - 25. Photographic equipment, including finishing;
  - 26. Radio, television, and stereos;
  - 27. Shoes;
  - 28. Sporting goods;
  - 29. Stationery;
  - 30. Toys.
- DD. Religious institutions;
- EE. Restaurants, including outdoor seating, but excludes drive-in facilities. Sale of alcoholic beverages is a secondary use and is limited to on-premise consumption;
- FF. Schools, including art, business, barber, beauty, dancing, martial arts and music;
- HH. Secretarial services;
- II. Theaters, except drive-in;
- JJ. Other uses may be permitted by the Planning Director if the use is determined to be consistent with the intent of the zone and is of the same general character of the uses permitted in this section.

**10.33.030                      Accessory uses.**

- A. Accessory buildings or multi-building developments with uses complimentary and related to a dominant or primary use; provided control of building design, location and site development is retained by the dominant use. In such coordinated developments the site area requirement shall apply to the group of buildings and the yard requirements to the site perimeter.
- B. Off-street parking and loading area requirements: See Chapter 10.54 for standards including on-site and off-site parking facilities and special contracts.

C. Signs: See Chapter 10.63.

**10.33.040 Uses requiring permit.**

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of Chapter 10.68:

- A. Apartments;
- B. Arcades;
- C. Automobile sales and leasing, new and/or used, including light pick-up trucks and vans but not including recreational vehicles or heavy trucks, provided the following requirements are met:
  - 1. No repairing, painting, or body work, shall be conducted outside of a building;
  - 2. If adjacent to an R-1 zone, a sight obscuring fence or landscape screen shall be required;
  - 3. A minimum of a 25' setback shall be required of any building from the R-1 zone;
  - 4. Other landscaping or architectural improvements may be required to ensure compatibility with present and potential B-C uses in the vicinity.
- D. Automobile service stations;
- E. Drive-in facilities, including banks and restaurants;
- F. Government facilities, this excludes offices and related uses that are permitted outright;
- G. Household goods storage, provided the following requirements are met:
  - 1. No more than two main entrances and/or exits to the building and access to the individual storage area be from the inside of the building;
  - 2. Landscaping and architectural improvements required to ensure compatibility with present and potential B-C uses in the vicinity.
- H. Single-family dwelling;
- I. Taverns, dance halls, music auditoriums;
- J. Utility substations.

**10.33.050 Development standards.**

- A. Minimum Lot Area: 12,500 square feet, or such area as necessary to meet applicable state or count on-site septic systems requirements, whichever is greater.
- B. Minimum lot width: 60 feet
- C. Minimum lot depth: none required.
- D. Maximum lot coverage: none required.
- E. Maximum building height: four (4) stories not to exceed forty-five (45 feet).
- F. Minimum yard setbacks:
  - 1. Front: 0 feet;
  - 2. Side, interior: none required.
  - 3. Side, street: 0 feet;
  - 4. Rear, none required.
- G. Maximum Setback Requirement in all other locations:
  - 1. Ten (10) feet from the property line on the street side for new construction. If the new construction occurs on a corner lot, the maximum setback shall apply to each boundary line adjacent to a street.
  - 2. Parking shall not be located in the setback in front of the building.
  - 3. Exceptions which may be authorized through the Town Council Plan Review process include the following list:

- a. Drive in businesses shall have the building setback established as part of the conditional use permit for the drive in use.
- b. Utility easements.
- c. When a wider sidewalk or additional landscaping is approved at the building entrance.
- d. Architectural design features such as a unique building entrance, outside seating area, pocket park or similar element.
- e. Irregular shaped lots or lots that do not directly abut the right of way.
- f. Site development that incorporates existing buildings, when needed to preserve existing visual and physical access.
- g. Other exceptions consistent with the intent of providing a well defined street edge and pedestrian oriented streetscape.

- H. Fences: see Chapter 10.50
- I. Parking: see Chapter 10.54
- J. Landscaping: see Chapter 10.50
- K. Signs: see Chapter 10.63

**10.33.060 Supplemental development standards.**

- A. All uses shall be conducted entirely within a building or structure except:
  - 1. Automobile parking lots;
  - 2. Display or sales of goods that do not extend eight (8) feet past the front of the building, do not block entrances or interfere with pedestrian travel, do not interfere with the parking areas and do not encroach upon public property.
  - 3. Outdoor seating for restaurants, theaters, or other entertainment;
  - 4. Temporary uses as permitted by the Town Council pursuant to the applicable ordinances;
  - 5. Unloading and loading areas;
  - 6. Utility substations;
  - 7. Refuse containers;
  - 8. Play areas for day-cares.
- B. Any repairing done on the premises shall be incidental only, and limited to custom repairing of the types of merchandise or equipment sold on the premises at retail. The floor area devoted to such repairing shall not exceed thirty (30) percent of the total floor area occupied by the particular enterprise, except that the limitations of this subsection shall not apply to shoe, radio, television, or other small appliance repair services.
- C. Storage shall be limited to accessory storage of commodities sold at retail on the premises or materials used in the limited fabrication of commodities sold at the retail on the premises. No outside storage is permitted.
- D. Operations conducted on the premises shall not be objectionable beyond the property boundary lines by reason of noise, odor, fumes, gases, smoke, vibration, hazard, or other causes.
- E. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use as regulated by Uniform Fire Code.



## Chapter 10.39

### M-C HEAVY COMMERCIAL AND INDUSTRIAL DISTRICT

#### Sections:

10.39.010	Intent.
10.39.020	Permitted uses.
10.39.030	Uses requiring conditional use permits.
10.39.040	Development standards.

#### **10.39.010**                      **Intent.**

The intent and objective of this classification and its application is to provide for the location of and grouping of enterprises which may involve some on premise retail service but with outside activities and display or fabrication, assembling, and service features. The M-C zone is also intended to provide for general manufacturing and processing and grouping of industrial enterprises which possess common or similar characteristics and performance standards involving manufacturing, assembling, fabrication and processing, bulk handling of products, large amounts of storage and warehousing, outdoor storage, processing and other related uses. The uses enumerated in this classification are considered as having common or similar performance standards in that they are heavier in type than those uses permitted in the more restrictive commercial classifications.

#### **10.39.020**                      **Permitted uses.**

Hereafter all buildings, structures, or parcels of land shall only be used for the following, unless otherwise provided for in this Title:

- A. Automobile and truck rental;
- B. Automobile and truck sales new and/or used;
- C. Automobile repair services;
- D. Automobile service station;
- E. Automobile washes;
- F. Basic wood processing including sawmills, planing mills, veneering, laminating of wood, shake and shingle mills, pole and piling mills, and plywood mills;
- G. Bingo halls;
- H. Boat building and accessory fabrication;
- I. Building movers;
- J. Bus passenger terminals;
- K. Caretakers quarters, not more than one per establishment;
- L. Civic, social and fraternal associations;
- M. Cold storage plants;
- N. Commercial laundries;
- O. Contractor trade services including storage yards;
- P. Convenience grocery stores;
- Q. Dry-cleaning and laundry services;
- R. Eating establishments limited to serving a permitted use on same site;
- S. Enameling, galvanizing and electroplating;
- T. Equipment repair and storage; rental, leasing and sales;
- U. Food locker services;
- V. Health and physical fitness clubs;
- W. Heavy equipment and truck repair;
- X. Household movers and storage;

- Y. Janitorial services;
- AA. Job training and vocational education;
- BB. Laundry, self-service;
- CC. Lumber yards;
- DD. Manufacturing, assembling and packaging of articles, products, or merchandise from previously prepared natural or synthetic materials, including but not limited to bristles, canvas, cellophane, and similar synthetics, chalk, clays, (pulverized only, with gas or electric kilns), cloth, cork, feathers, felt, fiber, fur, glass, (including glass finishing), graphite, hair, horn, leather, paper, paraffin, plastic and resins, precious or semi-precious metals or stones, putty, pumice, rubber, shell, textiles, tobacco, wire, wood, and yarn;
- EE. Manufacturing establishments engaged in electronic, automotive, aerospace, airframe, or related manufacturing and assembly activities, including precision machine shops producing parts, accessories, assemblies, systems, engine, major components, and whole electronic or electrical devices, automobiles, aircraft, aerospace, or underwater vehicles, but specifically excluding explosive fuels and propellants;
- FF. Manufacturing, processing, assembling and packaging of precision components and products, including precision machine shops for products such as radio and television equipment, business machine equipment, home appliances, scientific, optical, medical, dental, and drafting instruments, photographic and optical goods, phonographic records and pre-recorded audio-visual tape, measurement and control devices, sound equipment and supplies, personal accessories, and products of similar character;
- GG. Manufacturing, processing, treating, assembling and packaging of articles, products or merchandise from previously prepared ferrous, nonferrous or alloyed metals;
- HH. Manufacturing, processing, blending and packaging of products such as the following:
  1. Soaps, detergents and other basic cleaning and cleansing materials;
  2. Mineral products such as abrasives, asbestos, chalk, pumice, etc.;
  3. Clay and cement products such as brick, tile, pipe, etc..
- II. Manufacturing, processing, blending and packaging of the following:
  1. Drugs, pharmaceuticals, toiletries, and cosmetics;
  2. Food and kindred products, such as confectionery products, chocolate, cereal breakfast food, bakery products, paste products, fruits and vegetables, beverages, prepared food specialties (such as coffee, dehydrated and instant food, extracts, spices and dressings) and similar products;
  3. Dairy products and by-products such as milk, cream, cheese and butter, including the processing and bottling of fluid milk, and cream and wholesale distribution;
- JJ. Manufacturing, assembling, packaging and development of computer equipment and software, and related products;
- KK. Mini storage warehouses;
- LL. Motorcycle sales and service;
- MM. Motor freight terminals and transportation;
- NN. Offices related to an on-site permitted use or larger than 50,000 square feet of floor area;
- OO. On-site day-care serving a specified permitted use;
- PP. On-site recreational facilities serving a specified permitted use.
- QQ. Outside storage yards;
- RR. Printing, publishing, and allied industries including such processes as lithography, etching, and engraving, binding, blueprinting, photocopying, and film processing;
- SS. Recreational vehicle sales lots;
- TT. Research, development and testing of permitted use;
- UU. Retail and wholesale trade of products manufactured, processed or assembled on-site;
- VV. Warehousing and distribution facilities, to include wholesale trade not open to general public;
- XX. Other similar uses and accessory uses and buildings appurtenant to a principle use which the Town Council finds compatible with the principle permitted uses described in this chapter and consistent with the purpose and intent of the M-C zone.

**10.39.030** **Uses requiring conditional use permits.**

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of Chapter 10.69.

- A. Animal and food processing including the following:
  - 1. Tanning and dressing of hides,
  - 2. Curing, canning, freezing, and processing of meat and seafood,
  - 3. Pickling and brine curing;
- B. Auction houses, including animals;
- C. Banks and financial institutions;
- D. Bulk storage or processing of oil, gas, petroleum, butane, liquid petroleum gas, and similar products, unless clearly incidental and secondary to support a principally permitted use;
- E. Commercial Recreation;
- F. Concrete mixing and batching plants, including ready-mix concrete facilities;
- G. Day-care, including family day care homes and child day care centers as defined by DSHS, preschools or nursery schools;
- H. Delicatessens;
- I. Drive-in theaters;
- J. Government facilities;
- K. Grocery stores;
- L. Manufactured/mobile home sales lots;
- M. Motels;
- N. Personal service shops;
- O. Professional offices including corporate headquarters;
- P. Radio and television broadcasting studios;
- Q. Radio and television transmitting towers;
- R. Rock crushing plants;
- S. Restaurants;
- T. Retail sales of the following and similar related products:
  - 1. Automobile parts and accessories, includes service and machine shops
  - 2. Bottled gas,
  - 3. Bicycles,
  - 4. Computers,
  - 5. Farm and garden supplies,
  - 6. Hardware and equipment,
  - 7. Lumber and building materials,
  - 8. Office supplies and equipment;
- U. Reupholstery and furniture repair;
- V. Secretarial services;
- W. Small appliance repair;
- X. Tavern;
- Y. Utility substations, unless clearly incidental and part of a permitted use;
- Z. Warehouse sales, open to the public.

**10.39.040**                      **Development standards.**

- A.     Minimum Lot Area:
1.     Minimum lot area: 12,500 square feet, or such area as necessary to meet applicable state or county on-site septic systems requirements, whichever is greater.
  2.     Minimum lot width:                      none required.
  3.     Minimum lot depth:                      none required.
- B.     Maximum lot coverage:                      none required.
- C.     Maximum building height:                      forty-five (45) feet. For those structures that exceed forty-five (45) feet, one additional foot of setback shall be provided for each foot the structure exceeds forty-five (45) feet.
- D.     Minimum yard setbacks:
1.     Front:                      0 feet.
  2.     Side, interior:                      none required.
  3.     Side, street:                      0 feet.
  4.     Rear:                      none required.

A twenty foot setback shall be required for any and each yard that abuts, adjoins, or is separated by a street, less than fifty (50) feet in width, any residentially zoned property. This additional setback requirement also applies to residentially zoned property that is unincorporated County land.

- G.     Fences: see Section 10.45.060

## Chapter 10.43

### O-S OPEN SPACE AND PARKS DISTRICT

#### Sections:

10.43.010	Intent.
10.43.020	Permitted primary uses.
10.43.030	Uses requiring permit.
10.43.040	Additional regulations.
10.43.050	Supplemental development standards.

#### **10.43.010**                      **Intent.**

It is the intent of this chapter to encourage desirable and appropriate land uses in areas of the Town which by reason of location, soil, topographic or flooding characteristics, public ownership, wetlands, wildlife habitat, or values to the community for scenic, recreation, agriculture, forest, or open space, are not suited to intensive land development patterns as determined by the Comprehensive Plan and may require specific management or development techniques. Use of this district may also allow for special assessment as open space under the provisions of Skagit County's open space taxation program. This district shall not, however, be construed as guaranteeing open space land valuation. To secure such assessment, application must be made to the County Assessor as set forth in Skagit County law. 60.6% of the town is classified as open space, due to the location along the Skagit River.

#### **10.43.020**                      **Permitted Primary Uses.**

Hereafter all buildings, structure, or parcels of land shall only be used for the following, unless otherwise provided for in this title:

- A. Agriculture, including crop land but specifically excluding livestock and poultry, machinery and equipment sheds or barns.
- B. Conservation areas including forest, wetlands and wildlife preserves.
- C. Parks, natural scenic areas, trails, walking and bicycle paths, excluding commercial amusement devices or operations.
- D. Playgrounds or playfields, including restrooms, storage buildings and refreshment stands.
- E. Reclamation areas limited to soil, forest, wildlife special flood risk or wetland.
- F. Community centers, recreational buildings, band shells and similar facilities.
- G. Parking facilities to support the permitted uses identified in this chapter.

#### **10.43.030**                      **Uses requiring permit.**

The following uses may be permitted when a conditional use permit has been issued pursuant to the provisions of this code:

- A. Uses similar to and compatible with the permitted uses. Conditional uses may not decrease the openness or interfere with the scenic or habitat value of the land.
- B. Installation of various public utilities into or across open space zones, and clearing of a vegetated natural area for one of the permitted uses listed above, subject to the following:
  - 1. In addition to the conditional use criteria of Chapter 10.68, it shall be shown that the intrusion is necessary to provide services to the open space for public benefit or safety; or for physical or technical reasons, and that no reasonable alternative is practicable.
  - 2. The design and plan shall create the minimum of surface and vegetation disturbance necessary to accomplish its purpose.

- 3. Underground of utilities shall be encouraged and required where site characteristics are suitable.
- C. Publicly owned golf courses and associated clubhouses.

**10.43.040 Additional Regulations.**

- A. Where open space zoning is established along a creek , slough or wetland , property owners may continue mowing, gardening or other normal maintenance activities.
- B. Protection and enhancement of water quality shall be required, including no excessive dumping of yard waste, no use of chemical pesticides or herbicides in wetlands or on water, and no dumping of hazardous waste, litter, rubbish or similar materials.

**10.43.050 Area and dimensional regulations.**

- A. Minimum setback requirements.
  - 1. Buildings and other structures shall be located a minimum of fifty (50) feet from any lot in a residential zone.
  - 2. Sports play areas and parking lots shall be located to minimize disruption of nearby residential uses.
- B. Maximum building height: One story not to exceed 20 feet.
- C. Parking: see Chapter 10.54.
- D. Landscaping: see Chapter 10.50.
- E. Signs: see Chapter 10.63.
- F. Performance standards: see Chapter 10.48.

**10.43.060 Supplemental development standards.**

- A. No on-site hazardous substance processing and handling, or hazardous waste treatment and storage facilities shall be permitted, unless clearly incidental and secondary to a permitted use, subject to the requirements of the Uniform Fire Code.

## Chapter 10.45

### SUPPLEMENTAL DEVELOPMENT STANDARDS

#### Sections:

10.45.010	Preexisting lots.
10.45.020	Special height restrictions.
10.45.030	Obstructions generally prohibited.
10.45.040	Marquees.
10.45.050	Fences.
10.45.060	Yards.
10.45.080	Home occupations.

#### **10.45.010**                      **Preexisting lots.**

Any lot of any size can be used for a building site, subject to the regulations governing the use district in which it is located, if it was officially recorded in town or county offices as a single lot prior to the adoption of the ordinance codified in this title, provided it has thirty-foot frontage on a public street or access to a public street by a twenty-foot wide private lane. Once vacant adjacent substandard lots are considered in ownership, they cannot revert to original lots of substandard size.

#### **10.45.020**                      **Special height restrictions.**

- A. There shall not be anything constructed or reconstructed, and no obstruction permitted to grow, other than a post, column or tree not exceeding one (1) foot square or one (1) foot in diameter, between a height three (3) feet and ten (10) feet above the established grade within the triangular areas described below, without the express approval of the Town Council
1. The triangular area formed by a line twenty (20) feet along the right of way lines of two (2) intersecting streets, measured from the point of intersection of the right-of-way lines, and the line connecting the two (2) ends of the two (2) twenty (20) foot lines,
  2. The triangular area formed by a line fifteen (15) feet along the street right of way line measured from the point of intersection of the alley right of way line and a line fifteen (15) feet along the alley right of way line measured from the point of intersection of the street and alley right of way lines and the line connecting the unconnected ends of the two (2) lines.
- B. In general, no fence, hedge, structure or other obstruction shall act as a sight hazard to traffic, and the Town Council may order the removal of such hazard whether or not such object otherwise complies with the provisions of this Title.

#### **10.45.030**                      **Obstructions, generally prohibited.**

1. In no case shall any fence and/or hedge be constructed or grown, within a distance of three (3) feet, around any fire hydrant; as well as no fence or hedge shall deter or hinder the Fire Department from gaining access to any Fire Department connection, fire protection control valve, fire hydrant, or Fire Department appliance or device;
2. In no case shall any fence and/or hedge obstruct the visibility of any fire hydrant from a distance of one-hundred-fifty (150) feet, in any direction, of vehicular approach to the hydrant;
3. In no case shall any fence and/or hedge be constructed or grown in a manner which interferes with access to storm or sanitary sewer manholes and other appurtenances which require access for maintenance purposes.

**10.45.040** **Marquees.**

In the business, commercial and industrial districts, the projection of marquees to the property line shall not be considered a violation of the building setback requirements. Marquees must conform to the construction requirements as set forth in the building code.

**10.45.050** **Fences.**

- A. Fences providing a maximum six foot sight obstruction from adjacent properties can be built on the side rear property lines and across the front of the property in line with the front of a building but not closer than twenty feet to the street right of way. Corner lots must observe the twenty-foot setback on both streets. From the twenty-foot line to the street right of way, solid fences a maximum of three feet high, measured from the ground on which the fence stands, are permitted and open rail fences a maximum of four feet, six inches high, measured from the ground on which the fence stands, are permitted in which the rails and posts constitute not more than one-third of the fence area.

**10.45.060** **Yards.**

- A. The following may project into required yards:
1. Fireplace structures, bay windows, garden windows, enclosed stair landings, closets, framed fireplace shafts or similar projections not wider than eight (8) feet measured in the general direction of the wall of which it is a part: eighteen (18) inches into any yard;
  2. Uncovered porches and platforms which do not extend above the floor level of the first floor: eighteen (18) inches into side yards and six (6) feet into the front yard and rear yard, provided they may extend three (3) feet into the side yard when they do not exceed eighteen (18) inches in height above the finished grade;
  3. Planting boxes or masonry planters not exceeding forty-two (42) inches in height may intrude into any required front yard;
  4. Eaves shall not protrude more than twenty-four (24) inches into any minimum required yard.
- B. Special front yard depth. If buildings occupy fifty (50) percent or more of the frontage in any block, and are on one side of the street, then the depth of the front yard required by this Title shall be disregarded on that side of the street in such block, and in lieu thereof the depth of front yard required on each lot therein shall be not less than average depth of the front yards. This shall apply to residentially zoned property only.

**10.45.080** **Home Occupations.**

- A. Home occupations are required to have a Business License as issued by the City Clerk, comply with all Town codes and ordinances, and shall be consistent with the following provisions:
1. Only members of the immediate family residing on the premises and up to one fulltime employee may be employed;
  2. No inventory is kept (other than incidental supplies necessary for and consumed in the conduct of such home occupation) or commodities sold other than those produced on the premises. Samples may be kept but not sold on the premises. Items commonly collected or traded, and occasionally sold by hobbyists such as coins, stamps, antiques, etc. may be considered to be exempt from this provision, as long as all other requirements of home occupations are met;
  3. No mechanical equipment is used except such as is customarily used for domestic, household or personal purposes (or as deemed similar in terms of power and type);
  4. Not more than one-fourth of the floor area of any building is devoted to such occupation, except accessory buildings which are used for no other purpose;
  5. That such occupation shall not require internal or external alteration or involve construction features not customarily found in a dwelling;



6. Shall not involve the use of commercial vehicles for the distribution of materials from the premises;
  7. The conduct of any home occupation, including but not limited to the storage of goods and equipment, shall not reduce or render unusable, areas provided for the required off-street parking. Additional parking is not allowed in order to conduct a home occupation;
  8. Only one sign is permitted, one (1) square foot in area, non-illuminating, and attached to a building;
  9. No display pertaining to the occupation, other than the one permitted sign is visible from the street or adjacent residences;
  10. No more animals are maintained on the premises than what may otherwise be permitted in the zone;
  11. The home occupation is to be conducted in such a manner that the residence shall not differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emissions of sound, noises, vibrations or odors.
  12. Relief from up to three of these standards may be authorized by the Town Council, if the intent of the home occupation requirements is still met.
- B. Exemptions. Garage sales, yard sales, bake sales, temporary home boutiques or bazaars for hand-crafted items, parties for the display of domestic products, and other like uses do not need to comply with the requirements of 10.45.080 as long as the use does not operate for more than four (4) days semi-annually or in violation of any other provisions of the Lyman Town Code. To qualify for this exemption, garage and yard sales must involve only the sale of household goods, none of which were purchased for the purpose of resale.
- C. A conditional use permit is required and must be granted by the Town Council for the following home occupation uses, even if the use meets all eleven (11) of the requirements of section A, but in no case shall any home occupation meet less than nine (9) of the eleven (11) requirements:
1. Automobile repair and rebuild;
  2. Craft classes;
  3. Home occupations that can only meet 9 or 10 of the 11 requirements as outlined in section A;
  4. Music and dancing studios;
  5. Martial arts classes;
- D. In considering applications for home occupation conditional use permits, the Town Council shall consider the nature and conditions of all adjacent uses and structures, and no such special home occupation permit shall be authorized unless the Town Council finds that the authorizing of such special home occupation permit will not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located, and that the authorization of such permit will be consistent with the spirit and purpose of this Title. In authorizing a permit, the Town Council may impose such requirements and conditions with respect to location, installation, construction, maintenance and operation and extent of open spaces in addition to those expressly set forth in this Title, as may be deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

## Chapter 10.48

### PERFORMANCE STANDARDS

#### Sections:

10.48.010	General.
10.48.020	Light and glare.
10.48.030	Electrical interference
10.48.040	Odorous gases and matter.
10.48.050	Smoke and particle matter emissions.
10.48.060	Dust, dirt, fly ash or airborne solids.
10.48.070	Waste storage.
10.48.080	Toxic gases and matter.
10.48.090	Vibration.
10.48.100	Hazardous substance and waste.

#### **10.48.010**                    **General.**

The following performance standards specifically govern industrial, manufacturing, processing, assembly and similar type uses typically found within the industrial zones. These standards may also apply to other uses and activities in other zones, which are not otherwise governed by other regulations.

#### **10.48.020**                    **Light and glare.**

Building materials with high light-reflective qualities shall not be used in the construction of buildings in such manner that reflected sunlight will throw intense glare to surrounding areas. Artificial lighting shall be hooded or shaded so that direct light of high-intensity lamps will not result in glare when viewed from residential areas surrounding a commercial or industrial district.

#### **10.48.030**                    **Electrical interference.**

Provisions must be made for necessary shielding or other preventive measures against interference occasioned by mechanical, electrical and nuclear equipment uses or processes with electrical apparatus in nearby buildings or land uses.

#### **10.48.040**                    **Odorous gases and matter.**

The emission of odorous gases or matter in such quantities as to be readily detectable, without special instruments, at any point beyond the property line of the use creating the odors, is prohibited.

#### **10.48.050**                    **Smoke and particulate matter emissions.**

No emissions shall exceed the allowances set forth by the Environmental Protection Agency, the Washington State Department of Ecology and/or the Northwest Sound Air Pollution Control Agency.

#### **10.48.060**                    **Dust, dirt, fly ash, or air-borne solids.**

No observable dust, dirt, fly ash or other air-borne solids shall be emitted except as related to construction activity.

#### **10.48.070**                    **Waste storage.**

Storage of animal or vegetable wastes which attract insects or rodents or otherwise create a health hazard shall be prohibited. No waste products shall be exposed to view, from eye level, beyond the property line of the use storing the waste.

#### **10.48.080**                    **Toxic gases and matter.**

No emissions of toxic gases or matter shall be permitted.

**10.48.090                      Vibration.**

Vibration which is easily discernible, without special instruments at any point beyond the property line, is prohibited. This shall not apply to vibration caused by highway vehicles, trains, aircraft or construction activities.

**10.48.100                      Hazardous substance and waste.**

No hazardous substances or wastes shall be released into the environment so as to cause dangerous or offensive emission or contamination of any public or private water supply, sewage treatment processes, watercourse or water body, the air, or, the ground, except in accordance with standards approved by provisions of federal, state and local laws and regulations, and the Uniform Fire Code.

**Chapter 10.50**

**LANDSCAPING**

**Sections:**

10.50.010	Purpose and intent.
10.50.020	Areas of application.
10.50.040	General standards.
10.50.050	Minimum area standards.
10.50.060	Street frontage requirements.
10.50.070	Perimeter landscaping.
10.50.080	Parking lot landscaping.
10.50.090	Screening requirements.
10.50.100	Minor modifications.

**10.50.010 Purpose and intent.**

Landscaping is necessary to provide a well balanced, aesthetically pleasing environment for the residents and visitors of Lyman. Specifically, these requirements are intended to accomplish the following:

- A. Maintain and enhance property values;
- B. Enhance the appearance of the development;
- C. Provide adequate buffers between different uses;
- D. Improve the character and appearance of the Town;
- E. Reduce erosion and stormwater runoff, and provide areas for biofiltration of sediments and oils;
- F. Retain and incorporate existing significant trees and natural drainage areas into site plans to the maximum extent practical.

**10.50.020 Areas of application.**

The standards of this section shall apply to all development within the Town, except:

- A. A single-family residence in any district in which a single-family residence is allowed;

**10.50.030 Application/review procedures.**

- A. Submittal Requirements. Landscape plans shall be submitted to the planning department, and shall include locations, spacing, quantities and sizes of proposed plants, dimensions of planting areas, calculation of percentage of site to be landscaped, staking and planting plans, irrigation plans (may be on separate sheet), and other non-plant features to be included in the landscaping, such as river rock, pedestrian paths, benches, large stones, garden ornaments, or special lighting features. Three sets of drawings shall be submitted.
- B. Town Council Review. Landscape plans for any development subject to a public hearing review, or plan review by the Town Council as set forth under Chapter 10.68, shall be reviewed by the Town Council who may approve, deny, or approve with conditions, the proposed landscaping. The Town Council may authorize the planning director to review any landscape plan.
- C. Minor Modifications. Any applicant may request modification of any standard specified under this chapter, subject to the provisions of Section 10.50.100 of this Chapter.

**10.50.040 General standards.**

The following general standards shall apply to all landscaping required under this section:

- A. Landscape materials. Landscape materials shall be defined as evergreen or deciduous trees, shrubs, and ground cover plants, perennial or annual flowers, and lawn. River rock, driftwood, bark, rockeries, ornamental or decorative walkways (provided both sides about landscaping), may be included. No artificial lawn or plants will be permitted in landscaped areas.
- B. Existing Site Vegetation. Significant existing trees and shrubs shall be incorporated into the landscaping as much as possible. "Significant trees" shall be those evergreen and deciduous trees at least six inches in diameter at a point five feet above ground level. The site plan for the project shall include the location of significant trees, and shall identify which trees will be retained on the site. Care shall be taken in the grading and construction process so as not to disturb the roots within the drip line of existing trees to be retained, and to ensure proper irrigation.
- C. Erosion Control Plan. The Town may require temporary erosion sedimentation control measures as part of the landscape plan for the development. Sloped areas of the site shall be protected during construction, and planted with vines or other ground cover materials that will provide ninety percent coverage within eighteen months of planting.
- D. Pollution Control. It shall be the responsibility of the property owner to insure that storm water runoff from landscaped areas does not contain excessive amounts of fertilizer, insecticides and herbicides that may be harmful to aquatic life, and to take measures to prevent runoff water impacts as required by the Department of Ecology and Department of Fish and Wildlife.
- E. Corner Vision. Along street frontages, within thirty feet of a driveway, alley, or street intersection, no shrubs shall be higher than thirty inches and no trees shall have branches or foliage below eight feet above street level.
- F. Safety Features/Utilities. Installation of landscape materials shall not obstruct access to fire hydrants, standpipes, sprinkler connections, utility vaults, pedestals, and other public and private utility facilities.
- G. Right-of-Way Landscaping. In addition to all other landscaping requirements, the developer shall landscape the unused right-of-way between the front property line(s) and the improved roadway. Where a street is at its ultimate width, unused right-of-way is defined as the area between the property line and the curb or edge of pavement. Landscaping within the right-of-way shall satisfy the corner vision and safety feature provisions of this section. In most cases, low shrubs and ground cover plantings similar to those used on the site will be preferred. Trees should be placed on private property whenever possible. Maintenance of landscaping in the right-of-way shall be the responsibility of the owner of the property adjacent to the right-of-way.

Nothing in this section shall create or imply any interest of the property owner in the right-of-way. At such time as the town, county or state shall need to use the right-of-way, removal of the landscaping shall be the responsibility of the property owner. If such landscaping is not removed, it may be destroyed by the town, county or state.

- H. Irrigation/Watering System. An irrigation system, or alternative watering system, shall be required. For smaller projects, an acceptable alternative would be the location of hose bibs in locations where hoses do not have to extend over parking lots or driveways to rear planting areas. The applicant shall contact the applicable water purveyor to determine if any backflow prevention device is necessary; if so, such a device will be installed as required. Irrigation may be provided from shallow wells tapping ground water resources, subject to compliance with all applicable state and local regulations.
- I. Maintenance. All landscaping and screening areas shall be maintained in a healthy, growing condition. Broken, dead, or dying trees, shrubs, or other plants shall be replaced. All landscaping and screening shall be kept reasonably free of weeds and trash. Any property owner who fails to reasonably maintain landscaping and screening areas will be considered to have committed an offense under this code.

- J. Performance Assurance/Bonding. Unless otherwise required by the Town Council, all landscaping and screening required under this chapter shall be installed prior to occupancy of the development. In the event that landscaping improvements cannot be installed prior to application for occupancy, a cash deposit or other assurance acceptable to the Town equal to one hundred twenty percent (120%) of the estimated installation costs shall be required. Such deposit shall be accompanied by a letter which shall stipulate completion of all landscape development no later than six months after the issuance of the certificate of occupancy or date of final approval, whichever is later. If these conditions are not met, the town may use the deposit to perform the landscape development.

**10.50.050 Minimum area standards.**

- A. Basic Requirements. The percentage of gross site area to be landscaped is to be regarded as the minimum. In the event that, because of lot configuration, adjacent land uses, or special circumstances, more landscaping is required to meet all requirements of this code, the higher amount of landscaping shall be required. The minimum landscaping area requirements indicated below may include landscaping around buildings, along road frontages, in parking and loading areas, and outdoor recreational use areas, as required in this section. Area within the right-of-way may be used to satisfy up to twenty percent of the minimum requirements.

<u>Zoning Classification Site Area</u>	<b>Percent of Gross</b>
Heavy Commercial and Industrial District (M-C)	10%
Business Commercial District (B-C)	10%
Commercial Uses in Industrial Districts	10%
Conditional Use Permits in Residential District (R-1)	15%
Other Conditional Use Permits - Same as underlying District or as specified by the Town Council.	

- B. Preexisting Developments/Alterations. Any development existing prior to the adoption of this section which does not satisfy the provisions of this section shall be considered a nonconforming use. Additions or alterations to these nonconforming uses shall require that landscaping be provided, as possible, commensurate with the extent of the alteration of addition, in compliance with the provisions of this section.
- C. Phased Projects. Before construction permits are issued for the first phase of any phased project, conceptual approval of the landscaping plan for the site as a whole is required.
1. Final approval of the landscaping plan for each phase is required before construction permits are issued for a phase.
  2. Landscaping along a frontage road or perimeter screening may be required to be installed in the first phase. Criteria to be considered in the decision include but are not limited to the following:
    - a. Timing of phases of a project, and
    - b. Proximity to residential areas

**10.50.060 Street frontage requirements.**

Planting areas along street frontage shall be as follows:

- A. Minimum Width. Ten feet. When lot depth is less than two hundred feet, the minimum width may be reduced to five percent of the lot depth, but not less than six feet in width.

- B. Maximum Spacing. One tree for every thirty feet of road frontage shall be planted, either in groupings or evenly spaced, with ground cover or shrubs used liberally.
- C. Plant Varieties. Trees utilized in this area shall be of varieties that do not conflict with underground and overhead utilities.

**10.50.070                      Perimeter landscaping.**

Planting areas within side and rear yards which are not occupied by structures shall be as follows:

- A. Minimum Width. Five feet, unless otherwise specified under the screening requirements of this chapter.
- B. Exempt.
  - 1. Areas adjacent to railroad rights-of-way on an industrial site shall be exempt.
  - 2. Perimeter of industrial site or heavy commercial yard that is not substantially visible from the right-of-way or located where screening is required, shall be exempt, but in no case shall exceed the maximum 25% modification per Section 10.50.100.
- C. Planting Requirements. A minimum of one tree shall be planted for every one hundred fifty square feet, or fraction thereof, of perimeter planting area. Shrubs and ground cover plantings shall be in quantities and spacing that will provide for eighty percent ground coverage within three years. When applicable, the screening requirements under Section 10.50.090 shall supersede the requirements of this subsection.
- D. Connecting Driveways. When connecting, or joint driveways are provided between sites, the minimum area requirements under Section 10.50.050A may be reduced by the area occupied by the driveway that would otherwise be landscaped under the requirements of this subsection.

**10.50.080                      Parking lot landscaping.**

The provisions of this section are intended to soften the visual effect created by large expanses of barren asphalt; increase the amount of permeable surface; and reduce the quantity and speed of runoff from the site.

- A. Area of Application. The provisions of this section shall apply to the interior of parking areas providing twenty or more spaces.
- B. Required Area. Ten square feet of landscaping per parking space, excluding perimeter spaces.
- C. Minimum Width. Planting islands shall have a minimum average width of five feet.
- D. Location of Plantings Areas. Parking area landscaping shall be located at the ends of parking columns or between parking stalls or rows of parking to break up and define parking areas.
- E. Tree Requirements. A minimum of one tree shall be required for every one hundred fifty square feet, or fraction thereof, of required landscaped area. Deciduous trees shall have a clear trunk at least five feet above ground. Other landscape materials shall comply with the general provisions of this section.
- F. Landscape Protection. Any trees, shrubs, or plants which are susceptible to damage by pedestrian or motor vehicles shall be protected by appropriate curbs, tree guards or other protective devices.

**10.50.090                      Screening requirements.**

When applicable, the requirements of this section shall supersede the requirements of other sections of this chapter.

- A. Purpose. The requirements of this section are intended to reduce the visual impacts and incompatible characteristics of:

1. Abutting properties with different land use classifications;
2. Service areas and facilities, including loading and storage areas;
3. Any other use or area as required under this section or by the Town Council.

B. **Landscaping.** Screen planting shall consist of evergreen trees planted a maximum of fifteen feet on center; deciduous trees for seasonal color and texture; and medium-sized shrubs (three to five feet at maturity) and ground cover plants at a density to form an effective barrier to cover eighty-five percent of the ground surface within two years.

C. **Minimum Width.** The screening area shall be ten feet wide unless the use of an earth berm, fence, or wall is incorporated into the screening, as provided below:

1. **Earth Berm Alternative.** If an earth berm is incorporated into the screening plan, medium-sized shrubs and/or evergreen trees shall be spaced a maximum of 4.5 feet on center and the width of the screening area may be reduced to ten feet.
2. **Fence Alternative.** If a fence option is selected, maximum spacing of medium-sized shrubs shall be six feet on center, and the width of the screening area may be reduced to seven feet. The fence shall be constructed of exterior weather-resistant wood, or acceptable alternative. If a cyclone fence is proposed, such fence shall include natural colored slats and shall be located so as to place the landscaping on the outside of the fence next to the buffered property or right-of-way.
3. **Wall Alternative.** If a wall at least five feet high is to be used for screening, the planting requirements shall be as specified under Section 10.50.060C, and the screening area may be reduced to five feet. Screen walls shall be constructed with masonry, block, or textured concrete, subject to design approval by the planning director.

D. **Uses Requiring Screening.** The Town Council may require screening to protect adjacent properties from probable negative impacts of any permitted or conditional use in a district. Except as otherwise required by the Town Council, screening shall be required in the following instances:

1. Developments located in districts on the left side of the chart, below, shall provide screening when adjoining districts specified on the right side of the chart.

**District to be Developed**

**District to be Screened**

Multifamily Residential	Single-family Residential
Semi-Public (i.e. churches, community centers)	All Residential
Business/Commercial	All Residential
Heavy Commercial/Industrial	All Residential and Commercial

2. Churches, community clubhouses, and other similar conditional uses shall provide perimeter screening when adjoining a residential district.
3. Heavy industrial uses such as wrecking yards, gravel operations, concrete plants, lumber mills and similar uses shall provide screening at least twenty feet in width along property lines adjoining any residential districts.

**10.50.100 Minor Modification.**

A. **Purpose.** The Town Council will review development proposals where full application of these landscaping regulations cannot be satisfied to consider minor modifications, substitutions and other methods deemed appropriate to meet the stated intent.



B. Town Council Site Plan Review Meeting. At the meeting of the Town Council hear and shall consider the merits of each request. The Town Council may make the following decisions:

1. Approve the request as presented;
2. Approve the request with specific stipulated conditions;
3. Approve the request with minor or major modifications;
4. Request a revised plan;
5. Deny the request.

## Chapter 10.54

### OFF-STREET PARKING AND LOADING

#### Sections:

10.54.010	General.
10.54.020	Required off-street parking minimum standards.
10.54.030	Drive-in business.
10.54.040	Off-street parking area development and maintenance.
10.54.050	Development of required off-street parking spaces for one family dwellings.
10.54.060	Off-street parking lots - location.
10.54.070	Parking space dimensional requirements.
10.54.100	Existing off-street parking reduction.
10.54.110	Fractional spaces.
10.54.130	Off-street loading space.

#### **10.54.010                      General.**

- A. Off-street parking and loading lots shall be provided in accordance with the following provisions of this chapter for every building hereafter erected, altered, enlarged, or relocated.
1. Any new building, use or structure shall provide the required parking to the standards specified herein.
  2. Any parking lot hereafter physically altered shall comply with all of the provisions of this chapter, except that such lot which provides five (5) percent of its area in landscaping shall be deemed to comply with the Landscaping chapter of this code.
- B. These regulations shall not be retroactive to include any building or use existing at the time of passage of this chapter, except as follows:
1. When a building is located on a different site, there shall be provided off-street parking and loading spaces as required for new buildings.
  2. When the number of units is increased by alteration or addition to a dwelling or other structure containing sleeping rooms, there shall be provided off-street parking and loading spaces for such additional units. When there are other alterations to a residential structure, the requirements of this chapter shall apply whenever the value of such alterations exceed fifty (50) percent of the assessed valuation of the structure.
  3. Whenever any existing, non-residential use in a building is changed to another use in the same building, the requirements of this section shall apply in full to the new use if and only if the change in parking requirements between the old and new uses is greater than five (5) spaces. Credit for on street parking spaces that are located along the building's street frontage shall be given.
  4. Whenever there is a change from a residential use to a non-residential use in an existing building, the requirements of this ordinance shall apply in full to the new use; except that the Town Council may determine that a portion of the residential structure cannot be effectively utilized by the proposed commercial use and such area then may be excluded from the gross floor area used to compute the parking requirement.
  5. Whenever an assembly use is discontinued, full compliance with off-street parking requirements is required. If more than five parking spaces are required, the parking shall be contiguous to the building.

- C. The required parking and/or loading shall have reasonable access to a public street or alley and a capacity according to the use of the building listed in the following sections.
- D. Where a use is not listed, the Town Council shall determine the number of required parking and/or loading spaces based upon similar uses for which the requirements are specified.
- E. Removal of required parking and/or loading spaces from practical use by obstruction, erection of buildings, or other actions as to reduce the parking and/or loading capacity or usefulness thereof below the minimum requirements established in this chapter is prohibited.
- F. "Gross floor area" includes all floor area within the exterior walls of the building including area in halls, storage, and partitions, but excluding furnace and similar utility space used solely to maintain the building for occupancy.
- G. "Parking Area" includes the parking spaces together with driveways and the access to public street.

**10.54.020 Required off-street parking - minimum standards.**

The number of off-street parking spaces shall be determined for each principal use of the land, building, or structure. For ancillary uses to the principal use, required parking shall be calculated the same as for the principal use, or as otherwise provided for in this chapter.

A. Residential:

- 1. Single-family, mobile homes, and two-family (duplexes): one (1) parking space per one-bedroom and two-bedroom dwelling unit, two (2) parking spaces per three (3) or more bedroom dwelling unit.

B. Commercial activities:

- 1. Auto, boat, or recreational vehicle sales or leasing, new or used: one (1) space per 5,000 square feet of outdoor sales area, one (1) space per one thousand (1,000) square feet of showroom and services facilities, and one (1) space per each two hundred-fifty (250) square feet of office area, but in no case shall there be less than six (6) spaces provided. The outdoor sales area shall be paved and landscaped in accordance with this Title.
- 2. Drive-in business: eat in and out, one (1) parking space for each one hundred (100) square feet of gross floor area; eat out only, one (1) parking space for each fifteen (15) square feet of gross floor area
- 3. Food retail stores and markets: one (1) parking space per two hundred (200) square feet of gross floor area, a minimum of six (6) parking spaces shall be provided;
- 4. Laundry, self-service: one (1) parking space per four (4) washing machines, a minimum of five (5) parking spaces shall be provided;
- 5. Mortuaries or funeral homes: one (1) parking space per four (4) seats in the assembly area, computed as seven (7) square feet of floor area per seat;
- 6. Motels, motor hotels and hotels: one and one-quarter (1.25) parking spaces per sleeping unit;
- 7. Motorcycle and other small engine vehicle sales and service; one (1) space for each four hundred (400) square feet of gross floor area of the building and one (1) space for each one thousand (1,000) square feet of outdoor sales area. The outdoor sales area shall be paved and landscaped in accordance with this Title;
- 8. Motor vehicle repair and services: one (1) parking space per four hundred (400) square feet of gross floor area a minimum of three (3) spaces shall be provided;
- 9. Offices, including professional and business, banks and related activities: one (1) space per two hundred fifty (250) square feet of gross floor area. Up to four hundred (400) square feet of unfinished basement floor area used exclusively for storage, may be excluded from the parking

requirement. Unfinished basement floor area is defined as any floor level, below the first story of a building, which floor level is not provided sufficient light, ventilation, exit facilities, or sanitary facilities, as required for any legal occupancy classification.

10. Personal services shops: one (1) parking space per four hundred (400) square feet of gross floor area, a minimum of two (2) shall be provided;
11. Restaurants, nightclubs, taverns and lounges, one (1) space per one hundred (100) square feet of gross floor area; Theaters, one space per four fixed theater seats;
12. Other retail establishments, including but not limited to appliances, bakeries, dry cleaning, furniture stores, hardware stores, household equipment service shops, clothing or shoe repair shops: one (1) parking space per five hundred (500) square feet of gross floor area;
13. Private lodges, with no overnight boarding facilities: one (1) parking space per five hundred (500) square feet of gross floor area.

C. Industrial and manufacturing activities.

1. Manufacturing, research and testing laboratories, creameries, bottling establishments, bakeries, canneries, printing, and engraving shops: one (1) parking space per one thousand (1,000) square feet of gross floor area;
2. Warehouse and storage:

<u>Building Size</u>	<u>Parking Requirements</u>
Up to 20,000 sq. ft.	1 per 2,000 sq. ft. ( 3 minimum)
20,000 - 100,000 sq. ft.	1 per 2,500 sq. ft. (10 minimum)
100,000 - up	1 per 3,000 sq. ft. (40 minimum)

3. Uncovered outdoor storage area, which are incidental and subordinate to a principal use that otherwise meets the parking requirements, need not provide additional parking.  
Uncovered outdoor storage area which are not incidental or subordinate to a principal use shall provide one (1) parking space for each five thousand (5,000) square feet of storage area;
4. Office space shall provide parking as required for offices.

D. Public assembly and recreation.

1. Assembly halls, auditoriums, stadiums, sports arenas, and community clubs: one (1) parking space per three (3) fixed seats consist of pews or benches, the seating capacity shall be computed upon not less than eighteen (18) linear inches of pew or bench length per seat. Where movable chairs are provided, each seven (7) square feet of the floor area to be occupied by such chairs shall be considered a seat;
2. Churches: one (1) parking space per five (5) seats, in computing seating capacity and requirements for assembly area without seats, use requirements as set forth for assembly halls per this Chapter;
3. Dance halls and skating rinks: one (1) parking space per one hundred (100) square feet of gross floor area;
4. Libraries and museums: one (1) parking space per two hundred fifty (250) square feet of gross floor area;
5. Parks: as determined by the Town Council on an individual basis.
6. Recreational Vehicle Parks: one (1) parking space per recreational vehicle camping space and one parking space (1) for every tent or other designated camping space.

E. Other uses.

For uses not specifically identified herein, parking shall be provided as specified for the use which, in the

opinion of the Town Council, is most similar to the use under consideration.

F. Mixed occupancies and shared uses.

1. In the case of two (2) or more principal uses in the same building, the total requirements for off-street parking facilities shall be the sum of the requirements for the principal uses computed separately.
2. In order for a use to be considered a separate principal use under the terms of this section, the uses must be physically and managerially separated in a manner which clearly sets the principal uses apart as separate businesses or operations. Various activities associated with single businesses shall not be considered separate uses.

**10.54.030 Drive-in businesses.**

All banks, savings and loan associations, food dispensing establishments, and other businesses which maintain drive-in facilities which are intended to serve customers who remain in their motor vehicles during business transactions, or are designed in such a manner that customers must leave their automobiles temporarily in a driving lane located adjacent to the facility, shall provide stacking space for the stacking of motor vehicles as follows:

- A. Stacking space. The drive-in facility shall be so located that sufficient stacking space is provided for the handling of motor vehicles using such facility during peak business hours of such facility.
- B. Driveway location. The location of entrances and exits shall be determined by the Town Engineer.

**10.54.050 Off-street parking area development and maintenance.**

Every parcel of land hereafter used as a public or private off-street parking area shall be developed and maintained as follows.

- A. The parking areas on private property, including interior driveways and access to a public street shall be paved with asphalt concrete or, cement concrete pavement and shall have appropriate bumper guards where needed. Alternate All asphalt pavement sections shall have a minimum pavement section consisting of two (2) inches of Class "B" asphalt concrete, two (2) inches of 5/8 inch minus crushed rock, and six (6) inches of Class "A" bank run gravel or approved equal. All concrete pavement sections or any alternative asphalt pavement sections shall be designed to support the post development traffic loads anticipated due to the intended use. An alternate to paving that may be approved by the Town Council is construction of an all weather surface adequate to handle fire truck loads, if consistent with the intended use.
- B. Parking areas shall be used for automobile parking only, with no sales, unless permitted elsewhere by this Title, dead storage, repair work, or dismantling of any kind.
- C. If lighting is provided, it shall be arranged to reflect away from the residential area, also from any public street or highway.
- D. Drainage facilities for stormwater shall be provided for and be approved by the Public Works Department and the Town Engineer.
- E. Ingress and egress shall be approved as to location and design by the Public Works Department and the Town Engineer.
- F. Driveways and parking stalls shall be clearly marked.
- G. Landscaping: see Chapter 10.50.

- H. For parking lots in excess of one hundred (100) spaces the design shall be approved by the Planning Director.

**10.54.060 Development of required off-street parking spaces for one (1) family dwellings.**

For parking areas serving single family dwellings, this section shall apply in lieu of Section 10.54.050.

- A. Required off-street parking spaces for one (1) family dwellings on separate lots smaller than 12,500 square feet in area shall be paved with asphalt concrete or cement concrete. Each required off-street parking space shall be connected to an improved public or private street by a driveway which shall be paved with asphalt concrete or cement concrete.
- B. Required off-street parking spaces for one (1) family dwellings on separate lots of 12,500 or more square feet in area shall have an all weather surface. Each required off-street parking space shall be connected to an improved public or private street by a driveway which shall have an all weather surface. The construction of the all weather surface shall be determined by the Town Engineer.

**10.54.070 Off-street parking lots - location.**

- A. Single family dwellings: Required parking shall be located on the same lot as the building it is to serve.
- B. Multi-family dwellings: Required parking may be on a contiguous lot in the same zone if located within five hundred (500) feet of dwelling units. The lot shall be legally encumbered by an easement or other appropriate means to ensure continuous use of the parking facilities. Documentation shall require review and approval of the City Attorney.
- C. Other Uses: May be in areas other than on the premises if the required amount of parking area is set aside for a particular use in such a lot, and such area is not located more than five hundred (500) feet from the premises and is in the same zone as the use. The lot or area to be utilized shall be legally encumbered by an easement or other appropriate means to ensure continuous use of the parking facilities. Off-street parking for assembly occupancies and fraternal organizations shall be contiguous if more than five spaces are required. Documentation shall require review and approval of the Town Attorney.

**10.54.080 Parking space dimensional requirements.**

- A. Standard sized parking spaces.
  - 1. Standard sized parking spaces parallel to the driveway or aisle serving them shall be a minimum of nine (9) feet wide and twenty-three (23) feet long. Driveways or aisles serving standard sized parallel spaces shall be a minimum of 12 feet wide.
  - 2. Standard sized parking spaces oriented at an angle to the driveway or aisle serving them shall be consistent with the minimum dimensional requirements set forth by the following table, and further defined by subsection C of this section, provided, that aisle widths shall not be less than ten (10) feet.

- B. Compact sized parking spaces.
1. In any off-street parking lot up to thirty (30) percent of the spaces may be designated as "Compact" spaces and be developed according to the minimum dimensional requirements for compact spaces established under this section.
  2. Compact sized parking spaces oriented parallel to the driveway or aisle serving them shall be a minimum of eight (8) feet wide and twenty (20) feet long. Driveways or aisles serving compact sized parallel parking spaces shall be a minimum of eleven (11) feet wide.
  3. Compact sized parking spaces oriented at an angle to the driveway or aisle serving them shall be consistent with the minimum dimensional requirements set forth by the following table and further defined by subsection C of this section; provided that aisle widths shall not be less than ten (10) feet.
  4. Every compact parking space created pursuant to this section shall be clearly identified as such by painting word "COMPACT" in upper case block letters, using white paint, on the pavement within the space. The additional use of signs to identify any large blocks of compact spaces or blocks of compact spaces throughout a parking lot is also encouraged.
  5. Existing parking lots may provide for compact parking spaces under the provisions of this section provided that the parking lot shall comply with all provisions of this chapter except, that any parking lot which provides five (5%) percent of its area in landscaping shall be deemed to comply with all landscaping requirements.
- C. When determining the minimum dimensional requirements for standard and compact parking spaces oriented at an angle to the driveway or aisle serving them, Figure A shall be consulted.
- D. Off-street parking lots shall comply with the handicapped parking space requirements of the Uniform Building Code.

**10.54.100 Existing off-street parking reduction.**

Existing off-street parking facilities shall not be eliminated nor reduced to an amount less than that required for new buildings.

**10.54.110 Fractional spaces.**

When units or measurements determining the number of required parking spaces result in requirements of a fractional space, any fraction up to one-half shall be disregarded, and fractions of one-half or over shall require one (1) parking space.

**10.54.130 Off-street loading space.**

Buildings devoted to retail trade, retail and wholesale food markets, warehouses, supply houses, wholesale and manufacturing trade, hotels, hospitals, laundry, dry cleaning establishments or other buildings where large amounts of goods are received or shipped, shall provide loading and unloading space on the same premises as the building as follows:

- A. Building of six thousand (6,000) square feet or more of floor area, one (1) off-street loading and unloading space plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet of floor area.
- B. Each loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length and fourteen (14) feet in height;
- C. Loading space, exclusive of driveways and/or corridors leading there to shall not be considered as providing off-street parking space.

## Chapter 10.63

### SIGNS

10.63.010	Purpose.
10.63.020	General provisions.
10.63.030	Permanent identification signs for commercial, business, tourist, and industrial developments.
10.63.040	Off-premises signs.

#### **10.63.010 Purpose.**

The provisions of this chapter are intended to provide for the necessary means of identification while maintaining a safe and pleasing environment for the people of the town.

#### **10.63.020 General Provisions.**

- A. Conflicting Standards. Signs shall be allowed subject to the provisions of this chapter, except when these provisions conflict with the specific standards for signs in the subject district or in a separately adopted design plan affecting property.
- B. Signs subject to State Approval. All signs visible to the traveling public from state highways are subject to regulations and permit requirements of the State Department of Transportation. Where the regulations of the town and state differ, the more restrictive regulations shall govern.
- C. Uniform Sign Code. All signs shall comply with the provisions of the Uniform Sign Code, 1988 and 1991 Editions of the Uniform Building Code, and be subject to approval of a building permit, except as otherwise provided in this chapter.
- D. Address Display. The signing program for a multi-family, commercial, or industrial development shall include the display of street numbers for the development on the sign, support structure, or building where it can be seen from adjacent roads.
- E. Sign Clearances. A minimum of eight feet above sidewalks and 15 feet above driveways shall be provided under freestanding or projecting signs.
- F. Setbacks. Signs shall be situated in a manner so as not to adversely affect safety, corner vision, public rights-of-way, improvements or future improvements, easements, or other similar conditions.
- G. Blanketing. No sign shall be situated in a manner which results in obscuring or blocking an existing sign as viewed from adjacent right-of-way.
- H. Maintenance. All signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and be maintained in a safe condition. All signs and the site upon which they are located shall be maintained in a neat, clean, and attractive condition. Signs shall be kept free from rust, corrosion, peeling paint, or other surface deterioration. The display surfaces of all signs shall be kept neatly painted or posted.
- I. Preexisting Signs. Signs and sign structures existing prior to the effective date of the ordinance codified in this title, which complied with applicable regulations existing when the sign was established, but that do not comply with one or more of the requirements of this chapter shall be subject to the provisions of chapter 10.66 for nonconforming uses.



1. Alteration to a nonconforming sign which reduces, or does not increase its noncompliance with the provisions of this chapter, including changes in display surface, sign area, height and setback, may be allowed subject to review by the Town Council.
  2. Sign copy which identifies or advertises a business, product or service no longer located on the same site or premises on which the sign is posted shall be replaced, or removed, within one month of the change in occupancy or vacancy of the premises. Failure to use the copy area of a nonconforming sign for purposes permitted under this section for a period of more than 12 consecutive months shall constitute a “discontinuance of a nonconforming use,” as provided in chapter 10.66, and such sign shall be removed or modified to satisfy all applicable requirements of chapter 10.63 and the underlying district.
- J. Illuminated signs. Signs with interior illumination are only permitted along SR 20. Indirect illumination is permitted in B-C zones as long as lights do not shine into residences in the vicinity.

**10.63.030 Permanent identification signs for commercial, business, tourists, and industrial developments.**

- A. Free-standing pylon signs oriented to off-site circulation identifying the uses on the premises shall be allowed subject to the following conditions:
1. Only one (1) such sign shall be allowed for a development or complex, even when more than one tax lot or ownership is included in the development, unless:
    - a. An additional sign is needed to provide identification of the development at major public access points located on two different roads; and/or
    - b. When two single-faced signs oriented in two different directions are proposed in lieu of a two-sided identification sign.
  2. Maximum height: Twenty-five (25) feet.
  3. Maximum sign area: Fifty (50) square feet as viewed from one direction. A sign area may be increased above this requirement subject to Town Council review, and subject also to the setback requirements under subdivision 4, below, in consideration of the following factors:
    - a. The relative size of the development.
    - b. Identification of more than one use within a development is included on the sign.
    - c. The use of natural materials (carved or sand-blasted wood, or marble or stone) and indirect illumination.
    - d. A time and/or temperature display or electronic message center is incorporated in the design of the sign, as provided under Section 10.63.050(D).
  4. Setbacks/Location. All free-standing signs shall be located within a landscaped planter, with protective curbs located at least three (3) feet from all support elements. Free-standing signs larger than fifty square feet, or exceeding a height of twenty-five (25) feet, shall be set back at least ten (10) feet from the property line (as measured to the outer edge of the sign) and shall not adversely affect corner vision or otherwise create a safety hazard.
  5. Illumination: Freestanding signs may be internally or indirectly illuminated.
- B. Ground-Mounted Signs.
1. In Lieu of Freestanding. Ground-mounted signs may be used in lieu of a freestanding identification sign, as allowed for a development under subsection A, above. In such case, the requirements for size, number, and setback/location for freestanding signs shall apply.

2. **Supplementary Identification.** In addition, ground-mounted signs may be used to identify individual uses within a multi-tenant development which are not otherwise identified on the freestanding sign(s) for the development. Ground-mounted signs shall be subject to the following requirements:
  - a. **Height:** a ground-mounted sign (also called monument signs) shall not exceed a height of six (6) feet.
  - b. **Maximum size:** thirty-six (36) square feet.
  - c. **Number:** only one (1) ground-mounted sign shall be allowed for a business, and shall be situated in front of that business.
  - d. **Setbacks/location:** all ground-mounted signs shall be located within a landscaped area, with curbing located at least three (3) feet from the base of the sign on all sides, except next to a sidewalk. Ground-mounted signs shall be situated at least fifty (50) feet from any freestanding sign, and at least one hundred (100) feet from any other ground-mounted sign within the same development. Ground-mounted signs shall not be located within a twenty (20) foot radius of the corner of any two streets, or the street and any driveway.
  - e. **Materials:** ground-mounted signs shall incorporate colors and materials which are the same, or substantially the same, as those used on the building identified by the sign.
  - f. **Illumination:** such signs may be internally or indirectly illuminated.

C. On-building signs identifying the use of the premises shall be allowed subject to the following conditions:

1. **Sign Area.** The sign area, location of the building, number of signs, and the size of the copy used shall be determined in consideration of the following factors:
  - a. The relationship of the building to the road or on-site circulation areas;
  - b. The use and location of a free-standing or ground-mounted sign identifying the premises, including on-site identification signs approved under subsection B2, above;
  - c. The use of the premises and associated need for identification of the building;
  - d. The size and design of the building elevation on which the sign would be placed;
  - e. The amount of signing for the use which can be seen from a given direction.
  - f. Wall signs and marquee signs shall not exceed a total sign area of two square feet per lineal foot of building frontage; except that if a business has only a wall sign, the sign area allowed shall be at least sixty square feet regardless of frontage.
  - g. Projecting signs shall be limited to one per street frontage and shall not exceed an area of twenty-five feet per sign face.
2. **Business and Commercial district.** Signs located on buildings within the business and commercial district may project over the sidewalk or an alley (within the right-of-way), provided such signs have at least eight (8) feet of vertical clearance from the sidewalk to the bottom of the sign, or fifteen (15) feet of clearance from an alley to the bottom of the sign.
3. **Wall Graphics.** The use of exterior walls of buildings for graphics, art work, or other displays shall be subject to review and approval by the Town Council.
4. **Illumination.** On-building signs may be internally illuminated, or back-lit along SR 20.

**10.63.040 Off-premise signs.**

Off-premise signs shall not be allowed except as herein provided:

- A. **Billboards (Outdoor Advertising Structures).** New billboards shall not be allowed in any zoning district. Billboards may be allowed to relocate from one location within the town to another. Such relocated billboards shall not be allowed in any zoning district except the general commercial, heavy commercial and industrial districts.

- B. Political Signs. Signs which support or oppose ballot measures, persons running for political office, and other issues subject to a vote by the public may be allowed subject to the following conditions:
1. Approval of the owner of the property on which the sign is to be placed;
  2. Location. Such signs shall not be posted in state, county or town rights-of-way, on telephone poles, traffic signs, or other public apparatus. Such signs shall observe the corner vision requirements of this title, and shall not be situated in a manner which creates a hazard;
  3. Size. Signs shall not exceed sixteen square feet in size as viewed from one direction;
  4. Time Limit. Such signs shall not be posted more than four months before the affected election, and shall be removed within one week after the election for which the sign is posted.
- C. Temporary Directional Signs. The intent of this provision is to allow the infrequent, and not the regular, use of signs of a temporary nature. Off-premise directional signs of a temporary nature such as those used to direct persons to open houses, garage sales, or special events of short (two days) duration may be allowed subject to the following conditions:
1. Any such sign which is visible from a state highway shall be subject to approval by the State Department of Transportation.
  2. All such signs shall comply with conditions 1 through 3 under subsection B of this section.
  3. Time Limit. All such signs shall be removed at the end of the day on which the event, open house or garage sale is conducted and shall not be used repeatedly, contrary to the stated intent.
  4. The town shall have the authority to immediately remove and dispose of any such sign found to be in violation of this subsection.
- D. Permanent Off-premise Directional Signs. The intent of this provision is to provide directional and locational information to the general public places of general interest, such as tourist information services, school or public recreational facilities, central business or other special districts, historic sites, and regional developments; or, to provide information of a general community nature, such as those found at town entrance locations identifying the town and historic dates, or listing local service clubs and organizations. Such signs may be allowed, subject to Town Council review, subject to the following:
1. Any such sign which is visible from a state highway shall be subject to approval by the Department of Transportation;
  2. Approval of the owner of the property on which sign is to be placed;
  3. Location: any such sign shall not be placed where it may cause a hazard, or obstruct the vision of any driver;
  4. Size: shall be no larger than necessary to clearly inform or direct the public. Town identification/community service club type signs shall not exceed fifty (50) square feet per side.
  5. Illumination: may be indirectly illuminated.
  6. Design: all such signs shall be designed using materials, colors, lettering and other graphics which will be, in the opinion of the Town Council, an asset to the community and in the best interested of the town and the general public.

**10.63.050 Community Event Signs**

An internally illuminated community event readerboard sign is permitted for the school.

## Chapter 10.66

### NONCONFORMING STRUCTURES, LAND AND USES

#### Sections:

10.66.010	Intent.
10.66.020	Continuance of nonconforming structures and uses.
10.66.030	Use of nonconforming land.
10.66.040	Changes of use, tenancy, ownership or management.
10.66.050	Maintenance, damage repairs and restorations, additions, enlargements and moving or relocation of nonconforming structures.
10.66.060	Abatement of nonconforming structures and uses.
10.66.070	Amortization of outdoor storage.

#### **10.66.010**                    **Intent.**

Amendments over time to regulatory authority provided within this Title may result in structures, land and uses which no longer conform with the provisions set forth for the district in which they are situated. Therefore it is the intent of this chapter to allow for the continuance and maintenance of legally established nonconforming uses subject to standards and provisions prescribed within this chapter.

#### **10.66.020**                    **Continuance of nonconforming structures and uses.**

Any nonconforming structure or use lawfully existing on the effective date of this Title, or any subsequent amendments to this Title, may be continued and maintained in conformance with provisions of this chapter, provided no enlargement of area, space or volume occupied by the nonconforming use occurs. Any nonconforming structure authorized by a valid building permit prior to the effective date of this Title, or any subsequent amendments to this Title, may be completed and used in accordance with the plans, specifications and regulations under which such permit was issued. Expiration of authorization permits will result in a loss of vested right for construction and use of such structure.

#### **10.66.030**                    **Use of nonconforming land.**

If any parcel of land with a minimum lot size or lot dimension which is less than that prescribed for by the district in which such parcel is located, was subdivided into lots according to a plat of record on or before the effective date of this Title, or any subsequent amendments to this Title, then the fact that the parcel of land does not meet the minimum lot size or lot dimension requirements as set forth in this Title shall not prohibit the property from being utilized provided that all other regulations prescribed for that district by this Title are complied with, except as provided for in Section 10.45.

#### **10.66.040**                    **Changes of use, tenancy, ownership or management.**

Changes of use, tenancy, ownership or management may occur to any existing legally established and continued nonconforming use under one or more of the following circumstances:

- A. Any part of a structure occupied by an existing legally established and continued nonconforming use may be changed to a use which, in the opinion of the Town Council, is of the same or of a more restrictive nature. When the use of a nonconforming structure is hereafter changed to a more restrictive use, the structure shall not thereafter be used for a less restrictive use.
- B. There may be a change of tenancy, ownership or management of any existing legally established and continued nonconforming use provided there is no change in the nature, character or occupancy classification of such nonconforming use except as authorized within this chapter.

**10.66.050 Maintenance, damage repairs and restorations, additions, enlargements, moving or relocation or nonconforming structures, and residential structures.**

- A. Ordinary maintenance of a nonconforming structure which includes minor interior and exterior repairs and incidental alterations is permitted. Minor maintenance and repair may include but is not limited to painting, roof repair and replacement, plumbing, wiring, mechanical equipment replacement, and weatherization. Incidental alterations may include construction of nonbearing walls or partitions.
- B. No structural alterations, as defined by the Uniform Building Code, shall be made except as required by law or ordinance, provided that the cost of such work shall not exceed fifty (50%) percent of the assessed valuation of such structure as established by the most current Skagit County Assessor's tax roll.
- C. A nonconforming structure having been damaged or partially destroyed to an extent not exceeding fifty (50%) percent of the assessed valuation of such structure as established by the most current Skagit County Assessor's tax roll, may be restored to its original condition, as authorized by the Town's Building Official, and its immediately preceding or existing use at the time of partial destruction may be continued or resumed. Restoration shall begin within one (1) year and be completed within two (2) years of the date of partial destruction. If restoration is not started within one (1) year, then the reuse and occupancy of the structure shall conform to all the regulations of the district in which the use is located.
- D. Structures or lands which are nonconforming as to use regulations shall not be enlarged or intensified in any manner unless the enlargement within such structures or lands conforms to all regulations of the district in which it is located. A nonconforming use, within a nonconforming structure, shall not expand into any portion of the nonconforming structure.
- E. Structures which are nonconforming as to percentage of site coverage, setbacks, building height or density shall not be enlarged unless such enlargement conforms to the regulations of the district in which it is located.
- F. Nonconforming residential structures are allowed to provide maintenance, alterations and additions which may exceed the requirements of this chapter. Provided the total number of dwelling units does not increase and all other development standards of the district are complied with.
- G. This chapter shall not prevent the following provided the total value of the improvements, over the lifetime of the nonconforming use, does not exceed 50% of the assessed value of the nonconforming use as established by the most current Skagit County Assessors tax roll; and the nonconforming use or structure is not expanded except as allowed by Section 10.54.060(H). Provided further, that any replacement of a nonconforming structure, or parts thereof, must comply with the appropriate development standards unless a variance is granted pursuant to this Title.
  - 1. Strengthening or restoring to a safe condition any nonconforming structure or part thereof which is declared to be unsafe or a hazard to the public by the order of a Town Official charged with protecting the public safety,
  - 2. Lessening a hazardous situation, nuisance or other adverse environmental impact,
  - 3. Bringing the structure or use into more conformance with this Title;
  - 4. Adapting the structure to new technologies or equipment;
  - 5. Improvements which do not increase the intensity of the nonconforming use.
- H. A nonresidential structure or use which becomes a legal nonconforming structure or use after the effective date of this Title may be permitted, by means of a variance issued by the Town Council pursuant to this Title, to expand the existing use or structure up to 25% of the use or structure existing at the time of the adoption of this Title. Provided further that the addition otherwise meets the standards of this Title and other requirements of the Town.

This section does not allow the expansion of a use or structure which would be inconsistent with a previously authorized conditional use permit, special property use permit, contract rezone, or binding agreement between the Town and the property owner.

This section also does not allow the expansion of any nonconforming hazardous material storage;

- I. When a building or structure is moved to another location it must then be made to conform to the requirements of the district to which it is moved, unless specifically allowed elsewhere by this Title.

**10.66.060 Abatement of nonconforming structures and uses.**

Nonconforming structures and uses shall be abated if one or more of the following circumstances exist:

- A. If a nonconforming use is discontinued and changed to a conforming use, any future use of the structure or land shall be in conformity to the regulations of the district in which structure or land is located.
- B. Any structure or portion of a nonresidential structure, or parcel of land occupied by a nonconforming use which becomes vacant and remains unoccupied for a continuous period of one hundred eighty (180) days shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located. Residential uses in commercial or industrial zones which are unoccupied for more than 180 days may be allowed to reoccupy if a variance is issued pursuant to this Title.
- C. If a nonconforming structure sustains damage or destruction which exceeds fifty (50%) percent of the current assessed valuation of the structure as established by the Skagit County Assessor's office. Reconstruction of such damaged structure or reuse of occupancy shall conform to all regulations of the district in which it is located and it shall be treated as a new building. This subsection shall not apply to single family dwellings.

**10.66.070 Amortization and abatement of outdoor storage.**

- A. All outdoor storage yards, that do not comply with the landscape and screening requirements of Chapter 10.50, which are located within a B-C or M-C zone that are adjacent to a residential zone or are visible from any public street shall within 3 years, of the adoption of this Title, screen and landscape the outdoor storage pursuant to the requirements of Chapter 10.50, or the use be abated.
- B. All existing outdoor storage yards accessory to a business use in the B-C and M-C zones shall be screened and landscaped as provided in Chapter 10.50 within three years, or the use be abated. All other outdoor storage areas shall be abated within 6 months of the adoption of this code.

## Chapter 10.68

### THE LAND USE PERMIT PROCESS - FRAMEWORK FOR DECISION-MAKING

#### Sections:

10.68.010	Intent and Scope.
10.68.020	Definition of Terms used in this chapter
10.68.030	Land Use Decision framework
10.68.040	Land Use Permits required.
10.68.050	Applications - General.
10.68.060	Review Criteria for Decisions.
10.68.070	Notice Requirements, type and content of notice - General.
10.68.080	Notice of Application Requirements and Comment Period.
10.68.090	Public Hearing Requirements.
10.68.100	Notice of Decision Requirements and Content of Notice.
10.68.110	Standards to Ensure Performance and Compliance with Conditions.
10.68.120	Expiration of Land Use Approvals.
10.68.130	Conditional Use Applications, When Required, Submittal Requirements, Review Criteria and Conditions of Approval.
10.68.140	Variance Applications, When Required, Submittal Requirements, Review Criteria and Conditions of Approval.
10.68.150	Plan Review, When Required, Application Submittal Requirements, Review Criteria and Conditions of Approval.
10.68.160	Reclassification of Property including Rezone and Contract Rezone and Zoning Ordinance Text Amendments, Initiation of Amendments, Review Criteria, Amendments to Rezone Requests and Contract Rezones.

#### **10.68.010**                      **Intent and Scope.**

- A. The purpose of the Land Use Permit process is to promote informed public participation in discretionary land use decisions, eliminate redundancy in the application submittal process, and minimize delays and expense in appeals of land use decisions.
- B. Increasing opportunities for public comment and getting the concerned public involved early in the process are the primary goals. This makes it feasible for the project developer to be responsive to the issues raised and will result in better projects, among other benefits.
- C. Each proposed development project shall obtain a Land Use Permit as required by Section 10.68.040, which shall contain all the components required for the project. The broadest applicable public notice shall apply.
- D. This chapter consolidates all land use decisions and constitutes the permit process for Zoning, Subdivisions, State Environmental Policy Act, and Critical Areas.

#### **10.68.020**                      **Definition of Terms used in this chapter.**

- A. **Use - establish or change** -This is the decision that a use is permitted in the zone and that it meets the development standards, such as setbacks, parking. It is not a discretionary decision, but is often combined with one.

- B. **Plan Review** - Plan review by the Town Council is required for most new construction projects to assure that all land use permits and approvals comply with the use, development and all other standards of this title and related land use standards, rules, policies and procedures.
- C. **Environmental Review** - This includes the Determination of Significance (DS), which requires preparation of a detailed environmental impact statement (Draft and Final EIS) for large projects and other projects with significant adverse environmental impacts. Environmental review also includes the Determination of Nonsignificance (DNS). This determination often includes conditions to mitigate the adverse impacts of a project, in which case it is a Mitigated Determination of Nonsignificance (MDNS). The threshold for requiring environmental review is the construction of more than four dwelling units, grading more than 500 cubic yards, the construction of more than 4000 square feet of commercial space, construction of a parking lot for more than 20 cars, or as further defined by WAC 197-11-800 (Washington Administrative Code regulations).
- D. **Subdivision decisions** - The procedure for subdivision decisions, preliminary plat approval and final plat approval are set forth in Title 16.
- E. **Lot Boundary Adjustment** - Moves existing property lines; no new lots created.
- F. **Binding Site Plan** - Used for commercial and industrial properties that are leased or sold, often frequently moving property lines as tenants demand.
- G. **Short Subdivision** - Process to create or redivide land into four or fewer lots. Review elements include location, access, configuration, and availability of utilities. Review by the Town Council is required.
- H. **Long Subdivision** - Process to create any number of lots. Substantial public improvements are typically required, such as construction of streets, sewers, and sidewalks to provide safe walking areas for children attending school. A public hearing before the Town Council is required.
- I. **Zoning Exceptions and Changes** -
  1. **Conditional Use** - Allows a use to be located in a zone where it is not normally permitted, if certain conditions can be met. One public hearing before the Town Council is required and property owners shall be notified in accordance with section 10.68.070 of this chapter.
  2. **Variance** - Allows relief from the dimensional standards of the Zoning code, such as front, side or rear setbacks. It requires a public hearing before the Town Council. Variances may also be sought from floodplain requirements.
  3. **Rezone including Contract Rezone** - This is a Zoning map amendment. It changes the list of permitted uses on the site as well as the height, setback and other limitations, such as changing from residential to commercial or industrial. One public hearing before the Town Council is required and property owners shall be notified in accordance with section 10.68.070 of this chapter. If there are conditions required by the Town Council, a contract shall be executed as further provided in this chapter.
  4. **Zoning Text Amendment** - This is a change to the text of the code, such as adding a use to the list of uses permitted in a zone. One public hearing before the Town Council is required and property owners shall be notified in accordance with section 10.68.070 of this chapter.
- J. **Comprehensive Plan** - A generalized coordinated land use policy statement of the town that guides the future physical development of the community and assists in land use decisions, capital improvement planning and enactment of development regulations. One public hearing is required, before the Town Council. Who may adopt by resolution the plan or any part of the plan.

**10.68.030 Land Use Decision framework.**



A. Land use decisions are classified into three (3) categories based on the amount of discretion and level of impact associated with each decision. Procedures for the three (3) different categories are distinguished according to who makes the decision, the type and amount of public notice required, and whether appeal opportunities are provided. Land use decisions are consolidated as components of the land use permit.

B. Type I decisions are nonappealable decisions made by the Town which require the exercise of little or no discretion. Type I decisions include the following components:

- Lot Boundary Adjustment
- Binding Site Plan
- Single Family zoning plan review
- Determination of Significance (Environmental Impact Statement required)
- Uses permitted outright
- Sign permits meeting standards
- Temporary uses for up to two weeks

C. Type II decisions are discretionary decisions that involve two review steps. The first step is a report and recommendation or decision by the staff with a final decision made by the Town Council. The Town Council Type II decisions are listed as follows:

- Plan Review
- Temporary Uses for more than two weeks
- Shoreline Substantial Development Permits
- Short Subdivision

- Zoning Variances
- Flood Plain Variance and Appeals
- Noise Standards Variance
- Sign Variance
- Administrative Rules

Environmental (SEPA) appeal of the decision to grant a permit based on environmental review, with or without conditions

D. Type III decisions are quasi-judicial decisions made by the Town Council in its capacity to establish policy and manage public lands pursuant to existing legislative standards and based on the record, public hearing and recommendations.

Type III decisions include the following components:

- Full Subdivisions (preliminary plat)
- Zoning Map Amendments (Rezone and Contract Rezone)
- Conditional Use permits
- Zoning Text Amendments
- Comprehensive Plan adoption and amendment
- Town wide rezoning to implement Comprehensive Plan

E. For projects requiring more than one type of decision, all decisions must be made prior to issuance of a Land Use Permit. All conditions established by the Town Council in its decisions shall be incorporated in any subsequently issued Land Use Permit or Construction Permit for the project.

- F. Land Use Permits requiring only Type I decisions are categorically exempt from the State Environmental Policy Act (SEPA) and do not require environmental review. All land use permits requiring environmental review include a Type II decision and may include a Type I decision. For these projects, SEPA review procedures established in Ordinance No. 127 are supplemental to the procedures set forth in this chapter.

**10.68.040 Land Use Permits required.**

- A. A land use permit shall be required to establish or change use of land or a structure and to expand the existing use of land or a structure. The issuance of a building permit shall constitute the land use permit for Type I decisions.
- B. Type I, II and III decisions are components of Land Use Permits. Land Use Permits shall be required for all projects requiring one (1) or more of these decisions.
- C. An application shall be deemed abandoned and void if the applicant has failed without reasonable justification to supply all required information or data within sixty (60) days of a written request for it; provided that the Town may extend the period for such submission if it is determined that the delay was not the fault of the applicant.

**10.68.050 Applications - General.**

- A. Applications for Land Use Permits shall be made by the property owner, lessee, contract purchaser, or a Town agency, or by an authorized agent thereof.
- B. All applications for land use permits shall be made to the Town on a form provided by the Department.
- C. Applications shall be accompanied by payment of the applicable filing fees, if any, as established in the current fee schedule of the Town.
- D. All Land Use Permit decisions necessary for a project shall be included in the same application; provided that, at the applicant's discretion, a separate Land Use permit application may be filed for a variance, lot boundary adjustment and/or short subdivision approval if no environmental review pursuant to State Environmental Policy Act Guidelines, Ordinance No. 127, is required for the proposed project, or if SEPA review is required only because the project is located in an environmentally sensitive area or over water.
- E. All applications shall contain the submittal information required by the applicable sections of this Chapter and related sections of the Zoning Code; Subdivision Title, State Environmental Policy Act Guidelines, and Critical Areas Ordinance. The Town may require additional material from the applicant such as maps, text, or models when the Town determines that such material is needed to accurately assess the proposed project.
- F. The applicant or authorized agent shall attend all public meetings and/or public hearings or the matter shall be continued until the applicant or authorized agent is available to attend.

**10.68.060 Review Criteria for Decisions.**

- A. General. Compliance with all applicable codes, ordinances, standards and procedures is required prior to authorization of compliance with the zoning code. This includes but is not limited to Subdivision, Critical Areas, Interim Controls, Voluntary Mitigation Agreements pursuant to SEPA, in addition to this code.
- B. Plan Review. See Section 10.68.150

- C. Conditional Use Permit. See Section 10.68.130
- D. Variances. See Section 10.68.140 for Zoning Variance.
- E. Subdivisions see Subdivision Ordinance.
- F. Environmental (SEPA - State Environmental Policy Act). Ordinance.

**10.68.070 Notice Requirements, Type and Content of Notice - General.**

- A. Process for notification. If public notice is required, notice shall be in accordance with subsection D. The general intent is to give the broadest notice on application (Notice of Application). Next step is Notice of Public Meeting and/or Notice of Public Hearing, whichever applies to the project. This is followed by Notice of Decision/Opportunity for Appeal or Opportunity to Request Further Consideration.
- B. Types of Public Notice. The following is a description of the types of notice utilized as further provided in this chapter.
  - 1. Post a large sign on the site. Specific standards shall be set by administrative rule. The sign shall be a 4x4 foot half sheet of plywood. There shall be precise specifications about what goes on the sign, and they shall all be of a standard design except for the specifics about the project. These shall be furnished by the applicant. The processing of the application will not begin until the large sign is in place. The large sign shall be located so as to be clearly visible from the adjacent street or sidewalk, and shall remain posted until final Town action on the application has been completed. For sites that are not highly visible, location of the large sign shall be approved by the Town or alternative means of notification provided to include mailed notice. Projects limited to interior remodeling are exempt from the large sign requirement. Large sign standards shall be adopted by Administrative Rule.
  - 2. Publication of a notice in the official newspaper or newspaper of general circulation. The legal publication of notice shall be easily identifiable, language should be simple and descriptive, not bureaucratic.
  - 3. Individual mailed notice to owners and occupants in a 300 foot radius of the site - The notice shall provide a brief description of the proposed project and its location and identify any opportunities for comment, appeal, public hearings, and the means for obtaining additional information.
  - 4. Notice to applicant and to persons who have expressed an interest in the project - These are the parties of record who are apprised of each action taken on a proposed project.
  - 5. Open Meeting notice - This shall include posting in Town Hall, public bulletin board and mailing to the news media and interested persons.
- C. Types of notice required for each land use action.
  - 1. Use, establish or change - None required.
  - 2. Plan review by Town Council -  
Notice of application -  
Open Meeting Notice
  - 3. Environmental (SEPA) review -

a. Determination of Nonsignificance (DNS) and Mitigated Determination of Nonsignificance (MDNS)-

Notice of application -

Post a large sign on site

Notice of decision - appeal opportunity -

Publish in the town official newspaper

Notice to parties of record

b. Determination of significance, Scoping notice, Draft and Final Environmental Impact Statement

Notice of application -

Post a large sign on site

Publish in the town official newspaper

Determination of significance (DS)-

none required

Scoping Notice -

Publication in official newspaper and newspaper of general circulation

Mailed Notice

Notice of Draft Environmental Impact Statement

Availability and Public Hearing -

Publication in official newspaper

Mailed notice

Open meeting notice

Final Environmental Impact Statement -

Publication in official newspaper

Notice to parties of record

4. Lot boundary adjustment - None required.

5. Binding site plan - None required.

6. Short subdivision - None required.

7. Full subdivision -

Notice of application -

Post large sign

Publication in official newspaper

Mailed notice

Notice of public hearings -

Publication in official newspaper

Mailed notice

Open meeting notice

Notice of decision -

Notice to parties of record

8. Conditional Use

Notice of application -

Publication in official newspaper

Mailed notice

Notice of public hearings -

Publication in official newspaper

Mailed notice

Open meeting notice

Notice of decision -

Notice to parties of record

9. Variance, including zoning, flood and noise - Notice of application and public hearing may be combined for a variance.

Notice of application -  
    Publication in official newspaper  
    Mailed notice  
Notice of public hearing -  
    Publication in official newspaper  
    Mailed notice  
Notice of decision -  
Notice to parties of record

10. Rezone and Contract Rezone

Notice of application -  
    Publication in official newspaper  
    Mailed notice  
Notice of public hearing(s) -  
    Publication in official newspaper  
    Mailed notice  
    Open meeting notice  
    Notice to parties of record  
Notice of decision -  
    Notice to parties of record

11. Zoning text amendment

Notice of public hearing(s) -  
    Publication in official newspaper  
    Open meeting notice  
    Notice to parties of record

12. Comprehensive plan adoption and amendment

Notice of public hearing(s) -  
    Publication in official newspaper  
    Open meeting notice  
    Notice to parties of record

D. Contents of Notice. The notice shall identify the nature and location of the project, and shall include a statement that persons who desire to submit comments on the application or who request notification of the decision may so inform the Town in writing within the comment period specified in section 10.68.080(B). Except for the large sign requirement, each notice shall also include a list of the land use decisions sought. The Town shall specify detailed requirements for large signs.

E. When a Land Use Permit includes more than one (1) decision component, notice requirements shall be consolidated and the broadest applicable notice requirements imposed.

**10.68.080 Notice of Application Requirements and Comment Period.**

A. Notice of Application. When a Land Use Permit application requiring a Type II or III decision is submitted, the Town shall provide notice of application and an opportunity for public comment as described in this chapter. No notice or public comment period shall be required for Type I decisions.

B. Comment Period. The Town shall provide a 14 day public comment period prior to making a threshold determination of nonsignificance (DNS) or issuing a decision or recommendation on a proposed Type II or III land use action; provided that the comment period shall be extended to thirty (30) days if a

written request for extension is submitted within the initial fourteen (14) day comment period. The comment period shall begin on the date notice is published in the official newspaper. Comments shall be filed with the Town by five p.m. of the last day of the comment period. When the last day of the comment period is a Saturday, Sunday or federal or Town holiday, the comment period shall run until five p.m. of the next business day.

**10.68.090 Public Hearing Requirements.**

Public Hearings are required as listed below for the following land use permit components, prior to a recommendation, final environmental impact statement or land use decision being made. Procedures for the Town Council shall be adopted by Administrative Rule.

- A. Draft environmental impact statement - A public hearing is required before the Town to take comments for inclusion in the final environmental impact statement.
- B. Conditional use permit - One public hearing is required before the Town Council, it shall adopt recommendations and approve, modify or disapprove the conditional use permit.
- C. Zoning, flood and noise variance - A public hearing is required before the Town Council.
- D. Full subdivision - A public hearing is required before the Town Council. If the Town Council makes recommendation if it determines changes are necessary and modify or disapprove the preliminary plat.
- E. Rezone and Contract Rezone, and Zoning text amendment - A public hearing is required before the Town Council. The Town Council shall adopt recommendations and approve, modify or disapprove the rezone, contract rezone or zoning text amendment.
- F. Comprehensive Plan adoption and amendment - A public hearing is required before the Town Council. The Council may adopt by resolution the plan or any part of the plan.

**10.68.100 Notice of Decision Requirements and content of notice.**

- A. The Council shall adopt written findings and conclusions in support of its decision on subdivisions, rezones, and conditional use permits. The decision shall be final and conclusive unless within fourteen (14) calendar days of the date the decision is filed with the City Clerk, a party of record makes application to Skagit County Superior Court for a writ of review, provided that application for a writ of review of a decision approving or disapproving a subdivision preliminary plan shall be made within thirty (30) days of the filing of the decision with the City Clerk. A copy of the Council's findings, conclusions and decision shall be sent to all parties of record. The transmittal shall include official notice of the time and place for seeking judicial review. The Town shall be bound by and incorporate the terms and conditions of the Council's decision in permits issued to the applicant or on approved plans.
- B. The Town Council minutes shall constitute the written findings and conclusions in support of its recommendations and decisions on Type II and III land use permits and recommendations.

**10.68.110 Standards to ensure performance and compliance with conditions.**

Whenever a new development project is approved and substantial public and private improvements are required, the Town shall use the following methods to ensure performance and compliance with the requirements of the land use permit.

- A. Binding agreement to perform at a later date.
- B. Performance bond or other security for defined time period,
- C. Cash Deposit or interest bearing savings account, or other acceptable instrument of credit.
- D. Covenants and/or easements that are filed with the Skagit County Auditor's real property records.
- E. Conditional building permits with specified compliance requirements linked to called inspections.

- F. Preannexation agreements.
- G. Agreement to participate in a Local Improvement District or other public improvement project at a later date.
- H. Other means as appropriate.

**10.68.120 Expiration of land use approvals.**

- A. Type I and II land use permits, contract rezones, and conditional use permits shall expire two years from the date of issuance. An extension of one year may be granted by the Town upon a showing of substantial progress towards completion.
- B. Subdivisions shall be regulated by the subdivision ordinance.

**10.68.130 Conditional use applications, when required, submittal requirements, review criteria and conditions of approval.**

- A. A conditional use permit is required when the use proposed is listed as requiring a conditional use in the regulations for the zone in which it is located. Any project requiring a plan review for determination of the proper classification of a land use not listed requires a conditional use when the Town Council determines the need for a public hearing and conditional use review of the application.
- B. An application shall be required for approval of a conditional use permit which shall include a site plan that illustrates the following:
  - 1. Vicinity map;
  - 2. Name, address, phone number of property owner;
  - 3. Name, address, phone number of engineer or agent;
  - 4. Boundaries and dimensions of property;
  - 5. Adjacent public streets;
  - 6. Easements, existing and proposed;
  - 7. Location and size of all existing and proposed utilities;
  - 8. Location of buildings, including setbacks;
  - 9. Location and layout of off-street parking;
  - 10. Location and height of fences;
  - 11. Location and size of signs;
  - 12. Landscape detail;
  - 13. Indication of height of buildings.
- C. The site plan shall be properly dimensioned and drawn to scale.
- D. The site plan shall be adopted and made part of the permit. Subsequent building permits and construction activity shall be in accord with the approved site plan. Adjustments to the site plan may be approved as follows:
  - 1. Minor adjustments:  
Minor adjustments may be made and approved by the Town. Minor adjustments are those which may affect the precise dimensions or siting of buildings, but which do not affect the basic character or arrangement of buildings approved, nor the development coverage of the development or the open space requirements. Such dimensional adjustments shall not vary more than ten (10) percent from the original.
  - 2. Major adjustments:  
Major adjustments are those when determined by the Town, substantially change the basic design, coverage, open space or other requirements of the permit. When the Town determines

that a change constitutes a major adjustment, no building or other permit shall be issued without prior review and approval by the Town Council of such adjustment.

E. Review Criteria

Conditional use permits may only be approved if findings of fact are drawn to support the following:

1. The use will have no more adverse effect on the health, safety or comfort of persons living or working in the area, and will be no more injurious, economically or otherwise to property or improvements in the surrounding area, than would any use generally permitted in the district. Among matters to be considered are traffic flow and control, access to and circulation within the property, off-street parking and loading, refuse and service areas, utilities, screening and buffering, signs, yards and other open spaces, height, bulk and location of structures, location of proposed open space uses, hours and manner of operation, and noise, lights, dust, odor, fumes and vibration.
2. The proposal is in accordance with the goals, policies and objectives of the Comprehensive Plan;
3. The proposal complies with all the requirements of this Title.
4. The proposal can be constructed and maintained so as to be harmonious and appropriate in design, character, and appearance with the existing or intended character of the general vicinity and provides a high quality of development.
5. The proposal will not adversely affect the public infrastructure.

F. Conditions of approval.

In order to mitigate any adverse impact or support a finding of fact associated with the proposal, conditions may be imposed which could increase requirements in the standards, criteria, or regulations of this Title or other Town legislation or adopted policies.

**10.68.140 Variance applications, when required, submittal requirements, review criteria and conditions of approval.**

A. A variance is required when, because of special circumstances applicable to subject property because of size, shape, topography location or surroundings, the strict application of this Title is found to deprive subject property of rights and privileges enjoyed by other properties in the same zone and vicinity, the Town Council shall have the authority to grant a variance from the requirements of the Title, after considering the matter at a public hearing.

B. Application. A site plan shall be required with each application for a variance . The site plan shall be accurately drawn using an appropriate scale and shall illustrate the following:

1. Adjacent streets and alleys;
2. Boundaries and dimensions of site and setbacks;
3. Location and dimensions of buildings;
4. Location and dimensions of parking areas;
5. Location and dimensions of feature needing variance.

C. Review Criteria. Subject to conditions safeguards and procedures provided by this Title, the Town Council may be empowered to hear and decide applications for variances from the terms of this Title provided the Town Council may approve a variance only if the request conforms to all of the following criteria. The Council must enter findings of fact and conclusions which support the following criteria and any conditions:

1. That there are unique physical conditions including narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to and inherent in the



particular lot; and that, as a result of such unique physical conditions, practical difficulties or unnecessary hardships arise in complying with the provisions of this Title.

2. That, because of such physical conditions, the development of the lot in strict conformity with the provisions of this Title will not allow a reasonable and harmonious use of such lot.
3. That the variance, if granted, will not alter the character of the neighborhood, or be detrimental to surrounding properties in which the property is located.
4. That the special circumstances and conditions associated with the variance are not a result of the actions of the applicant or previous owners.
5. Literal interpretation of the provisions of this Title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
6. The approval of the variance will be consistent with the purpose of this Title and the zoning district in which the property is located.
7. The variance will not allow an increase in the number of dwelling units permitted by the zoning district.
8. The authorization of such variance will not adversely affect the Comprehensive Plan.
9. The variance shall not allow a land use which is not permitted under the zoning district in which the property is located.
10. The variance shall not change any regulations or conditions established by conditional use permits or contract rezones.

- D. Conditions of Approval. In authorization of a variance, the Town Council may attach thereto such conditions regarding the location, character and other features of the proposed structure or use as may be deemed necessary to carry out the spirit and purpose of this Title and in the public interest.

**10.68.150 Plan Review, when required, application submittal requirements review criteria and conditions of approval.**

- A. Plan review is required for the following:
1. Parking and loading area plans for all developments except single family and duplex residential units and the addition of up to five parking spaces in an existing development.
  2. Landscaping plans.
  3. Determination of proper classifications of land uses not included in the lists of permitted or conditional uses for the zone.
  4. Temporary conforming and nonconforming land uses and buildings for more than two weeks and not exceeding one year;
  5. Review of new development proposals for consistency with the Town of Lyman Design Guidelines as may be amended and updated over time to reflect the Town's Comprehensive Plan and vision for the future. The review shall not include single family and duplex dwellings on existing lots of record or short subdivisions.
- B. Application submittal requirements include the following:
1. Site plan drawn to an appropriate scale.
  2. Boundary lines and dimensions for the property and all proposed lot lines. Future building locations in phased developments shall be indicated.
  3. Natural features of the site, including existing significant trees, wetlands areas and Special Flood Risk areas.
  4. Location, dimensions and names of all existing or platted streets or alleys, easements, railroad rights-of-way, on or adjacent to the property.
  5. Location and dimensions of all existing structures, improvements or utilities to remain, and structures to be removed.
  6. Approximate location and size of storm water retention or detention facilities and storm drains.

7. Location and dimensions of all proposed structures and parking lots, to include parking and loading areas, pedestrian circulation and related access ways. Individual parking spaces shall be shown.
  8. Service areas for waste disposal, recycling, loading and delivery and location of mail boxes.
  9. Architectural drawings including building elevations and sections, building materials, color and type and floor plans.
  10. Landscaping plans,
  11. Signs, including freestanding and signs located on the building.
- D. Review Criteria. Plan review by the Town Council includes compliance with the use and development standards, assuring that appropriate conditions are on the plans and in the recommendations of the Town, determining project consistency with current design review guidelines, comprehensive plans, capital facilities and improvement plans, environmental mitigation and concurrency requirements and reasonableness of standards. Review of the site plan includes landscaping, parking and relationship of the proposed project to the public right-of-way from the pedestrian and transportation perspectives.
- E. Conditions of Approval. In authorization of a plan review, the Town Council may attach such conditions as may be deemed necessary to carry out the spirit and purpose of this Title and in the public interest.

**10.68.160      Reclassification of property including rezone and contract rezone and zoning ordinance text amendments, initiation of amendments, review criteria and conditions of approval.**

- A. Initiation of amendments.
1. Zoning map:
    - a. One or more property owners of the property may submit an application requesting a reclassification of the property;
    - b. The Town Council, as part of a town wide project to implement the Comprehensive Plan, may upon its own motion call for a public hearing on the reclassification of property.
  2. Text:
    - a. The Town Council may upon its own motion call for a public hearing to amend any portion or all of this Title;
    - b. Any resident or property owner of the Town may petition the Town to request an amendment to the text of this Title.
- B. Review Criteria. When the Town Council is considering recommendations or approval for reclassifications, the Town Council shall investigate the request for reclassification and shall consider, among other questions, the following:
1. Is the request compatible with the Town's Comprehensive Plan and development goals?
  2. Are public utilities, public facilities and other services currently adequate to serve the proposed district?
  3. Would the proposal adversely affect the health, safety, or welfare of the adjacent area of the area being considered?
  4. Is the reclassification or land development needed at this time?
  5. What are the economic impacts of the proposed action?
  6. Are the arguments of support or opposition by local citizens valid?
  7. Have conditions of the area substantially changed since the original zoning to justify a rezone?
- C. Amendments to rezone requests. A requested rezone may be changed, conditioned or modified by the Town Council without requiring additional hearings subject to the following:

1. The modification or change shall not result in a more intense zone than the one requested.
2. The area of the request shall not be enlarged, however, the area may be lessened.

D. Contract rezones.

1. In order to mitigate any impacts that may result from a rezone the Town may enter into a property use and development agreement with the property owner. The agreement shall outline the conditions of approval and the obligations of the property owner. The contract shall be binding upon the owner and his/her heirs, assigns and successors. The agreement shall run with the land, be signed by the property owner(s) and be recorded with the Skagit County Auditor real property records within 120 days of adoption of the ordinance accepting the agreement.
2. The ordinance rezoning the property shall provide for acceptance of the agreement and shall not be passed by the Council until the agreement has been executed by the owner.
3. Amendment of Contract Rezones. Agreements required as a condition to map amendments may be amended by agreement between the owner and the Town, provided that the amended agreement shall be approved by the Council. Amendments which are within the spirit and general purpose of the prior decision of the Council may be approved by the Council by ordinance after receiving any advice which it deems necessary. Written notice and an opportunity to comment shall be provided by the Council at least fifteen (15) days prior to Council consideration of the amendment request to persons who submit written or oral comments on the original rezone decision. Amendments which in the judgment of the Council represent a major departure from the terms of the agreement shall not be approved until after a public hearing held in the same manner and pursuant to the same notice provided for map amendments.

## Chapter 10.84

### ENFORCEMENT OF THE ZONING CODE

#### Sections:

10.84.010	Violations.
10.84.020	Duty to enforce.
10.84.030	Investigation and notice violation.
10.84.040	Time to comply.
10.84.050	Stop work order.
10.84.060	Emergency order.
10.84.070	Review by the Town.
10.84.080	Extension of compliance date.
10.84.090	Civil penalty.
10.84.100	Criminal penalties.
10.84.110	Additional relief.
10.84.120	Severability.
10.84.130	Effective Date.

#### **10.84.010                      Violations.**

- A. It is a violation of Title 10 for any person to initiate or maintain or cause to be initiated or maintained the use of any structure, land or property within the Town of Lyman without first obtaining the permits or authorization required for the use by Title 10.
- B. It is a violation of Title 10 for any person to use, construct, locate, demolish or cause to be used, constructed, located, or demolished any structure, land or property within the Town of Lyman in any manner that is not permitted by the terms of any permit or authorization issued pursuant to Title 10, provided that the terms or conditions are explicitly stated on the permit or the approved plans.
- C. It is a violation of Title 10 to remove or deface any sign, notice, complaint or order required by or posted in accordance with this title.
- D. It is a violation of Title 10 to misrepresent any material fact in any application, plans or other information submitted to obtain any land use authorization.
- E. It is a violation of Title 10 for anyone to fail to comply with the requirements of Title 10.

#### **10.84.020                      Duty to enforce.**

- A. It shall be the duty of the Town to enforce Title 10. The Town may call upon the police, fire, health or other appropriate Town departments to assist in enforcement.
- B. Upon presentation of proper credentials, the Town or duly authorized representative of the Town may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the Zoning Code.

- C. The Zoning Code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
- D. It is the intent of this Zoning Code to place the obligation of complying with its requirements upon the owner, occupier or other person responsible for the condition of the land and buildings within the scope of this Code.
- E. No provision of or term used in this Code is intended to impose any duty upon the Town or any of its officers or employees which would subject them to damages in a civil action.

**10.84.030 Investigation and notice of violation.**

- A. The Town shall investigate any structure or use which the Town reasonably believes does not comply with the standards and requirements of the Zoning Code.
- B. If after investigation the Town determines that the standards or requirements have been violated, the Town shall serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance. The notice shall state that any subsequent violation may result in criminal prosecution as provided in Section 10.84.020. In the event of violation of the standards or requirements of this Title, required corrective action shall include, if appropriate, but shall not be limited to, mitigating measures such as restoration of the area and replacement of damaged or destroyed trees.
- C. The notice shall be served upon the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person or persons in unknown or service cannot be accomplished and the Town makes an affidavit to that effect, then service of the notice upon such person or persons may be made by:
  - 1. Publishing the notice once each week for two (2) consecutive weeks in the Town Official Newspaper; and
  - 2. Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.
- D. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible.
- E. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to Section 10.84.050 or Section 10.84.060.
- F. The Town may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, Stop Work Order or Emergency Order and the applicable requirements and procedures.
- G. A notice or an Order may be amended at any time in order to:
  - 1. Correct clerical errors, or
  - 2. Cite additional authority for a stated violation.

**10.84.040 Time to comply.**

- A. When calculation a reasonable time for compliance, the Town shall consider the following criteria:
1. The type and degree of violation cited in the notice;
  2. The stated intent, if any, of a responsible party to take steps to comply;
  3. The procedural requirements for obtaining a permit to carry out corrective action;
  4. The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and
  5. Any other circumstances beyond the control of the responsible party.
- B. Unless a request for review before the Town is made in accordance with Section 10.84.070 the notice of violation shall become the final order of the Town. A copy of the notice shall be filed with the Skagit County Auditor. The Town may choose not to file a copy of the notice or Order if the notice or Order is directed only to a responsible person other than the owner of the property.

**10.84.050 Stop work order.**

Whenever a continuing violation of this Code will materially impair the Town's ability to secure compliance with this Code, or when the continuing violation threatens the health or safety of the public, the Town may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a Stop Work Order shall constitute a violation of this Land Use Code.

**10.84.060 Emergency order.**

Whenever any use or activity in violation of this Code threatens the health and safety of the occupants of the premises or any member of the public, the Town may issue an Emergency Order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an Emergency Order shall constitute a violation of this Land Use Code.

Any condition described in the Emergency Order which is not corrected within the time specified is hereby declared to be a public nuisance and the Town is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law.

**10.84.070 Review by the Town.**

- A. Any person significantly affected by or interested in a notice of violation issued by the Town pursuant to Section 10.84.030 may obtain a review of the notice by requesting such review within fifteen (15) days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or Federal or Town holiday, the period shall run until five p.m. (5:00 p.m.) on the next business day. The request shall be in writing, and upon receipt of the request, the Town shall notify any persons served the Notice of Violation and the complainant, if any, of the date, time and place set for the review, which shall be not less than ten (10) nor more than twenty (20) days after the request is received, unless otherwise agreed by all persons served with the notice of violation. Before the date set for the review, any person significantly affected by or interested in the notice of violation may submit any written material to the Town for consideration at the review.
- B. The review will consist of an informal review meeting held at the Department. A representative of the Town who is familiar with the case and the applicable ordinances will attend. The Town's representative will explain the reasons for the Town's issuance of the notice and will listen to any additional information presented by the persons attending. At or after the review, the Town may:
1. Sustain the notice of violation;
  2. Withdraw the notice of violation;
  3. Continue the review to a date certain for receipt of additional information; or

4. Modify the notice of violation, which may include an extension of the compliance date.
- C. The Town shall issue an Order of the Town containing the decision within seven (7) days of the date of completion of the review and shall cause the same to be mailed by regular first class mail to the person or persons named on the notice of violation, mailed to the complainant, if possible, and filed with Skagit County Auditor.

**10.84.080                      Extension of compliance date.**

The Town may grant an extension of time for compliance with any notice or Order, whether pending or final, upon the Town's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension.

An extension of time may be revoked by the Town if it is shown that the conditions at the time the extension was granted have changed, the Town determines that the conditions at the time the extension was granted have changed, the Town determines that a part is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date. The procedures for revocation, notification of parties, and appeal of the revocation shall be established by Rule.

**10.84.090                      Civil penalty.**

- A. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of Title 10 shall be subject to a cumulative penalty in the amount of Seventy-five Dollars (\$75.00) per day for each violation from the date set for compliance until the order is complied with.
- B. The penalty imposed by this section shall be collected by civil action brought in the name of the Town. The Town shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Town, take appropriate action to collect the penalty.
- C. The violator may show as full or partial mitigation of liability:
1. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse of another, or
  2. That correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant.

**10.84.100                      Criminal penalties.**

- A. Any person violating or failing to comply with any of the provisions of this Zoning Code and who has had a judgment entered against him or her pursuant to Section 10.84.090 or its predecessors within the past five (5) years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding One Thousand Dollars (\$1,000.00) or be imprisoned in jail for a term not exceeding ninety (90) days or be both fined and imprisoned. Each day of noncompliance with any of the provisions of this Zoning Code shall constitute a separate offense.
- B. A Criminal penalty, not to exceed One Thousand Dollars (\$1,000.00) per occurrence, may be imposed:
1. For violations of Section 10.84.010 D;
  2. For any other violation of this Code for which corrective action is not possible;
  3. For any willful, intentional, or bad faith failure or refusal to comply with the standards or requirements of this Code; and
  4. For violations of the Uniform Building Code as adopted by the Town of Lyman.

**10.84.110                      Additional relief.**

In addition to any other sanction or remedial procedure which may be available, the Town may seek legal or equitable relief in any court of appropriate jurisdiction for specific performance of the requirements of this zoning code, and to abate any condition, and enjoin any acts or practices which constitute or will constitute a violation of this zoning code.

**10.84.120                      Severability.**

If any section, sentence, clause or phase of this ordinance should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.