

Title 15

UNIFORM DEVELOPMENT CODE*

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DIVISION I. GENERAL PROVISIONS

Chapter 15.05

GENERAL PROVISIONS

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15.05.010 Title.

The ordinance codified under this code shall be known as the Uniform Development Code of the town of La Conner. [Ord. 671 § 1.1, 1995.]

15.05.020 Authority.

This code is enacted pursuant to all the provisions and authority of the town, specifically including the requirements and authority of Chapter 36.70A RCW (the Washington State Growth Management Act). [Ord. 671 § 1.2, 1995.]

15.05.030 Applicability.

(1) General Applicability. Except as specifically provided below, the provisions of this code shall apply to all development in the town of La Conner, and no development shall be undertaken without prior authorization pursuant to this code.

(2) Exceptions – Previously Issued and Pending Development Permits. The provisions of this code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit or to any completed permit application permitted prior to the effective date of this code; provided, that the development activity continues without interruption and in compliance with the permit (except due to war or natural disaster) until the development is complete. If the development permit expires, any further development on the site shall occur only in conformance with the requirements of this code or amendments thereto.

(3) Consistency with the Town of La Conner Comprehensive Plan. Nothing in this code shall be construed to authorize development that is incon-

sistent with and does not further the framework and policy direction provided for in the adopted comprehensive plan. [Ord. 671 § 1.3, 1995.]

15.05.040 Findings.

(1) Washington State law requires local governments planning under RCW 36.70A.040 to enact a land development code which is consistent with and implements the local comprehensive plan.

(2) Controlling the location, design and construction of development within the town of La Conner is necessary to maintain and improve the quality of life for its residents and visitors.

(3) A single set of administrative procedures for making all land use decisions promotes efficiency, predictability, and citizen participation.

(4) All development proposals should undergo a development review process to assure compliance with the requirements of this code.

(5) Enforcement of development orders and the provisions of this code should be through procedures that are efficient, effective and consistent with the enforcement procedures established by state law. [Ord. 671 § 1.4, 1995.]

15.05.050 Purpose.

The purpose of this code is to:

(1) Implement the town’s comprehensive plan as required by the state of Washington’s Growth Management Act, Chapter 36.70A RCW;

(2) Further the objectives and goals of the comprehensive plan by assuring orderly community growth, conserving the value of property, and safeguarding the public health, safety and welfare through land use and development regulations which:

(a) Promote appropriate and compatible land uses;

(b) Provide for efficient and safe traffic flow;

(c) Provide for adequate light, air, access and privacy and open space;

(d) Provide for relief from manmade or natural hazards;

(e) Provide an appropriate allotment of land for all requirements of community life;

(f) Preserve and restore the historic value, artistic, and cultural traditions of La Conner;

(g) Conserve the town’s natural beauty and resources;

(h) Encourage coordinated development;

15.05.060

(i) Provide a predictable development atmosphere;

(3) Establish the regulations, procedures and standards for review and approval of all proposed development within the town's boundaries;

(4) Provide specific procedures to ensure that development orders and permits are conditioned on the availability of public facilities and services that meet adopted levels of service and concurrency management standard requirements and ensure development is consistent with the comprehensive plan;

(5) Adopt a development review process that is efficient in terms of time and expense, effective in terms of addressing the natural resource and public facility implications of proposed development, and equitable in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the town;

(6) Ensure that all development proposals are thoroughly and efficiently reviewed for compliance with the requirements of this code, the town comprehensive plan, and other applicable regulations. [Ord. 671 § 1.5, 1995.]

15.05.060 Relationship to comprehensive plan.

The adopted uniform land development code for the town of La Conner is a means to implement the goals and policies of the comprehensive plan relating to land use, housing, utilities, transportation, storm water management, floodplain management, protection of environmentally sensitive areas, and cultural resources. [Ord. 671 § 1.6, 1995.]

15.05.070 Rules of interpretation.

(1) Interpretation. The provisions of this code shall be held to the minimum requirements for protection of public health, safety and general welfare.

(2) Compliance with the comprehensive plan, and where applicable, to the shoreline master program will be required.

(3) Private Agreements. This code supersedes a private agreement only when this code is more restrictive or imposes higher standards.

(4) Status of Nonconforming Uses. No building, structure, or use which was lawful prior to this code shall become unlawful solely by reason of the

adoption of this code, except as provided in LCMC 15.125.010, Existing Nonconforming Development.

(5) For the purpose of this code certain terms or words used shall mean the following:

(a) "Person" means an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as an individual.

(b) Tense. Present tense shall include the future tense.

(c) Number. Words in the singular shall include the plural, and words in the plural number shall include the singular.

(d) Verb Tense. "Shall" and "will" are considered mandatory directives or requirements; "may" and "should" are considered to be expectations.

(e) Written or In Writing. The term "written" or "in writing" shall be construed to include any physical representation of words, letters or figures, whether by printing or otherwise.

(f) "Year" means a calendar year.

(g) "Day" means a calendar day, unless a working day is indicated. In computing any period of time prescribed by this chapter within which an act is to be done, the time shall be computed as follows: The first day shall be excluded and the last day shall be included, unless the last day is a holiday, a Saturday, or a Sunday, in which case that day is also excluded. Time periods of six days or less shall not include weekends or legal holidays.

(h) Boundaries. Interpretations regarding boundaries of land use classifications shall be made in accordance with the following:

(i) Boundaries shown as following or approximately following any street shall be construed as following the center line of the street.

(ii) Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

(iii) Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.

(iv) Boundaries shown as following or approximately following natural features shall be construed as following such features.

(v) Vacated streets and alleys shall assume the zone classification of abutting property with the former center line as the new boundary.

(vi) When any uncertainty exists as to zone boundaries, the planning commission and/or town council may require the interested parties to determine the location of boundaries by survey. [Ord. 906 § 3, 2003; Ord. 671 § 1.7, 1995.]

15.05.080 Boundaries – Map.

This code consists of the text together with a map (Appendix A), which is on file at the office of the town clerk, showing the boundaries of different use districts. Unless otherwise specified the zone boundary lines are the center lines of the street, public alleys, highways or waterways. In the case of navigable water, the center line of the Swinomish Channel shall be the boundary line. The Historic Preservation District overlies portions of the commercial, residential, and public zones. [Ord. 671 § 1.8, 1995.]

15.05.090 Annexations.

At the time of annexation, after proper public hearing, evaluation, and recommendation by the planning commission based upon the comprehensive plan and the current use of the area, the town council will assign to the area an appropriate zoning classification. Annexation procedures are outlined in Chapter 15.125 LCMC. [Ord. 671 § 1.9, 1995.]

Chapter 15.10

DEFINITIONS

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15.10.005

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15.10.005 Applicability.

For the purpose of this code the following definitions shall apply. [Ord. 671 § 2, 1995.]

15.10.010 Abandoned sign.

“Abandoned sign” means a sign that no longer correctly identifies or advertises any person, business, lessor, lessee, owner, product or activity on or off the premises on which the sign is located. [Ord. 671 § 2, 1995.]

15.10.015 Abut.

“Abut” means to physically touch or border upon, or to share a common property line. [Ord. 671 § 2, 1995.]

15.10.020 Access road.

“Access road” means a minor street which collects traffic from other minor streets and serves as the most direct route to a major street or a community facility. [Ord. 671 § 2, 1995.]

15.10.025 Accessory building.

“Accessory building” means a one-story detached structure, the use of which is incidental to the primary use of the principal structure on a lot and is not used for human habitation. Accessory buildings include, but are not limited to, storage sheds, tool sheds, garden buildings, greenhouses, kennels, barns, and garages. [Ord. 671 § 2, 1995.]

15.10.030 Accessory dwelling unit.

“Accessory dwelling unit” means an additional living unit, including separate kitchen, sleeping, and bathroom facilities, either within the primary residential dwelling unit, attached, or separate from the primary residential dwelling unit on a single-family lot. [Ord. 671 § 2, 1995.]

15.10.035 Accessory use or structure.

“Accessory use or structure” means a use of land or structure or portion thereof customarily incidental and subordinate to the principal use of the land or structure and located on the same parcel with the principal use. [Ord. 671 § 2, 1995.]

15.10.040 Adjacent.

“Adjacent” means within 100 feet of proposed project site boundaries for steep slopes; 25 feet of a nontidal wetland; and 300 feet of lands classified agricultural. [Ord. 671 § 2, 1995.]

15.10.043 Administrative conditional use.

“Administrative conditional use” means a use addressing a limited or specific need but, due to a potential adverse effect upon permitted uses or public services and facilities, is only allowed subject to review by the planning director of the use standards of the district, and the certain criteria in this code. [Ord. 955, 2005; Ord. 901 § 1, 2003.]

15.10.045 Adult family home.

“Adult family home” means a regular family abode of a person or persons who are providing personal care, room, and board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the Washington State Department of Social and Health Services determines that the home is of adequate size and that the home and the provider are capable of meeting standards and qualifications as provided for by law (RCW 70.128.010). Adult family homes are a permitted use in all areas zoned for residential use (RCW 70.128.175). [Ord. 671 § 2, 1995.]

15.10.050 Adverse effect.

“Adverse effect” means any modifications, alterations, or effects on waters, associated wetlands, or shorelands, including their quality, quantity, hydrology, surface area, species composition, or usefulness for human or natural uses which are or may potentially be harmful or injurious to human health, welfare, safety or property, to biological productivity, diversity, or stability or which unreasonably interfere with the reasonable use of property, including outdoor recreation. The term includes secondary and cumulative as well as direct impacts. [Ord. 671 § 2, 1995.]

15.10.055 Advertising.

“Advertising” means any display of letters, works, symbols, emblems, logos, illustrations, objects or registered trademarks which serve to call the attention of the public to products, services, businesses, buildings, premises, events, candidates or ballot propositions. [Ord. 671 § 2, 1995.]

15.10.060 Aged person.

“Aged person” means a person of the age of 65 or more, or a person of less than 65 years who by reason of infirmity requires domiciliary care. [Ord. 671 § 2, 1995.]

15.10.065 Agricultural lands of long-term significance.

“Agricultural lands of long-term significance” means land that is primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, animal products, berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production. [Ord. 671 § 2, 1995.]

15.10.070 Alley.

“Alley” means a minor street primarily used for vehicular service access to the back or side of properties abutting on another street. [Ord. 671 § 2, 1995.]

15.10.075 Alter or alteration.

“Alter” or “alteration” means any change, addition or modification in construction or occupancy. [Ord. 671 § 2, 1995.]

15.10.080 Alterations, structural.

“Structural alterations” means any change in the supporting members of a building such as bearing walls, columns, beams or girders. [Ord. 671 § 2, 1995.]

15.10.085 Annexation.

“Annexation” means addition of real property to the boundaries of an incorporated municipality. [Ord. 671 § 2, 1995.]

15.10.087 Antenna.

“Antenna” means a usually metallic device (as a rod or wire) for radiating or receiving radio waves, and often mounted on a support structure. For the purposes of this code, associated support structures are deemed to be an integral part of an antenna. The term “antenna” does not include wireless communication facilities or their associated structures unless specifically stated. [Ord. 786 § 2, 2000.]

15.10.090

15.10.090 Appeal.

“Appeal” means request for reconsideration of a decision made as a result of an interpretation of any provision of this code. [Ord. 671 § 2, 1995.]

15.10.095 Architectural features.

“Architectural features” means features including, but not limited to, cornices, canopies, sunshades, gutters, chimneys, fireplaces, flues and eaves. Architectural features shall not include any portion of the structure built for the support, occupancy, shelter, or enclosure of persons or property of any kind. [Ord. 671 § 2, 1995.]

15.10.100 Area of special flood hazard.

“Area of special flood hazard” means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on the FIRM map for La Conner includes zones A1, A7, and C. [Ord. 671 § 2, 1995.]

15.10.103 Automatic fire sprinkler system.

“Automatic fire sprinkler system” means an integrated system of underground and overhead piping, including a water supply such as a gravity tank, fire pump, reservoir, pressure tank, or connection by underground piping to a public main; said system complying in all respects with the requirements for such systems contained in appropriate standards issued by the National Fire Protection Association. [Ord. 778 § 1, 2000.]

15.10.105 Awning sign.

“Awning sign” – See canopy sign. [Ord. 671 § 2, 1995.]

15.10.110 Banner, decorative.

“Decorative banner” means an object made of cloth, fabric or similar flexible material which is completely devoid of letters, numbers, words or advertising. Streamers shall not be considered decorative banners. [Ord. 671 § 2, 1995.]

15.10.115 Banner sign.

“Banner sign” means any sign intended to be hung, with or without framing, which possesses characters, letters, symbols, emblems, trademarks, illustrations or ornamentations applied to fabric or similar flexible material. Flags, decorative banners,

canopy (awning) signs and temporary signs, treated elsewhere in this chapter, shall not be considered banner signs. [Ord. 671 § 2, 1995.]

15.10.120 Base flood.

“Base flood” means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood. [Ord. 671 § 2, 1995.]

15.10.125 Bed and breakfast.

“Bed and breakfast” means a use carried on in a structure designed for residential purposes which provides overnight accommodations plus breakfast and occasionally family style meals for guests, in an owner-occupied home that provides up to four rooms for this purpose. [Ord. 671 § 2, 1995.]

15.10.130 Best management practice (BMP).

“Best management practice (BMP)” means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water. BMPs are listed and described in the Storm Water Management Manual for the Puget Sound Basin. [Ord. 671 § 2, 1995.]

15.10.135 Boarding home.

“Boarding home” means any home or other institution, however named, which is advertised, announced or maintained for the express or implied purpose of providing board and domiciliary care to three or more aged persons not related by blood or marriage to the operator. It shall not include facilities certified as group training homes pursuant to RCW 72A.22.040, nor any home, institution or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the Department of Housing and Urban Development. [Ord. 671 § 2, 1995.]

15.10.140 Boarding house, rooming house.

“Boarding house, rooming house” means a building or part thereof other than a hotel, motel, or restaurant where meals and/or lodging are pro-

vided for compensation, for one or more unrelated persons where no cooking or dining facilities are provided in individual rooms. [Ord. 671 § 2, 1995.]

15.10.145 Board of adjustment.

Repealed by Ord. 898. [Ord. 671 § 2, 1995.]

15.10.150 Buffer.

“Buffer” means a naturally vegetated area or vegetated area established or managed to protect critical areas from human disturbance. [Ord. 671 § 2, 1995.]

15.10.155 Building.

“Building” means any structure used or intended for supporting or sheltering any use or occupancy. When separated by division walls without openings, each portion so separated shall be considered a separate building. [Ord. 671 § 2, 1995.]

15.10.160 Building height (floodplain).

Repealed by Ord. 986. [Ord. 671 § 2, 1995.]

15.10.165 Building height.

“Building height” means the vertical distance from the average lot grade to the highest point of the roof. Average lot grade shall be determined by averaging the lowest and highest existing elevation points on the lot. [Ord. 986 § 8, 2007; Ord. 671 § 2, 1995.]

15.10.170 Building line.

“Building line” means the line of that face or corner or part of a building nearest the property line. [Ord. 671 § 2, 1995.]

15.10.173 Building permits.

“Building permits” means those permits issued pursuant to LCMC 13.05.010, Uniform Building, Plumbing, Fire and Mechanical Codes. [Ord. 743 § 1, 1999.]

15.10.175 Building, principal.

“Principal building” means the primary building on a lot or a building that houses a principal use. [Ord. 671 § 2, 1995.]

15.10.180 Canopy sign.

“Canopy sign” means a temporary or fixed shelter supported entirely from the exterior wall of a building without other means of support to the ground upon which a sign may be erected upon or against and which contains advertising copy. For the purpose of this chapter, canopy shall include awning. [Ord. 671 § 2, 1995.]

15.10.185 Certificate of authorization.

“Certificate of authorization” means a written authorization, issued by the town of La Conner once all applicable project permits have been obtained, which authorizes the commencement of a use or development activity, and/or which allows Skagit County to review and issue a building permit. [Ord. 743 § 1, 1999; Ord. 671 § 2, 1995.]

15.10.190 Certificate of occupancy.

“Certificate of occupancy” means a written certification that a development meets all requirements of applicable codes and may be legally occupied. It is issued by the Skagit County Permit Center and the town of La Conner after final inspection of the completed work authorized by permit and before the development is occupied. [Ord. 671 § 2, 1995.]

15.10.195 Certificate of concurrency.

“Certificate of concurrency” means a certificate issued to the developer/applicant once the proposed development has been determined to be concurrent with the Concurrency Management System’s Annual Capacity Statements in accordance with the comprehensive plan. [Ord. 671 § 2, 1995.]

15.10.200 Clearing.

“Clearing” means the destruction and removal of vegetation by manual, mechanical, or chemical methods. [Ord. 671 § 2, 1995.]

15.10.205 Closed record appeal.

“Closed record appeal” means an administrative appeal on the record to a local government body or officer, including the town council, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed. [Ord. 671 § 2, 1995.]

15.10.210

15.10.210 Club.

“Club” means a building or portion thereof or premises owned or operated by persons for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests. [Ord. 671 § 2, 1995.]

15.10.215 Compaction.

“Compaction” means densification of a fill by mechanical means. [Ord. 671 § 2, 1995.]

15.10.220 Commemorative plaque.

“Commemorative plaque” means a memorial plaque, sign, plate or tablet which is permanently affixed to or near the structure, object or event it is intended to commemorate and which displays no advertising. [Ord. 671 § 2, 1995.]

15.10.225 Commercial.

“Commercial” means activities and facilities conducted or constructed for profit. [Ord. 671 § 2, 1995.]

15.10.230 Community event.

“Community event” means a public event organized for the benefit of the community, designated by the town council. [Ord. 671 § 2, 1995.]

15.10.235 Compatibility.

“Compatibility” means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. [Ord. 671 § 2, 1995.]

15.10.240 Compensatory mitigation.

“Compensatory mitigation” means replacing project-induced nontidal wetland losses or impacts, and includes, but is not limited to, the following: restoration – actions to restore a nontidal wetland; and creation – actions intentionally taken to establish a nontidal wetland at a site where it did not formerly exist. [Ord. 671 § 2, 1995.]

15.10.245 Comprehensive plan.

“Comprehensive plan” means a generalized coordinated land use plan for community development which includes goals, policies, mandatory elements for land use, housing, utilities, transporta-

tion, capital facilities, and/or optional elements including, but not limited to, conservation, solar energy, and recreation. [Ord. 671 § 2, 1995.]

15.10.250 Concurrency.

“Concurrency” means a condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standard at the time of development impact, or within the six-year capital facilities plan. [Ord. 671 § 2, 1995.]

15.10.255 Conditional use.

“Conditional use” means a use addressing a limited or specific need but, due to a potential adverse effect upon permitted uses or public services and facilities, is only allowed subject to review by the hearing examiner, of the use standards of the district, and the certain criteria in this code. [Ord. 901 § 2, 2003; Ord. 671 § 2, 1995.]

15.10.260 Condominium.

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to Chapter 64.34 RCW, Condominium Act. [Ord. 671 § 2, 1995.]

15.10.263 Construction permit.

“Construction permits” means those permits issued pursuant to LCMC Titles 11 and 12. [Ord. 743 § 1, 1999.]

15.10.265 Convalescent or nursing home.

“Convalescent or nursing home” means an establishment providing nursing, dietary and other personal services to convalescents, invalids, or aged persons, but not mental cases and cases for contagious or communicable diseases which are customarily treated in sanitariums and hospitals. [Ord. 671 § 2, 1995.]

15.10.270 Corner lot.

“Corner lot” means a lot located at the intersection of two or more streets. [Ord. 671 § 2, 1995.]

15.10.275 Cost of construction.

“Cost of construction” means costs incurred for design, acquisition of right-of-way and/or easement, construction, materials, and installation required in order to create an improvement which complies with town standards. [Ord. 671 § 2, 1995.]

15.10.280 Critical areas.

“Critical areas” means, at a minimum, areas which include wetlands, areas with a critical recharging effect on aquifers used for potable water, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, including unstable slopes, and associated areas and ecosystems. [Ord. 671 § 2, 1995.]

15.10.285 Critical facility.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste. [Ord. 671 § 2, 1995.]

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15.10.290 Cul-de-sac.

“Cul-de-sac” means a local street of relatively short length with one end open to traffic and the other end terminating in a vehicular turnaround. [Ord. 671 § 2, 1995.]

15.10.300 Dead end street.

“Dead end street” means a street having only one permanent or temporary outlet for vehicular traffic which may or may not be extended to intersect with another street. [Ord. 671 § 2, 1995.]

15.10.305 Dedication.

“Dedication” means the deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such are as compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. [Ord. 671 § 2, 1995.]

15.10.307 Demolition.

“Demolition” means the destruction, removal, or relocation of more than 50 percent of an existing structure whether removed at one time or through successive actions, except that the removal of past structural additions for the express purpose of restoring a structure to its historic appearance, form or function shall be considered restoration. [Ord. 720 § 2, 1998.]

15.10.310 Density.

“Density” means the number of dwelling units per acre of land. [Ord. 671 § 2, 1995.]

15.10.315 Density, gross.

“Gross density” means the number of dwelling units per acre of the total land to be developed. The total number of dwelling units divided by the total site area, less public right-of-way. Gross density is computed by dividing all the lands occupied by housing plus all its support facilities, such as streets, parks, and public facilities, by the number of dwelling units. [Ord. 671 § 2, 1995.]

15.10.320 Density, net.

“Net density” means the number of dwelling units per acre of land when the acreage involved includes only the sum of the individual lots. Net

density is computed by dividing all the lands assigned to particular structures by the total number of dwelling units. [Ord. 671 § 2, 1995.]

15.10.325 Design review.

“Design review” means a review of proposed development for compliance with standards set for a particular zone. [Ord. 671 § 2, 1995.]

15.10.330 Design storm.

“Design storm” means a prescribed hyetograph and total precipitation amount (for a specific duration recurrence frequency) used to estimate runoff for a hypothetical storm of interest or concern for the purposes of analyzing existing drainage, designing new drainage facilities or assessing other impacts of a proposed project on the flow of surface water. (A hyetograph is a graph of percentages of total precipitation for a series of time steps representing the total time during which the precipitation occurs.) [Ord. 671 § 2, 1995.]

15.10.335 Detention.

“Detention” means the release of storm water runoff from the site at a slower rate than it is collected by the storm water facility system, the difference being held in temporary storage. [Ord. 671 § 2, 1995.]

15.10.340 Detention facility.

“Detention facility” means an above or below ground facility, such as, but not limited to, a pond or tank, that temporarily stores storm water runoff and subsequently releases it at a slower rate than it is collected by the drainage facility system. There is little or no infiltration of stored storm water. [Ord. 671 § 2, 1995.]

15.10.345 Developer.

“Developer” means a person who is responsible for any undertaking that requires a permit from the town of La Conner. [Ord. 671 § 2, 1995.]

15.10.350 Development or development activity.

“Development” or “development activity” means any manmade change to improved or unimproved real estate, including but not limited to:

15.10.355

(1) Construction, clearing, grading, filling, excavating, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site;

(2) Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the long-term storage of materials or equipment;

(3) Subdividing land into two or more parcels;

(4) Tree removal for which authorization is required under this code;

(5) Construction of a permanent sign unless expressly exempted by code;

(6) Alteration of a historic property for which authorization is required by code;

(7) Changing the use of a site so that the need for parking is increased; or

(8) Construction, elimination or alteration of a driveway onto a public street. [Ord. 962 § 1, 2005; Ord. 671 § 2, 1995.]

15.10.355 Development exaction.

“Development exaction” means any charge or dedication for, or construction of, a public facility improvement that is required as a condition of approval for a development project. [Ord. 671 § 2, 1995.]

15.10.360 Directional sign.

“Directional sign” means a sign which contains specific directional information and contains no advertising. [Ord. 671 § 2, 1995.]

15.10.365 Directory sign.

“Directory sign” means a sign which displays exclusively the names, logos and locations of occupants or uses of a building or complex. No other advertising shall be included. [Ord. 671 § 2, 1995.]

15.10.370 Domiciliary care.

“Domiciliary care” means the care offered an individual in his or her living accommodation which includes the assumption of a general responsibility for the safety and well-being of the individual and provision of assistance in the activities of daily living, as needed. [Ord. 671 § 2, 1995.]

15.10.375 Driveway.

“Driveway” means that portion of a vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area. [Ord. 671 § 2, 1995.]

15.10.380 Dwelling unit.

“Dwelling unit” means an enclosure containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as permanent residence by one family. [Ord. 671 § 2, 1995.]

15.10.385 Dwelling, duplex.

“Duplex dwelling” means a detached building containing two dwelling units, each containing sleeping, kitchen, and bathroom facilities, and designed for and used or held ready for use by two families living independently of each other. [Ord. 671 § 2, 1995.]

15.10.390 Dwelling, multifamily.

“Multifamily dwelling” means a detached building containing three or more dwelling units, each containing sleeping, kitchen, and bathroom facilities, and designed for and used or held ready for use by three or more families living independently of each other. [Ord. 671 § 2, 1995.]

15.10.395 Dwelling, single-family.

“Single-family dwelling” means a detached building containing one dwelling unit with sleeping, kitchen, and bathroom facilities designed for and used or held ready for use exclusively by one family and the household employees of that family. [Ord. 671 § 2, 1995.]

15.10.400 Earth material.

“Earth material” means any rock, natural soil or fill and/or any combination thereof. [Ord. 671 § 2, 1995.]

15.10.405 Easement.

“Easement” means the right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose. [Ord. 671 § 2, 1995.]

15.10.410 Effective date.

“Effective date” means the date that a legislative body enacts a land development regulation. [Ord. 671 § 2, 1995.]

15.10.415 Environmentally sensitive areas.

“Environmentally sensitive areas” means resource lands of long-term significance or critical areas. [Ord. 671 § 2, 1995.]

15.10.417 Equipment shelters or cabinets.

“Equipment shelters or cabinets” means a shelter or cabinet used to house radio electronic equipment and the associated cabling related to the provision of wireless communication facilities. [Ord. 786 § 2, 2000.]

15.10.420 Erosion.

“Erosion” means the wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep, detachment and movement of soil or rock fragments by water, wind, ice, or gravity. [Ord. 671 § 2, 1995.]

15.10.425 Excavation.

“Excavation” means the mechanical removal of earth material. [Ord. 671 § 2, 1995.]

15.10.430 Exception.

“Exception” means permission granted by the planning commission or town council for an applicant to proceed contrary to the provisions of this code. [Ord. 671 § 2, 1995.]

15.10.435 Facade.

“Facade” means the side of a building which contains a major entrance open for public use. [Ord. 671 § 2, 1995.]

15.10.440 Factory-built structure.

“Factory-built structure” means a structure that is designed for occupation or use, or is occupied or used by persons, and that complies with this code. Factory-built structures include factory-built housing and commercial structures. [Ord. 671 § 2, 1995.]

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15.10.410 Effective date.

“Effective date” means, following the adoption by the town council, the date in which a land use regulation ordinance is published in the newspaper of record. [Ord. 932 § 3, 2004; Ord. 671 § 2, 1995.]

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“Factory-built structure” means a structure that is designed for occupation or use, or is occupied or used by persons, and that complies with this code. Factory-built structures include factory-built housing and commercial structures. [Ord. 671 § 2, 1995.]

15.10.445 Family.

“Family” means an individual or two or more persons related by blood or marriage, or two or more persons with functional disabilities as defined herein, or a group of not more than three unrelated persons, living together to share a single household unit. [Ord. 671 § 2, 1995.]

15.10.450 Fill.

“Fill” means any material deposited on a site for the primary purpose of raising the existing ground elevation. [Ord. 671 § 2, 1995.]

15.10.455 Flood or flooding.

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; and/or (2) the unusual and rapid accumulation of runoff of surface waters from any source. [Ord. 671 § 2, 1995.]

15.10.460 Flashing sign.

“Flashing sign” means a sign, or a portion thereof, which changes light intensity in a repetitive pattern, or uses electrical energy to provide motion or the illusion of motion. [Ord. 671 § 2, 1995.]

15.10.465 Flood insurance rate map (FIRM).

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. [Ord. 671 § 2, 1995.]

15.10.470 Flood insurance study.

“Flood insurance study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood. [Ord. 671 § 2, 1995.]

15.10.475 Floor area, usable.

“Usable floor area” means 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 includes basement space, elevator shafts and stairwells at each floor, mechanical equipment rooms or attic spaces with headroom of seven feet

15.10.480

six inches or more, penthouse floors, interior balconies and mezzanines, and enclosed porches. Floor area does not include accessory water tanks and cooling towers, mechanical equipment or attic spaces with headroom of less than seven feet six inches, exterior steps, terraces, breezeways and open spaces. [Ord. 671 § 2, 1995.]

15.10.480 Floor area, gross.

“Gross floor area” means the total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage. [Ord. 671 § 2, 1995.]

15.10.485 Floodplain.

“Floodplain” means as defined by the Federal Emergency Management Agency Town of La Conner Flood Insurance Study, the relatively flat area or low lands adjoining the channel of a river, stream, watercourse, or other similar body of water, which has been or may be covered with floodwater. [Ord. 671 § 2, 1995.]

15.10.490 Frequently flooded areas.

“Frequently flooded areas” means floodplains and other areas subject to flooding including flooding that can result from high tides combined with strong winds; the 100-year floodplain designations of the Federal Emergency Management Agency and the National Flood Insurance Program. [Ord. 671 § 2, 1995.]

15.10.495 Freestanding sign.

“Freestanding sign” means a sign connected permanently to the ground and not connected to a building. [Ord. 671 § 2, 1995.]

15.10.500 Geologically hazardous areas.

“Geologically hazardous areas” means areas that because of their susceptibility to erosion, sliding, earthquake or other geological events, are not suited to the siting of commercial, residential or industrial development consistent with public health or safety concerns. [Ord. 671 § 2, 1995.]

15.10.503 Guesthouse or guest rental.

“Guesthouse” or “guest rental” means a single-family dwelling unit rented on a daily or weekly basis. [Ord. 932 § 1, 2004.]

15.10.505 Grade.

“Grade” means the slope of a road, channel, or natural ground. The finished surface prepared for the support of construction such as paving or the laying of a conduit.

(1) Existing grade – the grade prior to grading;

(2) Rough grade – the stage at which the grade approximately conforms to the approved plan;

(3) Finish grade – the final grade of the site which conforms to the approved plan. [Ord. 671 § 2, 1995.]

15.10.510 Ground water.

“Ground water” means water in a saturated zone or stratum beneath the surface water body. [Ord. 671 § 2, 1995.]

15.10.515 Historic district.

“Historic district” means the area established as the Historic Preservation District shown on the La Conner Zoning Map which has a concentration of sites or structures of historic significance to the town. [Ord. 671 § 2, 1995.]

15.10.520 Home occupation.

“Home occupation” means an occupation, business, or artistic activity which results in a product or service and which is conducted, in whole or in part, in either the primary dwelling or in an accessory building normally associated with permitted uses; is conducted by at least one family member occupying the residence; and is clearly subordinate to the residential use of the dwelling and premises. [Ord. 671 § 2, 1995.]

15.10.525 Hotel, motel, or apartment hotel.

“Hotel, motel, or apartment hotel” means any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests. [Ord. 671 § 2, 1995.]

15.10.530 Household/housekeeping unit.

“Household/housekeeping unit” means a single-family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share a dwelling unit. [Ord. 671 § 2, 1995.]

15.10.535 Housing for people with functional disabilities.

“Housing for people with functional disabilities” means housing used, or intended for use, by persons with functional disabilities. The term includes adult family homes and supported living arrangements as herein defined. [Ord. 671 § 2, 1995.]

15.10.540 Hydrophytic vegetation.

“Hydrophytic vegetation” means macrophytic plant life growing in water or a substrate that is at least periodically deficient in oxygen as a result of excess water content. [Ord. 671 § 2, 1995.]

15.10.545 Illicit discharge.

“Illicit discharge” means all nonstorm water discharges to storm water drainage systems that cause or contribute to a violation of state water quality, sediment quality or ground water quality standards, including but not limited to sanitary sewer connections, industrial process water, interior floor drains, car washing and greywater systems. [Ord. 671 § 2, 1995.]

15.10.550 Impact fees.

“Impact fees” means fees paid by a developer for absorbing the local government costs of new development. Impact fees require developers to pay an amount of money determined by a uniform formula. [Ord. 671 § 2, 1995.]

15.10.555 Impervious surface.

“Impervious surface” means a surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of storm water. [Ord. 671 § 2, 1995.]

15.10.560 Improvement.

“Improvement” means any manmade, immovable item which becomes part of, is placed upon, or is affixed to real estate. [Ord. 671 § 2, 1995.]

15.10.565 Infill development.

“Infill development” means construction on vacant lots within previously established or approved developments that have one or more vacant lots available for the construction of new structures. [Ord. 671 § 2, 1995.]

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15.10.570 Infrastructure.

“Infrastructure” means public facilities such as sewers, water lines, paved streets, curbs and gutters, and other basic improvements below and above ground. [Ord. 671 § 2, 1995.]

15.10.575 Industry, light to medium.

“Industry, light to medium” means light to medium manufacturing, fabrication, research, wholesale trade and distribution, and bulk retail businesses which are largely devoid of nuisance and hazards which includes processing and handling of products, the storage of finished or semi-finished goods, and which may include other compatible enterprises that serve the needs and convenience of such firms. [Ord. 671 § 2, 1995.]

15.10.580 In-kind wetland construction.

“In-kind wetland construction” means the restoration or creation of a wetland with vegetation and other characteristics closely approximating those of a specified wetland. [Ord. 671 § 2, 1995.]

15.10.585 Kennel.

“Kennel” means a place where four or more adult dogs or cats are commercially boarded. [Ord. 671 § 2, 1995.]

15.10.590 Land disturbing activity.

“Land disturbing activity” means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, demolition, construction, clearing, grading, filling and excavation. [Ord. 671 § 2, 1995.]

15.10.595 Land use decision.

“Land use decision” means a final determination by the planning director, planning commission or town council on:

(1) An application for a project permit or other governmental approval required by law before real property may be improved, developed, modified, sold, transferred, or used, but excluding applications for permits or approvals to use, vacate, or transfer streets, parks, and similar types of public property; excluding applications for legislative approvals such as rezones and annexations; and excluding applications for business licenses.

(2) An interpretative or declaratory decision regarding the application to a specific property of zoning or other ordinances or rules regulating the improvement, development, modification, maintenance, or use of real property; and

(3) The enforcement by the town of ordinances or codes regulating the improvement, development, modification, maintenance, or use of real property. [Ord. 671 § 2, 1995.]

15.10.597 Land use review.

“Land use review” means review of a proposed use or development activity for consistency with adopted land use plans, policies and regulations. Land use review shall be incorporated into the review of all project permits and shall include a determination of consistency pursuant to LCMC 15.135.080. [Ord. 743 § 1, 1999.]

15.10.600 Large parcel erosion and sediment control plan (large parcel ESC plan).

“Large parcel erosion and sediment control plan (large parcel ESC plan)” means a plan to implement BMPs to control pollution generated during land disturbing activity. Guidance for preparing a large parcel ESC plan is contained in the Puget Sound Water Quality Manual. [Ord. 671 § 2, 1995.]

15.10.605 Levels of service.

“Levels of service” means the adopted levels of service standards in the La Conner comprehensive plan. [Ord. 671 § 2, 1995.]

15.10.610 Lighting, indirect.

“Indirect lighting” means a frontal light source separated from the sign surface illuminating the sign surface by means of a spotlight or similar fixture. [Ord. 671 § 2, 1995.]

15.10.615 Lighting, neon.

“Neon lighting” means a sign illuminated by glass tubes filled with neon gas or gaseous elements. [Ord. 671 § 2, 1995.]

15.10.620

15.10.620 Liveaboard.

“Liveaboard” means a person who uses a marine vessel as a principal residence, place of business, professional, or other commercial enterprise. [Ord. 671 § 2, 1995.]

15.10.625 Local jurisdiction.

“Local jurisdiction” means a county, city, or incorporated town. [Ord. 671 § 2, 1995.]

15.10.630 Lot.

“Lot” means a parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. [Ord. 671 § 2, 1995.]

15.10.635 Lot coverage.

“Lot coverage” means the amount or percent of ground area of a lot that may have buildings or other impervious surfacing located thereon. [Ord. 671 § 2, 1995.]

15.10.640 Lot frontage.

“Lot frontage” – all sides of a lot abutting streets shall be considered frontage. [Ord. 671 § 2, 1995.]

15.10.645 Lot line adjustment.

“Lot line adjustment” means a division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site. [Ord. 671 § 2, 1995.]

15.10.650 Lot of record.

“Lot of record” means any platted lot of the town of La Conner the boundaries of which have been approved by the planning commission or previous boards of adjustment and are recorded in the county assessor’s office under a separate tax parcel number. [Ord. 898 § 2, 2003; Ord. 671 § 2, 1995.]

15.10.655 Lot types.

“Lot types” means terminology used in this code with reference to corner lots, interior lots and through lots is as follows:

(1) “Corner lot” is defined as a lot located at the intersection of two or more streets.

(2) “Interior lot” is a lot other than a corner lot with only one frontage on a street.

(3) “Through lot” is a lot other than a corner lot with frontage on more than one street. [Ord. 671 § 2, 1995.]

15.10.660 Low income.

“Low income” means between 51 percent and 80 percent of median income for the area, as determined by the Department of Housing and Urban Development (HUD). [Ord. 671 § 2, 1995.]

15.10.665 Lowest floor.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement) of a structure. An unfinished or flood-resistant enclosure, usable solely for parking vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this code. [Ord. 671 § 2, 1995.]

15.10.670 Manual.

“Manual” means the Storm Water Management Manual for the Puget Sound Basin (the technical manual) adopted by the town of La Conner. [Ord. 671 § 2, 1995.]

15.10.675 Manufactured home.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required facilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles. Manufactured housing has the following features or characteristics:

(1) Mass produced in a factory;

(2) Designed and constructed for transportation to a site for installation and use then connected to required utilities;

(3) Either an independent, individual building or a module for combination with other elements to form build on site. [Ord. 671 § 2, 1995.]

15.10.680 Manufactured housing, Class A.

“Class A manufactured housing” means a manufactured home constructed after June 15, 1976, in accordance with state and federal requirements for manufactured homes which:

(1) Is comprised of at least two fully enclosed parallel sections each of not less than 12 feet wide by 36 feet long;

(2) Was originally constructed with and now has a composition or wood shake or shingle, coated metal, or similar roof of not less than 3:12 pitch;

(3) Has exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences. [Ord. 963 § 6, 2005; Ord. 671 § 2, 1995.]

15.10.685 Manufactured housing park.

“Manufactured housing park” means any site, or tract of land under single ownership, upon which two or more manufactured houses used for habitation are parked, either free of charge or for revenue purposes; including roadway, building, structure, vehicle or enclosure used or intended for use as a part of the facilities of such park. [Ord. 671 § 2, 1995.]

15.10.690 Market value.

“Market value” means the expected price, documented by an official appraisal, at which the development can be sold to a willing buyer. For developments which involve nonstructural operations such as dredging, drilling, dumping, or filling, the market value is the expected cost of hiring a contractor to perform the operation or where no such value can be calculated, the total of labor, equipment use, transportation, and other costs incurred for the duration of the permitted project. [Ord. 671 § 2, 1995.]

15.10.695 Mean sea level.

“Mean sea level” means the average height of the sea for all stages of the tide. [Ord. 671 § 2, 1995.]

15.10.700 Minimum lot size.

“Minimum lot size” means 5,000 square feet required lot size for residential development. [Ord. 671 § 2, 1995.]

15.10.705 Mitigation.

“Mitigation” means, in the following order of preference:

(1) Avoiding the impact altogether by not taking a certain action or part of an action;

(2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts;

(3) Rectifying the impact by repairing, rehabilitating or restoring the affected environment;

(4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and

(5) Compensation for the impact by replacing, enhancing, or providing substitute resources or environments. [Ord. 671 § 2, 1995.]

15.10.710 Modular structure.

“Modular structure” means a structure designed and constructed for residential, commercial, or industrial purposes which satisfies the International Building Code for the intended purpose, and which is partially or entirely constructed off-site and moved onto a foundation on the site. [Ord. 963 § 6, 2005; Ord. 671 § 2, 1995.]

15.10.715 Multiple business building.

“Multiple business building” means a building containing more than one licensed business. [Ord. 671 § 2, 1995.]

15.10.720 Multifamily residential building.

“Multifamily residential building” means common wall residential buildings that consist of four or fewer units, that do not exceed two stories in height, that are less than 5,000 square feet in area, and that have a one-hour fire-resistive occupancy separation between units. [Ord. 671 § 2, 1995.]

15.10.725 Mural.

“Mural” means artistic rendering containing no advertising and consisting exclusively of paint applied to the wall of a building. [Ord. 671 § 2, 1995.]

15.10.730

15.10.730 Natural location.

“Natural location” means the location of those channels, swales, and other nonmanmade conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps or photographs, or such other means as appropriate. [Ord. 671 § 2, 1995.]

15.10.735 New construction.

“New construction” means structures for which the “start of construction” commenced on or after July 17, 1995. [Ord. 671 § 2, 1995.]

15.10.736 New construction, major.

“New construction, major” means original construction of or additions to an existing structure which is greater than 120 square feet gross floor area; and significant changes to style, size, type, materials or location of architectural features. [Ord. 743 § 1, 1999.]

15.10.737 New construction, minor.

“New construction, minor” means original construction of or additions to an existing structure which is under 120 square feet in gross floor area, fences, retaining walls, pools, hot tubs, and other similar minor accessory uses. [Ord. 743 § 1, 1999.]

15.10.740 New development.

“New development” means any land-disturbing activities, structural development, including construction, installation or expansion of a building or other structure, and creation of impervious surfaces. [Ord. 671 § 2, 1995.]

15.10.745 Nonconforming development.

“Nonconforming development” means development that does not conform to the use regulations in this code and/or the development design and improvement standards in the code. [Ord. 671 § 2, 1995.]

15.10.750 Nonconforming lot.

“Nonconforming lot” means a lot existing on July 17, 1995, that does not meet the minimum area requirement of the zone in which the lot is located. [Ord. 671 § 2, 1995.]

15.10.755 Nonconforming use.

“Nonconforming use” means a lawful use of land that does not currently comply with the use regulations for its zoning classification but which complied with applicable regulations at the time the use was established. [Ord. 671 § 2, 1995.]

15.10.760 Nonconforming project.

“Nonconforming project” means any structure, development or undertaking that is incomplete at the effective date of the code and would be inconsistent with any regulation applicable to the district or zoning classification in which it is located if completed as proposed or planned. [Ord. 671 § 2, 1995.]

15.10.765 Nontidal wetlands.

“Nontidal wetlands” means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grasslined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the town. [Ord. 671 § 2, 1995.]

15.10.768 Office.

“Office” means office space and required parking, etc., including high-tech or e-commerce research and development and professional offices. [Ord. 791, 2000.]

15.10.770 Off-site construction.

“Off-site construction” means the restoration or creation of a wetland at a location not adjacent to a previously specified wetland. [Ord. 671 § 2, 1995.]

15.10.775 100-year flood (base flood).

“100-year flood (base flood)” means that flood having a one percent chance of being equaled or exceeded in any given year, as established by FEMA. [Ord. 671 § 2, 1995.]

15.10.780 Open air vending.

“Open air vending” means commercial activity conducted without an enclosed permanent structure where goods or merchandise is displayed, advertised, or for sale. [Ord. 671 § 2, 1995.]

15.10.785 Open record hearing.

“Open record hearing” means a hearing, conducted by a single hearing body or officer authorized by the town to conduct such hearings, that creates the town’s record through testimony and submission of evidence and information, under procedures prescribed by town ordinance or resolution. An open record hearing may be held prior to a town decision on a project to be known as an “open record predecision hearing.” An open record hearing may be held on an appeal, to be known as an “open record appeal hearing,” if no open record predecision hearing has been held on the project permit. [Ord. 671 § 2, 1995.]

15.10.790 Open space.

“Open space” means land that is reserved for recreational purposes for the preservation of particular vegetative or topographic features. Such land shall not include buildings, streets, drives or park-

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ing areas. “Common” open space is that which is reserved for use by the residents of a neighborhood or development. “Private” open space is that reserved for use by residents of individual dwellings. [Ord. 671 § 2, 1995.]

15.10.795 Owner.

“Owner” means a person who, or entity which, alone, jointly or severally with others, or in a representative capacity has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under lease for the maintenance of the property. [Ord. 671 § 2, 1995.]

15.10.800 Parking space, off-street.

“Parking space, off-street” means an off-street space used to temporarily park a motor vehicle and having access to a public street or alley. [Ord. 671 § 2, 1995.]

15.10.805 Park trailer.

“Park trailer” means a vehicular unit which meets the following criteria:

- (1) Built on a single chassis, mounted on wheels;
- (2) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;
- (3) A gross trailer area not exceeding 400 square feet. In calculating the square footage, measurements shall be taken on the exterior of the park trailer. [Ord. 671 § 2, 1995.]

15.10.810 People with functional disabilities.

“People with functional disabilities” are defined as:

- (1) A person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:
 - (a) Needing care, supervision or monitoring to perform activities of daily living or instrumental activities of daily living; or
 - (b) Needing supports to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible; or
 - (c) Having a physical or mental impairment which substantially limits one or more of such person’s major life activities; or

- (2) Being regarded as having such an impairment, but such term does not include current, illegal use of or active addiction to a controlled substance. [Ord. 671 § 2, 1995.]

15.10.815 Performance standards.

“Performance standards” means standards used to regulate development based on the permissible effects or impacts of a proposed use including, but not limited to environmental impacts, police, sewer, water, and fire services. [Ord. 671 § 2, 1995.]

15.10.820 Permanent.

“Permanent” means designed, constructed and intended for more than short term use. [Ord. 671 § 2, 1995.]

15.10.825 Permanent storm water quality control (PSQC) plan.

“Permanent storm water quality control (PSQC) plan” means a plan which includes permanent BMPs for the control of pollution from storm water runoff after construction and/or land disturbing activity has been completed. For small sites, this requirement is met by implementing a small parcel erosion and sediment control plan. Guidance on preparing a PSQC plan is contained in the Manual. [Ord. 671 § 2, 1995.]

15.10.830 Permitted use.

“Permitted use” means any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district. [Ord. 671 § 2, 1995.]

15.10.835 Person.

“Person” means an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit. [Ord. 671 § 2, 1995.]

15.10.840 Planned residential development.

“Planned residential development” means a development constructed on a tract of at least one acre under single ownership, planned and developed as an integral unit, and consisting of single-

15.10.845

family detached residences combined with either two-family residences or multifamily residences, or both. [Ord. 671 § 2, 1995.]

15.10.845 Planning jurisdiction.

“Planning jurisdiction” means the area within the town limits as well as any additional area which has been adopted into the town’s comprehensive plan as the Urban Growth Area. [Ord. 671 § 2, 1995.]

15.10.850 Plat.

“Plat” means a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications. [Ord. 671 § 2, 1995.]

15.10.855 Plat, preliminary.

“Preliminary plat” means a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision consistent with the requirements of this code. A preliminary plat is the basis for approval or disapproval of the general layout of a subdivision. [Ord. 671 § 2, 1995.]

15.10.860 Plat, final.

“Final plat” means the final drawing of the subdivision/short subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in this code for the land division. [Ord. 671 § 2, 1995.]

15.10.865 Plat, short.

“Short plat” means a map or representation of a short subdivision. [Ord. 671 § 2, 1995.]

15.10.870 Pollutant.

“Pollutant” means any substance, contaminant, noise or manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air, land or water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation. [Ord. 671 § 2, 1995.]

15.10.875 Pollution.

“Pollution” means contamination or other alteration of the physical, chemical, or biological properties of water of the state, including change in temperature, taste, color, turbidity, or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive or other substance into any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish, or other aquatic life. [Ord. 671 § 2, 1995.]

15.10.880 Portable sign.

“Portable sign” means any moveable sign which is not permanently affixed to the ground, a structure or a building. [Ord. 671 § 2, 1995.]

15.10.885 Practical alternative.

“Practical alternative” means an alternative to the proposed project that would accomplish the basic purpose of the project and avoid or have less adverse impact on a natural resource or existing development. [Ord. 671 § 2, 1995.]

15.10.890 Premises.

“Premises” means real property on which businesses advertised by the signs mentioned in this code are situated. [Ord. 671 § 2, 1995.]

15.10.895 Primary use or principal use.

“Primary use” or “principal use” means the use(s) for which a lot or development, structure or building, or the major portion thereof (50 percent or more), is designed or actually employed. [Ord. 979 § 3, 2006; Ord. 671 § 2, 1995.]

15.10.900 Priority habitat and species areas.

“Priority habitat and species areas” means areas in which endangered, threatened, and sensitive species have a primary association. This includes habitats and species of local importance, kelp and eel grass beds, and herring and smelt spawning areas, and waters of the state. [Ord. 671 § 2, 1995.]

15.10.905 Project permit or project permit application.

“Project permit” or “project permit application” means any land use or environmental permit or license required from the town for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as other specifically included in this code. [Ord. 671 § 2, 1995.]

15.10.910 Projecting sign.

“Projecting sign” means a sign which is attached to and projects or hangs from a structure, wall or building face further than six inches. [Ord. 671 § 2, 1995.]

15.10.915 Professional offices.

“Professional offices” means offices used as a place of business conducted by persons engaged in recognized professions. [Ord. 671 § 2, 1995.]

15.10.920 Public meeting.

“Public meeting” means an informal meeting, hearing, workshop, or other public gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to the town’s decision. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the town’s project permit application file. [Ord. 671 § 2, 1995.]

15.10.925 Public use.

“Public use” means areas and facilities used by the public or utilized for the benefit of the public. [Ord. 671 § 2, 1995.]

15.10.930 Recreational vehicle.

“Recreational vehicle” means a vehicular type unit primarily designed for recreational camping, travel, or seasonal use which has its own motive power or is mounted on or towed by another vehicle. The basis entities are: travel trailer, folding

camping trailer, park trailer, truck camper, motor home, and multi-use vehicles. [Ord. 671 § 2, 1995.]

15.10.935 Recreational vehicle park.

“Recreational vehicle park” means any tract or parcel of land upon which two or more recreational vehicle spaces for overnight use are provided, with or without utility services. A manufactured housing court or park or an approved storage facility shall not be considered a “recreational vehicle park”. [Ord. 671 § 2, 1995.]

15.10.940 Redevelopment.

“Redevelopment” means on an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment. [Ord. 671 § 2, 1995.]

15.10.945 Regulated nontidal activity.

“Regulated nontidal activity” means an activity with a significant impact on nontidal wetlands, including:

(1) The removal, excavation, or dredging of sand, gravel, minerals, organic matter, or materials of any kind;

(2) The changing of existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics;

(3) The disturbance of the nontidal wetland water level or water table by drainage, impoundment, or other means;

(4) The dumping or discharging of material, or the filling of a nontidal wetland with material;

(5) The placing of fill or the grading or removal of material that would alter existing topography;

(6) The driving of piles, placement of obstructions, and erection or repair of buildings or structure of any kind;

(7) The destruction or removal of plant life that would alter the character of a nontidal wetland; and

(8) The conduct of an activity that results in a significant change of water temperature, a significant change of physical or chemical characteristics of nontidal wetland water sources, or the introduction of pollutants. [Ord. 671 § 2, 1995.]

15.10.950

15.10.950 Regulated slopes.

“Regulated slopes” means slopes that average 15 percent or greater over a vertical interval of 10 feet. [Ord. 671 § 2, 1995.]

15.10.955 Reimbursement agreement.

“Reimbursement agreement” means a written agreement the town and one or more property owners providing for construction of “water or sewer facilities” and “street projects” for partial reimbursement to the party causing such improvements to be made of a portion of the costs of such improvements, as more specifically described in Chapter 35.72 RCW (Contracts for Street Projects) and Chapter 35.91 RCW (Municipal Water and Sewer Facilities Act). [Ord. 671 § 2, 1995.]

15.10.957 Repair and maintenance (not shoreline related).

“Repair and maintenance (not shoreline related)” means those usual acts to prevent a decline, lapse, or cessation from a lawfully established condition, including replacement of features or portions of existing structures such as windows, roofing, siding porches, painting and foundation repair. Repair and maintenance does not include replacement of an entire structure or change of style, materials, type or size of architectural features. [Ord. 743 § 1, 1999.]

15.10.960 Replat/redivision.

“Replat/redivision” means a plat of previously platted land for the purpose of modifying boundary lines or increasing or decreasing lot sizes according to the requirements of town ordinances. [Ord. 671 § 2, 1995.]

15.10.965 Residence, primary with accessory apartment.

“Primary residence with accessory apartment” means a residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25 percent of the gross floor area of the building nor more than a total of 750 square feet. [Ord. 671 § 2, 1995.]

15.10.970 Residence, multi-single-family detached (more than one dwelling unit/lot).

“Multi-single-family detached residence (more than one dwelling unit/lot)” means a residential use consisting of two or more single-family detached dwelling units on a single lot. [Ord. 671 § 2, 1995.]

15.10.975 Residence, single-family detached (one dwelling unit/lot).

“Single-family detached residence (one dwelling unit/lot)” means a residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units. [Ord. 671 § 2, 1995.]

15.10.980 Rest homes, nursing homes, homes for the elderly.

“Rest homes, nursing homes, homes for the elderly” means a private home or institution for the care of the aged or the infirm. [Ord. 671 § 2, 1995.]

15.10.985 Restaurant.

“Restaurant” means a food and/or drink establishment with table service and serving complete meals. [Ord. 671 § 2, 1995.]

15.10.990 Restrictive covenants.

“Restrictive covenants” means a private agreement between a landowner and a person to whom land is sold or transferred, generally creating easements governing how the land may be used. [Ord. 671 § 2, 1995.]

15.10.995 Retention facility.

“Retention facility” means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground. [Ord. 671 § 2, 1995.]

15.10.1000 Retirement home.

“Retirement home” means an establishment providing domestic care for elderly persons who are not in need of medical or nursing treatment except in the case of temporary illness. This definition does not include nursing, convalescent or resthomes, hospitals, or sanitariums. [Ord. 671 § 2, 1995.]

15.10.1005 Retirement apartments.

“Retirement apartments” means a multifamily residential development designed and developed for exclusive use by senior citizens, as defined by the most recently adopted state law. [Ord. 671 § 2, 1995.]

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15.10.1010 Right-of-way.

“Right-of-way” means a strip of land taken or dedicated for use as public way. [Ord. 671 § 2, 1995.]

15.10.1015 Roof sign.

“Roof sign” means a sign erected above or upon a principal roof of a building or structure. [Ord. 671 § 2, 1995.]

15.10.1020 Roof line.

“Roof line” means the edge of the principal roof immediately adjacent to the main facade or the top edge of a parapet wall. [Ord. 671 § 2, 1995.]

15.10.1025 Sandwich board sign.

“Sandwich board sign” means an A-framed moveable wood sign. [Ord. 671 § 2, 1995.]

15.10.1030 Setback line.

“Setback line” means a line established by the subdivision regulations and/or zoning ordinance generally parallel with and measured from the lot line or right-of-way, defining the limits of a yard in which no building, other than accessory building or structure may be located above ground, except as may be provided in such regulations. [Ord. 671 § 2, 1995.]

15.10.1035 Sign.

“Sign” means a publicly displayed advertising, directional, or informational notice, or any other device that may be displayed to attract attention to a business or event. [Ord. 671 § 2, 1995.]

15.10.1040 Sign area.

“Sign area” means the entire area of a sign on which the copy is to be placed. Sign areas shall be calculated by measuring the area of the smallest rectangle that will encompass the extreme limit of the advertising copy together with any material forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supportive framework or bracing. On fences or walls which contain no written copy or other advertising, and when such fences or walls are clearly incidental to the display itself, the

sign area shall be a rectangle formed by the greatest height and width of the advertising copy. [Ord. 671 § 2, 1995.]

15.10.1045 Sign face.

“Sign face” means any surface of a sign upon which there is lettering or other advertising. [Ord. 671 § 2, 1995.]

15.10.1050 Sign height.

“Sign height” means the vertical distance from grade to the highest point of a sign or any projection thereof. [Ord. 671 § 2, 1995.]

15.10.1055 Sign, off-premises.

“Off-premises sign” means a sign which advertises goods, products, or services which are not sold, manufactured, or distributed, or events not held on the premises on which the sign is located. [Ord. 671 § 2, 1995.]

15.10.1060 Site.

“Site” means the portion of a piece of property which is directly subject to development. [Ord. 671 § 2, 1995.]

15.10.1065 Slope.

“Slope” means the degree of deviation of a surface from the horizontal, measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90-degree slope being vertical (maximum) and a 45-degree slope being a 1:1 or 100 percent slope. [Ord. 671 § 2, 1995.]

15.10.1070 Small parcel erosion and sediment control plan (small parcel ESC plan).

“Small parcel erosion and sediment control plan (small parcel ESC plan)” means a plan for small sites to implement temporary BMPs to control pollution generated during the construction phase only, primarily erosion and sediment. Guidance for preparing a small parcel ESC plan is contained in the Manual. [Ord. 671 § 2, 1995.]

15.10.1075

15.10.1075 Soil.

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants. [Ord. 671 § 2, 1995.]

15.10.1080 Source control BMP.

“Source control BMP” means a BMP that is intended to prevent pollutants from entering storm water. A few examples of source control BMPs are erosion control practices, maintenance of storm water facilities, constructing roofs over storage and working areas, and directing wash water and similar discharges to the sanitary sewer or a dead end sump. [Ord. 671 § 2, 1995.]

15.10.1085 Start of construction.

“Start of construction” means includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. [Ord. 671 § 2, 1995.]

15.10.1090 Storm water.

“Storm water” means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility. [Ord. 671 § 2, 1995.]

15.10.1095 Storm water drainage system.

“Storm water drainage system” means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat or filter storm water. [Ord. 671 § 2, 1995.]

15.10.1100 Storm water facility.

“Storm water facility” means a constructed component of a storm water drainage system, designed or constructed to perform a particular function, or multiple functions. Storm water facilities include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, constructed wetlands, infiltration devices, catchbasins, oil/water separators, sediment basins and modular pavement. [Ord. 671 § 2, 1995.]

15.10.1105 Storm water management manual or manual.

“Storm water management manual” or “manual” means the manual adopted by reference and prepared by the Department of Ecology that contains BMPs to prevent or reduce pollution. [Ord. 671 § 2, 1995.]

15.10.1110 Storm water runoff.

“Storm water runoff” means that portion of the storm water that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system. [Ord. 671 § 2, 1995.]

15.10.1115 Storm water site plan.

“Storm water site plan” means a plan which includes an erosion and sediment control (ESC) plan and/or a permanent storm water quality control plan (PSQCP). For small sites, this plan is the equivalent of a small parcel erosion and sediment control plan. Guidance on preparing a storm water site plan is contained in the Manual. [Ord. 671 § 2, 1995.]

15.10.1120 Streamer.

“Streamer” means an attention attracting device consisting of one or more pennants, balloons, ribbons, reflectors, fringes or similar objects strung together on a common line, pole or sign structure, or attached to one or more products offered for sale. [Ord. 671 § 2, 1995.]

15.10.1125 Streams.

“Streams” means those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetative litter or loosely rooted vegetation by the action of moving water. The channel or bed need not contain water year-round. This definition includes the Swinomish Channel and Sullivan Slough. [Ord. 671 § 2, 1995.]

15.10.1130 Street.

“Street” means a public street or a street with respect to which an offer of dedication has been made; a public or private right-of-way for vehicular traffic, including highways, thoroughfares, lanes, roads, ways, boulevards, and alleys. [Ord. 671 § 2, 1995.]

15.10.1135 Street, collector.

“Collector street” means a street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or used to carry more than 800 trips per day. [Ord. 671 § 2, 1995.]

15.10.1140 Street improvements.

“Street improvements” means improvements including, but not limited to, streets with or without curbs and gutters, sidewalks, crosswalkways, water mains, sanitary and storm sewers. [Ord. 671 § 2, 1995.]

15.10.1145 Street, local access residential.

“Local access residential street” means a class of street designed to connect residential neighborhood traffic to all land use zones in a community. [Ord. 671 § 2, 1995.]

15.10.1150 Street, major collector.

“Major collector street” means a street that serves commercial and industrial districts as well as some through traffic. [Ord. 671 § 2, 1995.]

15.10.1155 Street, minor collector.

“Minor collector street” means a street which gives direct access to commercial and industrial

uses and residential neighborhoods but not to individual dwelling units. [Ord. 671 § 2, 1995.]

15.10.1160 Structure.

“Structure” means 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, retaining walls less than three feet in height, rockeries and similar improvements of a minor character. [Ord. 671 § 2, 1995.]

15.10.1165 Subdivision.

“Subdivision” means the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease, or transfer of ownership. [Ord. 671 § 2, 1995.]

15.10.1170 Subdivision, short.

“Short subdivision” means the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. [Ord. 671 § 2, 1995.]

15.10.1175 Substantial redevelopment.

“Substantial redevelopment” means any single reconstruction or improvement of a structure or any combination of reconstruction, alteration, or improvement to a structure, taking place during the life of the structure, in which the cumulative cost equals or exceeds 50 percent of the assessed value of the structure at the time of permitting as determined by the county assessor. “Redevelopment” occurs when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. [Ord. 986 § 4, 2007; Ord. 906 § 1, 2003; Ord. 671 § 2, 1995.]

15.10.1180 Supported living arrangement.

“Supported living arrangement” means a living unit owned or rented by one or more persons with functional disabilities who receive assistance with activities of daily living, instrumental activities of daily living, and/or medical care from an individual or agency licensed and/or reimbursed by a public agency to provide such assistance. [Ord. 671 § 2, 1995.]

15.10.1185

15.10.1185 Temporary sign.

“Temporary sign” means a sign or advertising display without a frame which is displayed for a limited time only and includes community event signs, political signs and construction signs. [Ord. 671 § 2, 1995.]

15.10.1190 Temporary structures.

“Temporary structures” means any structure or vehicle designed to be easily transported or dismantled after function has been fulfilled. [Ord. 671 § 2, 1995.]

15.10.1195 Temporary uses.

“Temporary uses” means those uses of land or existing structures and improvements which do not require permanent changes, or the permanent commitment of the land or existing structure to the proposed use. [Ord. 671 § 2, 1995.]

15.10.1198 Townhouse.

“Townhouse” means a one-family, ground-related dwelling attached to one or more such units in which each unit has its own exterior ground-level access to the outside; no unit is located over another unit; and each unit is separated from another unit by one or more vertical common walls. Typically, the units are multistory. [Ord. 877 § 5, 2003.]

15.10.1200 Trail.

“Trail” (see “walkway”) means a path that may be used for walking, bicycle riding or horseback riding. [Ord. 671 § 2, 1995.]

15.10.1203 Transitional Commercial Zone.

The “Transitional Commercial Zone” is the commercial property bound by Caledonia Street to the south; Third Street to the east; Moore Street to the east and north and by a line 80 feet south of Commercial Street on the north and the Swinomish Channel to the west. [Ord. 877 § 5, 2003.]

15.10.1205 Travel trailer.

“Travel trailer” (see “recreation vehicle”) means a vehicle used as a temporary living quarters for recreational, camping, or travel use. [Ord. 671 § 2, 1995.]

15.10.1210 Treatment BMP.

“Treatment BMP” means a BMP that is intended to remove pollutants from storm water. A few examples of treatment BMPs are detention ponds, oil/water separators, biofiltration swales and constructed wetlands. [Ord. 671 § 2, 1995.]

15.10.1215 Unstable slopes.

“Unstable slopes” means those sloping areas of land which have in the past exhibited, are currently exhibiting, or will likely in the future exhibit, mass movement of earth. [Ord. 671 § 2, 1995.]

15.10.1220 Urban growth area.

“Urban growth area” means area designated by the town’s comprehensive plan. [Ord. 671 § 2, 1995.]

15.10.1225 Use.

“Use” means the specific purpose(s) for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained. The purpose or activity for which a piece of land or its building is designed, arranged, or intended or for which it is occupied or maintained. [Ord. 671 § 2, 1995.]

15.10.1230 Variance.

“Variance” means the means by which an adjustment is made in the application of a specified regulation of a zoning ordinance/code to a particular piece of property, which property, because of the special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and zone and which adjustment will remedy disparity in privileges. A grant of permission by the legislative body that authorizes the recipient to do that which, according to the strict letter of the ordinance, could not otherwise be legally done. [Ord. 671 § 2, 1995.]

15.10.1235 Vegetation.

“Vegetation” means all organic plant life growing on the surface of the earth. [Ord. 671 § 2, 1995.]

15.10.1240 Veterinary animal hospital or clinic.

“Veterinary animal hospital or clinic” means a place used for the care, grooming, and medical treatment of animals, and may include overnight

accommodations on the premises for the appropriate treatment. [Ord. 671 § 2, 1995.]

15.10.1245 Wall sign.

“Wall sign” means a sign attached parallel to, and within six inches of the wall, which is supported by and confined within the limits of such wall, and which displays only one surface. [Ord. 671 § 2, 1995.]

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accommodations on the premises for the appropriate treatment. [Ord. 671 § 2, 1995.]

15.10.1245 Wall sign.

“Wall sign” means a sign attached parallel to, and within six inches of the wall, which is supported by and confined within the limits of such wall, and which displays only one surface. [Ord. 671 § 2, 1995.]

15.10.1250 Walkway.

“Walkway” (see “trail”) means a dedicated public way, three feet or more in width for pedestrian use only, whether along the side of the road or not. [Ord. 671 § 2, 1995.]

15.10.1255 Waterbody.

“Waterbody” means surface waters including rivers, streams, lakes, marine waters, estuaries, and wetlands. [Ord. 671 § 2, 1995.]

15.10.1260 Watertight.

“Watertight” means completely dry without human intervention during flooding. [Ord. 671 § 2, 1995.]

15.10.1265 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands. [Ord. 968 § 1, 2006; Ord. 671 § 2, 1995.]

15.10.1270 Wetland restoration.

“Wetland restoration” means a human activity that returns a wetland or former wetland from a dis-

turbed or altered condition with lesser acreage or functions to a previous condition with greater wetland acreage or functions. [Ord. 671 § 2, 1995.]

15.10.1275 Window sign.

“Window sign” means a sign placed upon the interior or exterior surface of a window. Not included is a statement of business hours. [Ord. 671 § 2, 1995.]

15.10.1278 Wireless communication facility.

“Wireless communication facility” means a facility designed to provide service for personal wireless devices, typically comprised of electronic devices designed for receiving and sending radio signals, and typically is associated with support structures, equipment shelters and/or cabinets. [Ord. 786 § 2, 2000.]

15.10.1280 Yard.

“Yard” means a required open space unoccupied and unobstructed by any structure or portion of a structure. [Ord. 671 § 2, 1995.]

15.10.1285 Yard, front.

“Front yard” means an open, unoccupied space extending from the principal street right-of-way line to the nearest point of a roofed building on the lot and including the full width of the lot to its side lines. [Ord. 671 § 2, 1995.]

15.10.1290 Yard, rear.

“Rear yard” means an open, unoccupied space extending from the rear lot line to the nearest point of the roofed main building on the lot and including the full width of the lot to its side lines. [Ord. 671 § 2, 1995.]

15.10.1295 Yard, side.

“Side yard” means an open, unoccupied space extending from the front yard to the rear yard and from the nearest point of the roofed main building to the side lot line. [Ord. 671 § 2, 1995.]

15.10.1300 Zoning.

“Zoning” means a community division into a district or zone within which permitted and special uses are established, including regulations governing the lot size, building bulk, placement and other development standards. [Ord. 671 § 2, 1995.]

Chapter 15.12

HEARING EXAMINER

Sections:

- 15.12.010 Purpose.
- 15.12.020 Definitions.
- 15.12.030 Selection – Contract.
- 15.12.040 Qualifications – Removal.
- 15.12.050 Term.
- 15.12.060 Ex parte contract – Disclosure – Conflict of interest.
- 15.12.070 Annual report – Rules – Application for consideration.
- 15.12.080 Computation of time period.
- 15.12.090 Time periods – Procedures.
- 15.12.100 Decision – Reconsideration.
- 15.12.110 Matters to be decided.
- 15.12.120 Recommendations to town council.
- 15.12.130 Appeal of administrative decision.
- 15.12.140 Appeal of hearing examiner or town council decision.

15.12.010 Purpose.

The purpose of this chapter is to:

- (1) Separate the land use regulatory function from the land use planning process;
- (2) Ensure procedural due process and appearance of fairness of land use regulatory hearings and decisions;
- (3) Provide an efficient and effective land use regulatory system which integrates the public hearing and decision-making processes for land use matters;
- (4) Provide for consistency and predictability in land use decision-making and the application of policies and regulations adopted by the town;
- (5) Establish clear and understandable rules governing the land use decision-making process. [Ord. 686 § 1, 1996.]

15.12.020 Definitions.

In interpreting the words and phrases within this chapter, it is the intention of this section to provide specific definitions as well as general guidelines for use and interpretation of words or phrases. Generally, the following shall apply:

(1) The words and phrases defined herein when used in this chapter shall have the meaning given to them within these definitions or this chapter, unless

their context clearly indicates that they are to have some other meaning.

(2) A word or phrase not defined within this chapter but defined within some other section or portion of the town’s land use control ordinances shall have the meaning or definition given in that town’s land use control ordinances unless the context clearly indicates that it is to have some other meaning.

(a) “Planner” means the town staff person assigned by the mayor or by a job description approved by the town to be the administrator of this title.

(b) “Applicant” means any person or entity applying to the town for approval of land uses that conform to the town’s goals, policies, plans, and programs of development.

(c) “Town” means the town of La Conner, Washington.

(d) “Council” means the La Conner town council.

(e) “Decision” or “final decision,” when used in this chapter or any ordinance or code section relating to the powers and responsibilities of the examiner, means the final action of the examiner or, to the extent applicable, if any, the town council. Utilization of the term or terms shall in no way be deemed to restrict the powers and authority of the council and mayor as they may be granted by the laws and ordinances of the town to accept the final decision of the examiner as a recommendation and to proceed with his, her or their role in the decision-making process.

(f) “Department” means town of La Conner planning department.

(g) “Examiner” or “hearing examiner” means the hearing examiner of the town of La Conner.

(h) “Ex parte communication” means written or oral communications not included in the public record and made outside of a public hearing.

(i) “Party of record” means:

(i) The applicant or his, her, or its designated agent;

(ii) Any person or entity submitting written comments or attending a public hearing, who requests notification of the examiner’s decision.

(j) “Service,” except as otherwise provided in this chapter or required by the particular circumstances of the use of the term, means posting in the

United States mail, properly addressed, postage prepaid, commercial parcel delivery company, or personal service. Service by mail is complete the second day, not counting or including weekends or legal holidays following deposit in the United States mail. Personal service or service by a commercial parcel delivery company is complete upon delivery to the party or an individual upon whom service of a summons and complaint would be valid under the laws and decisions of this state.

(k) “Staff” means employees of the departments of the town of La Conner, Washington. [Ord. 686 § 2, 1996.]

15.12.030 Selection – Contract.

The examiner shall be selected by the mayor subject to confirmation by the town council. The examiner may be retained under a professional services contract for a term and on conditions determined appropriate by the mayor. The contract may also provide for examiners pro tem to serve in the absence of the examiner under such terms and conditions deemed appropriate by the mayor. The contracts shall be approved by the council. [Ord. 686 § 3, 1996.]

15.12.040 Qualifications – Removal.

Examiners shall be appointed solely with regard to their qualifications for the duties of their office and will have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings on regulatory enactments and to discharge the other functions conferred upon them. Examiners shall hold no other elective or appointive office or position with the town, except for the office of municipal court judge. An examiner may be removed from office for cause by the mayor, however, such removal shall not affect the ability of the examiner to complete any cases for which he or she has already undertaken the hearing. [Ord. 689 § 1, 1996; Ord. 686 § 4, 1996.]

15.12.050 Term.

The term of appointment for the examiner and any deputy examiner shall be for a period of four years or until his or her successor has been appointed and confirmed, subject to termination as provided in LCMC 15.12.040. Temporary examiners may be appointed for such terms and functions

as the mayor and council deem appropriate. [Ord. 686 § 5, 1996.]

15.12.060 Ex parte contract – Disclosure – Conflict of interest.

(1) In order to assure an appearance of fairness in matters considered by the examiner, no person shall have an ex parte contact with the examiner regarding such matter and no person, including governmental officials and employees, shall attempt to interfere with or influence the examiner outside of public hearing; provided, that a town official or employee may, in the performance of his or her official duties, provide information to the examiner when the action is disclosed at the hearing or meeting to the extent that disclosure is required by law.

(2) No examiner shall conduct or participate in any hearing or decision in which the examiner may have a direct or indirect financial or personal interest or in which any such conduct or participation would violate any rule of law applicable thereto. [Ord. 686 § 6, 1996.]

15.12.070 Annual report – Rules – Application for consideration.

The examiner shall annually, on or before December 31st, submit a report to the planning commission concerning the conduct of the examiner’s office and any recommendations appropriate for effective administration of the examiner’s office and the town’s land use controls. The examiner shall appear before the planning commission no sooner than 30 days nor later than 60 days thereafter to discuss said report. The examiner shall prescribe a regular calendar and special setting of matters and rules for the scheduling and conduct of hearings and other rules or procedure. The planner shall schedule matters pursuant to the rules. The clerk-treasurer or his or her designee shall provide all required notices of hearings. [Ord. 686 § 7, 1996.]

15.12.080 Computation of time period.

In computing any period of time prescribed by this chapter within which an act is to be done, the time shall be computed as follows: The first day shall be excluded and the last day shall be included, unless the last day is a holiday, a Saturday, or a Sunday, in which case that day is also excluded. Time periods of six days or less shall not include weekends or legal holidays. [Ord. 686 § 8, 1996.]

15.12.090 Time periods – Procedures.

(1) Unless a different time period or procedure is established by a particular code section directly applicable to a specific type of proceeding, the following time periods and procedures shall be applicable to actions and decisions of the examiner. To the extent that there are any inconsistencies between this section and those other applicable code sections, the provisions of the other code sections shall control.

Within 10 days of the conclusion of a hearing, unless a longer period is mutually agreed to by the applicant and the examiner or established by the specific provision governing such matters, the examiner shall render a written decision which shall include findings, conclusions and, where appropriate, conditions all based on the record. The decision of the examiner shall be final and conclusive unless appealed pursuant to LCMC 15.12.140 and applicable state law.

(2) The decision shall be served upon the applicant and any other individual or entity who or which has been given status as a party of record, such service to be to the last known address of the applicant or party of record in one of the manners provided by this chapter.

(3) Any decision affirming the imposition of a civil penalty shall create a personal monetary obligation to the town of La Conner which may be enforced or collected by any legal means by the town attorney or assignee of the town. The town or its assignee shall, in any action to collect, receive its costs and attorney fees, including any appeals. The penalty shall, if unpaid, accrue interest at a rate of 12 percent per annum commencing the sixteenth day after the hearing examiner's decision. [Ord. 839 § 28, 2001; Ord. 696 § 1, 1997; Ord. 686 § 9, 1996.]

15.12.100 Decision – Reconsideration.

The town or any party of record, who or which disagrees with the decision of the examiner, may make a written request for reconsideration by the examiner within five days of the date of service of the written decision unless a different period of reconsideration is established by the particular section involved, in which case such specific section shall control. The request for reconsideration shall be filed with the clerk-treasurer upon forms adopted by the examiner and must on its face show

that the requestor as a party of record or the town and must allege a specific error of law and/or fact. If the application is adequate and if the examiner chooses to reconsider, the examiner may take such further action as the examiner deems proper and may render a revised decision. Upon a decision deciding the request for reconsideration, the decision shall be deemed to be the final decision of the examiner for all purposes. The decision upon a request for reconsideration shall be served in the same manner as the original decision. All notices requesting reconsideration shall be filed within the initial five days and there shall be no right to request reconsideration of the examiner's reconsideration of a decision. [Ord. 686 § 10, 1996.]

15.12.110 Matters to be decided.

A hearing examiner shall hear and decide matters assigned to the examiner by the council, including but not limited to the following land use matters:

(1) Such matters as may be prescribed pursuant to the town's land use control ordinances;

(2) Plat vacations or amendments, preliminary plat approval, conditional use permits, shoreline substantial development and conditional use permits and shoreline variances, variances, critical area permits which are not exempt from SEPA, tree removal permits outside of the HPD, PURD permits, SEPA appeals and appeals of administrative decisions, including enforcement, and such other permits as specified under LCMC 15.135.050. [Ord. 743 § 2, 1999; Ord. 686 § 11, 1996.]

15.12.120 Recommendations to town council.

The hearing examiner shall make recommendations to the town council which shall take final action with respect to the following matters:

(1) Recommendations for final long plat approval;

(2) Parcel specific/non-area-wide rezone request where no comprehensive plan amendment is required. [Ord. 842 § 13, 2002; Ord. 686 § 12, 1996.]

15.12.130 Appeal of administrative decision.

(1) The hearing examiner shall hear and make a final decision with respect to all appeals of decisions made by the planning director pursuant to the town's land use control ordinances or the public

works director pursuant to the town's utility and street development standards. Any such appeals must be filed with the clerk-treasurer no later than 10 days after date of service of the written administrative decision. Any such appeal shall contain the filing fee and, at a minimum, the following information:

- (a) Name, address and daytime telephone number of the appellant and/or any representative;
- (b) The decision or order, or part(s) thereof, being appealed;
- (c) A precise statement as to why the appellant feels himself or herself aggrieved;
- (d) A statement of the relief requested;
- (e) A statement of any applicable legal authority.

(2) The filing fee must accompany the filing for the appeal for the examiner to acquire jurisdiction over the matter. [Ord. 898 § 6, 2003; Ord. 867, 2002; Ord. 839 § 29, 2001; Ord. 686 § 13, 1996.]

15.12.140 Appeal of hearing examiner or town council decision.

The action of the hearing examiner or the town council in any decision shall be final and conclusive unless:

- (1) Within 21 calendar days from the date of action by the hearing examiner or town council, a party of record or the town complies with the requirements of the Land Use Petition Act; or
- (2) If the action is not one properly appealed under the Land Use Petition Act, within 10 calendar days of date of decision by the hearing examiner a party of record or the town files a writ of review with the Skagit County superior court;
- (3) In the case of shoreline substantial development permits, conditional use permits and variances and enforcement thereof, within such times as prescribed by Chapter 90.58 RCW (Washington State Shoreline Management Act) a party of record or the town files the appropriate appeal with the Washington State Shoreline Hearings Board; and
- (4) Recommendations by the examiner pursuant to LCMC 15.12.120 are not appealable. [Ord. 686 § 14, 1996.]

Chapter 15.13

ENFORCEMENT

Sections:

15.13.010 Violation – Civil penalty.

15.13.010 Violation – Civil penalty.

Any person violating the provisions of this chapter shall be guilty of a civil infraction and subject to a civil penalty as set forth and established in Chapter 1.15 LCMC. [Ord. 839 § 14, 2001.]

DIVISION II. LAND USE

Chapter 15.15

ZONE CLASSIFICATION

Sections:

15.15.010 Purpose.

15.15.010 Purpose.

(1) The purpose of this section is to provide parameters for area designations, mapping, and zone classification. The town of La Conner is divided into five zoning districts or classifications as follows:

Abbreviated Designation	Zone Classification
RD	Residential
C	Commercial
IND	Light and Medium Industry
P	Public Use
HPD	Historic Preservation District

(2) All development in all zones shall be subject to the provisions of Division III, Critical Areas and Natural Resource Lands Protection Standards. [Ord. 671 § 3.1.A, 1995.]

Chapter 15.20

RESIDENTIAL ZONE

Sections:

- 15.20.010 Purpose.
- 15.20.020 General.
- 15.20.030 Permitted uses.
- 15.20.040 Land use developments allowed.
- 15.20.050 Conditional use permits.
- 15.20.055 Administrative conditional use permits.
- 15.20.060 Single-family dwelling units – Dimensional standards.
- 15.20.070 Manufactured (factory-built) home standards.
- 15.20.080 Adult family homes, residential care facilities, supported living arrangements, and homes for people with functional disabilities standards.
- 15.20.090 Multifamily dwelling unit standards.

15.20.010 Purpose.

The purpose of this zone is to provide for and protect areas for a mix of residential structures and uses, to promote economical and efficient use of the land, stable neighborhoods, and safety, efficiency and convenience for the residents of the town. [Ord. 671 § 3.2.A, 1995.]

15.20.020 General.

(1) Residential uses include single-family dwellings, accessory apartments, multifamily dwellings in a variety of housing types, modular and manufactured housing, and adult family homes. Recreational vehicles are not permitted in any zone as a residential use.

(2) Residential structures in the Historic Preservation District are subject to the provisions of Chapters 15.50 and 15.55 LCMC, Historic Preservation. [Ord. 671 § 3.2.B, 1995.]

15.20.030 Permitted uses.

The following uses and structures are permitted in an RD Zone by certificate of authorization:

- (1) One single-family dwelling unit per lot;
- (2) One factory-built/manufactured home per lot;
- (3) Adult family homes/supported living arrangements;

(4) Accessory uses and structures normally incidental to primary dwelling units – see Chapter 15.110 LCMC. [Ord. 671 § 3.2.C, 1995.]

15.20.040 Land use developments allowed.

The following land use developments are allowed in an RD Zone:

- (1) Planned unit residential developments;
- (2) Residential subdivisions and short subdivisions. [Ord. 671 § 3.2.D, 1995.]

15.20.050 Conditional use permits.

The following uses and structures are permitted in an RD Zone by conditional use permit (Type IV Permit):

- (1) Multifamily residential units or apartments;
- (2) Pre-school and day care centers, subject to applicable building codes, lot size and coverage standards, parking, loading/unloading and signage requirements, and state (DSHS) licenses and certifications;
- (3) Churches; provided, that all structures are set back at least 25 feet on all sides for abutting property lines and abutting residential and public use zones;
- (4) Rest/convalescent/nursing homes; provided, that all structures are set back at least 25 feet on all sides for abutting property lines and abutting residential and public use zones;
- (5) Retirement apartments for senior citizens;
- (6) Private or public lodges, clubs and community organizations;
- (7) Antennas plus antenna mounts of more than 20 feet in height, four feet in width and of bulk area more than 16 square feet;
- (8) Parks, playgrounds and recreation uses such as tennis courts, athletic fields, pools and restrooms for use of the general public; provided, that subject property is under lease to or otherwise under complete control of the town of La Conner. Conditional use permits will be revoked when not under the control of the town of La Conner;
- (9) Along Maple Street only, existing medical and dental uses. [Ord. 963 § 10, 2005; Ord. 901 § 3, 2003; Ord. 884 § 1, 2003; Ord. 691 § 1, 1997; Ord. 671 § 3.2.E, 1995.]

15.20.055 Administrative conditional use permits.

The following uses and structures are permitted in the RD Zone with an administrative conditional use permit (Type II Permit):

- (1) Accessory dwellings – See Chapter 15.110 LCMC;
- (2) Rooming houses, boardinghouses, bed and breakfasts. [Ord. 963 § 5, 2005; Ord. 901 § 4, 2003.]

15.20.060 Single-family dwelling units – Dimensional standards.

(1) Minimum lot size – 5,000 square feet or those lots platted before September 9, 1980, that are undersized which can be built upon if the setback criteria outlined in subsection (3) of this section are met.

(2) Maximum building height – 30 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the lot to the highest point on the roof with a maximum of two stories.

(3) Minimum building setbacks (from property lines) as follows:

	5,000 sq. ft. or larger	4,001 – 4,999 sq. ft.
Front Yard	15 feet	14 feet
Front Yard, Corner Lots	15 feet	.003 x lot size
Side Yards	5 feet	.001 x lot size
Rear Yard:		
Residence	10 feet	.002 x lot size
Accessory Building	5 feet	.001 x lot size
Sum of Both Side Yards	15 feet*	.003 x lot size

*Sum of both side yards, for corner lots only, must be 10 feet or greater.

	3,001 – 4,000 sq. ft.	Under 3,000 sq. ft.
Front Yard	13 feet	12 feet
Front Yard, Corner Lots	.003 x lot size	9 feet
Side Yards	.001 x lot size	3 feet
Sum of Both Side Yards	.003 x lot size	9 feet

15.20.070

	3,001 – 4,000 sq. ft.	Under 3,000 sq. ft.
Rear Yard:		
Residence	.002 x lot size	6 feet
Accessory Building	.001 x lot size	3 feet
Agricultural Setback – 25 feet		

(4) Corner lots have two front yards and two side yards.

(5) Minimum Lot Access. No building permit shall be issued on any lot or parcel which does not have access by either street, private road, or shared driveway as set forth in Chapter 15.86 LCMC. [Ord. 986 § 8, 2007; Ord. 889 § 1, 2003; Ord. 867, 2002; Ord. 842 § 4, 2002; Ord. 695 § 1, 1997; Ord. 671 § 3.2.F, 1995.]

15.20.070 Manufactured (factory-built) home standards.

(1) It is the intent of this section to:

(a) Encourage affordable housing in a general residential environment by permitting the use of Class A manufactured homes;

(b) Assure compatibility in exterior appearance between such manufactured homes and dwellings that have been or might be constructed under these and other lawful regulations on adjacent lots in the same district;

(c) Provide for compliance with energy standards, fire safety standards, and uniform construction standards;

(d) Protect the character and diversity of neighborhoods by avoiding concentration of manufactured homes (except within an approved PURD for manufactured homes).

(2) The following specific standards shall be required to ensure that the intent of this section is satisfied:

(a) The unit must be a factory-built structure designed and constructed to meet Labor and Industry standards.

(b) Installation and foundation must comply with either ANSI standards and/or manufacturer’s requirements.

(c) No manufactured unit shall have windows or doors or other features, or use color combinations that would be incompatible with site built housing in residential neighborhoods.

(d) The minimum width of the main body of the manufactured home shall not be less than 24 feet.

(e) The minimum pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run. Minimum distance from eaves to ridge shall be 10-1/2 feet. Roofing materials shall be nonreflective and of the same type used for site built units.

(f) The exterior finish shall be similar to that of site built housing. Reflection from such exterior material shall not be greater than from siding coated with white gloss exterior enamel.

(g) Permanent steps shall be installed at all exits.

(h) All manufactured units installed in the floodplain shall meet the requirements of Chapter 15.70 LCMC, Floodplain Management. [Ord. 963 § 6, 2005; Ord. 671 § 3.2.G, 1995.]

15.20.080 Adult family homes, residential care facilities, supported living arrangements, and homes for people with functional disabilities standards.

All adult family homes and other housing for people with functional disabilities shall provide state regulated wheel chair access. [Ord. 671 § 3.2.H, 1995.]

15.20.090 Multifamily dwelling unit standards.

(1) Minimum lot size – Two units or more – 10,000 square feet for the first two units; 4,000 square feet for each additional attached unit, and 3,300 square feet for each additional unattached unit.

(2) Minimum lot width – 100 feet at the building line.

(3) Maximum lot coverage – 60 percent for all buildings and impervious surfacing.

(4) Maximum building height – 30 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the lot to the highest point on the roof with a maximum of two stories.

(5) Unit density per lot for senior citizen affordable housing may be increased up to 50 percent.

(6) Minimum building setbacks:

	Front	Side	Rear
Primary Building, Interior Lot	30 ft.	10 ft. (total 20)	25 ft.
Primary Building, Corner Lot	30 ft. (street side)	30 ft.	25 ft.
Accessory less than 75 ft. from property line	20 ft.	15 ft. (20 ft. corner)	15 ft.
Accessory greater than 75 ft. from property line	N/A	10 ft. (20 ft. corner)	10 ft.
Agricultural Setback – 25 ft.			

[Ord. 986 § 8, 2007; Ord. 938 § 2, 2004; Ord. 889 § 1, 2003; Ord. 671 § 3.2.I, 1995.]

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Chapter 15.25

PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD)

Sections:

- 15.25.010 Purpose.
- 15.25.020 Permitted location and size of planned unit development.
- 15.25.030 Permitted uses.
- 15.25.040 Initiation of planned unit residential developments.
- 15.25.050 Availability of public services.
- 15.25.060 Procedure for approval of planned unit residential development.
- 15.25.070 Pre-application conference.
- 15.25.080 Preliminary development plan.
- 15.25.090 Final development plan.
- 15.25.100 Changes to the development plan.
- 15.25.110 Expiration of authorization.
- 15.25.120 Open space.
- 15.25.130 Density increases.
- 15.25.140 Building setbacks and heights.
- 15.25.150 Filing fees.

15.25.010 Purpose.

The purpose of a planned unit residential development is to:

- (1) Allow a more flexible plan of development than the traditional one house-one lot development;
- (2) Promote more economical and efficient use of the land, provide a harmonious variety of housing choices and plot plans, and preserve open spaces. [Ord. 671 § 3.3.A, 1995.]

15.25.020 Permitted location and size of planned unit development.

A PURD may be located only in a residential zone and on a parcel of one acre or more. [Ord. 671 § 3.3.B, 1995.]

15.25.030 Permitted uses.

All permitted uses shall conform with a specific final development plan as specified in this section. The following uses are permitted:

- (1) Residential units, either single-family detached or multiple attached units or a combination of detached single-family or multifamily units;
- (2) All accessory and conditional uses as permitted in a residential zone;

(3) Recreational facilities, tennis courts, playgrounds, and community halls;

(4) Conditional uses permitted in a residential zone. [Ord. 671 § 3.3.C, 1995.]

15.25.040 Initiation of planned unit residential developments.

Planned unit residential development projects may be initiated by:

(1) The owner of all the property involved, if under one ownership; or

(2) An application filed jointly by all owners having title to all the property in the area proposed for the planned unit residential development project if there is more than one owner; or

(3) A governmental agency; or

(4) A person having an interest in the property to be included in the planned unit residential development. The PURD applications shall be in the name or names of the recorded owner(s) of the property included in the development. However, the application may be filed by holder(s) of an equitable interest in or having an option on such property. The applicant must provide evidence of full ownership interest in the land (either legal title or the execution of a binding sales agreement) before final plan approval. [Ord. 671 § 3.3.D, 1995.]

15.25.050 Availability of public services.

(1) Developers of planned unit residential development projects shall plan developments in a manner that will provide direct access to major collector streets where feasible, without creating additional traffic along minor streets in surrounding residential neighborhoods.

(2) Planned unit developments shall be designed in a manner that will not overtax existing sanitary sewers, water lines, storm water and surface drainage systems, and other utility systems resulting in higher net public costs, unless compensation or equivalent services are provided. [Ord. 671 § 3.3.E, 1995.]

15.25.060 Procedure for approval of planned unit residential development.

A PURD application must conform with the provisions of Chapter 15.30 LCMC, Subdivisions/Short Subdivisions. The planning commission shall review the PURD application concur-

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rently with the subdivision application, if applicable. [Ord. 671 § 3.3.F, 1995.]

15.25.070 Pre-application conference.

Before filing any application for a planned unit residential development the applicant shall submit preliminary plans to the planning department for staff and planning commission information and review. [Ord. 671 § 3.3.G, 1995.]

15.25.080 Preliminary development plan.

(1) Following the preapplication conference, the applicant shall submit a formal preliminary application for staff and to the planning commission review. The preliminary development plan shall include the following documents:

- (a) Application form indicating:
 - (i) Existing zoning;
 - (ii) Total site area;
 - (iii) Area of bodies of water;
 - (iv) Gross area of site: subsection (1)(a) minus (1)(a)(iii);
 - (v) Total number of dwelling units;
 - (vi) Density: subsection (1)(a)(v) divided by (1)(a)(iv);
 - (vii) Usable open space (percent of percent of subsection (1)(a)(ii));
 - (viii) Common open space (percent of subsection (1)(a)(vii));
- (b) Legal description of site and statement of present ownership;
- (c) Description of the natural setting, including slope, topography, soil type, significant land forms, bodies of water, trees and other vegetation, scenic assets and surrounding buildings. Areas requiring substantial recontouring or grading shall be described;
- (d) Development schedule including dates of start, completion and phasing;
- (e) Intent as to final ownership, including plans for rental, sale or combination;
- (f) Site development map(s) depicting:
 - (i) Topographic lines at five-foot intervals;
 - (ii) Water bodies and critical areas;
 - (iii) Natural features including major land forms, rock out-croppings and flood hazard area;
 - (iv) Areas of significant tree cover and how they are affected by the plan;

- (v) Property lines; easements;
 - (vi) Existing street names;
 - (vii) Configuration and function of all buildings, noting proposed heights of each and distance between property line and nearest building;
 - (viii) Vehicular circulation, parking area, loading areas and storage areas (indicate number of parking spaces for use);
 - (ix) Pedestrian circulation;
 - (x) Areas of private open space;
 - (xi) Recreational facilities, if any;
 - (xii) Preliminary landscaping showing areas of tree removal, retention or addition;
 - (xiii) Areas requiring substantial grading or recontouring;
 - (xiv) Graphic scale with north arrow, date and title;
 - (xv) A legible sketch of the vicinity within 500 feet of the proposed development showing significant features of the land including buildings;
- (g) If the proposed site is within shoreline management jurisdiction an application for shoreline substantial development permit along with any other permits required, such as a floodplain permit or other local, state, or federal permits, shall be filed;
 - (h) An environmental checklist;
 - (i) Any additional information required by staff and the planning commission as necessary to evaluate the character and impact of the proposed PURD.

(2) The planning commission shall decide if the proposal meets the requirements and conforms to the intent of this code and the comprehensive plan. If unacceptable, the application shall be returned. The town's SEPA official shall review the environmental checklist and issue a determination of environmental impact incurred as a result of the proposal.

(3) If the proposal is adjacent to unincorporated areas of Skagit County, notice of the application shall be given to the Skagit County department of planning and economic development.

(4) If the application meets the minimum requirements, it shall be reviewed at a public hearing held by the planning commission. If an environmental impact statement (EIS) is required, the final EIS shall be available for at least 10 days before the hearing on the proposal.

(5) Notice of planning commission public hearing:

(a) Notice shall be given by publication of at least one notice not less than 10 days prior to the hearing in a newspaper of general circulation within the town.

(b) Notices of the hearing shall be mailed to all property owners within 300 feet of the proposed development. Addresses for mail notices shall be obtained by the applicant based on the current rolls of the Skagit County assessor's office or obtained from a title company doing business in Skagit County and submitted with the application on one-inch by two-and-five-eighths-inch mailing labels.

(c) Additional notice of such hearing may be required by local authorities to notify adjacent property owners and the public, i.e., posting on the property.

(6) The planning commission shall examine the proposal at the public hearing and consider the preliminary development plan, information presented by the applicant, any technical planning assistance and the public.

(7) The planning commission may approve, disapprove, or impose changes or conditions of approval within 30 days from the date of the hearing unless the applicant consents to an extension of such time period.

(8) A copy of the planning commission action, or written recommendations shall be forwarded to the applicant and the town council. The town council shall consider the recommendation at its next regularly scheduled meeting and shall, by resolution, approve or disapprove the preliminary development plan. Preliminary approval does not constitute a rezone or right to begin development.

(9) Within a maximum of six months following the approval of the preliminary development plan, the applicant shall file with the planning commission a final development plan containing the information required in detail. The planning commission may, upon determination of just cause, extend the period for filing of the final development plan up to six months.

(10) If the applicant fails to apply for final approval for any reason, the preliminary approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been given shall be

subject to the zoning and subdivision codes otherwise applicable thereto. [Ord. 842 § 9, 2002; Ord. 671 § 3.3.H, 1995.]

15.25.090 Final development plan.

(1) The planning commission shall review the final development plan application and staff recommendations. One minimum requirement for approval shall be that the final development plan does not vary substantially from the previously approved preliminary development plan. The final development plan shall be deemed sufficiently consistent with the preliminary development plan provided modification by the applicant does not involve one or more of the following:

(a) Violate any provisions of this section;

(b) Vary the lot area requirement by more than 10 percent;

(c) Involve a reduction of more than 10 percent of the area reserved for common open space and/or usable open space;

(d) Increase the total ground area covered by buildings by more than five percent;

(e) Increase density or number of dwellings units by more than 10 percent;

(f) Provided, the increases do not exceed maximums previously established in this code.

If substantial compliance with the preliminary development plan is not established, the new plan must repeat the public hearing process for review of changes.

(2) In addition to the requirements for the preliminary development plan, the final development plan shall include:

(a) Description of types of dwelling units and number of bedrooms in each;

(b) Description of programs for insuring continued maintenance of common elements of the development;

(c) Landscaping plan indicating generally: the location, type and size of existing or new plant materials, street furniture and other physical features including transformers, hydrants, telephone pedestals, walls and fences, trash storage area, and retaining walls, location, type and height of proposed street and walkway lighting, location and design of signs to be included.

Final details may be required to be approved by the planning commission subsequent to final approval.

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(d) Architectural plans depicting general typical floor plans with dimensions, elevations or renderings sufficient to indicate the basic architectural character of the development.

(3) The planning commission shall examine the final development plan and determine whether it conforms to the approved preliminary development plan. The planning commission shall make a decision on the final development plan within one month after the official date it has received the plan. If there is any significant discrepancy, the commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.

If the planning commission does grant such permission, the commission's ultimate acceptance or rejection of the revised final development plan shall become final 10 days after the date of decision. The commission may also approve the plan without revision. The decision of approval without revision will become final 10 days after the date of decision.

(4) If the planning commission does not approve a final development plan, their specific reasons for disapproval shall be stated in writing and made part of the public record, as well as presented to the applicant.

(5) Final approvals subject to modifications or conditions shall be agreed to in writing by the applicant before recording and formal acceptance.

(6) Following formal acceptance and recording by the planning commission, the town council shall conduct necessary legislative actions relevant to the proposed project, such as accepting and recording site plans and plats, and accepting any dedicated properties, streets, and right-of-way. The original final PURD text, maps and approved documents shall be submitted for approval by the La Conner planning director and, once signature is obtained from the planning director approving said documents, each shall be recorded with the Skagit County auditor and a copy filed with the Skagit County assessor.

(7) At least one reproducible copy of the final recorded PURD text, maps, and approval documents, including recording information, shall be submitted to the town. Additional copies shall be submitted to the town as required.

(8) After necessary legislative actions by the town council, and recording of the PURD as set forth herein, building permits may be issued and

construction begun. [Ord. 842 § 16, 2002; Ord. 671 § 3.3.I, 1995.]

15.25.100 Changes to the development plan.

(1) Any changes in the preliminary or final development plan, after approval through the above procedures shall be reviewed by the planning commission to determine if a new plan should be submitted.

(2) Changes in the development plan may be approved by the planning commission, provided that such changes do not:

(a) Change the use or character of the development;

(b) Increase overall coverage of structures;

(c) Increase density;

(d) Reduce the amount of open spaces;

(e) Change the general location or amount of land devoted to specific uses.

(3) Changes may include minor shifting of the location of buildings, utility easements, public open spaces, or other similar features of the plan. [Ord. 671 § 3.3.J, 1995.]

15.25.110 Expiration of authorization.

(1) If no construction has begun within six months of final approval of the PURD, the approval shall expire. The planning commission may extend approval for an additional six-month period if an application for extension is received before the authorization expires. If no construction has begun at the end of this extension, the final development plan shall become null and void, and a new one shall be required for any development on subject property.

(2) Upon the abandonment of a particular project authorized under this chapter or upon the expiration of two years from the final approval of a PURD which has not by then been completed or commenced with an extension of time for completion granted, the authorization shall expire and the land and the structures thereon may be used only for a lawful purpose permissible within the zone in which the PURD is located. [Ord. 671 § 3.3.K, 1995.]

15.25.120 Open space.

(1) Open space is an identifiable greenbelt area which is accessible and available to all occupants of dwelling units for whose use the space is

intended. This includes private as well as common open space.

(2) Open space does not include:

- (a) An area of the site covered by buildings, roads, parking structures or accessory structures;
- (b) Proposed street rights-of-way;
- (c) Open parking areas and driveways for dwellings;
- (d) School sites;
- (e) Commercial areas;
- (f) Land totally unsuited for building because of topographic features may be counted as open space.

(3) The total area of the development, minus undevelopable area and bodies of water, is the gross site area.

(4) Required usable open space in a PURD is a minimum of 50 percent of the gross site area, to include private yards.

(5) Required common open space is an identifiable greenbelt area and is a minimum of 50 percent of the usable open space. Common open space are lands used for scenic, recreational or landscaping purposes within the development and for the use of all residents of the PURD.

(6) Adequate guarantee must be provided to insure permanent retention of “common open space” land area resulting from the application of these regulations, either by private reservation or protective covenants, for the use of residents within the development or by dedication to the public or a combination. [Ord. 671 § 3.3.L, 1995.]

15.25.130 Density increases.

(1) The number of dwelling units that may be constructed in a PURD shall be based upon one dwelling unit for each 5,000 square feet of gross site area.

(2) The planning commission may approve development up to 40 percent higher density, based on site plan review and the guidelines listed below which are to be treated as additives:

(a) Open space. A density bonus of up to 20 percent is allowed for providing up to 20 percent of gross site area as common open space (in addition to the common open space required in LCMC 15.25.120(e)) on an equivalent basis.

(b) A density bonus of up to 10 percent is allowed for landscaping, recreation facilities or improvements suitable to the site that enhance the

quality of the development and benefit the residents of the PURD and the town of La Conner.

(c) A density bonus of up to 10 percent is allowed for visual focal points, use of existing physical features, sun and wind orientation, architectural style, energy efficient siting and/or design. [Ord. 671 § 3.3.M, 1995.]

15.25.140 Building setbacks and heights.

(1) Individual multifamily dwelling buildings must meet setbacks and height limits required in the zone in which it is located with respect to the outside perimeter of the PURD.

(2) Individual single-family residences must meet setbacks and height limits required in the zone in which it is located with respect to their respective lot lines.

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(3) The planning commission shall specify an extended building setback line of up to 100 feet, but not less than 25 feet on lots that border agricultural land to prevent shadows or other intrusions onto or conflicting with agricultural land and uses.

(4) The minimum distance between buildings within a PURD shall be 10 feet.

(5) Setbacks of buildings from the perimeter of a PURD shall be compatible with the residential zone in which it is located, unless extenuating circumstances show a need for increasing perimeter setbacks. [Ord. 671 § 3.3.N, 1995.]

15.25.150 Filing fees.

(1) A fee set by the town council shall be paid to the town clerk at the time of application.

(2) If the PURD is filed at the same time as a preliminary plat for the same tract, to be processed simultaneously in accordance with a subdivision or short subdivision application, the fee shall be one and one-half times the fee for the subdivision application. [Ord. 671 § 3.3.O, 1995.]

Chapter 15.30

SUBDIVISIONS – SHORT SUBDIVISIONS

Sections:

Article I. General Provisions

- 15.30.010 Purpose.
- 15.30.020 Authority.
- 15.30.030 Applicability.
- 15.30.040 Requirements.
- 15.30.050 Application procedure.
- 15.30.060 Filing of preliminary plat – Notice.
- 15.30.070 Preliminary plat review.
- 15.30.080 Factors to be considered – Conditions for approval.
- 15.30.090 Time limitation for approval of disapproval of plats – Extensions.
- 15.30.100 Agency recommendations for final approval.
- 15.30.110 Requirements of each plat or replat filed for record.
- 15.30.120 Final plat.
- 15.30.130 Final plat/short plat – Written approval and filing.
- 15.30.140 Final plat/short plat – Validity.
- 15.30.150 Review of decision.

Article II. Design Standards

- 15.30.160 Specifications.
- 15.30.170 Permanent markers.
- 15.30.180 Drainage.
- 15.30.190 Street improvements.
- 15.30.200 Water lines.
- 15.30.210 Sanitary sewers.
- 15.30.220 Utilities.
- 15.30.230 Maintenance of corporate streets and property owned by a private community organization.
- 15.30.240 Design standards for single-family residences.
- 15.30.250 Violations – Penalties.

Article I. General Provisions

15.30.010 Purpose.

The purpose of this section is to regulate the subdivision of land to prevent overcrowding; and to promote the public health, safety and general welfare, effective use of land, safe and convenient

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travel by the public on streets and highways; lessen congestion in the streets; facilitate adequate provisions for water, sewage, parks and recreation areas, fire protection, schools, and other public requirements; provide adequate light and air, proper ingress and egress, and housing needs; provide for expeditious review and approval of proposed subdivisions which conform to zoning standards, the comprehensive plan, and other applicable plans and policies; and to require uniform monumenting of land subdivisions and conveyancing by accurate legal description. [Ord. 671 § 3.4.A, 1995.]

15.30.020 Authority.

These regulations are established pursuant to the provisions of RCW Title 58, Boundaries and Plats, and shall not preclude full compliance thereto. [Ord. 671 § 3.4.B, 1995.]

15.30.030 Applicability.

(1) Every subdivision shall comply with the provisions of this chapter. A subdivision is the division or redivision of land into five or more lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership. A short subdivision is the division or redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose of sale, lease or transfer of ownership.

(2) Provisions of this chapter shall not apply to:

(a) Cemeteries and other burial plots while used for that purpose;

(b) Divisions made by testamentary provisions, or the laws of descent;

(c) A division for the purpose of leasing space for a mobile home or travel trailer within a mobile home park and in accordance with an approved site plan therefor;

(d) A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site;

(e) A division of land under threat of eminent domain or sale by an agency or division of government vested with the power of condemnation. [Ord. 671 § 3.4.C, 1995.]

15.30.040 Requirements.

(1) A proposed subdivision or short subdivision of land shall be considered under the zoning or other land use control ordinances in effect on the land at the time a fully completed application for preliminary plat approval of the subdivision, or short plat approval of the short subdivision, has been submitted to the town.

(2) Land in short subdivisions may not be further divided in any manner within a period of five years without the filing of a final plat, except that when the short plat contains fewer than four parcels, nothing in this chapter shall prevent the owner who filed the short plat from filing an alteration within the five-year period to create up to a total of four lots within the original short plat boundaries.

(3) A subdivision or short subdivision must meet all the requirements of this chapter before approval is granted. [Ord. 671 § 3.4.D, 1995.]

15.30.050 Application procedure.

(1) Any person wishing to divide land under the provisions of this code shall submit an application, on a form provided by the town, to the town clerk together with a fee set by the town council, a preliminary plat, and information including, but not limited to the following:

(a) A survey map of reproducible material, at least 18-inch by 24-inch in size with two-inch margins, signed by a registered land surveyor and eight copies containing:

(i) Name, address, and telephone number of property owner of record or certified designated agent, the developer and the land surveyor and/or registered engineer preparing the plat map;

(ii) Legal description of the property;

(iii) Existing zoning classification;

(iv) Date, scale of not less than 100 feet to the inch, and north arrow;

(v) Benchmarks and ground elevation at mean sea level when all or a portion of the plat is located in the floodplain and land contours with intervals of five feet;

(vi) Boundary lines of entire tract to be platted, individual lots and easements with approximate acreage and square footage of the whole tract and portion to be platted;

(vii) Number and dimensions of lots, building setback lines, and density;

(viii) Location, name and width of any existing easement, street and right-of-way within the subdivision/short subdivision and 200 feet thereof, grades, profiles and cross-sections of proposed streets, vehicular and pedestrian circulation patterns;

(ix) Location of fire hydrants within 1,000 feet of the lot;

(x) Location of any existing structures;

(xi) Availability and location of utilities including water, sewer, and storm water drainage;

(xii) Parcels of land intended to be dedicated or temporarily reserved for public use or to be reserved in the deeds for the common use of property owners of the subdivision or short subdivision or dedication, or for open space;

(xiii) Location in respect to shorelines of La Conner;

(xiv) Acknowledged signatures of property owners and notary public stamp;

(xv) Signature block for approval of planning commission and/or town council.

(b) Evidence of title.

(c) If lots are to be served by a private street, copies of applicable covenants or documents with provisions covering, but not limited to, ingress, egress, utility easements, and maintenance shall be furnished to the town and recorded to or simultaneously with the subdivision or short subdivision.

(d) Unless an applicant for preliminary plat approval requests otherwise, the preliminary plat shall be processed simultaneously with applications for rezones, variances, planned unit developments, site plan approvals, shoreline substantial development, and similar quasi-judicial or administrative actions to the extent that procedural requirements applicable to these actions permit simultaneous processing.

(e) Development schedule.

(2) The planning director shall affix a file number to the preliminary plat and the date it is received. [Ord. 963 § 7, 2005; Ord. 671 § 3.4.E, 1995.]

15.30.060 Filing of preliminary plat – Notice.

(1) Notice of the filing of a preliminary plat or a proposed subdivision adjacent to or within one mile of the town boundaries abutting land under the jurisdiction of Skagit County shall be given to county officials by the planning director.

(2) Notice of Public Hearing. Upon receipt of an application for preliminary plat approval, the planning director shall set a date for a public hearing as follows:

(a) Notice shall be published at least once not less than 10 days prior to the hearing in a newspaper of general circulation within the county and the town.

(b) Special notice shall be given to adjacent landowners, as shown on the records of the Skagit County assessor’s office or obtained from a title company doing business in Skagit County, located within 300 feet of any portion of the boundary of the proposed short subdivision. Addresses for mail notices shall be obtained by the applicant based on the current rolls of the Skagit County assessor’s office and submitted with the application on one-inch by two-and-five-eighths-inch mailing labels.

(c) All public hearing notices shall include a description of the location of the proposed subdivision or short subdivision, either by legal description, identification of an address, written description, vicinity sketch, or other reasonable means. [Ord. 963 § 7, 2005; Ord. 842 § 6, 2002; Ord. 671 § 3.4.F, 1995.]

15.30.070 Preliminary plat review.

(1) The hearing examiner (subdivision) shall:

(a) Hold a public hearing on a preliminary plat for a subdivision;

(b) Approve or disapprove a preliminary plat for a subdivision;

(2) The town council (subdivision) shall:

(a) The sole authority to approve final plats and to adopt or amend platting ordinances shall reside in the town council.

(3) The planning director (short plat) shall:

(a) Post notice of short plat on the property.

(b) Mail the notice of application to all owners of property within 300 feet of proposed short plat.

(c) Approve or disapprove preliminary plat proposal.

(d) Approve final short plat. [Ord. 963 § 7, 2005; Ord. 898 § 8, 2003; Ord. 671 § 3.4.G, 1995.]

**15.30.080 Factors to be considered –
Conditions for approval.**

(1) The planning director shall make written findings to determine if appropriate provisions are made for, but not limited to, the following:

- (a) The public health, safety, and general welfare;
- (b) Open space;
- (c) Drainage ways;
- (d) Streets or roads, alleys or other public ways;
- (e) Transit stops;
- (f) Potable water supplies;
- (g) Sanitary wastes;
- (h) Parks, playgrounds and recreation;
- (i) Schools and schoolgrounds;
- (j) All other relevant facts, including sidewalks and other planning features that assure safe walking conditions;
- (k) Whether the public interest will be served by the proposed subdivision and dedication;

(1) Compliance with the town of La Conner comprehensive plan, shoreline management plan, and this code.

(2) A proposed subdivision shall not be approved unless the town makes written findings that all the provisions in subsection (1) of this section for a subdivision or short subdivision have been met.

(a) No dedication, provision of public improvements, or impact fees shall be allowed that constitutes an unconstitutional taking of private property.

(b) Construction of protective improvements may be required as a condition of approval if the subdivision or short subdivision is located within a floodplain, and such improvements shall be noted on the final plat.

(c) No plat shall be approved covering any land in a flood control zone per Chapter 86.16 RCW without prior written approval of the Washington State Department of Ecology. [Ord. 671 § 3.4.H, 1995.]

15.30.090 Time limitation for approval or disapproval of plats – Extensions.

(1) Preliminary plats shall be approved, disapproved, or returned to the applicant for modification or correction within 90 days from date of filing

thereof unless the applicant consents to an extension of such time period or the 90-day limitation is extended to include up to 21 days.

(2) If an environmental impact statement (EIS) is required under the State Environmental Policy Act (SEPA), the 90-day period shall not include the time spent preparing and circulating the EIS. Final plats and short plats shall be approved or disapproved, or returned to the applicant within 30 days from the date of filing thereof, unless the applicant consents to an extension of such time period.

(3) A final plat or short plat meeting all requirements of this chapter shall be submitted to the planning director and/or town council within three years of the date of preliminary plat approval. [Ord. 963 § 7, 2005; Ord. 671 § 3.4.I, 1995.]

15.30.100 Agency recommendations for final approval.

(1) Each preliminary plat submitted for final approval by the town council shall be accompanied by recommendation for approval or disapproval from the following:

- (a) Public works director;
- (b) Wastewater treatment plant superintendent;
- (c) Planning commission;
- (d) Town engineer.

(2) The terms of the recommendations shall not be modified without the consent of the applicant. [Ord. 671 § 3.4.J, 1995.]

15.30.110 Requirements of each plat or replat filed for record.

Each and every plat, or replat, of any property filed for record shall:

(1) Contain a statement of approval from the town engineer or a licensed engineer acting on behalf of the town, as to the layout of streets, alleys and other rights-of-way, sewage and water systems, and other structures. No engineer who is connected in any way with the subdividing and platting of the land for which subdivision or short subdivision approval is sought, shall examine and approve such plats on behalf of the town.

(2) Be accompanied by a complete survey of the section in which the plat or replat is located made to surveying standards adopted by the divi-

sion of engineering services of the state of Washington Department of Natural Resources pursuant to RCW 58.24.040.

(3) Be acknowledged by the person filing the plat before the Skagit County auditor, or any other officer who is authorized by law to take acknowledgment of deeds, and a certificate of the acknowledgment shall be enclosed or annexed to such plat and recorded therewith.

(4) Contain a certification from the proper officer or officers in charge of tax collections that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid, satisfied or discharged. [Ord. 671 § 3.4.K, 1995.]

15.30.120 Final plat.

Every final plat or short plat of a subdivision or short division filed for record must contain:

(1) A full and correct description of the lands divided as they appear on the plat or short plat, including a statement that the subdivision or short subdivision has been made with the free consent and in accordance with the desires of the owner(s).

(2) If the plat or short plat is subject to a dedication, the certificate of a separate written instrument shall contain the dedication of all streets and other areas to the public, and individual(s), religious society(s), or to any corporation, public or private as shown on the plat or short plat and a waiver of all claims for damages against any governmental authority which may be occasioned to the adjacent land by the established construction, drainage and maintenance of the road. The certificate or instrument of dedication shall be signed and acknowledged before a notary public by all parties having any ownership interest in the lands subdivided and recorded as part of the final plat.

(3) Every plat and short plat containing a dedication filed for record must be accompanied by a title report confirming that the title of the lands as described and shown on the plat is in the name of the owners signing the certificate or instrument of dedication.

(4) An offer of dedication may include a waiver of right of direct access to any street from any property, and if the dedication is accepted, any such waiver is effective. Such waiver may be required

by the town as a condition of approval. Roads not dedicated to the public must be clearly marked on the face of the plat. [Ord. 671 § 3.4.L, 1995.]

15.30.130 Final plat/short plat – Written approval and filing.

(1) Upon approval of the subdivision or short subdivision, the approving authority shall inscribe and execute its written approval on the face of the plat. For short subdivisions, final approval shall be evidenced by signature of the chairperson of the planning commission. For subdivisions, signature authority shall be the mayor.

(2) The original final plat/short plat shall be filed for record with the Skagit County auditor and a copy filed with the county assessor.

(3) At least one reproducible copy of the plat/short plat shall be submitted to the town for record. Additional copies shall be furnished to the town as required. [Ord. 671 § 3.4.M, 1995.]

15.30.140 Final plat/short plat – Validity.

(1) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing.

(2) A subdivision shall be governed by the terms of approval of the final plat, and the laws in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the town council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. [Ord. 671 § 3.4.N, 1995.]

15.30.150 Review of decision.

(1) Any decision approving or disapproving any plat shall be reviewable for unlawful, arbitrary, capricious or corrupt action or nonaction by writ of review before the Skagit County superior court. Standing to bring the action is limited to the following parties:

(a) The applicant or owner of the property on which the subdivision is proposed;

(b) Any property owner entitled to special notice;

(c) Any property owner who deems himself aggrieved thereby and who will suffer direct and substantial impacts from the proposed subdivision.

15.30.160

(2) Application for a writ of review shall be made to superior court within 30 days from any decision to be reviewed. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant. [Ord. 671 § 3.4.O, 1995.]

Article II. Design Standards

15.30.160 Specifications.

(1) If the preliminary plat is approved, the developer, before requesting final approval, shall carry out minimum improvements in accordance with this code by actual installation to the satisfaction of existing town standards (American Public Works Manual).

(2) Plans for improvements shall be prepared by a qualified engineer, registered in the state of Washington. Two sets of prints of the proposed plans and specifications for all improvements shall be filed with the town clerk. One set of "as built" plans and specifications, certified and signed by an engineer registered in the state of Washington shall be filed with the town clerk prior to acceptance by the town council of any improvement installed by the developer.

(3) In lieu of the completion of the improvements required, the developer may furnish the town a surety bond or a certificate of deposit to ensure the actual construction of the improvements according to town standards. The bond shall be in the amount of 120 percent of the estimated cost of the improvements, to cover inflation. The amount and time limitation of the bond shall be determined by the planning commission, subject to approval by the town council.

(4) No building shall be permitted on any lot or in any area of a subdivision if the proposed construction would require extension or enlargement of existing sanitary sewer systems, water lines, storm and surface drainage systems and other utility systems, resulting in higher net public costs, unless compensation or equivalent services are provided. [Ord. 671 § 3.4.P.1, 1995.]

15.30.170 Permanent markers.

At least one four-inch by four-inch by 24-inch concrete monument, capped with a noncorrosive metal plate, shall be set at an exterior angle point of each subdivision. Iron pipes not less than three-

quarters inch in diameter and 24 inches long shall be set at all lot corners and on asphalt roads. [Ord. 671 § 3.4.P.2, 1995.]

15.30.180 Drainage.

The design and construction of drainage facilities shall be such that watercourses traversing the subdivision and water emanating from within the subdivision will be carried through and off the subdivision without any injury to improvements, residential sites or adjacent properties. Design of drainage facilities within the subdivision shall be such that they will conform to the ultimate drainage plan for areas within the town of La Conner. [Ord. 671 § 3.4.P.3, 1995.]

15.30.190 Street improvements.

(1) The subdivider shall lay out, grade, and construct all streets designated on the approved plat that serve the subdivision.

(2) All roads constructed, whether dedicated public roads or corporate roads, shall be in strict compliance with American Public Works Manual Road Standards, and comply with Chapter 15.86 LCMC, Street Development Standards.

(3) Paved pedestrian walkways shall be provided on at least one side of all streets serving residential lots. Walkways may be sidewalks with curbs constructed in accordance with American Public Works Manual Standards, or extension of street paving at least four feet past the required street width, designated as a pedestrian area.

(4) Streets shall be wide enough to accommodate parallel parking on at least one side.

(5) Street lights shall be installed to provide adequate illumination of streets. [Ord. 963 § 7, 2005; Ord. 671 § 3.4.P.4, 1995.]

15.30.200 Water lines.

The developer shall install water lines and fire hydrants. Installation shall be in accordance with town standards. [Ord. 671 § 3.4.P.5, 1995.]

15.30.210 Sanitary sewers.

All subdivisions shall be connected to the sanitary sewer of the town of La Conner. Installation of sewer lines within the subdivision is the responsibility of the developer. [Ord. 671 § 3.4.P.6, 1995.]

15.30.220 Utilities.

All utilities shall be installed underground wherever possible, except where existing poles come to the property edge. [Ord. 671 § 3.4.P.7, 1995.]

15.30.230 Maintenance of corporate streets and property owned by a private community organization.

All corporate roads, easements, community utilities and properties shall be maintained by the owners of the property served by them and kept in good repair. It must be demonstrated to the satisfaction of the planning commission and the town council prior to the recording of final plat that:

(1) There is a workable organization to guarantee maintenance with a committee or group to administer the organizational functions.

(2) There is a means for assessing maintenance costs equitable to property owners served by the private facilities.

(3) Corporate roads shall be labeled on the face of the final plat as a "Corporate Road" and designated as Tract "A." Under the dedication section of the final plat, it shall be shown that Tract "A" is to be held in individual ownership by the owners of the lots served by the corporate road.

(4) Roads to be retained under corporate control shall show the following construction and maintenance obligations clause under the dedication section of the final plat:

The cost of construction and maintaining all roads not herein dedicated as "town roads" and all access roads to the plat, unless the same are dedicated as "town roads," shall be the obligation of all of the owners of the lots in the plat and/or of any additional plats that may be served by said roads, streets, and/or alleys, and that obligation to maintain shall be concurrently the obligation of any corporation in whom title of said roads, streets and/or alleys beheld. In the event that the owners of any of these lots or the corporate owners of any of the roads, streets and/or alleys of this plat or any additional plats served by these roads, streets, and/or alleys shall petition the town council to include these roads, streets, and/or alleys in the road system, said petitioner shall be obligated to bring the same to the town standards in all respects prior to acceptance by the town.

(5) In no case shall the town accept a dedication or any obligation as to any such road, street and/or alley until the same and all roads, streets, and/or alleys connecting the same to the town road system have been brought to town road standards.

(6) If permission is obtained for the use of corporate roads or easements by means of approval of the town council, each lot shall have an equal and undivided interest in such road or easements.

(7) Where a new road connects to an existing concrete or blacktop or similarly surfaced road, the new road shall have surfacing similar to that on the existing road from the intersection of the old road surface to the right-of-way line of the existing road. The new surfacing shall be on a transition grade, approved by the town engineer. [Ord. 671 § 3.4.P.8, 1995.]

15.30.240 Design standards for single-family residences.

(1) Public Water and Public Sewer. A lot for single-family residential use which is connected to a public sewer system and a public water supply shall not be less than 5,000 square feet in area and shall be a minimum of 50 feet in width at the building line.

(2) Unsuitable Land. Land which the planning director or hearing examiner finds to be unsuitable for building purposes due to flooding, bad drainage, steep slopes, rock formations, or other features likely to be detrimental to the public health, safety and welfare of the future residents, shall not be subdivided unless adequate safeguards are formulated by the developer and approved by the planning director or hearing examiner.

(3) Setback Lines.

(a) Setback lines may be required to be shown on plats for lots with unique physical and cultural characteristics or to reflect existing uses.

(b) Setback lines shall be provided for all residential structures and shall be indicated by a dashed line on all plats (typical insert).

(c) Unless otherwise approved by the hearing examiner or town council, setback lines shall conform to those required in the residential zone. [Ord. 963 § 7, 2005; Ord. 898 § 8, 2003; Ord. 671 § 3.4.P.9, 1995.]

15.30.250 Violations – Penalties.

(1) Any land owner or agent of the owner of land located in a subdivision or short subdivision who transfers or sells or agrees to sell or option any land by reference to or exhibition of or by any other use of a plat or map of a subdivision, before it has been approved and filed shall forfeit and pay a penalty of \$1,000 for each lot or parcel so transferred, or sold or agreed or optioned to be sold. The description of the lot by metes and bounds in the instrument of transfer, agreeing or optioning, shall not exempt the transaction from the penalty, or from the remedies herein provided. The town authority may enjoin the transfer, sale agreement, or option by action in superior court or may recover the penalty in a civil action.

(2) Any person(s) who violates this section of the code shall be guilty of a gross misdemeanor and shall be subject to a fine of up to \$500.00, and the town may pursue injunctive relief against violations and tax the cost of such action against the violator. [Ord. 671 § 3.4.Q, 1995.]

Chapter 15.35

COMMERCIAL ZONE

Sections:

- 15.35.010 Purpose.
- 15.35.020 Permitted uses.
- 15.35.030 Conditional uses.
- 15.35.040 Dimensional standards.
- 15.35.050 Recreational vehicle parks.

15.35.010 Purpose.

The purpose of the Commercial Zoning District is to allow for a variety of commercial activities and facilities necessary to serve the needs of the residents and visitors. [Ord. 671 § 3.5.A, 1995.]

15.35.020 Permitted uses.

The following uses and structures are permitted in the Commercial Zone by certificate of authorization:

- (1) Child care facilities, such as nurseries, day care centers and private schools;
- (2) Commercial or trade schools, such as art, dance, music, martial arts;
- (3) Community centers and fraternal lodges;
- (4) Entertainment facilities, such as theaters, auditoriums, bowling alleys, arcades, billiards/pool parlors, indoor recreation centers, gymnasiums/spas/health clubs;
- (5) Farmer’s markets;
- (6) Financial institutions;
- (7) Food service establishments, such as restaurants including drive-up facilities, delicatessens, and ice cream shops;
- (8) Gas sales and service stations;
- (9) Hospitals;
- (10) Lodging establishments, such as hotels, motels, inns;
- (11) Marine facilities, such as marinas, boat launches, dry boat storage, boat repair and gas docks where directly water-related;
- (12) Medical offices and clinics, such as doctors, dentists, chiropractors, laboratories;
- (13) Outdoor recreational, such as ballfields, playgrounds, picnic areas, outdoor swimming pools, and water-oriented uses;
- (14) Plant nurseries;
- (15) Professional offices, such as law, realty, architecture, engineering, therapists, counselors, consulting;

(16) Public use facilities, such as parks, floats, parking lots, libraries, government offices and buildings;

(17) Recreational vehicle parks;

(18) Rest homes and adult family homes;

(19) Retail sales establishments with outdoor sales and lots, such as vehicle sales, rental, service, and repair, lumber yards, farm and garden supply, and yacht sales;

(20) Retail sales of nonperishable goods, such as clothing stores, shoe stores, bookstores, gift shops, pharmacies, hardware stores, and antique shops;

(21) Retail sales of perishable goods, such as grocery stores, specialty food stores, feed and seed stores;

(22) Service businesses, such as blueprint, printing, catering, tailoring, travel agencies, upholstery shops, woodworking shops, laundries/dry cleaners, light mechanical repair stores (camera, TV, bicycle);

(23) Taverns, bars, lounges, night clubs and dance halls;

(24) Liveboards. [Ord. 671 § 3.5.B, 1995.]

15.35.030 Conditional uses.

The following uses and structures are permitted in the Commercial Zone by conditional use permit:

(1) Transitional housing and housing for people with functional disabilities;

(2) Dwelling units, attached or unattached, are not to exceed 49 percent of the square footage of the building(s), for all uses, of the properties of a development;

(3) Light industrial uses, artistic endeavors, and those commercial uses which would create noise, light, odors, traffic congestion or dust not normally associated with commercial operations; provided, that:

(a) The building design is similar to those structures housing commercial uses in the district, and the operational characteristics are compatible with surrounding uses;

(b) There shall be no unusual fire, explosion, or safety hazards;

(c) There shall be no production of noise at any property line of any use in the Commercial District in excess of the average intensity of street and traffic noise found in the district;

(d) Pollution and safety standards set by regional, state or federal agencies, boards, or commissions shall be satisfied. Failure to comply with such regulations shall void the conditional use;

(4) Veterinary clinics, animal hospitals and animal grooming parlors provided the facility has no outside kennels;

(5) Antenna plus antenna mounts of more than 20 feet in height, four feet in width and of bulk area more than 16 feet;

(6) Parks, playgrounds and recreation uses such as athletic fields, tennis courts, pools and restrooms as accessory uses; provided, that subject property is under lease or otherwise under the control of the town of La Conner. Conditional use permits will be revoked when not under the control of the town;

(7) Heavy equipment sales.

(8) Guesthouse/Guest Rental – Residential Dwelling Units Rented as Guesthouse. The guesthouse residential unit must also comply with all the provisions of this code that pertain to residential conditional uses in the Commercial Zone. [Ord. 979 § 4, 2006; Ord. 932 § 2, 2004; Ord. 671 § 3.5.C, 1995.]

15.35.040 Dimensional standards.

(1) Minimum lot size – none.

(2) Maximum lot size within the Morris Street Commercial District is 10,000 square feet.

(3) Maximum lot coverage for buildings and impervious surfaces shall be 80 percent. Additional lot coverage requirements are found in Chapter 15.50 LCMC, Historic Preservation District.

(4) Minimum landscaping area – 20 percent of the lot area.

(5) Minimum Building Setback.

(a) The provisions of LCMC 15.50.120 notwithstanding, if the commercial use is adjacent to an RD Zone, the side yard setback shall be 10 feet and the rear yard setback shall be 25 feet.

(b) In the commercial HPD area, setbacks should conform to existing structures to preserve and enhance the storefront character of the street where possible. The historic planar relationship of the facade should be maintained.

(c) Access to the rear or secondary points of buildings along the front elevation should be avoided in the HPD. Such access or entry points, if constructed, should enhance the building and street to maintain the continuity of the street scene.

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(6) Setbacks from agricultural land shall be a minimum of 25 feet from any property line bordering agricultural lands.

(7) Maximum floor area shall be no more than two times the property area.

(8) Maximum building height – 30 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the lot to the highest point on the roof.

(9) Awning/Canopies. Awnings and canopies shall be subject to the standard outlined in the latest adopted edition of the Uniform Building Codes and may require a building permit and inspection. Awnings/canopies shall have a minimum of eight feet clearance from the ground. [Ord. 986 § 8, 2007; Ord. 889 § 2, 2003; Ord. 755 § 2, 1999; Ord. 695 § 2, 1997; Ord. 671 § 3.5.D, 1995.]

15.35.050 Recreational vehicle parks.

(1) All recreational vehicle camping facilities shall comply with all applicable local, county, state and federal rules and regulations.

(2) Landscaping. The part of the campsite which is not intended to be occupied by the recreational vehicle or used for a parking space shall be landscaped.

(3) Parking Requirements. In addition to the recreational vehicle parking pad, a minimum of one vehicular parking space per campsite and each employee shall be provided on-site.

(4) Accessory Uses. The following uses and services may be provided at a scale intended to serve the tenants of the recreational vehicle camping facility:

- (a) A caretaker/manager residence or office;
- (b) Recreational areas and equipment;
- (c) Clubhouses;
- (d) Tourist information centers;
- (e) Laundry, restroom and shower facilities;
- (f) Storage and/or maintenance buildings.

(5) Access and Circulation. The location of access driveways shall be subject to approval by the planning and public works departments. Any driveway, or portion thereof, which does not provide for continuous circulation shall not exceed 600 feet, and shall be terminated with a turnaround having a diameter of at least 60 feet. The minimum driveway width for two-way traffic shall be 24 feet, or not less than 32 feet if parking is permitted on the margins of the road. The minimum driveway

width for one-way traffic shall be 16 feet, or not less than 24 feet if parking is permitted on the margins of the road. Driveways shall be hard surfaced.

(6) Screening.

(a) The requirements of this chapter are intended to provide sound barriers and reduce the visual impacts and incompatible characteristics of:

(i) Abutting properties with different land use classifications;

(ii) Service areas and facilities, including loading and storage areas;

(iii) Any other use or area as required under this chapter or by the planning commission.

(b) Landscaping. Screen planting shall consist of evergreen trees, such as fir, cedar, pine, etc., planted a maximum of 15 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 85 percent of the ground surface within two years.

(c) Dimensional Requirements. The size of the planting area shall be as specified below, based on the type of screening used:

(i) Minimum Width. Screening area shall be 10 feet wide unless the use of a fence or wall is incorporated into the screening, as provided under (ii) and (iii) below.

(ii) Fence Alternatives. If a fence option is selected, the width of the screening area may be

reduced to five feet. The fence shall be constructed of wood and sight-obscuring.

(iii) Wall Alternative. If a wall at least five feet high is to be used for screening, the screening area may be reduced to two feet. Climbing plants and vines shall be used to add texture and soften the appearance of the wall. Screen walls shall be constructed with masonry, block, or textured concrete, subject to design approval by the planner of planning commission.

(7) Maintenance. Storage of materials or equipment shall be within enclosed structures. Trash receptacles shall be provided in convenient locations for use by guests of the park, and in such number and of such capacity that there is no uncovered accumulation of trash at any time.

(8) No person shall occupy space within a recreational vehicle park for more than 30 days in a 60-day period. [Ord. 671 § 3.5.E, 1995.]

Chapter 15.36

TRANSITIONAL COMMERCIAL ZONE

Sections:

- 15.36.010 Purpose.
- 15.36.020 Permitted uses.
- 15.36.030 Conditional uses.
- 15.36.040 Design and site plan review.
- 15.36.050 Dwelling unit density bonus.
- 15.36.060 Dimensional standards.

15.36.010 Purpose.

The Transitional Commercial Zone lies at the intersection of commercial, residential, public and industrial uses and at the southern terminus of the National Historic Preservation District (HPD). Therefore, the allowed uses in this area must take into account the transition from and to these diverse uses. Additionally, the zone must respect and carry forth the design requirements of the HPD to avoid compromising the values of the HPD. The transitional area therefore also requires enhanced design and site plan review to ensure that future development lessens the adverse impacts on the adjoining zones, and provides for a smooth transition between them. [Ord. 877 § 7, 2003.]

15.36.020 Permitted uses.

The following are the list of permitted uses for the Transitional Commercial Zone by certificate of authorization:

- (1) Child care facilities, such as nurseries and day care centers;
- (2) Commercial or trade schools, such as art, dance, music, martial arts;
- (3) Community centers and fraternal lodges;
- (4) Entertainment facilities, such as theaters, auditoriums, bowling alleys, arcades, billiards/pool parlors, indoor recreation centers, gymnasiums/spas/health clubs;
- (5) Farmer’s markets;
- (6) Financial institutions;
- (7) Food service establishments, such as restaurants, delicatessens, and ice cream shops;
- (8) Retail gas sales and service stations;
- (9) Lodging establishments, such as hotels, motels, inns;
- (10) Marine facilities, such as marinas, boat launches, dry boat storage, boat repair and gas docks where directly water-related;

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(11) Medical offices and clinics, such as doctors, dentists, chiropractors, laboratories;

(12) Ball fields, playgrounds, picnic areas, outdoor swimming pools, and water-oriented recreational uses;

(13) Plant nurseries;

(14) Professional offices, such as law, realty, architecture, engineering, therapists, counselors, consulting;

(15) Public use facilities, such as parks, floats, parking lots, libraries, government offices and buildings;

(16) Retail sales of nonperishable goods, such as clothing stores, shoe stores, bookstores, gift shops, pharmacies, hardware stores, and antique shops;

(17) Retail sales of perishable goods, such as grocery stores, specialty food stores, feed and seed stores;

(18) Service businesses, such as blueprint printing, catering, tailoring, travel agencies, upholstery shops, woodworking shops, laundries/dry cleaners, light mechanical repair stores (camera, TV, bicycle). [Ord. 877 § 8, 2003.]

15.36.030 Conditional uses.

The following uses and structures are permitted in the Transitional Commercial Zone by conditional use permit:

(1) Transitional housing and housing for people with functional disabilities;

(2) Residential Uses.

(a) Residential Mixed with Commercial.

(i) Residential dwelling units, attached or detached, shall not exceed 49 percent of the square footage of the building when located within the urban commercial environment as designated by the shoreline master program. The percentage outside the shoreline area shall be governed by the total residential percentage maximum for the zone;

(ii) Residential units shall be limited to the second floor of a commercial building when the building fronts First Street or Caledonia Street between First Street and the vacated Second Street right-of-way;

(iii) The applicant must apply for and submit a site plan for the entire development and no occupancy of the residential component of a mixed-use building shall occur until the commercial portion of the building is ready for occupancy;

(b) Attached Townhouses.

(i) Attached townhouses may be allowed when located east of the vacated portion of Second Street; west of Third Street; south of Moore Street; and north of Caledonia Street;

(ii) If phased development occurs, all street improvements for streets abutting the Transitional Commercial Zone, utilities and public amenities required for the build-out of the Transitional Commercial Zone shall be installed prior to, or concurrent with, the attached townhouse development;

(c) Residential Unit Limit. A maximum of 26 residential units, whether pursuant to subsection (2)(a) or (b) of this section, may be sited in the entire Transitional Commercial Zone; provided, that maximum units may be increased to 36 units if the entire development meets the density bonus criteria set forth in LCMC 15.36.050;

(3) The total square footage of residential development, townhouse and residential portions of mixed buildings within the Transitional Commercial Zone shall not exceed 65 percent of the total building square footage within the zone;

(4) Light industrial uses, artistic endeavors, and those commercial uses which would create noise, light, odors, traffic congestion or dust not normally associated with commercial operations, provided that:

(a) The building design is to be consistent with those structures housing commercial uses in the district, and the operational characteristics are compatible with surrounding uses;

(b) There shall be no fire, explosion or safety hazards;

(c) There shall be no production of noise at any property line with any use in the transitional district in excess of the average intensity of street and traffic noise found in the district;

(d) Pollution, noise, and safety standards set by regional, state or federal agencies, boards, or commissions shall be satisfied. Failure to comply with such regulations shall void the conditional use;

(5) Veterinary clinics, small animal hospitals and animal grooming parlors, provided the facility has no outside kennels;

(6) Private schools;

(7) Outdoor recreational uses, other than those allowed;

- (8) Rest homes and adult family homes;
- (9) Retail sales establishments with outdoor sales lots, such as vehicle sales, rental, service, and repair, lumber yards, farm and garden supply, and yacht sales;
- (10) Taverns, nightclubs and dance halls. [Ord. 972 § 2, 2006; Ord. 877 § 9, 2003.]

15.36.040 Design and site plan review.

Design and site plan review is a Type III permit activity with regard to all projects and proposals for development within the Transitional Commercial Zone.

(1) Design Review. Any development proposal in the Transitional Commercial Zone shall undergo a design review for compliance with the Historic Preservation District (HPD) guidelines by the planning commission. The transitional commercial area is emerging from the historic district public use area, and connecting to industrial and residential areas to the south and east. To preserve the integrity of the HPD and values of adjacent properties, the commercial development of properties adjacent to the HPD shall undergo design review with the following guidelines.

(2) Design Review Purpose and Intent.

(a) To ensure a smooth transition from the architecture and building styles of the historic district of First Street to a commercial zone adjacent to residential, public use and industrial zones.

(b) To ensure that new construction and additions are consistent with the scale, forms and proportions of the adjacent Historic Preservation District.

(c) To develop building uses that extend the First Street identity along the waterfront.

(d) To avoid repetitive or monolithic designs.

(3) Design Criteria.

(a) Uses shall be mixed vertically and horizontally on the same lot.

(b) For buildings with multiple uses on First Street, the commercial uses shall be ground floor fronting the street with residential uses to the rear of the property and upper floors. Commercial uses may extend to the upper floors. However, residential uses shall not be located on the ground floor fronting First Street.

(c) In buildings fronting First Street, upper floor residential units shall be stepped back from

the street side building edge a minimum of 10 feet, and a change of building materials for each 30 feet of length along the street frontage shall be incorporated.

(d) Vertically mixed buildings shall provide articulation between commercial and residential levels by changing materials, color, intermediate cornice line, recesses, or roof decks that serve residential units.

(e) Buildings shall represent an architectural scale consistent with streetscape historic scale, forms, and proportions of buildings on the First Street historic district.

(f) Buildings, storefronts, entrances, and variations in height, modulation, color, and building material shall occur at 25-foot intervals.

(g) The commercial portions of mixed uses, which are vertically separated from the residential uses, shall have roofs that are compatible with residential structures.

(h) Gable and hipped roofs should have a minimum of six in 12 pitch. Flat roofs shall have articulated parapet walls.

(i) Mechanical equipment on the roofs shall be screened from view of adjacent residential units and the public street.

(j) The roofline should change by alternating dormers, stepped roofs, gables or other elements to reinforce the modulation or articulation interval.

(k) *Repealed by Ord. 972.*

(4) Site Plan Review.

(a) Purpose. The purpose of site plan approval shall be to assure that the site plan of the proposed development is compatible with adjacent zones and uses, and complies with the policies and regulations of the town of La Conner. Site plan elements subject to this section include, but are not limited to, site layout, building orientation, pedestrian and vehicular access, signage, landscaping, natural features on site, screening and buffering, parking and loading, and illumination. Site planning requires the horizontal and vertical arrangement of these elements to be compatible with the physical characteristics of the site and surrounding area. Site review does not include design review, which addresses the aesthetic considerations of architectural style, exterior treatment and space configuration. Site plan review should occur at the early stage of development when the scale, layout, and scope of a project are known.

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(b) Intent.

(i) Ensure that new construction and additions respect the scale, forms and proportions of the Historic Preservation District;

(ii) To protect neighboring owners and uses by assuring that reasonable provisions have been made to ensure continuity with adjacent neighborhoods;

(iii) To promote orderliness of community growth and minimize discordant and undesirable impacts of development both on- and off-site;

(iv) To promote the coordination of public and quasi-public elements such as walkways, boardwalks, paths, driveways and landscaping with other development;

(v) To ensure convenience and safety of vehicular and pedestrian movement within the site and to adjacent properties;

(vi) To minimize conflicts that might otherwise be created by a mix of uses within the zone;

(vii) To supplement other land use regulations by addressing site plan elements not adequately covered elsewhere in the town code and avoid violating the intent and purpose of those codes.

(5) Review Criteria. The planning commission shall review and act upon site plans based upon total site considerations and the following criteria of this section. These criteria provide a frame of reference for the applicant to develop a site. They are not intended to be inflexible or discourage creativity and innovation.

(a) General Criteria.

(i) Conform to the goals and policies of the elements of the comprehensive plan;

(ii) Mitigate impacts to surrounding properties and uses;

(iii) Provide safe and efficient vehicle and pedestrian circulation.

(b) Specific Review Criteria.

(i) Commercial service and refuse areas shall be screened from view;

(ii) Multiple buildings on the same site should incorporate elements such as plazas, walkways, and landscaping along pedestrian pathways to provide a clear view of destinations;

(iii) The plan assures adequate public access to street rights-of-way and shoreline;

(iv) Parking space allocations should be sited to the sides and rear of the property to minimize impacts on streetscape;

(v) Consider placement and scale of proposed structures in relation to the adjacent properties and natural characteristics of the site to avoid over concentration or the impression of oversized structures;

(vi) Limit paved and impervious surfaces, where feasible, to reduce runoff.

(6) Applicability.

(a) Design Review.

(i) The provisions of the design review section shall apply to new construction, additions, or material change to the exterior appearance of all structures, and any new development within the Transitional Commercial Zone in the town of La Conner.

(ii) The provisions of this chapter shall apply in addition to those requirements of the underlying zoning district. In the event of a conflict between the underlying district and this chapter, the provisions of this chapter shall prevail.

(b) Site Plan Review. The provisions of the site plan review section shall apply to any site development activities that include new construction, additions that alter the building footprint, landscaping, street or road development, parking and pedestrian walkways.

(c) Exceptions.

(i) Interior remodels.¹

(ii) Demolition.

(7) Review Procedures.

(a) Preapplication Conference with Planning Staff. Early preapplication conferences are encouraged to provide an indication of developers' intentions and an opportunity for town staff to provide feedback to the applicant on design and site plan review issues.

(b) Sequence to Other Permit Activity. The planning commission, prior to shorelines review or any hearing examiner review, will conduct the design and site plan review simultaneously.

(c) Public Notice and Departmental Comment Period. The design and site plan review is a Type III permit activity and will require notice as

1. Change of use or expansion of uses require permitting and planning department review.

per LCMC 15.135.110, Public notice requirements. Departmental heads will review and provide comment in preparation for the planning department reports to the planning commission.

(d) Revisions and Plan Modifications.

(i) Minor modifications may be reviewed for administrative determination by the planning director if the modifications:

(A) Involve less than 10 percent¹ of the area or scale of the approved plan; or

(B) Do not have a significantly greater impact on the environment and facilities than approved; or

(C) Do not alter the boundaries or building footprints of the approved plans.

(ii) Major modifications involving more than 10 percent¹ of the plan area or scale or that have a significant impact to the environment, facilities or boundaries must be reviewed and approved by the planning commission prior to modification of the original plan. [Ord. 972 § 3, 2006; Ord. 877 § 10, 2003.]

15.36.050 Dwelling unit density bonus.

Residential density bonuses may be added to allow the applicant to increase the number of residential units by providing enhanced public improvements beyond what the code presently requires. The addition of the enhanced public improvements serves to mitigate the adverse effects of increased residential density. To qualify for the density bonus, the applicant must include all of the site features below. If the following features are included in the development, the applicant may, subject to other applicable provisions of the UDC and other regulations, build up to an additional 10 dwelling units for a maximum of 36 dwelling units in the transitional zone. The following public amenities must be incorporated into the overall site plan to the satisfaction of the reviewing body:

(1) Improve shoreline public access areas with amenities such as sitting areas and plazas.

(2) Increase view corridors from upland areas to the shoreline.

(3) Provide and maintain public restrooms.

(4) Develop a public boardwalk along the shoreline for the length of the property.

(5) Add 7,000 square feet of open space plaza and/or recreational areas beyond the required setback and landscaping requirement. [Ord. 972 § 4, 2006; Ord. 877 § 11, 2003.]

15.36.060 Dimensional standards.

(1) Minimum lot size – None.

(2) Maximum lot size – None.

(3) Maximum lot coverage for buildings and impervious surfaces shall be 80 percent.

(4) Minimum landscaping area – 20 percent of the lot area.

(5) Minimum Building Setback.

(a) In the transitional commercial area, setbacks should conform to match setbacks for structures in the First Street commercial HPD to preserve and enhance the storefront character of the street. The historic relationship of the facade should be maintained.

(b) Access to the rear or secondary points of buildings along the front elevation should be avoided on First Street. Such access or entry points, if constructed, should enhance the building and street to maintain the continuity of the street scene.

(6) Maximum floor area shall be no more than two times the property area.

(7) Maximum building height – 30 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the lot to the highest point of the roof.

(8) Awning/Canopies. Awnings/canopies shall have a minimum of eight feet clearance from the ground.

(9) The side yard setbacks shall be, in combination, equal to 25 percent of the property width. Development features enhancing east and west view corridors may be considered, in part, to satisfy side yard setback requirements.

(10) Landscaping, at maturity, within a view corridor shall not exceed four feet in height.

(11) Buildings over 3,000 square feet gross floor area shall be designed to have the appearance of multiple buildings characteristic of First Street HPD buildings, including separate entrances, storefronts, and variation in height. [Ord. 986 § 8, 2007; Ord. 972 § 5, 2006; Ord. 877 § 12, 2003.]

1. Within two years.

Chapter 15.40

INDUSTRIAL ZONE

Sections:

- 15.40.010 Purpose.
- 15.40.020 Permitted uses.
- 15.40.030 Accessory uses.
- 15.40.040 Conditional uses.
- 15.40.050 Dimensional standards.
- 15.40.051 Dimensional standards, office.
- 15.40.052 *Repealed.*

15.40.010 Purpose.

The purpose of industrial zoning is to provide areas for wholesale and retail businesses to engage in light to medium manufacturing, processing, storing, or distributing goods; to provide for public services; and to manage the development of these uses to minimize or eliminate nuisance factors and hazards. Only those uses that comply with the shoreline master program are allowed in the 200-foot shoreline jurisdiction. [Ord. 671 § 3.6.A, 1995.]

15.40.020 Permitted uses.

The following uses are permitted in the Industrial Zone by certificate of authorization:

- (1) Manufacturing, packaging, processing, warehousing and distributing operations and associated wholesale and retail activities;
- (2) Parks, public or private;
- (3) Retail or wholesale lumber or building material yards, paint, glass, heating, plumbing and electrical materials;
- (4) Retail sales of farm equipment, manufactured housing, recreational vehicles, heavy equipment and boats;
- (5) Farm supplies;
- (6) Food products manufacturing;
- (7) Textile products manufacturing;
- (8) Lumber, wood products manufacturing;
- (9) Paper products manufacturing except milling;
- (10) Light stone, clay, glass products manufacturing and glass, pottery, china, ceramic products, stone cutting and engraving;
- (11) Signs, advertising and manufacturing;
- (12) Office machine, equipment manufacturing, computer;
- (13) Small electrical equipment component manufacturing;

(14) Transportation equipment and parts manufacturing;

(15) Metal products fabrication and manufacturing;

(16) Light fabricated building components;

(17) Light fabrication assembly and manufacturing;

(18) Commercial/industrial photography and video productions;

(19) Warehouses for storage and services in association with office and manufacturing;

(20) Mini warehouses – storage only;

(21) Rental services of heavy equipment, furniture, tools, passenger automobiles, trailers, recreation;

(22) Boat, vehicle, and heavy equipment repair garages, body and fender repair shops, and car washes;

(23) Government services and functions including shops, maintenance, and utilities;

(24) Special vocational schools;

(25) Research and development facilities;

(26) Commercial auto parking lots and garages;

(27) Tow truck operations and auto impoundment;

(28) Utility and communications storage and distribution, substations;

(29) Shipbuilding and shipyards;

(30) Public parking lots;

(31) Agricultural processing, food processing;

(32) Marinas;

(33) Contractors’ offices, shops and storage yards;

(34) Furniture manufacture and repair or cabinet or millwork shops;

(35) Automobile service stations;

(36) Public transportation system terminals;

(37) Nonhazardous recycling collection depots for paper, glass, aluminum, plastic, and metal, provided all storage is contained within a structure or sight-obscuring enclosure;

(38) Office. [Ord. 791, 2000; Ord. 671 § 3.6.B, 1995.]

15.40.030 Accessory uses.

The following accessory uses are permitted in the Industrial Zone by certificate of authorization:

(1) On-site recycling and treatment of waste products associated with principal uses on the same site, subject to all applicable county, state and federal regulations and permits;

(2) Temporary buildings for uses incidental to construction work, which building shall be removed upon completion or abandonment of the construction work;

(3) A wholesale/retail outlet or showroom for sales of products produced, assembled or manufactured and warehoused or stored on the premises, which shall be limited to no more than 49 percent of the gross floor area of the industrial space;

(4) Employees' cafeterias, motorized vending, and auditoriums. [Ord. 791, 2000; Ord. 671 § 3.6.C, 1995.]

15.40.040 Conditional uses.

The following structures and uses are permitted by conditional use permit:

(1) Antennas plus antenna mount of more than 20 feet in height, four feet in width and of bulk area more than 16 feet. [Ord. 671 § 3.6.D, 1995.]

15.40.050 Dimensional standards.

(1) Minimum lot size – None.

(2) Maximum lot coverage by all buildings and impervious surfaces shall be 90 percent.

(3) Minimum landscaping area – 10 percent of the gross site area.

(4) Minimum building setbacks – No minimum except adjacent to, or across the street from, a Residential or Public Use Zone, the following setbacks apply:

There should be a minimum of at least five feet on each side and 10 feet in the rear to allow for fire department access.

	Front	Side	Rear
All buildings, interior lot	50 ft.	15 ft. (total 30)	50 ft.
All buildings, corner lot	50 ft.	50 ft.	25 ft.
Outdoor storage	25 ft.	25 ft.	25 ft.
Agricultural Lands		25 ft.	25 ft.

(5) Maximum building height – 40 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the

lot to the highest point of the roof. All buildings higher than 35 feet shall comply with the following:

(a) The roof shall be equipped with automatic smoke and heat vents;

(b) The internal structure shall be single-story open construction; a mezzanine is permitted;

(c) Shall be fully sprinklered per NFPA 13;

(d) Shall have central monitoring of the sprinkler system;

(e) Roof shall be constructed of noncombustible materials.

Commercial offices in the industrial area must still comply with the commercial height limits and provisions. [Ord. 986 § 8, 2007; Ord. 889 § 3, 2003; Ord. 695 § 3, 1997; Ord. 671 § 3.6.E, 1995.]

15.40.051 Dimensional standards, office.

Office development in the Industrial Zone shall meet the following dimensional standards, which amenities will be included in the calculation of square footage devoted to office-commercial use:

(1) Minimum lot size – None.

(2) Maximum lot coverage for commercial office, including required amenities, is 100 percent.

(3) Minimum landscape area – 10 percent of the gross site area.

(4) Minimum building setbacks – minimum of 50 feet from the mean high water line for new buildings fronting on the Swinomish Channel. There shall be at least five feet on each side and 10 feet on the upland facing side of new buildings to allow for fire department access.

(5) Maximum building height – 30 feet and limited to two occupied stories above finished grade to meet fire department life safety concerns. [Ord. 791, 2000.]

15.40.052 Dimensional standards, nonconforming uses.

Repealed by Ord. 979. [Ord. 791, 2000.]

15.45.010

Chapter 15.45

PUBLIC USE ZONE

Sections:

- 15.45.010 Purpose.
- 15.45.020 Permitted uses.
- 15.45.030 Dimensional standards.
- 15.45.040 Fence.

15.45.010 Purpose.

The purpose of this designation is to provide for areas or facilities that are used by the public or for the benefit of the public. [Ord. 671 § 3.7.A, 1995.]

15.45.020 Permitted uses.

(1) Public schools subject to the following conditions:

(a) Minimum setback – 35 feet from any adjacent lot;

(b) Minimum setback – 45 feet from any public right-of-way;

(c) Minimum setback – 25 feet from all agricultural lands;

(d) An abutting area of at least one-fourth acre devoted to playfields;

(2) Memorial buildings, community, senior, and performing arts centers, and museums;

(3) Governmental buildings including police and fire stations, office buildings, public libraries, and utilities;

(4) Parks, playgrounds, and public recreation uses, such as athletic fields, tennis courts, pools, launching ramps;

(5) Public parking lots and public restrooms;

(6) Weekly public markets, subject to the following conditions:

(a) Participation is limited to any farmer, gardener, or other person to sell any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person;

(b) The sale of local crafts which shall be limited to 10 percent of the market space;

(c) A sponsoring committee approved by the town council shall organize, monitor, and collect fees;

(d) The market shall operate only two days a week from March 1st to October 1st;

(7) Personal wireless facilities located outside the boundaries of the Historic Preservation District. [Ord. 786 § 2, 2000; Ord. 671 § 3.7.B, 1995.]

15.45.030 Dimensional standards.

(1) Minimum lot size – none;

(2) Maximum lot coverage for buildings and impervious surfaces shall be 90 percent;

(3) Maximum height – 30 feet above the average lot grade determined by averaging the lowest and highest existing elevation points on the lot to the highest point of the roof;

(4) Minimum building setbacks – 25 feet from agricultural land. Areas other than public schools shall conform with adjacent area zoning. [Ord. 986 § 8, 2007; Ord. 685 § 1, 1996; Ord. 671 § 3.7.C, 1995.]

15.45.040 Fence.

A solid wall, sight-obscuring fence between five and six feet in height, or a vegetative buffer may be required along the boundary between the site and any adjacent residential zone. [Ord. 671 § 3.7.D, 1995.]

Chapter 15.50

HISTORIC PRESERVATION DISTRICT

Sections:

Article I. General Provisions

- 15.50.010 Purpose.
- 15.50.020 Applicability.
- 15.50.025 Definitions.
- 15.50.030 District and landmark designation.
- 15.50.040 Criteria for designation of historic landmarks.
- 15.50.050 Criteria for historic districts and additions thereto.
- 15.50.060 Historic design review – Permit required.
- 15.50.070 Standards for treatment of historic properties.
- 15.50.075 Demolition.

Article II. Criteria for Design Review of New Construction, Preservation, Rehabilitation, Restoration or Reconstruction Within the Historic Preservation District

- 15.50.080 General requirements.
- 15.50.090 Building exterior.
- 15.50.100 Building interior – Applicable to structures on state or national historic registers only.
- 15.50.110 Building site.
- 15.50.120 District/neighborhood.
- 15.50.130 Health and safety code requirements.
- 15.50.140 Energy retrofitting.
- 15.50.150 New additions to historic buildings.
- 15.50.160 Accessory structures.
- 15.50.170 Design evaluation checklist.
- 15.50.180 Commercial building scale.

Article I. General Provisions

15.50.010 Purpose.

(1) Provide for the identification and protection of structures and sites within the town that reflect special elements of the town’s architectural, artistic, aesthetic, historical, economic, and social heritage;

(2) Facilitate restoration and upkeep of historic structures;

(3) Encourage public knowledge and appreciation of the town’s history and culture;

(4) Foster community pride and sense of identity based on recognition and use of historic resources;

(5) Preserve diverse architectural styles reflecting phases of the town’s history and encourage complimentary design and construction impacting historic resources;

(6) Enhance property values and increase economic benefits to the town and its residents;

(7) Identify and resolve conflicts between the preservation of historic structures and alternative land uses;

(8) Integrate the requirements for historic preservation into the development review process.

(9) Ensure that new construction and additions respect the scale, forms and proportions of the Historic Preservation District. [Ord. 755 § 3, 1999; Ord. 671 § 3.8.A, 1995.]

15.50.020 Applicability.

(1) The provisions of this chapter shall apply to the designation, preservation, rehabilitation, restoration, reconstruction, relocation, remodel, demolition, or material change to the exterior appearance of all Historic Landmarks, all structures, and any new development within the Historic Preservation District in the town of La Conner.

(2) The provisions of this chapter shall apply in addition to those requirements of the underlying zoning district. In the event of a conflict between the underlying district and this chapter, the provisions of this chapter shall prevail. [Ord. 755 § 4, 1999; Ord. 671 § 3.8.B, 1995.]

15.50.025 Definitions.

The following words and terms when used in this chapter shall mean as follows, unless a different meaning clearly appears from the context.

(1) “Conflict” is when two code provisions provide for different or inconsistent standards.

(2) “District, Morris Street Commercial” means all commercial lots which abut Morris Street, excluding those which also abut First Street or which abut 2nd Street on the west and Morris Street on the south.

(3) “District, First Street Commercial” means all commercial lots, within the HPD, not included

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in the Morris Street Commercial, which abut First Street.

(4) “Floor area ratio” means the gross floor area of a building(s) on a lot, divided by the total lot area, expressed as a percent.

(5) “Landscape feature” means a natural or manmade outdoor feature on the land such as, but not limited to, trees, steep slopes, bluffs, outcroppings, roads, driveways, parking lots, lamp posts, retaining walls and walkways.

(6) “Scale” means the relationship of the size and proportions of individual parts of a structure to the whole structure; and the relative size and proportions of a structure in relation to pedestrians and to other structures within the Historic Preservation District.

(7) “Shall” means a mandatory, directory and nonwaivable required act or omission.

(8) “Should,” in the context of this chapter, denotes a requirement that may be modified if the applicant demonstrates that the proposal or project as designed furthers the goals and objectives of the chapter equal to or better than the requirement would.

(9) “Streetscape” means the general arrangement, height, and style of buildings, entrances, open spaces, views, and landmark features along a street which help define the unique character of the street. [Ord. 755 § 5, 1999.]

15.50.030 District and landmark designation.

The town of La Conner adopted a Historic Preservation District by order of the town council on September 5, 1972. The HPD includes portions of First and Second Streets and associated properties which are on the National Register of Historic Places. The boundaries of the district are illustrated on the La Conner Zoning Map, attached as Appendix A. The town council, on recommendation of the planning commission after public hearings, shall have the authority to designate Historic Landmarks, or Historic Districts, or additions to Historic Districts when the criteria for designation, under this chapter are satisfied. [Ord. 671 § 3.8.C, 1995.]

15.50.040 Criteria for designation of historic landmarks.

Any property owner within the town may apply for a Historic Landmark designation. A site or structure may be designated a Historic Landmark if

it is listed on the National Register of Historic Places, or if it is rated “significant” under the town’s procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria, as proposed by the National Trust for Historic Preservation, and itemized below. Points are awarded to a structure on the basis of how well it meets the criteria. A site or structure must receive a total of 40 or more points under the following criteria to qualify for Historic Landmark status:

- (1) It is an early (50 years or older), or exceptional example of a particular architectural style, building type, or convention. (Up to 10 points).
- (2) It possesses a high quality of composition, detailing, and craftsmanship. (Up to 5 points).
- (3) It is a good, or early, example of a particular material or method of construction. (Up to 4 points).
- (4) It retains, with little or no change, its original design features, materials, and character. (Up to 8 points).
- (5) It is the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. (Up to 10 points).
- (6) It is a conspicuous visual landmark in the community or neighborhood. (Up to 10 points).
- (7) It is well-located considering the current land use surrounding the property, which contributes to the integrity of the historic period. (Up to 4 points).
- (8) It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood, or area. (Up to 7 points).
- (9) It is associated with the life or activities of a person, group, organization, or institution that has made a significant contribution to the community, state, or nation. (Up to 10 points).
- (10) It is associated with an event that has made a significant contribution to the community, state, or nation. (Up to 10 points).
- (11) It is associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, county, state, or nation. (Up to 10 points).
- (12) It possesses the potential for providing historic information. (Up to 10 points). [Ord. 671 § 3.8.D, 1995.]

15.50.050 Criteria for historic districts and additions thereto.

Designation of a Historic Preservation District, or addition to a Historic Preservation District may be initiated by the planning commission, the town council, or by petition of at least 60 percent of the property owners within the geographically defined area. Criteria for designation are as follows:

- (1) The area is listed on the National Register as a Historic District.
- (2) The area includes a significant concentration of linkage of sites, buildings, structures, or objects which are unified visually by style, plan, or physical development distinguished by association with historic periods, events, people, or cultural trends, and
 - (a) A substantial number of the component parts within the area are exceptionally well preserved, or
 - (b) If some components lack individual distinction, but the area taken as a whole represents a significant and distinguishable entity.
- (3) The area includes a significant concentration of Historic Landmarks as designated under the criteria set forth in LCMC 15.45.040.
- (4) The area has yielded, or may be likely to yield, information important to prehistory or history. [Ord. 671 § 3.8.E, 1995.]

15.50.060 Historic design review – Permit required.

- (1) A historic design review permit shall be obtained for any new development in the Historic Preservation District, prior to any alteration, demolition, reconstruction, restoration, relocation, remodel or other material change to the exterior appearance of any existing Historic Landmark or structure located in the Historic Preservation District, and for the interior of structures on the state or national register. Reference LCMC 15.30.010 and 15.130.030 for planning commission and planning director authority.
- (2) Repair and maintenance (not shoreline related) may be undertaken without a historic design review permit but is subject to all applicable code requirements including related enforcement procedures.
- (3) No historic design review permit shall be approved while any public hearing or appeal affecting the development, alteration, demolition

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or removal of any proposed Historic Landmark or any building within an area proposed for designation as a Historic District is pending. [Ord. 743 § 3, 1999; Ord. 671 § 3.8.F, 1995.]

15.50.070 Standards for treatment of historic properties.

The Secretary of Interior’s standards for four distinct, but inter-related approaches to the treatment of historic properties shall be followed for buildings in the Historic Preservation District as outlined below:

(1) Preservation.

(a) Work, including preliminary measures to protect and stabilize the property, that generally focuses upon the ongoing maintenance and repair of existing historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

(b) Applicability. When the property’s distinctive materials, features, and spaces are essentially intact and thus convey the historic significance without extensive repair or replacement; when depiction at a particular period of time is not appropriate; and when a continuing or new use does not require additions or extensive alterations.

(2) Rehabilitation.

(a) The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. Rehabilitation acknowledges the need to alter or add to a historic property to meet continuing or changing uses while retaining the property’s historic character.

(b) Applicability. When repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate.

(3) Restoration.

(a) The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of

the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other title-required work to make properties functional is appropriate within a restoration project.

(b) Applicability. When the property’s design, architectural, or historical significance during a particular period of time outweighs the potential loss of extant materials, features, spaces, and finishes that characterize other historical periods; when there is substantial physical and documentary evidence for the work; and when contemporary alterations and additions are not planned.

(4) Reconstruction.

(a) The act or process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(b) Applicability. When a contemporary depiction is required to understand and interpret a property’s historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction.

The standards outlined in Table I below shall be considered during the review process.

Standards for the Treatment of Historic Properties
Table I

P = Preservation
R = Rehabilitation
RS = Restoration
RC = Reconstruction

Standards	P	R	RS	RC
(1) A property shall be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property shall be protected and, if necessary, stabilized until additional work may be undertaken.	P	R		

(2) The historic character of a property shall be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided. P R

(3) Each property shall be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features shall be physically and visually compatible, identifiable upon close inspection, and properly documented for future research. P RS

(4) Changes to a property that have acquired historic significance in their own right shall be retained and preserved. P R

(5) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved. P R

(6) The existing condition of historic features shall be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material shall match the old in composition, design, color, and texture. p

(7) Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used. P R RS

(8) Archeological resources affected by a project shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken. P R RS

(9) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjec-

tural features or elements from other historic properties, shall not be undertaken.

(10) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement features shall be substantiated by documentary and physical evidence. R

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(11) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.	R
(12) New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.	R
(13) A property shall be used as it was historically or be given a new use which reflects the property's restoration period.	RS
(14) Materials and features from the restoration period shall be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period shall not be undertaken.	RS
(15) Materials, features, spaces, and finishes that characterize other historical periods shall be documented prior to their alteration or removal.	RS
(16) Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period shall be preserved.	RS
(17) Deteriorated features from the restoration period shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials.	RS
(18) Replacement of missing features from the restoration period shall be substantiated by documentary and physical evidence. A false sense of history shall not be created by adding conjectural features, fea-	RS

tures from other properties, or by combining features that never existed together historically.	
(19) Designs that were never executed historically shall not be constructed.	RS RC
(20) Reconstruction shall be used to depict vanished or nonsurviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.	RC
(21) Reconstruction of a landscape, building, structure, or object in its historic location shall be preceded by a thorough archeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.	RC
(22) Reconstruction shall include measures to preserve any remaining historic materials, features, and spatial relationships.	RC
(23) Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property shall re-create the appearance of the nonsurviving historic property in materials, design, color, and texture.	RC
(24) A reconstruction shall be clearly identified as a contemporary re-creation.	RC

[Ord. 671 § 3.8.G, 1995.]

15.50.075 Demolition.

No structure located within the Historic Preservation District shall be demolished unless a certificate of authorization or exemption has been approved pursuant to the requirements of Chapter 15.112 LCMC. [Ord. 720 § 3, 1998.]

Article II. Criteria for Design Review of New Construction, Preservation, Rehabilitation, Restoration or Reconstruction Within the Historic Preservation District

15.50.080 General requirements.

(1) Applicants shall conform to the principles of the Secretary of the Interior's Standards for the Treatment of Historic Properties, including guidelines for preservation, rehabilitation, restoration and reconstruction.

(2) The design shall respect and preserve the important features and qualities of the La Conner Historic Preservation District as outlined in the Design Evaluation Checklist in LCMC 15.50.170. The proposal shall relate to, and not diminish any physical or visual aspect of the site, neighborhood, and community.

(3) Exception. Cases where reconstruction work is proposed for a building of a distinct style, but which is different from that which was typical of the "historic period". In these cases the appropriate design choice should be to respect the distinct style which is significant in its own right and seek to retain the building's particular architectural character, especially in terms of unique form, scale, proportion, rhythm, modelling and massing.

(4) In those instances not covered by the criteria outlined in this code, the Secretary of Interior's standards apply. [Ord. 671 § 3.8.H.1, 1995.]

15.50.090 Building exterior.

(1) Masonry – Brick, Stone, Terra-Cotta, Concrete, Adobe, Stucco, Mortar. Masonry features may include walls, brackets, railings, cornices, window architraves, door pediments, steps, and columns, joint unit and size, tooling and bonding patterns, coatings, and color.

(a) Masonry features should be identified, retained, preserved and protected using approved methods and techniques generally recognized for historic structures.

(b) Deteriorated mortar should be replaced with mortar which duplicates the strength, composition, color, and texture of the old mortar. Old mortar joints should be duplicated in width and in joint profile.

(2) Wood – Clapboard, Weatherboard, Shingles, Siding, Decorative Elements. Wood features may also include cornices, brackets, window architraves, and door-way pediments, and their paints, finishes, and colors.

(a) Wood features should be identified, retained, preserved, protected and maintained using approved methods and techniques generally recognized for historic structures.

(b) Repair may include limited replacement in kind – or with compatible substitute materials – of those extensively deteriorated or missing parts of features where there are surviving prototypes such as brackets, moldings, or sections of siding. Features of the existing structure should guide the new work.

(c) Horizontal wood siding in four-to-six-inch shiplap or clapboard is preferred. Avoid vertical or wide horizontal siding.

(d) Avoid panelized siding, batten siding and artificial stone. Wainscot is to be used only in keeping with historic architectural character of the structure.

Siding Materials:
4" to 6" siding and trim are nearly always the best choice

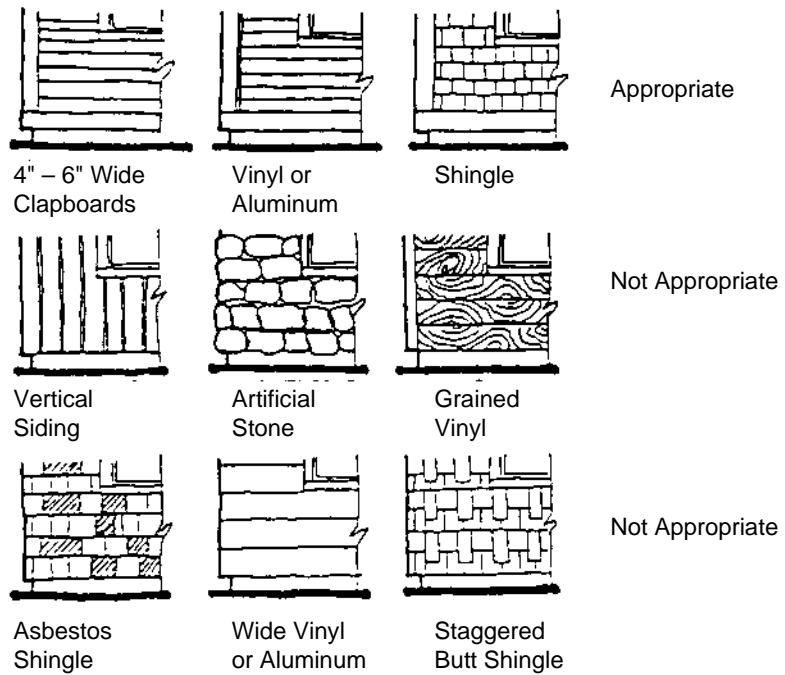


Figure 1

(3) Architectural Metals – Cast Iron, Steel, Pressed Tin, Copper, Aluminum, and Zinc. Features may include columns, capitals, window hoods, or stairways that are important in defining the overall historic character of the building, and their finishes and colors.

(a) Metal features should be identified, retained, preserved, protected and maintained using approved methods and techniques generally recognized for historic structures.

(b) Architectural metal features may be repaired by patching, splicing, or otherwise reinforcing the metal following recognized preservation methods. Repairs may also include limited replacement in kind – or with a compatible substitute material – of those extensively deteriorated or missing parts of features when there are surviving prototypes such as porch balusters, column capitals, or bases, or porch cresting.

(4) Drainage. To prevent damage to structures, proper drainage should be provided so that water does not stand on flat, horizontal surfaces or accumulate in curved decorative features.

(5) Design for Missing Historic Features. An accurate restoration of missing features may be accomplished using historic, pictorial, and physi-

cal documentation or by developing a new design that is compatible with the size, scale, material, and color of the historic building.

(6) Windows and Trim.

(a) Windows and their functional and decorative features should be identified, retained, preserved, protected and maintained using generally accepted techniques for historic structures. Features may include frames, sash, muntins, glazing, sills, heads, hoodmolds, panelled or decorated jambs and moldings, and interior and exterior shutters and blinds.

(b) Windows should have a vertical orientation, be in proportion to the structure, and have trim that accents the openings. Horizontal orientations, out-of-proportion windows and punched openings devoid of accent trim should be avoided.

(c) Commercial storefronts should have extensive glass to avoid large areas of solid walls on street fronts. At least 50 percent of front facades facing South First Street shall be glazed.

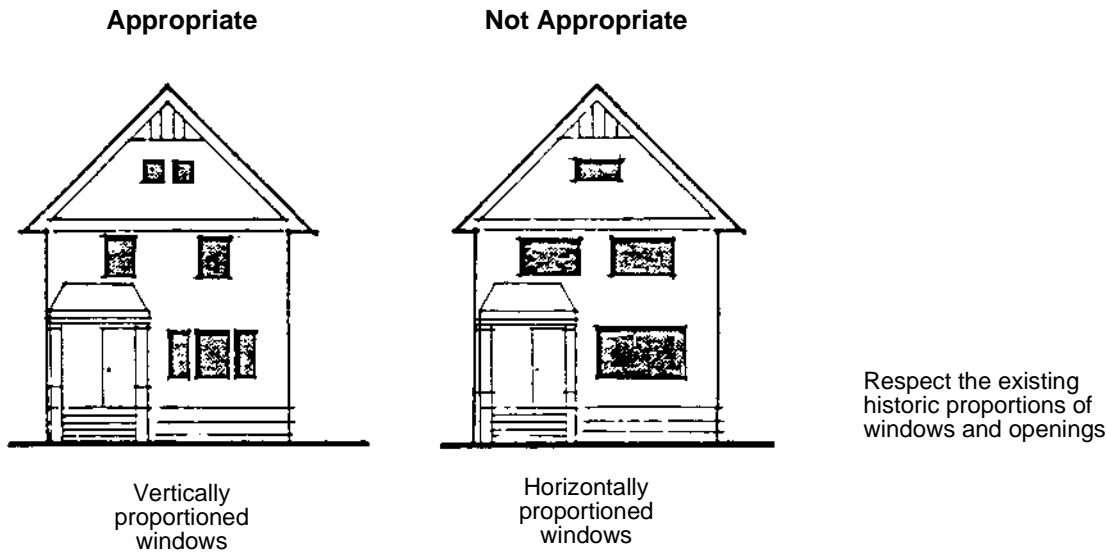


Figure 2

(7) Roofs, Canopies, and Awnings.

(a) Roofs and their functional and decorative features should be identified, retained, preserved, protected and maintained using generally recognized techniques for historic structures. Features may include the roof shape, such as hipped, gambrel, and mansard; decorative features such as cupolas, cresting, chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning.

(b) Shingles are the preferred exposed roofing materials. Metal roofs that reflect the historical period in color and pattern are acceptable.

(c) Roofs should be pitched with a minimum slope of 6:12 vertical to horizontal ratio and a maximum of 12:12.

(d) Roofs on residential structures and on all structures in the Morris Street Commercial District shall meet the requirements of LCMC 15.50.090 (7)(c). Flat roofs should be avoided except when disguised by architectural or pitched roof features.

(e) Low pitched or sheet assembly roofs on commercial structures exposed to a street front should be hidden from view by constructing a false storefront design or parapet.

(f) Commercial structures should avoid elements on roofs that detract from the skyline view or are not part of an approved architectural design.

(g) Canopies and awnings should be in keeping with the historical period and shall not extend

over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site.

(h) Sky-lights and frames should be constructed of noncombustible materials and installed in an inconspicuous location on a noncharacter-defining roof.

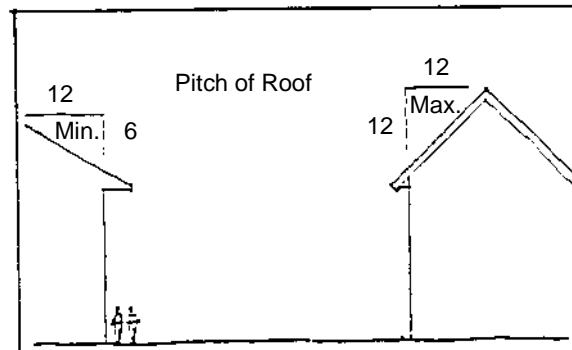


Figure 3

Appropriately scaled secondary roof elements.

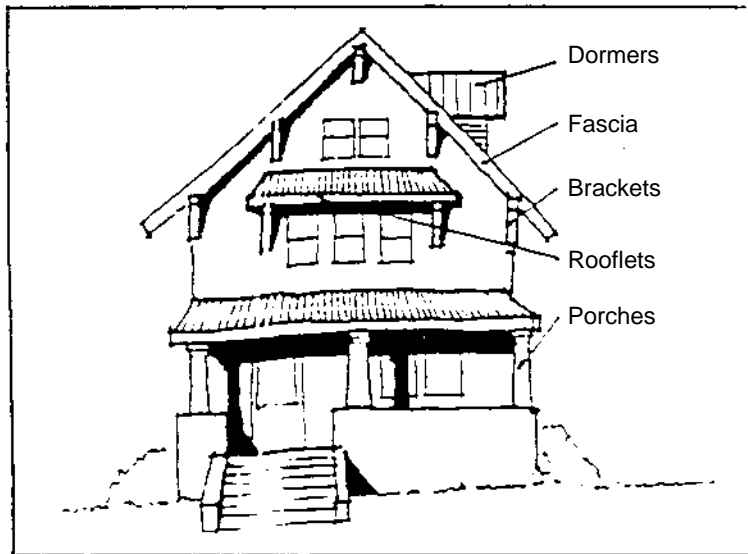


Figure 4

Skylights should be inconspicuous.

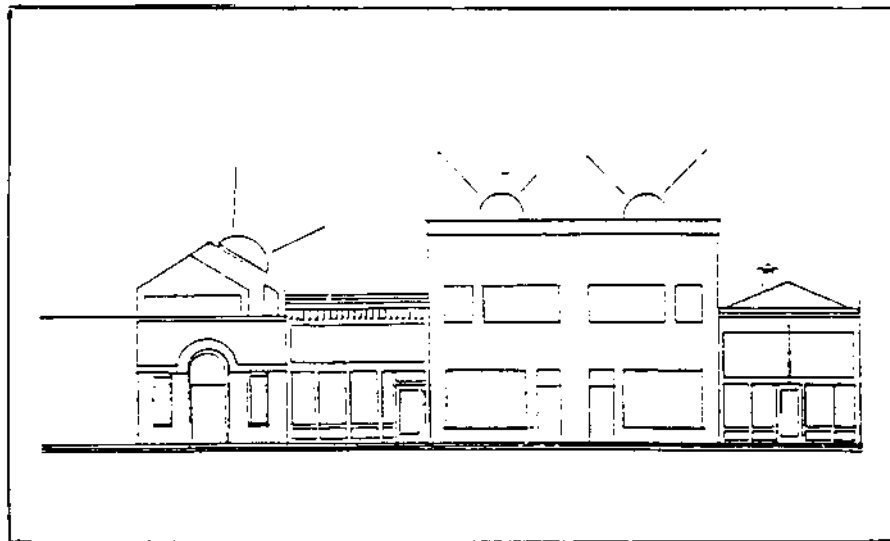


Figure 5

(8) Entrances and Porches.

(a) Entrances and their functional decorative features should be identified, retained, preserved, protected and maintained using generally accepted techniques for historic structures. Features that are important in defining the overall historic character of the building may include doors, fanlights, side-lights, pilasters, entablatures, columns, balustrades, and stairs.

(b) Front or street elevations shall be in character with the historic period, including fenestration, ornamentation, surfaces and accessories. Improvements that enhance or preserve elements of the district are encouraged.

(c) Commercial storefront design should respect the scale, proportion and detail of the existing streetscape.

(d) Residential front entries should be evident from the street and contain elements, i.e., porches, columns, front steps, handrails, landscape that provides strength to the architectural character. The front door, storm door and side lights should be a panelized design. Avoid flush modern doors, bright aluminum storm doors, and wrought iron railings or handrails.

(e) Avoid changing existing residential front elevations or front entries that have historic character.

Secondary roof elements like this porch add distinctive character to the home.

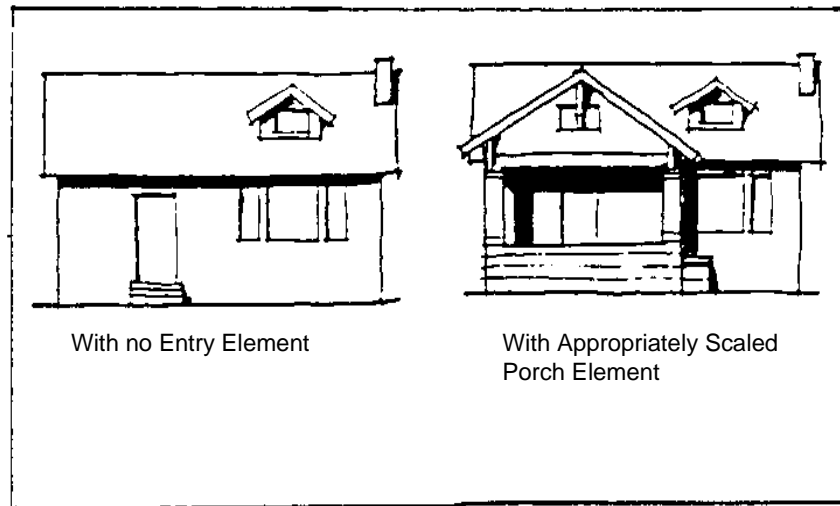


Figure 6

Porches should be made out of substantial materials, such as built-up columns and wooden balustrades. The use of pre-fabricated metal railings is not recommended.

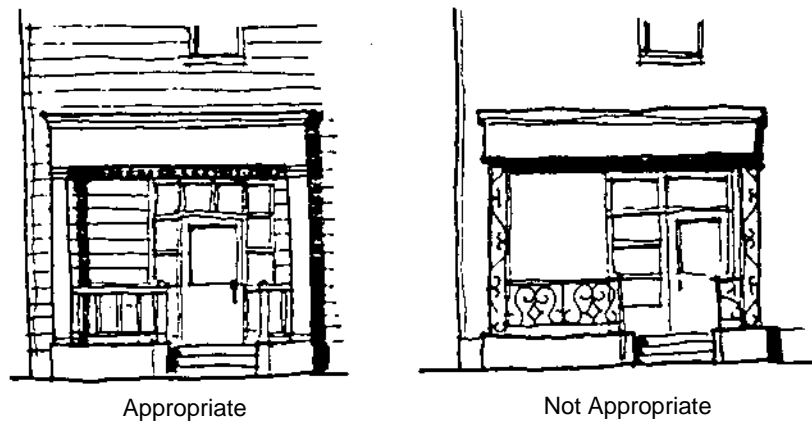
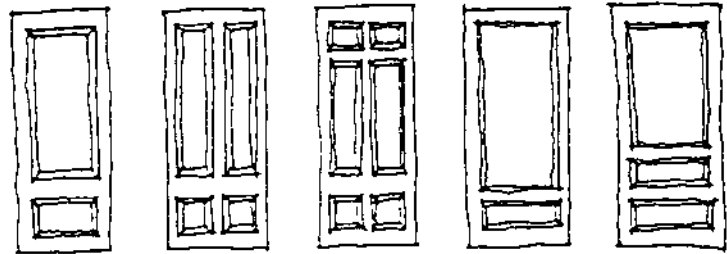


Figure 7

Doors with raised panels add charm and character to historic homes.



Avoid modern doors for the front of the house. These tend not to be in keeping with the character of historic homes.

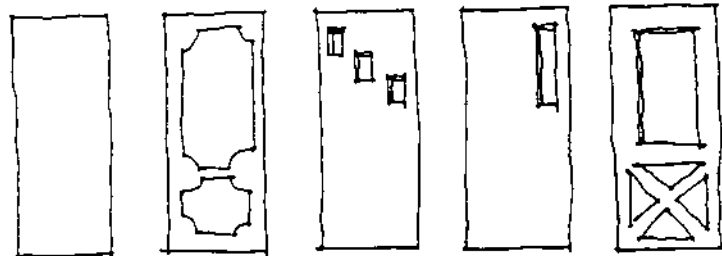


Figure 8

(9) Storefronts.

(a) There shall be a storefront and entrance for every 25 running feet of building frontage on First Street. Maximum storefront width shall be 25 feet.

(b) Storefronts and their functional and decorative features should be identified, retained, preserved, protected, and maintained using generally acceptable techniques for historic structures. Features may include display windows, signs, doors, transoms, kick plates, corner posts, and entablature.

(c) Protect storefronts against arson and vandalism during the restoration process by boarding up windows and installing alarm systems if necessary.

(10) Ornamentation.

(a) Ornamentation shall be in keeping with the historic period of the building.

(b) Large wall areas of structures with street frontage devoid of ornamentation should be avoided.



Figure 9

(11) Materials.

(a) Natural or historic materials typical of the district are preferred.

(b) Synthetic or composite materials are acceptable when they replicate natural or historic

materials. Samples that fully display color, texture, and assembly must be approved by the planning commission or designee prior to construction.

15.50.100

(c) Installations or assemblies that diminish or are devoid of historic trim and detailing are to be avoided.

(12) Paint and Color. Colors should be selected from those that were considered appropriate at the time the structure was designed and built, those colors whatever they may be should be applied to the structure to enhance the design in the manner intended by the original designer, builder, and owners. [Ord. 755 §§ 6 – 10, 1999; Ord. 671 § 3.8.H.2, 1995.]

15.50.100 Building interior – Applicable to structures on state or national historic registers only.

(1) Structural System.

(a) The structural systems and individual features of systems should be identified, retained, preserved, protected and maintained using generally accepted techniques for historic structures. Structural systems may include post and beam systems, trusses, summer beams, vigas, cast iron columns, above-grade stone foundation walls, or loadbearing brick or stone walls.

(b) Any new excavations adjacent to historic foundations should be limited to avoid undermining the structural stability of the building or adjacent historic buildings.

(c) Correct structural deficiencies in preparation for a new use in a manner that preserves the structural system and individual character-defining features.

(d) Design and install new mechanical or electrical systems when required for the new use which minimize the number of cutouts or holes in structural members.

(e) Add a new floor when required for the new use if such an alteration does not damage or destroy the structural system or obscure, damage, or destroy character-defining spaces, features, or finishes.

(f) An atrium or light well may be created to provide natural light in a manner that assures the preservation of the structural system as well as character-defining interior spaces, features, and finishes.

(2) Spaces, Features, and Finishes.

(a) A floor plan or interior spaces that are important in defining the overall historic character of the building should be identified, retained, pre-

served, protected and maintained using generally acceptable techniques for historic structures. This includes the size, configuration, proportion, and relationship of rooms and corridors; the relationship of features to spaces; and the spaces themselves such as lobbies, reception halls, entrance halls, double parlors, and important industrial or commercial use spaces.

(b) Changing interior features and finishes that contribute to the historical significance of the structure should be avoided. Features may include columns, cornices, baseboards, fireplaces and mantles, paneling, light fixtures, hardware, and flooring; and wallpaper, plaster, paint, and finishes such as stenciling, marbling, and graining; and other decorative materials that accent interior features and provide color, texture, and patterning to walls, floors and ceilings.

(c) Alterations or additions for new use should accommodate service functions such as bathrooms or mechanical equipment in secondary spaces such as first floor service areas; reusing decorative material or features; installing permanent partitions in secondary spaces; enclosing interior stairways as required by building codes so that the character is retained or constructing stairways or elevators in secondary spaces.

(d) Mechanical Systems. Heating, air conditioning, electrical, and plumbing should be installed to minimize alterations to the building floor plan, exterior elevations and damage to historic building material. [Ord. 671 § 3.8.H.3, 1995.]

15.50.110 Building site.

(1) Building site features should be identified, retained, preserved, protected and maintained following generally accepted techniques for historic structures. Site features can include driveways, walkways, lighting, fencing, signs, benches, fountains, terraces, plants and trees, berms, and drainage.

(2) Any required landscape/open space shall be used to preserve or enhance significant natural features, landscape features, views of the Swinomish Channel and Skagit Valley, pedestrian enhancements and shoreline access areas.

(3) The historic relationship between buildings, landscape features, and open space should be retained.

(4) In all HPD areas:

(a) Lanterns, post lights, and other significant improvements should respect the historic period. Bright night lighting and strong, unshielded light sources shall be avoided. Outdoor lights shall be shielded on all sides and orientated towards the ground.

(b) Chain link fencing shall be prohibited.

(c) In commercial areas landscaping and trees shall be provided along the street frontage where possible. Amenities may take the form of seating, raised flower beds, containers or hanging baskets, lighting fixtures, paving materials, decks, and pocket parks.

(d) Obstructions to pedestrian movement shall be minimized. [Ord. 755 § 11, 1999; Ord. 671 § 3.8.H.4, 1995.]

15.50.120 District/neighborhood.

(1) Significant buildings, streetscapes, view corridors, and landscape features shall be identified, retained, preserved, protected and maintained. Features can include streets, alleys, paving, walkways, street lights, signs, benches, parks, gardens, and trees.

(2) Morris Street Commercial District. The residential scale and proportions historically found on this street shall be maintained. Buildings were generally constructed as homes on 50-foot by 100-foot lots, with residential setbacks from all property lines. Buildings are small to medium size, although generally appear taller due to peak roofs. Examples of typical details are front porches, peaked roofs and gables; front facades are generally 25 feet in width before steeping back to a cross gable. Buildings do not generally cover the entire lot on which they sit, nor are they built property line to property line. Building setbacks and lot coverage within the Morris Street Commercial District shall be as follows:

(a) Minimum front yard – five feet. This minimum may be increased to reduce the impact of new structures on adjoining historic structures.

(b) Minimum side yard – five feet, sum of both side yards must be 15 feet.

(c) Minimum rear yard – 25 feet.

(d) Maximum allowable floor area ratio – 60 percent.

(e) Maximum lot size shall be 10,000 square feet.

(3) First Street Commercial District. The compact fabric and consistent rhythm created by the incremental construction of small to medium size buildings on the originally platted 25-foot by 100-foot lots shall be maintained. Typical details include one-story gable roof structures, false fronts, cornices and multi-paned windows.

(a) Buildings, storefronts, entrances, and variations in height, modulation, color, and building material should occur at 25-foot intervals.

(b) Buildings over 3,000 square feet gross floor area shall be designed to have the appearance of multiple buildings typically found in the district, including separate entrances, storefronts, and variation in height.

(c) On the upland side of First Street, minimum rear yard setback: 10 feet. On the waterfront side of First Street, rear yard access must be approved by the fire chief for fire safety. The decision of the fire chief is nonappealable.

(d) The side yard setbacks shall be, in combination, equal to 25 percent of the property width.

(e) Landscaping, at maturity, within a view corridor shall not exceed four feet in height.

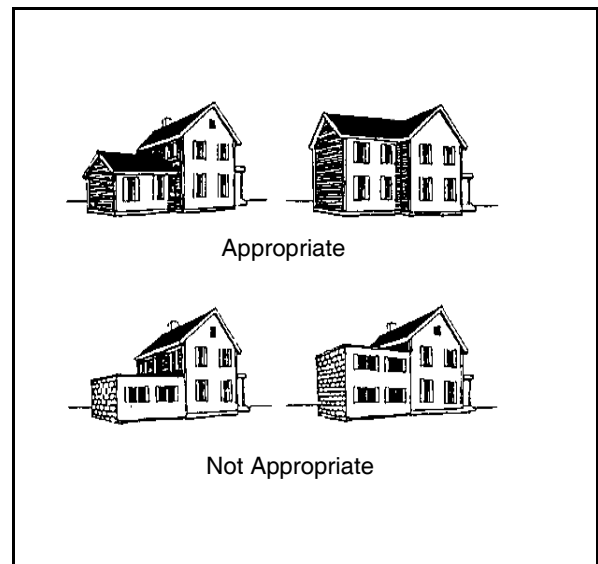


Figure 10

[Ord. 899 § 1, 2003; Ord. 755 § 12, 1999; Ord. 671 § 3.8.H.5, 1995.]

15.50.130 Health and safety code requirements.

(1) When modifications are necessary for historic buildings to comply with current health, safety

15.50.140

and building code requirements, the work should be done in such a manner that character-defining spaces, features, and finishes are preserved.

(2) Where removing architectural barriers or providing accessibility would threaten or destroy the historic significance of a building or facility, special provisions as outlined in the International Building Code would apply. [Ord. 963 § 6, 2005; Ord. 671 § 3.8.H.6, 1995.]

15.50.140 Energy retrofitting.

Energy retrofitting measures should be accomplished in such a way as to ensure that the building's historic character is preserved. [Ord. 671 § 3.8.H.7, 1995.]

15.50.150 New additions to historic buildings.*

(1) Building alterations or additions for new uses shall be compatible with the historic character of the district or neighborhood in terms of size, scale, design, material, color, texture, and view corridors.

(2) Additions should compliment the architectural character of the existing building in material and detail.

(3) An addition should be differentiated from the historic building so that the new work is not confused with what is genuinely part of the past.

(4) Additional stories or elements that heighten the structure should meet the standards herein and be compatible with the building and/or neighborhood.

(5) Second floor additions to existing commercial buildings on First Street shall be set back a minimum of 10 feet from the existing storefront building line so that the scale of the present streetscape is maintained.

(6) Residential additions shall be set back a minimum of five feet from the existing building line(s) or placed in the rear of the building.

(7) The total gross floor area of an addition shall be no larger than 75 percent of the total gross floor area of the original building so that it can be distinguished as a secondary structure. The addition should be recessed to mitigate the impact on the appearance of the original structure.

(8) New additions shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its

environment are unimpaired. [Ord. 755 § 13, 1999; Ord. 671 § 3.8.H.8, 1995.]

*See Figure 10, LCMC 15.50.120.

15.50.160 Accessory structures.*

(1) Accessory or infill structures and garages should be integrated with the architectural character of the main building.

(2) Residential garages should be set back and not overshadow the main structure.

(3) Garages and accessory structures shall be located to the side or rear of the principle building on the site.

(4) Storage areas in open carports shall be enclosed.

(5) Structures along waterways and docks should respect the historical period of the district, including all attachments or accessories. [Ord. 755 § 14, 1999; Ord. 671 § 3.8.H.9, 1995.]

*See Figure 10, LCMC 15.50.120.

15.50.170 Design evaluation checklist.

Historic Preservation District Design Criteria Review Checklist

Applicant _____ File No. _____

Address _____

Project _____

Project Location _____

This checklist is to be used in conjunction with Chapter 15.50 LCMC, Historic Preservation District. Check the appropriate box below.

Design Criteria	Project Includes	Meets Code	Approved	Not Approved
1. General				
Exception				
2. Building exterior				
Masonry				
Wood				
Architectural metals				
Drainage				
Design – Missing features				
Windows and trim				
Roofs, canopies, awnings				
Entrances and porches				
Storefront				
Ornamentation				
Materials				
Paint and color				
3. Building interior				
Structural system				
Spaces, features, finishes				
4. Building site				
Site features				
Landscape				
Critical area				
5. District/neighborhood				
Setbacks				
Size and scale				
6. Health/safety code				
7. Energy retrofitting				
8. New addition – HPD building				
9. Accessory structure				

Applicant Signature/Date _____

Reasons Not Approved: _____

Planning Director/Date

Planning Commission Chair/Date

[Ord. 671 § 3.8.H.10, 1995.]

15.50.180 Commercial building scale.

The intent of this section is to ensure that commercial buildings are based on a human scale, and to ensure that large buildings reduce their apparent mass and achieve an architectural scale consistent with historic scale, forms, and proportions of buildings in the Historic Preservation District.

(1) Facade Modulation. Building facades over 25 feet in length visible from public streets or waterways and public spaces shall be stepped back or projected forward at intervals. The minimum depth of modulation should be one foot and the minimum width shall be five feet.

(a) Walls along street frontage shall be modulated every 25 feet, using changes in materials, projecting and recessing bays, fenestration, variation of building height or roof form, and other architectural details such as columns.

(b) Walls over 25 feet in length and 15 feet in height shall have, at a minimum, a 12-foot variation in building height or a 10-foot second story setback and a change of materials for each 30 feet of length.

(c) On each wall there shall be a minimum of one 150-square foot (footprint) recess or projection for every 50 running feet of wall length.

(2) Use of modulation and articulation should not be repetitive or cookie-cutter. The design should replicate the scale, forms, and features of the district.

(3) Articulation. Buildings shall be articulated to reduce the apparent scale of the buildings. Architectural details that are used to articulate the structure may include reveals, and other three-dimensional details that created shadow lines and break up the flat recesses of the facade. The following are ways which may achieve suitable building articulation:

(a) Tripartite Articulation. Provide tripartite building articulation (building top, middle and base) to provide pedestrian scale and architectural interest.

(b) Window Treatments. Provide ample articulated window treatments in facades visible from streets and public spaces for architectural interest and human scale.

(c) Architectural Elements. The mass of long or large scale buildings should be made more visually interesting by incorporating architectural elements such as arcades, balconies, bay windows, dormers, and/or columns.

(d) Rooflines. A distinctive roofline can reduce perceived building heights and mass,

increase compatibility with small scale and/or residential development, and add interest to the overall design of the building in the following ways:

(i) Change the roofline by alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval.

(ii) Roof designs that incorporate a variety of vertical dimensions such as multi-paned and intersecting rooflines are encouraged.

(iii) Flat-roofed designs, where permitted, shall include architectural details such as cornices and decorative facing to provide interest to the roofline.

(e) Materials. Where there is a change in the building plane, the building materials, colors, and patterns should change.

(f) Landscaping. Provide a trellis, tree or other landscape feature within each interval.

(g) Upper Story Setback. Set back upper stories which helps to reduce the apparent bulk of the building and promotes a human scale.

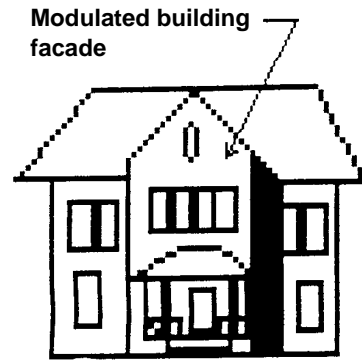


Figure 11. Facade Modulation. Building scale criteria 1.

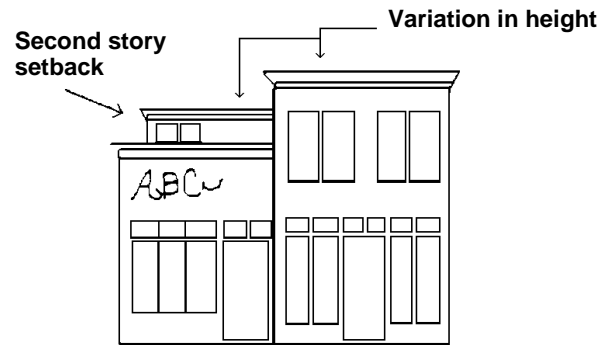


Figure 12. Building scale criteria 1, 4(d) and 4(g).

[Ord. 755 §§ 15, 16, 1999.]

Chapter 15.55

BINDING SITE PLAN REGULATIONS

Sections:

- 15.55.010 Purpose.
- 15.55.020 Applicability.
- 15.55.030 Preapplication.
- 15.55.040 Application.
- 15.55.050 Survey required.
- 15.55.060 Binding site plan certifications required.
- 15.55.070 Binding site plan title report.
- 15.55.080 Administrative duties.
- 15.55.090 Development requirements.
- 15.55.100 Standards for binding site plans.
- 15.55.110 Approval and filing.
- 15.55.120 Alteration.
- 15.55.130 Vacation.
- 15.55.140 Appeals.
- 15.55.150 Enforcement.

15.55.010 Purpose.

A binding site plan is an overlay of a commercially or industrially zoned site proposed for development or already developed. It is intended for commercial, industrial and office sites, and is not designed, as a subdivision is, to create additional building lots, but rather to define building pads that are reviewed as part of a larger site plan as leaseable or saleable lots. Binding site plans are subject to the provisions of RCW 58.17.035. [Ord. 807 § 1, 2001.]

15.55.020 Applicability.

The division of property by the binding site plan process may only be used for division of land for the sale or lease of commercially or industrially zoned property; provided, residential uses are not included. [Ord. 807 § 1, 2001.]

15.55.030 Preapplication.

Prior to applying for binding site plan approval, a proponent shall present a preliminary site plan that contains (in a rough and approximate manner) all of the information required for a formal binding site plan application. The purpose of the preliminary site plan submittal is to enable the person presenting the plan to obtain a preliminary assessment from the town as to the preliminary site plan's compliance with adopted plans, policies and ordi-

nances of the town. Prior to receiving binding site plan approval an applicant is required to submit a fully completed application. The preapplication review described herein creates no rights to the proponent or obligation to the proponent by the jurisdiction. [Ord. 807 § 1, 2001.]

15.55.040 Application.

Applications for binding site plan approval shall be filed with the planning director. To be considered complete and considered for approval, a binding site plan must contain the following:

(1) Ten copies of the binding site plan on 18-inch by 24-inch paper showing:

(a) Name of the binding site plan and space for numerical assignment;

(b) Legal description of the entire parcel, legal description of each proposed lot, square footage of each lot, date, scale and north arrow;

(c) Boundary lines, rights-of-way for streets, easements and property lines of lots and other sites with accurate bearings dimensions or angles and arcs and of all curve data;

(d) Names and rights-of-way widths of streets within the parcel and immediately adjacent the parcel;

(e) Number of each lot and block;

(f) References to covenants, joint use, access easements or other agreements either to be filed separately or with the binding site plan;

(g) Zoning setback lines and building envelopes where applicable;

(h) Location, dimension and purpose of any easements noting if the easements are private or public;

(i) Location and description of monuments and all lot corners set and found;

(j) Datum, elevations and primary control points approved by the town engineer, descriptions and ties to all control points shall be shown with dimensions, angles and bearings;

(k) A dedicatory statement acknowledging public and private dedications and grants;

(l) Parking areas, loading areas, general circulation, landscaping area;

(m) Proposed use and location of buildings with dimensions where applicable;

(2) Be submitted with the documents required by LCMC 15.55.050, 15.55.060 and 15.55.070;

15.55.050

(3) Be accompanied with a fee as set by the town council;

(4) A completed environmental checklist. [Ord. 807 § 1, 2001.]

15.55.050 Survey required.

(1) A survey must be performed and filed with every binding site plan. The survey must be conducted by or under the supervision of a Washington State registered land surveyor. The surveyor shall certify on the binding site plan that it is a true and correct representation of lands actually surveyed and the survey was done in accordance with state law.

(2) In all binding site plans, lot corner survey pins must be set before final approval can be granted.

(3) In all binding site plans, perimeter monuments must be set before final approval can be granted.

(4) In all binding site plans, control monuments must be set before final acceptance of public improvements. [Ord. 807 § 1, 2001.]

15.55.060 Binding site plan certifications required.

(1) A certificate giving a full and correct description of the lands divided as they appear on the binding site plan, including a statement that the division has been made with the free consent and in accordance with the desires of the owners of the land covered by the binding site plan, must be filed with the application. If the binding site plan is subject to a dedication the certificate or a separate written instrument shall also be required and contain a dedication of all streets and other public areas to the public.

(2) A certification by a licensed surveyor, licensed in the state, that the binding site plan survey is accurate and conforms to the provisions of these regulations and state law must be filed with the application.

(3) All binding site plans are required by RCW 58.17.040 to contain the following declaration:

All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the town, and in accordance with such other governmental permits, approvals, regulations, require-

ments, and restrictions that may be imposed upon such land and the development thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.

[Ord. 807 § 1, 2001.]

15.55.070 Binding site plan title report.

All binding site plan applications shall be accompanied by a title company certification (current within 30 days) confirming that the title of the lands as described and shown in the binding site plan are legally held in the name of the owner(s) signing the binding site plan. [Ord. 807 § 1, 2001.]

15.55.080 Administrative duties.

(1) The planning director administers the provisions of this chapter. Binding site plans shall be processed as a Type I permit.

(2) A fully completed application for binding site plan approval shall be approved with conditions, returned to the applicant for modifications or denied within 28 days of its being deemed complete by the planning director unless the applicant agrees, in writing, to an extension of this period. A binding site plan application shall be deemed complete when the planning director determines the application meets the requirements of LCMC 15.55.040, 15.55.050, 15.55.060 and 15.55.070.

(3) Upon receiving a complete application for binding site plan approval, the planning director shall transmit a copy of the binding site plan, together with copies of any accompanying documents as the planning director deems appropriate, to the following:

(a) Town public works director, who shall review the proposed binding site plan with regard to its conformance to the general purposes of adopted traffic and utility plans, adequate provisions for storm drainage, streets, alleys, other public ways, water and sanitary sewer and conformance to any applicable improvement standards and specifications;

(b) Water and sewer superintendent, who shall review the proposed binding site plan with regard to its conformance to the general purposes of the adopted water and sewer regulations and conformance to any applicable improvement standards and specifications;

(c) Fire chief, who shall review the proposed binding site plan with regard to adequate provisions for emergency access;

(d) Any other town department, utility provider, school district or other public or private entity as the planning director deems appropriate.

(4) In transmitting the proposed binding site plan to the parties referenced above, the planning director shall solicit their comments and recommendations, and note the date by which comments and recommendations must be received by the planning director in order to be considered. Any comments received by that date shall be incorporated into the formal findings that will form the basis of the planning director's decision on the binding site plan. If no comments are received from any of the parties referenced above, the planning director shall make such findings as he/she deems just. However, in every case a proposed binding site plan shall contain a statement of approval from the town engineer, as to the survey data, the layout of streets, alleys and other rights-of-way, design of sewer and water systems and other infrastructure. The planning director shall not approve a binding site plan which does not contain a statement signed by the town engineer.

(5) The planning director shall review the proposed binding site plan and determine its conformance to the general purposes of this title, its conformance with the comprehensive plan and its conformance with the zoning ordinance and any other applicable land use controls. These determinations shall form the basis of the planning director's decision on the binding site plan. [Ord. 807 § 1, 2001.]

15.55.090 Development requirements.

(1) All improvements within the BSP must be in conformance with the recorded binding site plan and any conditions placed upon the binding site plan by the planning director.

(2) Any new development within a binding site plan area is subject to the development standards of the La Conner Municipal Code and the shoreline master program.

(3) Filing a completed and approved binding site plan does not vest any development proposal associated with the binding site plan. Any proposed improvement or development within the BSP is subject to review pursuant to all applicable local, state and federal regulations. [Ord. 807 § 1, 2001.]

15.55.100 Standards for binding site plans.

The following standards shall apply to binding site plans that are prepared for recording:

(1) All binding site plans shall be drawn on Mylar 18 inches by 24 inches;

(2) All tracts, parcels and lots created by a binding site plan shall be burdened by an approved maintenance agreement maintaining access to the various lots, tracts and parcels and for the costs of maintaining landscaping and other common areas;

(3) When any lot, tract or parcel is created without street frontage, access easements shall be provided and said easements shall be recorded in the county auditor's office with the recording number and an easement notation provided on the face of the binding site plan;

(4) Sufficient parking for each use must be located on the lot where the use is located or through joint parking agreements with adjoining owners. Notations on parking agreements must be provided on the face of the binding site plan. All parking lots shall be paved and designed to control drainage on-site. [Ord. 807 § 1, 2001.]

15.55.110 Approval and filing.

(1) A binding site plan shall not be recorded until all land use decisions regarding the concurrent development proposal have been completed and approved.

(2) Upon approval of the binding site plan by the planning director, the applicant shall take the original Mylar binding site plan, obtain all other approvals from affected utilities and the county treasurer, and file it with the county auditor, conforming to statutory requirements.

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(3) The applicant must provide the planning director one paper copy of the recorded document and the county assessor one paper copy of the recorded document before the binding site plan becomes valid. [Ord. 807 § 1, 2001.]

15.55.120 Alteration.

The recorded binding site plan may be altered at the planning director's discretion by processing through the review/approval procedure. Alterations to a binding site plan must be recorded. [Ord. 807 § 1, 2001.]

15.55.130 Vacation.

The recorded binding site plan may be vacated by the planning director, but only after approval and recording of a new binding site plan. [Ord. 807 § 1, 2001.]

15.55.140 Appeals.

Appeals of an administrative decision relating to a binding site plan may be made to a hearing examiner pursuant to LCMC 15.135.220. [Ord. 807 § 1, 2001.]

15.55.150 Enforcement.

No person shall record any binding site plan with the auditor that does not bear the verification of approval as defined by this chapter. The town will prosecute violation of this title and commence actions to restrain and enjoin a violation of this title and compel compliance with the provision of this chapter. The costs of such action shall be the responsibility of the violator. [Ord. 807 § 1, 2001.]

DIVISION III. CRITICAL AREAS AND NATURAL RESOURCE LANDS PROTECTION

Chapter 15.60

TREES

Sections:

- 15.60.010 Purpose.
- 15.60.020 Exemptions.
- 15.60.030 Tree removal – Conditions for authorization to remove protected trees.
- 15.60.040 Replacement of removed trees.
- 15.60.050 Protection of trees during development activities.
- 15.50.060 Enforcement.

15.60.010 Purpose.

The purpose of this chapter is to establish a means to protect all trees within the town rights-of-way and minimize the loss of existing significant trees due to development within the town boundaries where feasible and provide guidance on removal and replacement where necessary. A significant tree is defined as an evergreen or deciduous tree at least six inches in diameter at a point five feet above ground level. [Ord. 671 § 4.1.A, 1995.]

15.60.020 Exemptions.

The following are exempt from the provisions of this chapter:

- (1) Trees on residential lots except those in the Historic Preservation District.
- (2) Tree removal for installation and maintenance of utilities provided the activity is conducted so as to avoid any unnecessary removal. Written notice of the removal shall be provided to the planning department five days prior to the removal, except that when the removal is needed to restore interrupted service under emergency conditions, no prior notice is required.

(3) Tree removal during emergencies caused by a natural or manmade disaster. [Ord. 671 § 4.1.B, 1995.]

15.60.030 Tree removal – Conditions for authorization to remove protected trees.

(1) Authorization shall be granted to remove a tree only if the applicant has taken reasonable measures to design and locate the proposed improvements to preserve as many existing significant trees as possible.

(2) Authorization to remove a significant tree may be granted if the applicant can demonstrate one or more of the following conditions:

(a) A permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated.

(b) The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structure is materially impaired.

(c) The tree materially interferes with the location, servicing or functioning of existing utility lines or services.

(d) The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by virtue of physical proximity to traffic or by impairing vision.

(e) The tree is diseased or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements.

(3) The requirements of LCMC 15.60.040 shall apply whenever an authorization to remove a tree pursuant to this section is granted. [Ord. 842 § 11, 2002; Ord. 671 § 4.1.C, 1995.]

15.60.040 Replacement of removed trees.

Replacement trees shall, where practicable, be planted on site. The number of trees for replacement shall be based on number of diameter inches of the lost trees or appraised value as determined by the formula found in “A Guide for Plant Appraisal,” Eighth Edition, authored by The Council of Tree and Landscape Appraisers. If not practicable, replacement trees may be donated, or a fee in lieu of replacement may be paid, to the town for purposes of planting trees on public property. The fee in lieu of replacement shall be based on the cost of purchasing the requisite size and number of replacement trees. Exception: If the tree being removed is diseased or an imminent safety risk to people and/or property, the decision authority may

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consider an alternate replacement plan. [Ord. 986 § 7, 2007; Ord. 963 § 8, 2005; Ord. 671 § 4.1.D, 1995.]

15.60.050 Protection of trees during development activities.

To assure the health and survival of significant trees that are not to be removed, the following kinds of tree injuries should be avoided during development activities:

(1) Mechanical Injuries to Roots, Trunk, and Branches. A protective barrier shall be placed around all protected trees to prevent damage due to equipment or construction materials or debris during construction or landscaping activity. No attachment, wires (other than supportive wires), signs or permits may be fastened to any tree. The protection barrier shall be placed around the tree at a distance from the tree equal to one foot for every one inch diameter. This area is called the Critical Root Zone (CRZ).

(2) Injuries by Chemical Poisoning. No fuel, paint, solvent, oil, thinner, asphalt, cement, grout or any other construction chemical or other materials or tools shall be stored or placed within the protective barrier or perimeter line of protected trees.

(3) Grades shall not be raised or lowered around trees without a review of soil condition and root location. No more than 30 percent of the CRZ should be raised or lowered or disturbed without causing potential loss of health and stability to the tree.

(a) Vegetation that must be removed within the CRZ shall be done by hand only while being careful not to damage tree roots.

(b) Fertilization is not recommended unless soil tests indicate deficiency. Mulch and root growth enhancers are recommended within CRZ during and after construction.

(4) Injuries by Excavations. Water, sewer and other utility lines should be routed around the tree protection zones. If a line cannot reasonably be routed around the tree protection zone, the line shall be tunnelled beneath the area within the zone. The tunnel shall be offset to one side of the trunk to prevent damage to the main tap roots.

(5) Injuries by Paving. Porous paving may be placed within the tree protection zone as long as no damage is inflicted to the tree by grade change, compaction of the soil, or any other cause. Porous

paving shall be placed over a sandwich of fabric, porous washed rock, fabric then sand within CRZs of the tree roots to absorb moisture, and maintain critical gas exchange. [Ord. 671 § 4.1.E, 1995.]

15.60.060 Enforcement.

To ensure compliance with the foregoing sections, the following measures shall be taken:

(1) The applicant shall provide a scaled drawing of the lot, with elevation contours, showing all trees that must be removed in order to accommodate the foundation or accessory structures with a justification defined in LCMC 15.60.030.

(2) The planning director, or assistant, shall visit the site and personally band the significant trees that have been approved for removal.

(3) Prior to excavation or removal of any trees, the lot owner shall notify the planning director in no less than three working days. The planning director will inspect the premises to ensure that the protective barrier has been installed. The planning director will document by initials and date on the tree removal permit noting satisfactory protection.

(4) Failure to observe the protective barrier shall subject the lot owner to a fine per LCMC 15.135.330.

(5) In the event of any violation of the tree permit, the planning director shall, as a minimum, issue a stop work order. After meeting with the lot owner, the planning director will calculate the fines, if any, which must be paid in full prior to lifting the stop work order. Such fines are in addition to replacement requirements in LCMC 15.60.040 and shall be an additional \$500.00 per incidence. [Ord. 963 § 8, 2005.]

Chapter 15.65

**ENVIRONMENTALLY SENSITIVE AND
CRITICAL AREA LANDS**

Sections:

Article I. Environmentally Sensitive and
Critical Area Lands

- 15.65.010 Purpose.
- 15.65.020 Applicability.
- 15.65.030 Exemptions – Nontidal wetland areas.
- 15.65.040 Permit required.
- 15.65.050 General requirements.
- 15.65.060 Prohibited activities.
- 15.65.070 Specific requirements – Nontidal wetlands.
- 15.65.080 Specific requirements – Geologically hazardous areas.
- 15.65.090 Specific requirements – Adjacent agricultural lands.

Article II. Permit Application Requirements

- 15.65.100 Fees.
- 15.65.110 Administration.
- 15.65.120 Nontidal wetland application.
- 15.65.130 Geologically hazardous areas.
- 15.65.140 Permit conditions.

Article III. Mitigation

- 15.65.150 Nontidal wetland restoration and creation.
- 15.65.160 Geologically hazardous areas.

Article IV. Exceptions, Bonding, Restrictions,
Emergency Permits

- 15.65.170 Exceptions.
- 15.65.180 Bonding.
- 15.65.190 State Environmental Policy Act – Abrogation and greater restrictions.
- 15.65.200 Temporary emergency permit.
- 15.65.210 Enforcement.

**Article I. Environmentally Sensitive and
Critical Area Lands**

15.65.010 Purpose.

The environmentally sensitive area overlay district is a mechanism by which the town of La Conner recognizes the existence of natural conditions which affect the use and development of property. It imposes special regulations on that property in order to protect and preclude development on the lands classified as critical areas. The regulations are to protect environmentally sensitive areas as well as the public health, safety and welfare; to prevent any net loss of individual wetlands by requiring those activities not dependent upon a wetland location to be located on upland sites; and to prevent any threat to public health and safety associated with unstable and steep slopes and to prevent encroachment on any adjacent agricultural lands of long-term significance. [Ord. 671 § 4.2.A, 1995.]

15.65.020 Applicability.

This code applies to activities on all lands which have been identified and classified as critical areas pursuant to the comprehensive plan and designated on the Environmentally Sensitive Areas Map (see Appendix B)* as follows:

(1) Nontidal Wetlands. Known nontidal wetlands are designated on the Environmentally Sensitive Areas Map adopted by the town of La Conner on October 25, 2005. Provisions of this chapter apply to all nontidal wetlands, which have been determined by a wetland delineation and rated per current Department of Ecology guidelines regardless of map designation.

(2) Geologically Hazardous Areas. All lands where slopes that average 15 percent or greater over a vertical interval of 10 feet and unstable slopes.

(3) Lands Adjacent to Agricultural Lands. All lands inside town boundaries that are within 25 feet of agricultural resource lands. There are no agricultural lands within the town of La Conner. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.B, 1995.]

*Code Reviser’s Note: Appendix B to Ord. 671 is on file in the clerk’s office.

15.65.030 Exemptions – Nontidal wetland areas.

The following uses shall be allowed as a right within a nontidal wetland to the extent that they are not prohibited by any other ordinance or law and provided they do not require structures, grading, fill, draining, or dredging:

- (1) Outdoor recreational activities;
- (2) Education, scientific research, and nature trails;
- (3) Uses by right that do not require a special permit and that may involve filling, flooding, draining, dredging, ditching, or excavating to the extent specifically provided below upon written approval of the planning director:

(a) Maintenance or repair of lawfully located roads or structures and of facilities used in the service of the public to provide transportation, electric, gas, water, telephone, telegraph, telecommunication, or other services; provided, that such roads, structures, or facilities are not materially changed or enlarged and written notice prior to the commencement of work has been given to the planning director; and provided, that the work is conducted using best management practices to ensure that flow and circulation patterns, and chemical and biological characteristics of the wetland, are not impaired and that any adverse effect on the aquatic environment will be minimized. [Ord. 671 § 4.2.C, 1995.]

15.65.040 Permit required.

- (1) Nontidal Wetlands. Regulated activities in or within the required buffer of a nontidal wetland.
- (2) Geologically Hazardous Areas. Construction activities, including clearing or grading, in or adjacent to a regulated slope. [Ord. 968 § 2, 2006; Ord. 931 § 1, 2004; Ord. 671 § 4.2.D, 1995.]

15.65.050 General requirements.

Applications for land uses or developments proposed within critical or environmentally sensitive areas shall meet the following requirements:

- (1) Application for a permit to conduct a regulated activity shall be made to the planning department on forms furnished by the town. Permits shall be valid for a period not to exceed three years from the date of issue unless a time period is specified by the planning director. A permit may be renewed for one year.

(2) Site, Adjacent Site, Surrounding Area and Drainage Basin. Detailed analysis of impacts of development upon nontidal wetlands, native vegetation and wildlife habitat, water quality, slope and soil conditions, and surface water drainage may be required at the request of the planning director when site area conditions as shown on the environmentally sensitive area overlay warrant such analysis. Supplemental technical reports may be required by the planning director to specify measures to preserve, protect, and maintain site, adjacent site, surrounding areas and drainage basin and ensure safe, stable, and compatible development. [Ord. 671 § 4.2.E, 1995.]

15.65.060 Prohibited activities.

All activities that are not permitted as a right or by permit shall be prohibited. All projects shall be fully bonded against any claim of damage against adjacent properties, including the town, prior to any wetland or slope work being undertaken if bonding is a condition of the permit. [Ord. 671 § 4.2.F, 1995.]

15.65.070 Specific requirements – Nontidal wetlands.

(1) The applicant shall submit a wetland delineation, rating report, survey report, and a scaled drawing of the area as part of the permit application. Nontidal wetland delineations shall be in accordance with RCW 36.70A.175 requiring the delineation to be according to the Ecology manual, Washington State Wetland Identification and Delineation Manual (Ecology publication No. 96-94, March 1997) or subsequent versions. The rating shall be done in accordance with Ecology’s Washington State Rating System for Western Washington (2004) or subsequent versions. Evidence documenting the results of the boundary survey and wetland rating shall be submitted to the planning director.

(2) The planning department may undertake the wetland delineation if requested by the applicant and at applicant cost. Authorized manuals and methods, such as remote sensing, hydrology, soils, plant species, and other data, consultations with biologists, hydrologists, soil scientists, or other experts may be used as needed to perform the delineation. The applicant will be charged direct costs of all work and consultants.

(3) Where the planning department performs a wetland area delineation at the request of the applicant, it shall be considered a final determination.

(4) Where the applicant has provided a wetland determination the planning department shall verify the accuracy of, and may require adjustments to, the boundary delineation. In the event the adjusted boundary delineation is contested by the applicant, the planning department shall, at the applicant's expense obtain competent expert services to render a final delineation. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.G.1, 1995.]

15.65.080 Specific requirements – Geologically hazardous areas.

(1) Development shall be prohibited, restricted, or otherwise controlled in areas designated or adjacent to “known or potential risk.” The applicant shall provide evidence that the proposal would be structurally safe and out of the potential danger of any other surrounding development which may pose such risk to public health and safety in the designated hazardous area. The minimum requirement shall be a report submitted by a licensed engineer of the town's choice. The applicant shall submit any other information deemed necessary to allow the planning director, with the aid of the director of public works and director of wastewater management, to make an informed recommendation to the town council as to whether the proposed project should be granted.

(2) The planning director may require a buffer from the top or toe of a slope based on (a) geological and hydrological site constraints, and (b) the impacts of proposed construction methods on the stability of the slope, increased erosion potential, and disruption of existing topography and vegetation. No removal of native vegetation or wildlife habitat shall be permitted within the protected slope and buffer without prior approval of the planning director and approved replacement vegetation.

(3) Disturbed areas due to development activities shall be revegetated to promote drainage control and prevent erosion after construction. In cases where erosion potential is severe, the planning director may require a revegetation. Revegetation shall consist of trees, shrubs, and ground cover

suitable for the location and which does not require permanent irrigation systems for long-term survival.

(4) When development is proposed on known and potential slide areas or slopes 40 percent or greater, the planning director may restrict development coverage and construction activity areas to the most level, environmentally suitable and naturally stable portion of the site. Grading shall be strictly limited to areas as determined by the planning director. The planning director may consult with other engineering consultants, the cost of which shall be borne by the applicant.

(5) All drainage associated with the development shall be connected to town approved drainage control systems. The on-site drainage system shall be designed for a 25-year storm occurrence (2.7 inches in 24 hours).

(6) The planning director may require additional construction practices and methods including, but not limited to, best management practices and limitations on construction equipment permitted on the site to protect critical areas on-site, on adjacent sites, and within the drainage basin. [Ord. 671 § 4.2.G.2, 1995.]

15.65.090 Specific requirements – Adjacent agricultural lands.

All activities or uses adjacent to lands classified as agricultural lands of long-term significance shall be regulated in accordance with this code. [Ord. 671 § 4.2.G.3, 1995.]

Article II. Permit Application Requirements

15.65.100 Fees.

At the time of an application or request for determination, the applicant shall pay a filing fee sufficient to cover the costs of evaluation of the application as specified by the town council. These fees may be used to retain expert consultants to provide services pertaining to wetland boundary determinations, slope stability functional assessments, and evaluation of mitigation measures for either wetlands or potentially unstable slopes, when the planning department deems that the information provided by the applicant is insufficient or needs further evaluation or analysis. Further, the applicant shall, before any permit is issued, reimburse the town for its expenses to eval-

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uate or analyze the application or its supporting documentation. The town council may assess additional fees as needed to monitor and evaluate permit compliance and mitigation measures. [Ord. 671 § 4.2.H.1, 1995.]

15.65.110 Administration.

The planning director shall be responsible for the administration of this code as follows:

(1) Reviewing all permit applications for compliance with this code. If the planning director, with the concurrence of the town council, finds the proposed activity is so minor that no environmentally sensitive area is affected, a permit may be issued without a public hearing.

(2) Coordinating the permitting process with other programs or agencies having jurisdiction over the proposed activity to provide concurrent and minimal processing time.

(3) Publishing notices of public hearing on applications for development having a significant effect on environmentally sensitive areas. Notice of public hearing shall be published at least twice for two consecutive weeks in the legal newspaper of the town of La Conner. A copy of the notice shall be mailed to all property owners within 300 feet of the proposal.

(4) The hearing examiner or planning director will review the application and/or schedule a public hearing for the permit request no earlier than 10 days following publication and notices to property owners and at least 60 days after receipt of the permit application.

(5) The hearing examiner decision shall be final and may only be appealed to the superior court of Skagit County within 21 days of the date of the mailing of the decision. A planning director decision may be appealed to the hearing examiner per procedures in LCMC 15.12.130, Appeal of administrative decision. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.H.2, 1995.]

15.65.120 Nontidal wetland application.

(1) Application for a special permit for a regulated nontidal wetland activity shall include, but not be limited to, the following, unless waived with written justification by the planning department:

(a) The purpose of the project and an explanation of why the proposed activity requires a wet-

land location or access to wetlands, or cannot be located at other sites.

(b) A site plan drawn to an appropriate scale showing the wetland area boundary and the nontidal wetland boundary under consideration as determined by field survey; the width, depth, and length of all existing and proposed structures, roads, watercourses, and drainageways; water, wastewater, and storm water facilities; utility installations within 200 feet of a nontidal wetland; and the relationship of the proposed activity and any potentially affected nontidal wetland to the entire parcel of land owned by the applicant.

(c) A description of the wetland or wetlands that will be affected by the regulated activity, including a sketch of the entire wetland drawn to a scale appropriate to delineate all significant or affected features, the area that may be filled or impacted; vegetation type; wetland water sources; and a general characterization of the habitat, wildlife, and common plants.

(d) Soil types on the site and the exact locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods.

(e) Adjacent land use.

(f) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than five feet.

(2) The planning director may require additional information, including, but not limited to, documentation and evidence of a wetland boundary determination by field survey; an assessment of wetland functional characteristics; documentation of the ecological, aesthetic, economic, or other values of a wetland, a study of flood, erosion, or other hazards at the site; evidence of any protective measures that might be taken to reduce such hazards; and any other information deemed necessary to verify compliance with the provisions of this code or to evaluate the proposed use in terms of the purposes of this code.

(3) Any person who wants to know whether a proposed activity or an area is subject to this code may request in writing a determination from the planning department. Such a request for determination shall contain plans, data, and other information as may be specified by the planning department.

(4) Upon receipt of the completed application, the planning department shall notify the individuals and agencies, including federal and state agencies having jurisdiction over or an interest in the matter to provide such individuals and agencies an opportunity to comment.

(5) The town, after according consideration to the comments of the general public, other affected municipalities and counties, and federal and state agencies with jurisdiction over the area in question, shall issue a nontidal wetland permit only if it is found that the regulated activity is determined to be in the public interest in accordance with those standards listed below and that the applicant has demonstrated by a preponderance of evidence that the regulated activity:

(a) Is water-dependent or requires access to the nontidal wetland as a central element of its basic function, or is not water-dependent but has no practical alternative.

(b) Will result in minimum feasible alteration or impairment to the nontidal wetland's functional characteristics and its existing contour, vegetation, fish and wildlife resources, and hydrological conditions.

(c) Will not jeopardize the continued existence of species that appear on federal or state endangered or threatened species lists.

(d) Will not cause significant degradation of ground water or surface water quality.

(e) Complies with all applicable state, local, and federal laws, including those related to sediment control, pollution control, floodplain zoning, and on-site wastewater and storm water disposal.

(f) Will provide a nontidal wetland buffer area of not less than 25 feet between the nontidal wetland and upland activities for those portions of a regulated activity that need not be conducted in the wetland. Additional buffer requirements may be required in accordance with the Department of Ecology's "Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (2005), Appendix 8-C, Buffer Alternative 3."

(g) Complies with other standards contained in this code, including those pertaining to nontidal wetland creation and restoration as required for mitigation.

(h) Additional buffer requirements may be required in accordance with the Department of

Ecology's "Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (2005), Appendix 8-C, Buffer Alternative 3." [Ord. 968 § 2, 2006; Ord. 671 § 4.2.H.3, 1995.]

15.65.130 Geologically hazardous areas.

(1) A description of how the proposed development and its associated grading plan will or will not impact each of the following on the subject property and adjoining properties:

(a) Slope stability, erosion, and landslide hazard;

(b) Drainage surface and subsurface hydrology, and water quality;

(c) Existing vegetation as it relates to wetlands, regulated slopes and soil stability.

(2) A geotechnical report by a certified engineer.

(3) Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties shall be required.

(4) The town may retain consultants at the applicant's expense to assist the town's review of applications and studies outside the range of the staff expertise. [Ord. 671 § 4.2.H.4, 1995.]

15.65.140 Permit conditions.

The hearing examiner or planning director shall attach such conditions to the granting of a special use permit as deemed necessary to carry out the purposes of this code. Such conditions may include but are not limited to:

(1) Limitations on minimum lot size for any regulated activity;

(2) Requirements that structures be elevated on piles and otherwise protected against natural hazards;

(3) Modification of waste disposal and water supply facilities;

(4) Imposition of operational control, sureties, and deed restrictions concerning future use and subdivision of lands, such as flood warnings, preservation of undeveloped areas in open space use, and limitation of vegetation removal;

(5) Dedication of easements to protect wetlands;

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(6) Establishment of vegetated buffer zones separating and protecting the nontidal wetland from proposed activities in accordance with the Department of Ecology's "Wetlands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (2005)";

(7) Erosion control and storm water management measures;

(8) Setbacks for structures and restrictions on fill, deposit of soil, and other activities in the nontidal wetland;

(9) Modification in project design to ensure continued water supply to the nontidal wetland and circulation of water;

(10) Creation or restoration of an area of nontidal wetland;

(11) Development of a plan to guide actions involving the creation of a new wetland or the restoration of a damaged or degraded wetland.

(12) Other mitigation actions as determined to be needed. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.H.5, 1995.]

Article III. Mitigation

15.65.150 Nontidal wetland restoration and creation.

As a condition of a permit issued or as an enforcement action under this code, the town may require that the applicant engage in the restoration or creation of nontidal wetlands in order to offset, in whole or in part, the losses resulting from an applicant's or violator's actions. In making a determination of whether such a requirement will be imposed, and, if so, the degree to which it would be required, the planning director will consider the following:

(1) The long and short term effects of the action upon the nontidal wetland and associated aquatic ecosystem, and the reversible or irreversible nature of the impairment or loss.

(2) The type and benefit of the wetland functions and associated resources lost.

(3) The type, size, and location of the wetland altered, and the effect it may have upon the remaining system or watershed of which the wetland is a part. Mitigation ratios may be established in accordance with the Department of Ecology's "Wet-

lands in Washington State – Volume 2: Guidance for Protecting and Managing Wetlands (2005)" or subsequent versions.

(4) Observed or predicted trends with regard to the gains or losses of this type of wetland in the watershed, in light of natural and human processes.

(5) The cost and likely success of the possible compensation measures in relation to the magnitude of the proposed project or violation.

(6) The degree to which the applicant has demonstrated a good faith effort to incorporate measures to minimize and avoid wetland impacts within the proposed project.

(7) If wetland restoration or creation is required by the town, the applicant or violator shall develop a nontidal wetland restoration or creation plan for review and approval of the planning director with the aid of consultants if deemed necessary. The creation or restoration of wetlands shall not be an alternative to the requirements set forth in Article II of this chapter but shall be used only to compensate for unavoidable losses.

(8) The plan should state the location, by metes and bounds description, of the proposed site; ownership; size, type, and complete ecological assessment (flora, fauna, hydrology, wetland functions, etc.) of the wetland being restored or the area where a new wetland will be created; and the natural suitability of the proposed site for establishing the replacement wetland (i.e., water source and drainage patterns, topographic position, wildlife habitat opportunities, value of the existing area to be converted, etc.). In addition, plan view and cross-sectional, scaled drawings; topographic survey data, including slope percentage and final grade elevations; and other technical information are required in sufficient detail to explain, illustrate, and provide for:

(a) Soil and substrate conditions; topographic elevations; grading and excavation; erosion and sediment control needed for wetland construction and long-term survival.

(b) Planting plans specifying plant species types, quantities, locations, size, spacing, or density; source of plant materials, propagules, or seeds; timing, season, water, and nutrient requirements for planting; and, where appropriate, measures to protect plants from predation.

(c) Water quality parameters, water source, water depths, water control structures, and water

level maintenance practices needed to achieve the necessary ambient water conditions and hydrocycle/hydroperiod characteristics.

(d) Midcourse corrections and a three-year monitoring and replacement plan establishing responsibility for removal of exotic and nuisance vegetation and permanent establishment of the wetland system and all its component parts.

(e) A demonstration of fiscal, administrative, and technical competence of sufficient standing to successfully execute the overall project.

(f) Conduct a minimum five-year monitoring period for wetland compensatory mitigation projects and 10 years when woody vegetation (trees or shrubs) are part of the plan. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.I.1, 1995.]

15.65.160 Geologically hazardous areas.

The town shall require the implementation of recommendations in the hydro-geotechnical reports received for the proposal to mitigate identified impacts. Additionally, the town may require:

(1) That the applicant provide an environmentally sensitive area protection easement.

(2) The applicant's professional engineer be present on site during all clearing, grading, and filling activities.

(3) Trees and ground cover be retained and additional vegetation be added.

(4) All structures be set back an appropriate distance from the top of a regulated slope.

(5) All structures and excavations be set back from the toe of a slope the distance necessary to protect such structure from landslide hazard based upon hydro-geotechnical analysis. [Ord. 671 § 4.2.I.2, 1995.]

Article IV. Exceptions, Bonding, Restrictions, Emergency Permits

15.65.170 Exceptions.

The planning director may modify the application requirements when specific submittal requirements are deemed unnecessary, and/or upon the following:

(1) An emergency that threatens the public health, safety, and welfare.

(2) Remodeling of structures in existence on the date of this code. If damage is done due to an act of nature or fire, reconstruction may be done within one year of damage.

(3) When applicant demonstrates to the satisfaction of the planning director through site surveys, topography maps, technical environmental analysis, and other means as determined necessary by the planning director that the site is not a critical area as defined in this code. [Ord. 968 § 2, 2006; Ord. 671 § 4.2.J, 1995.]

15.65.180 Bonding.

The planning department shall require a bond in an amount and with surety and conditions sufficient to secure compliance with the conditions and limitations set forth in the permit. The particular amount and the conditions of the bond shall be consistent with the purposes of this code. In the event of a breach of any condition of any such bond, the planning department may institute an action in a court of competent jurisdiction upon such bond and prosecute the same to judgment and execution. [Ord. 671 § 4.2.K, 1995.]

15.65.190 State Environmental Policy Act – Abrogation and greater restrictions.

This code establishes minimum standards which are to be applied to specific land use actions in order to prevent further degradation of critical areas within the town of La Conner, and is not intended to limit the application of the State Environmental Policy Act (SEPA). Projects under SEPA shall be reviewed and may also be conditioned or denied pursuant to Ordinance No. 524 (Chapter 13.10 LCMC), an ordinance adopting the State Environmental Policy Act. It is not intended that this code repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this code imposes greater restrictions, the provisions of this code shall prevail. [Ord. 671 § 4.2.L, 1995.]

15.65.200 Temporary emergency permit.

Notwithstanding the provisions of this code or any other law to the contrary, the planning department may issue a temporary special use permit through oral or written authorization, provided a written permit is accomplished within three working days, if it deems that an unacceptable threat to

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life or severe loss of property will occur if an emergency permit is not granted. The emergency permit may be terminated at any time without process upon a determination by the planning department that the action was not or is no longer necessary to protect human health or the environment. The planning department may, within 90 days of the emergency permit, require that the action be reconsidered as an after-the-fact permit, subject to any or all of the terms and provisions of this code. [Ord. 671 § 4.2.M, 1995.]

15.65.210 Enforcement.

Enforcement procedures as set forth in LCMC 15.135.290 through 15.135.480 shall apply. [Ord. 671 § 4.2.N, 1995.]

Chapter 15.70

FLOODPLAIN MANAGEMENT

Sections:

- 15.70.010 Purpose.
- 15.70.020 Findings of fact.
- 15.70.030 Methods of reducing flood losses.
- 15.70.040 General provisions.
- 15.70.050 Interpretation.
- 15.70.060 Warning and disclaimer of liability.
- 15.70.070 Development permit required.
- 15.70.080 Use of other base flood data.
- 15.70.090 Information to be obtained and maintained.
- 15.70.100 Interpretation of FIRM boundaries.
- 15.70.110 Filing for a variance.
- 15.70.120 Provisions for flood hazard reduction – General standards.
- 15.70.130 Provisions for flood hazard reduction – Specific standards.
- 15.70.140 Penalties for noncompliance.

15.70.010 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money and costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- (6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) Ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. [Ord. 671 § 4.3.A, 1995.]

15.70.020 Findings of fact.

(1) The flood hazard areas of the town of La Conner are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. [Ord. 671 § 4.3.B, 1995.]

15.70.030 Methods of reducing flood losses.

In order to accomplish its purpose, this chapter includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities.

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters.

(4) Controlling filling, grading, and other development which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or may increase flood hazards in other areas. [Ord. 671 § 4.3.C, 1995.]

15.70.040 General provisions.

(1) This chapter shall apply to all areas of special flood hazards within the jurisdiction of the town of La Conner.

(2) Review all development permits to determine that all necessary permits have been obtained from those federal, state and local government agencies from which approval is required.

(3) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for the Town of La Conner," dated June 18, 1984, and any revisions thereto, with accompanying Flood Insurance Rate Maps, is hereby adopted by reference and declared to be a part of this code. The Flood Insurance Study and Rate Maps are on file at La Conner Town Hall. The Rate Map shows two reference markers based on the National Geodetic Vertical Datum (NVD). [Ord. 962 § 2, 2005; Ord. 671 § 4.3.D, 1995.]

15.70.050 Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body;

(3) Deemed neither to limit nor repeal any other powers granted under state statutes. [Ord. 671 § 4.3.E, 1995.]

15.70.060 Warning and disclaimer of liability.

The degree of flood protection required by this code is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This code does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This code shall not create liability on the part of the town of La Conner, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this code or any administrative decision lawfully made hereunder. [Ord. 671 § 4.3.F, 1995.]

15.70.070 Development permit required.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in LCMC 15.70.040(3). The permit shall be for all structures and work in the floodplain including, but not limited to:

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(1) Construction of new residential and nonresidential structures, including additions to structures constructed after December 18, 1984;

(2) Substantial improvements are improvements to any residential or nonresidential structure, the cost of which exceeds 50 percent of the market value of the existing structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred;

(3) Substantial improvement does not include either:

(a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places;

(4) Accessory structures over 120 square feet;

(5) Any fill;

(6) Grading;

(7) Paving;

(8) Excavation;

(9) Drilling operations;

(10) Underground improvements, including culverts and storm water drains, electrical, gas, and sewer lines. [Ord. 986 § 4, 2007; Ord. 962 § 2, 2005; Ord. 671 § 4.3.G, 1995.]

15.70.080 Use of other base flood data.

When base flood elevation data has not been provided in accordance with LCMC 15.70.040(3), Basis for Establishing the Areas of Special Flood Hazard, the planning director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of specific standards. [Ord. 671 § 4.3.H, 1995.]

15.70.090 Information to be obtained and maintained.

(1) Where base flood elevation data is provided through the Flood Insurance Study or as required in LCMC 15.70.080, the planning director shall obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor,

including basement, of all new or substantially improved structures, and whether or not the structure contains a basement.

(2) For all new or substantially improved floodproofed structures:

(a) Verify and record the actual elevation to which it has been floodproofed (in relation to mean sea level);

(b) Maintain the floodproofing certifications required for permit.

(3) The planning director shall maintain for public inspection all records pertaining to the provisions of this chapter.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

(b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished. [Ord. 962 § 2, 2005; Ord. 671 § 4.3.I, 1995.]

15.70.100 Interpretation of FIRM boundaries.

The planning director shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation by applying for a variance. [Ord. 671 § 4.3.J, 1995.]

15.70.110 Filing for a variance.

(1) The hearing examiner as established by the town of La Conner shall hear and decide appeals and requests for variances from the requirements of this chapter.

(2) The hearing examiner shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the planning director in the enforcement or administration of this code. The decision of the hearing examiner shall be final.

(3) In passing upon such applications, the hearing examiner shall consider all technical evaluations, all relevant factors, standards specified in other sections of this code, and:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location, where applicable;

(f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Upon consideration of the factors of items (3)(a) through (3)(k) of this section and the purposes of this code, the hearing examiner may attach such conditions to the granting of variances as it deems necessary to further the purposes of this code.

(5) The planning director shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

(6) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with

existing structures constructed below the base flood level, providing items (3)(a) through (3)(k) of this section have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

(7) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this chapter.

(8) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(9) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in items (3)(a) through (3)(k) of this section, or conflict with existing local laws or ordinances.

(10) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

(11) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (1) of this section and otherwise complies with the provisions anchoring and construction materials and methods outlined in general standards, LCMC 15.70.120.

(12) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate

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with the increased risk resulting from the reduced lowest floor elevation. [Ord. 898 § 3, 2003; Ord. 671 § 4.3.K, 1995.]

15.70.120 Provisions for flood hazard reduction – General standards.

In all areas of special flood hazards, the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(d) Crawlspace and Basements.

(i) The interior grade of a crawlspace below the base flood elevation must not be more than two feet below the lowest adjacent exterior grade.

(ii) The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four feet at any point.

(iii) The height limitation is the maximum allowable unsupported wall height according to the engineering analyses and building code requirements for flood hazard areas (refer to FEMA Technical Bulletin 11-01, page 7, Guidance for Pre-Engineered Crawlspace). This limitation

is intended to prevent these crawlspaces from being converted into habitable spaces.

(iv) There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event. The type of drainage system will vary because of the site gradient and other drainage characteristics, such as soil types. Possible options include natural drainage through porous, well-drained soils and drainage systems such as perforated pipes, drainage tiles, or gravel or crushed stone drainage by gravity or mechanical means.

(v) The velocity of floodwaters at the site should not exceed five feet per second for any crawlspace. For velocities in excess of five feet per second, other foundation types should be used.

(vi) A "basement," for the purposes of this chapter, is any area of the building having its floor subgrade (below ground level) on all sides.

(3) Utilities.

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(c) New and replacement storm water drainage systems shall be designed to accommodate flood conditions expected during a 100-year storm event.

(4) Subdivision, Short Subdivisions, Planned Unit Development Proposals.

(a) All subdivisions, short subdivisions, and planned unit development proposals shall be designed to minimize flood damage.

(b) All subdivision, short subdivisions, and planned unit development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(c) All subdivision, short subdivisions, and planned unit development proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(d) Base flood elevation data shall be provided for all subdivision, short subdivisions, and planned unit development proposals.

(5) Review of Building Permits. Applications for building permits shall be reviewed to ensure the proposed construction will be reasonably safe from flooding, for elevation certification, and compliance with this chapter. [Ord. 962 § 2, 2005; Ord. 671 § 4.3.L, 1995.]

15.70.130 Provisions for flood hazard reduction – Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in LCMC 15.70.040(3), Basis for Establishing the Areas of Special Flood Hazard, the following provisions are required:

(1) Residential Construction.

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to the base flood elevation, which in La Conner is eight feet plus one foot.

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(2) Nonresidential Construction.

(a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

(i) Be floodproofed at the base flood level so that below that level the structure is watertight with walls substantially impermeable to the passage of water.

(ii) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iii) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the planning director.

(iv) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section.

(v) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be rated at the base flood level.

(3) Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the base floodplain. Construction of new critical facilities shall be permissible within the base floodplain if no feasible alternative site is available. Critical facilities constructed within the base floodplain shall have the lowest floor elevated to the base flood elevation at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into flood waters. Access routes elevated to or above the level of the base floodplain shall be provided to all critical facilities to the extent possible.

(4) Manufactured Homes. All manufactured homes to be placed or substantially improved within the areas of special flood hazard shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at the base flood elevation (eight feet plus one foot); and be securely anchored to adequately anchored foundation system in accordance with general standards for construction materials and methods, subsection (1)(b) of this section.

(5) Accessory structures over 120 square feet shall:

(a) Not be used for human habitation;

(b) Be designed to have low flood damage potential;

(c) Be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

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(d) Be firmly anchored to prevent flotation which may result in damage to other structures;

(e) Service facilities such as electrical and heating equipment shall be elevated or flood-proofed;

(f) Comply with LCMC 15.70.120, General Standards and LCMC 15.70.130, Specific Standards.

(6) Encroachments. The cumulative effect of any proposed development, where combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood level more than one foot at any point. [Ord. 962 § 2, 2005; Ord. 695 § 4, 1997; Ord. 671 § 4.3.M, 1995.]

15.70.140 Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$1,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein shall prevent the town of La Conner from taking such other lawful action as is necessary to prevent or remedy any violation. [Ord. 671 § 4.3.N, 1995.]

DIVISION IV. DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

Chapter 15.75

TRANSPORTATION SYSTEMS

Sections:

- 15.75.010 Purpose.
- 15.75.020 Streets – Classification system established.
- 15.75.030 Special purpose streets.
- 15.75.040 Official street map.
- 15.75.050 Rights-of-way.
- 15.75.060 Vacations of rights-of-way.
- 15.75.070 Street design standards.
- 15.75.080 Paving widths.
- 15.75.090 Curbing requirements.
- 15.75.100 Shoulders.
- 15.75.110 Turn lanes.
- 15.75.120 Cul-de-sacs – Turnarounds.
- 15.75.130 Clear visibility triangle.
- 15.75.140 Signage and signalization.
- 15.75.150 Transit stops.
- 15.75.160 Sidewalks and bikeways.
- 15.75.170 Access.

15.75.010 Purpose.

This chapter establishes minimum requirements applicable to a development transportation system, including public and private streets, pedestrian ways and access control to and from public streets. The standards in this chapter are intended to minimize the traffic impacts of development, to assure that all development adequately and safely provide for the storage and movement of vehicles consistent with good engineering and development design practices. [Ord. 671 § 5.1.A, 1995.]

15.75.020 Streets – Classification system established.

(1) Town streets are classified and mapped according to function served in order to allow for regulation of access, road and right-of-way widths, circulation patterns, design speed and construction standards.

(2) Public rights-of-way and private streets should be classified according to function and average daily traffic (ADT), calculated by trip generation rates prepared by the Institute of Transportation Engineers or other comparable source.

(3) When a street continues an existing street that previously terminated outside a subdivision or development, or is a street that will be continued beyond the subdivision, the classification of the street will be based upon the street in its entirety, both within and outside the development.

(4) The following street hierarchy is established for La Conner: residential access, minor collector, and major collector. All development proposals containing new streets or taking access from existing streets shall conform to the specifications set forth in Chapter 15.86 LCMC. [Ord. 867, 2002; Ord. 671 § 5.1.B, 1995.]

15.75.030 Special purpose streets.

(1) Alleys. An alley provides a secondary means of access to lots and is subject to design specifications set in LCMC 15.86.110.

(2) Fire Lanes. A fire lane shall be installed as determined by the fire department in accordance with the Uniform Fire Code for access to new development. [Ord. 867, 2002; Ord. 671 § 5.1.C, 1995.]

15.75.040 Official street map.

The official street map and any amendments thereto adopted by the town is hereby made a part of this code. The map shall be the basis for all decisions regarding required road improvements, reservation or dedication or rights-of-way for required road improvements, or access of proposed uses to existing or proposed roadways. [Ord. 671 § 5.1.D, 1995.]

15.75.050 Rights-of-way.

(1) Rights-of-way widths – as platted or amended by the town. The right-of-way should be measured from lot line to lot line.

(2) Future rights-of-way – where roadway construction, improvement, or reconstruction is not required to serve the needs of a proposed development project, future right-of-way shall be reserved for future use.

(3) Protection and Use of Rights-of-Way.

(a) No encroachment shall be permitted into existing rights-of-way, except as authorized by the town.

(b) Use of the right-of-way for public or private utilities, including, but not limited to, sanitary sewer, potable water, telephone wires, cable televi-

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sion wires, gas or electric lines, shall be allowed subject to the placement specifications of public works.

(c) Sidewalks and bicycle ways shall be placed within the right-of-way. [Ord. 671 § 5.1.E.1, 1995.]

15.75.060 Vacations of rights-of-way.

Applications to vacate a right-of-way may be approved upon a finding that all of the following requirements are met:

(1) The requested vacation is consistent with the transportation element of the comprehensive plan.

(2) The right-of-way does not provide the sole access to any property. Remaining access shall not be by easement.

(3) The vacation would not jeopardize the current or future location of any utility.

(4) The proposed vacation is not detrimental to the public interest, and provides a positive benefit to the town.

(5) All procedures and requirements of Chapter 35.79 RCW, Streets – Vacation, are met. [Ord. 671 § 5.1.E.2, 1995.]

15.75.070 Street design standards.

(1) All public streets in new development must be designed and constructed pursuant to the standards in LCMC 15.86.080, the AASHTO Standards, the American Public Works Standard Specifications for Roads, Bridges, and Municipal Construction manual or as approved by the town council. Streets may be dedicated to the town upon completion, inspection, and acceptance by the town.

(2) The street system of a proposed development shall, to the extent practicable, conform to the natural topography of the site, preserving existing hydrological and vegetative patterns, and minimizing erosion potential, runoff, and the need for site alteration. Particular effort should be directed toward securing the flattest possible grade near intersections.

(3) Streets shall be laid out to avoid environmentally sensitive areas.

(4) Private streets may be allowed within developments that will remain under common ownership, provided they are designed and constructed pursuant to LCMC 15.86.130.

(5) The street layout in all new development shall be coordinated with and interconnected to the street system of the surrounding area.

(6) Streets in proposed subdivisions shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are unplatted, stub outs in the new development shall be provided for future connection to the adjacent unplatted land.

(7) Residential streets shall be arranged to discourage through traffic.

(8) Streets shall intersect as nearly as possible at right angles. [Ord. 867, 2002; Ord. 671 § 5.1.E.3, 1995.]

15.75.080 Paving widths.

Paving widths for each classification shall be as per specifications in LCMC 15.86.080, Tables 1 through 5. [Ord. 867, 2002; Ord. 671 § 5.1.E.4, 1995.]

15.75.090 Curbing requirements.

(1) Curbing shall be required for the purposes of drainage, safety, and delineation and protection of pavement edge along streets in the following cases:

(a) Along designed parking lanes;

(b) Where the surface drainage plan requires curbing to channel storm water.

(2) All curbing shall conform to the construction specifications set by public works. [Ord. 671 § 5.1.E.5, 1995.]

15.75.100 Shoulders.

Shoulders, where required, shall measure at least seven feet in width and shall be required on each side of streets and located within the right-of-way. Shoulders shall consist of materials specified by public works and may include grassy swales. Bicycle lanes may be included in the shoulder dimensions. [Ord. 671 § 5.1.E.6, 1995.]

15.75.110 Turn lanes.

Turn lanes shall be designed to the following standards:

(1) The lane width shall be the same as the required width of the roadway moving lanes for the entire length.

(2) Acceleration lanes are only required when determined to be needed by a traffic impact study. [Ord. 671 § 5.1.E.7, 1995.]

15.75.120 Cul-de-sacs – Turnarounds.

Cul-de-sacs must comply with the specifications of LCMC 15.86.100(2), Table 6. [Ord. 867, 2002; Ord. 671 § 5.1.E.8, 1995.]

15.75.130 Clear visibility triangle.

There shall be a triangular area of clear visibility formed by two intersecting streets or the intersection of a driveway and a street. The following standards shall be met for all corner lots:

(1) Nothing shall be erected, placed, parked, planted, or allowed to grow in such a manner as to materially impede vision between a height of two feet and 10 feet above the grade, measured at the center line of the intersection.

(2) The clear visibility triangle shall be formed by connecting a point on each street center line, to be located at the distance from the intersection of the street center lines, and a third line connecting the two points.

(3) The distance from the intersection of the street center lines for the various road widths shall be as follows:

Right-of-Way Width	Distance from Street Center Line Intersection
40 feet	45 feet
50 feet	55 feet
60 feet	65 feet

Any property owner or occupant who has been determined to be the cause of an obstruction blocking visibility at street intersections shall be notified by certified letter to remove such obstruction. If the obstruction is not removed within 14 days of notification, it shall be removed by public works. [Ord. 671 § 5.1.E.9, 1995.]

15.75.140 Signage and signalization.

At least two street name signs shall be placed at each four-way street intersection, and one at each “T” intersection. Signs shall be installed under light standards and free of visual obstruction. The design of street name signs shall be consistent and of a uniform size and color in accordance with the Uniform Traffic Control Device Manual. Developers shall deposit sufficient funds with the town to

provide all necessary roadway signs and traffic signalization as may be required based upon town traffic standards. [Ord. 671 § 5.1.E.10, 1995.]

15.75.150 Transit stops.

Transit stops shall be located at sites approved by the town council. [Ord. 671 § 5.1.E.11, 1995.]

15.75.160 Sidewalks and bikeways.

(1) Sidewalks shall be provided on all residential streets.

(2) Where a proposed development includes improvements or new construction affecting traffic patterns, the facility design shall include provision for sidewalks.

(3) Where improvements or new construction occur on collector streets, bikeways shall be provided within the right-of-way.

(4) Crosswalks not less than six feet wide may be installed as determined by public works.

(5) Design and construction of sidewalks and bikeways shall conform to public works specifications and Chapter 15.86 LCMC. [Ord. 867, 2002; Ord. 671 § 5.1.E.12, 1995.]

15.75.170 Access.

Access to all lots in a proposed residential subdivision shall be by way of a residential street or private road as specified in Chapter 15.86 LCMC. [Ord. 867, 2002; Ord. 671 § 5.1.E.13, 1995.]

Chapter 15.80

USE OF STREET RIGHTS-OF-WAY

Sections:

- 15.80.010 Purpose.
- 15.80.020 Obstruction of streets – Prohibited.
- 15.80.030 Permit required.
- 15.80.040 Exemptions.
- 15.80.050 Permit processing.
- 15.80.060 Permit review.
- 15.80.070 Obstructions – Standards.
- 15.80.080 Permit conditions.
- 15.80.090 Revocation.
- 15.80.100 Enforcement.
- 15.80.110 Appeal.
- 15.80.120 Penalties due.
- 15.80.130 Penalty recovered.

15.80.010 Purpose.

Recognizing that certain street rights-of-way in the town have been encumbered by encroachments due to terrain or past circumstances and the town’s policy that existing rights-of-way remain intact, it is the intent of this chapter to provide a means of permitting certain uses and structures in public rights-of-way and to allow modifications of existing encroachments with consideration for mitigating the impact of such encumbrances on the public rights-of-way. [Ord. 671 § 5.2.A, 1995.]

15.80.020 Obstruction of streets – Prohibited.

Except as may be specifically provided by this code, it is unlawful to erect, maintain or allow to remain on any street in the town a permanent or temporary structure or object which in any way obstructs, hinders, jeopardizes, injures, or delays the use of the street for either vehicular or pedestrian travel; provided, that the town may close any street at any time, when the director of public works, chief of police, or fire chief determines such closure to be necessary to protect the public health, safety, or welfare. [Ord. 671 § 5.2.B, 1995.]

15.80.030 Permit required.

(1) No person shall use any public place without a permit from the planning director. To use means to construct, erect or maintain in, on, over or under any public place, including but not limited to any building extension, staging, swinging scaffold,

clock or any other object or structure; to use or occupy any parking strip, roadway, and/or sidewalk, including the air space above them.

(2) Notwithstanding the provisions of subsection (1) of this section, the following obstructions of right-of-way may be permitted if a permit therefor is obtained from the town under this code; provided that the director of public works and the chief of police shall determine what traffic barricades, if any, are necessary, and the town will provide such barricades and shall be reimbursed therefor by the applicant:

- (a) Obstructions related to community or special events;
- (b) Temporary devices such as scaffolding, barricades and/or pedestrian walkways, which may be permitted under certain circumstances as specified by the planning director, where the right-of-way use is necessary to improve the safety of construction work on private property and where an excavation permit is not required;
- (c) Telephone booths;
- (d) Any obstruction placed upon a sidewalk by the town for a public purpose. [Ord. 671 § 5.2.C, 1995.]

15.80.040 Exemptions.

(1) This code does not apply to noncommercial uses in residential zones. However, these uses shall not be construed to grant or permit vested rights of use, and any such use is hereby deemed and declared to be permissive and shall be removed upon order of the town of La Conner. This code also does not apply to street maintenance work performed by the town, street, water or sewer installation and improvement work authorized by permit or code, or authorized street improvement projects.

(2) The following obstructions shall be allowed on sidewalks or planting strips without a permit:

- (a) Merchandise being moved into or out of an adjacent business; provided, that such merchandise does not remain on the sidewalk or planting strip more than 30 minutes;
- (b) Fire hydrants;
- (c) Planters and other landscaping placed by the town;
- (d) Benches and bicycle racks placed by the town;

(e) Telephone, telegraph and light poles placed either by the town or pursuant to franchise granted by the town;

(f) Flagpoles or standards therefor placed by the town;

(g) Traffic control devices placed by the town;

(h) Refuse containers, either placed directly by the town, or where the location of the container is on a sidewalk or planting strip as required by the town;

(i) Landscaping that is semi-permanent in nature that can be removed from the sidewalk area or planting strip at the expense of the owner upon notice by the town. Such landscaping shall be less than 30 inches above the established grade at the curb line or roadway shoulder area. No fences permitted. [Ord. 671 § 5.2.D, 1995.]

15.80.050 Permit processing.

(1) Application for a permit and accompanying fees for a street, sidewalk or planting strip obstruction under this code shall be submitted to Town Hall for processing by the planning department. The application shall be upon a form provided by the planning director.

(2) A fee, established by the town council by resolution, shall be paid to the town prior to issuance of any street permit. Fees may be paid in kind based on fair market value. Renewals of street use permits for the maintenance of any continuing use or structure in the public right-of-way shall be reviewed by the planning director and payable on January 1st of each year following the initial permit issuance.

(3) The application for a permit shall contain such information as is required by the planning department and any other applicable town code requirements, including, but not limited to:

(a) Name, address, and telephone number of the applicant;

(b) Description of the use or obstruction;

(c) Drawings and specifications for the obstruction sufficient for review for compliance with this code;

(d) Description of the method of compliance with the standards for installations for sidewalk obstructions established by the provisions of this code;

(e) Evidence showing the applicant to be the owner of record of the property adjoining the public right-of-way.

(4) Upon receipt of the application, the planning department shall forward the application to such town departments as deemed appropriate for comment. Comments shall be returned to the planning director or designee within five working days. [Ord. 671 § 5.2.E, 1995.]

15.80.060 Permit review.

(1) Any application for a permit to construct, erect or maintain an obstruction in a public right-of-way shall be submitted to the planning director. The planning director may submit applications to the town council for review, approval or denial on a case-by-case basis.

(2) The planning director or designee may approve a street use permit if:

(a) The proposed use will not protrude into or over any portion of a public place open to vehicle or pedestrian travel;

(b) The proposal will not interfere with the rights of the public; and

(c) The proposal is in the public interest, safety and convenience.

(3) Any permit issued pursuant to this code is subject to termination upon written notification by the planning director at any time, without cause, and the permit shall so state on its face. [Ord. 671 § 5.2.F, 1995.]

15.80.070 Obstructions – Standards.

Each obstruction proposed to be placed upon a sidewalk, street, or planting strip of the town shall comply, at a minimum, with the following standards:

(1) The location of the obstruction shall be consistent with the paramount right of the public to use the street, sidewalk, or planting strip for transportation purposes.

(2) The location of the obstruction, and/or the obstruction itself, shall be adequately lighted for night visibility, if the obstruction area is not lighted and pedestrians are present at night.

(3) The location of the obstruction shall not constitute a traffic hazard either by itself, or by its effect upon the visibility of persons using the street or sidewalk.

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(4) If a location for the particular type of obstruction is required by the existence of other structures, obstructions, ordinances, or other regulations, the obstruction shall be located where so required.

(5) The obstruction shall not be permitted for longer than the period necessary for accomplishing the proposed purpose for such obstruction.

(6) The applicant shall comply with all other applicable local, state and federal requirements.

(7) The applicant must demonstrate that it is necessary to use the public street, sidewalk or planting strip, and that there is no other means available to accomplish the desired purpose, except by the use of the public right-of-way, street or planting strip.

(8) No one shall plant in any public right-of-way any cottonwood, London plain, weeping willow, gum or any other tree the roots of which cause injury to the sewers, water mains, sidewalks or pavements or which breed disease dangerous to other trees or to the public health or allow to remain in any public right-of-way any planted tree which has died or is in such condition as to be hazardous to the public use of the street and/or sidewalk, and any such trees now existing in any such planting strip or abutting street area shall be removed at the expense of the abutting property owner as may be directed by the town. No tree shall be planted within two feet of any sidewalk or pavement, except as otherwise approved.

(9) No flowers, shrubs or trees shall be allowed to overhang or prevent the free use of the sidewalk or roadway, or street maintenance activity or utility use of the street except that trees may extend over the sidewalk when kept trimmed to a height of seven feet above same, and 15 feet above all roadways. Trees so placed shall also be trimmed so as to remain below power lines if present. [Ord. 671 § 5.2.G, 1995.]

15.80.080 Permit conditions.

The following shall constitute minimum conditions to be applied to the permit:

(1) The applicant for a permit shall execute a hold-harmless guaranty to the town, agreeing to hold the town harmless from and defend the town against any causes of action for personal injury or

property damage arising out of, or in any way connected with, the placement of the obstruction on the town street, sidewalk or planting strip.

(2) The applicant shall provide, and maintain in force, a certificate of insurance, or a bond of like amount, with the town named as an additional insured, insuring against property damage or personal injury, with limits of not less than \$1,000,000 per incident, \$300,000 per person, and \$100,000 property damage, except for benches, refuse containers, bicycle racks, landscaping, fire hydrants, traffic control devices, flagpoles or standards, telephone, telegraph and light poles placed by the town or other uses or obstructions so exempted by the planning director.

(3) The property owner or applicant shall maintain the obstruction in compliance with the standards and conditions imposed upon the placement of the obstruction by the town. Maintenance of the obstruction shall include the removal of litter and/or debris which may accumulate on or around the obstruction.

(4) For permanent structures placed in the right-of-way, including but not limited to fences higher than 30 inches, rockeries, walls, stairs and ramps, the applicant (property owner) for a permit shall execute an "Agreement to Remove Encroachment Within Public Right-of-Way". Such agreement shall guarantee removal of the encroaching improvements upon public rights-of-way within 60 days' written notice from the planning director and shall be recorded by the town with the county auditor as an encumbrance on the property adjoining the public right-of-way. Such work shall be done in accordance with the requirements deemed necessary by the planning director and at the cost of the property owner. If the obstruction is not removed, then the obstruction shall be declared a nuisance. [Ord. 671 § 5.2.H, 1995.]

15.80.090 Revocation.

(1) All permits approved under this code shall be temporary, shall vest no permanent right and shall be issued and may in any case be revoked upon 30 days' notice, or without notice, in case any such use or occupation shall become dangerous or any structure or obstruction permitted, shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of this code.

(2) If any such structure, obstruction, use or occupancy is not discontinued on notice to do so by the planning director, he/she may have the structure or obstruction removed, or such repairs upon the structure or obstruction made as may be necessary to render the same secure and safe, at the expense of the permittee, or his successor, and such expense may be recorded as a lien and otherwise collected in the manner provided by law. [Ord. 671 § 5.2.I, 1995.]

15.80.100 Enforcement.

(1) Enforcement Authority. The planning director, as the town council designee, shall enforce this code.

(2) General. All violations of this code are determined to be detrimental to the public health, safety, and welfare and are hereby declared to be public nuisances. All conditions which are determined by the planning director or the town council to be in violation of this code shall be subject to the provisions of the enforcement procedures in Chapter 15.135 LCMC, and any amendments thereto, or any other enforcement method authorized by law, and shall be corrected by any reasonable and lawful means as provided therein, except that:

(a) The choice of the enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of documented bad faith of the person subject to the enforcement action.

(b) A civil penalty shall be imposed for violations of any of the requirements outlined in this code in the amount of \$250.00 per day for each day of violation to be directly assessed by the town council until such violation is corrected. Each and every day of such violation shall be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this chapter and subject to the penalty provided for herein. [Ord. 671 § 5.2.J, 1995.]

15.80.110 Appeal.

The decision of the planning director, either for a permit issued, issued with conditions, or denied or for termination of a permit may be appealed to the town council by submitting written notice of

such appeal within 10 days of the decision. The town council shall consider the appeal at the next public meeting after the filing of the notice of appeal. The decision of the town council is final. [Ord. 671 § 5.2.K, 1995.]

15.80.120 Penalties due.

Penalties imposed under this chapter shall become due and payable upon receipt unless an application for reconsideration is made or an appeal is filed. Whenever an application for reconsideration or appeal is made, penalties shall become due and payable 30 days after receipt of the decision regarding the reconsideration or appeal. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. The town may take actions necessary to recover such penalty under any provision of law. Any judicial award pursuant hereto shall include an award of the town's reasonable attorney fees and costs. [Ord. 671 § 5.2.L, 1995.]

15.80.130 Penalty recovered.

Penalties recovered shall be credited to the town street fund. [Ord. 671 § 5.2.M, 1995.]

Chapter 15.85

STREET DEVELOPMENT

Sections:

- 15.85.010 Authority.
- 15.85.020 Purpose.
- 15.85.030 Procedures for issuance of a certificate of authorization for building permits on properties without street, sewer, utility and storm drainage improvements.
- 15.85.040 Procedures and regulations for entering into reimbursement agreements for storm drainage, sewer, water, and streets.
- 15.85.050 Application procedures.
- 15.85.060 Reimbursement time period.
- 15.85.070 Authorization.
- 15.85.080 Application approval – Review by town council.
- 15.85.090 Determination of reimbursement area boundary and reimbursement fee.
- 15.85.100 Assessment methods.
- 15.85.110 Notice to property owners.
- 15.85.120 Written agreement.
- 15.85.130 Reimbursement agreement must be recorded.
- 15.85.140 Payment of town cost in excess of application fee.
- 15.85.150 Construction and acceptance of improvements – Recording of final fees.
- 15.85.160 Collection of reimbursement fees – No liability for failure to collect.
- 15.85.170 Disposition of undeliverable reimbursement fees.

15.85.010 Authority.

(1) Pursuant to Chapter 35.91 RCW, the town of La Conner is authorized to contract with property owners for construction of storm drainage, sanitary, or combination sewers, pumping stations and disposal plants, water mains, hydrants, reservoirs, or appurtenances, hereinafter “water or sewer facilities,” which contract may provide for the partial reimbursement to the property owners of a portion of the cost of the water or sewer facilities.

(2) The legislature of the state of Washington enacted Chapter 35.91 RCW authorizing towns to enter into contracts with the owners of real estate

for the construction or improvement of water and sewer facilities which the owner elects to install as a result of town ordinances that require the projects as a prerequisite to further property development, and the state law further provides that such contracts may require that the owners of property that is determined to be benefited by the street project in the event such owner develops such property within a period not to exceed 10 years of the date such contract is recorded with the Skagit County department of records. [Ord. 671 § 5.3.A, 1995.]

15.85.020 Purpose.

The purpose of this chapter is to:

(1) Provide requirements for the issuance of a certificate of authorization for building permits on properties abutting undeveloped streets or roads and/or in areas without sanitary sewers or storm drainage.

(2) Implement and thereby make available to the public, Chapters 35.72 and 35.91 RCW as the same now exists or may hereafter be amended.

(3) Prescribe rules and regulations for exercise of the authority to enter into storm drainage, water, sewer and street project reimbursement agreements granted to the town in Chapter 35.72 RCW and Chapter 35.91 RCW. [Ord. 671 § 5.3.B, 1995.]

15.85.030 Procedures for issuance of a certificate of authorization for building permits on properties without street, sewer, utility and storm drainage improvements.

(1) Whenever a permit is applied for under the provisions of the International Building Code for new construction, additions and remodels with a valuation of 50 percent or greater than the current assessed valuation of the existing structure, then the person applying for such building permit shall build and install certain street improvements to the adjacent right-of-way, sewer, water and storm water systems necessary to serve the property and in accordance with the town design standards and approval of the town public works director prior to the issuance of a building permit. All building permit applications within a 12-month period shall be considered cumulatively and subject to the aforementioned infrastructure improvements.

The following types of properties and improvements shall be subject to the provisions of this section:

- (a) A multifamily dwelling of four or more units;
- (b) A public assembly facility;
- (c) A commercial facility;
- (d) An industrial facility; or
- (e) The creation or addition of 5,000 square feet, or greater, of new impervious surface area. On-site impervious surfaces and parking areas of 5,000 square feet or more must comply with the landscaping and screening provisions of LCMC 15.90.040, Screening requirements.

Permit applicant must also comply with provisions of Chapter 15.90 LCMC, Off-Street Parking and Loading, prior to permit issuance.

(2) The director of public works may waive or modify the required infrastructure and on-site improvements subject to the following criteria:

- (a) When no adequate storm drainage trunk system exists in the vicinity of the site on which the building or structure is to be constructed in which to direct the flow of the required storm sewer collector system; and/or
- (b) When requiring full width paving of streets abutting the area being developed would create a traffic hazard due to transitions to adjacent narrower paved surfaces; and/or
- (c) Where a substantial likelihood exists that the improvements required, when placed at the time of the granting of the building permit, will have to be removed or substantially modified because of additional potential development in the area; and/or
- (d) Where full development of the right-of-way and utilities is unlikely; and/or
- (e) Where half-street improvements in lieu of full street improvements are appropriate.

The public works director may require a covenant authorizing the establishment of a local improvement district or a bond to construct that portion of the necessary improvements to meet town design standards situations cited in the criteria above.

(3) Development of Platted Roads and Streets. Street and road development must comply with the provisions of Chapter 15.86 LCMC.

(4) Development of Sewer and Drainage. The development and construction of sewer and drainage shall conform to all construction, design, and development standards contained in the La Conner sewer manual and specifications set by the director of public works. [Ord. 963 § 6, 2005; Ord. 867, 2002; Ord. 671 § 5.3.C, 1995.]

15.85.040 Procedures and regulations for entering into reimbursement agreements for storm drainage, sewer, water, and streets.

(1) Minimum Project Size. In order to be eligible for a reimbursement agreement the estimated cost of the proposed improvement must not be less than \$1,000. The estimated cost of the improvement shall be determined by a consensus of both the director and the superintendent, based upon a construction contract for the project, bids, engineering or architectural estimates or other information deemed by the director and/or superintendent to be a reliable basis for estimating costs. The determination shall be final. [Ord. 671 § 5.3.D, 1995.]

15.85.050 Application procedures.

(1) Application Contents. Application for the establishment of an assessment reimbursement area shall be made on a form provided by the town and shall be accompanied by an application fee set by the town council and shall include the following items:

- (a) Preliminary construction plans and drawings of the entire street project to be borne by the assessment reimbursement area, prepared and stamped by a licensed engineer.
- (b) Meet requirements set by the director and superintendent.
- (c) Itemization of all costs of the street project including, but not limited to, design, grading, paving, installation of curbs, gutters, storm drainage, sidewalks, water and sewerlines and hookups, engineering, construction, property acquisition and contract administration by a licensed civil engineer or in the form of a bid submitted by a qualified contractor. (If more than one bid has been obtained, all bids must be submitted to the town.)
- (d) A map and legal description identifying the proposed boundaries of the assessment reim-

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bursement area and each separately owned parcel within such area. Such map shall identify the location of the street project in relation to the parcels of property in such area.

(e) A proposed assessment reimbursement roll stating the proposed assessment for each separate parcel of property within the proposed assessment reimbursement area as determined by apportioning the total project cost on the basis of the benefit of the project to each such parcel of property within the area.

(f) A complete list of recorded owners of property within the proposed assessment reimbursement area certified as complete and accurate by the applicant and which states names and mailing addresses for each such owner.

(g) Envelopes addressed to each of the recorded owners of property within the assessment reimbursement area who have not contributed their pro rata share of such costs. Proper postage for registered mail shall be affixed or provided.

(h) Copies of executed deeds and/or easements in which the applicant is the grantee for all property necessary for the installation of such street project.

(i) Other information as required by the director and/or superintendent.

(2) Construction plans shall be approved by the director and superintendent and/or a consulting engineer of their choice. [Ord. 671 § 5.3.E, 1995.]

15.85.060 Reimbursement time period.

Reimbursement agreements shall provide for reimbursement for a period not to exceed 10 years from the date of final acceptance of the improvement by the town. [Ord. 671 § 5.3.E, 1995.]

15.85.070 Authorization.

The public works director and/or superintendent of wastewater facilities are hereby authorized to accept applications for the establishment by contract of an assessment reimbursement area as provided by state law, provided such application substantially conforms to the requirements of this code. [Ord. 671 § 5.3.F, 1995.]

15.85.080 Application approval – Review by town council.

(1) The director and/or superintendent shall review all applications and shall approve, approve with conditions, or deny the application based on the following requirements:

(a) The project satisfies the minimum size requirement;

(b) The proposed improvements fall with the description of “water or sewer facilities” and “street projects.”

(2) The determination of the director and/or superintendent shall be in writing and mailed to the applicant at the address listed on the application.

(3) In the event of approval with conditions, or denial, the applicant may request that the town council review the final determination by filing a written request with the town clerk no later than 10 days after the date on the determination.

(4) In reviewing the final determination, the town council shall apply the criteria set forth in subsection (1) of this section, and shall uphold the decision of the director and/or superintendent unless evidence presented by the applicant clearly demonstrates that the criteria have been satisfied. [Ord. 671 § 5.3.G, 1995.]

15.85.090 Determination of reimbursement area boundary and reimbursement fee.

(1) In the case of all applications which are approved, the director and/or superintendent shall define the reimbursement area based upon a determination of which parcels did not contribute to the original cost of the street, storm drainage, water or sewer facility for which the reimbursement agreement applies and which may subsequently tap into or use the same, including not only those which may connect directly thereto; but, also those who may connect to laterals or branches connecting thereto. An estimated amount of the reimburse-

ment fee shall be established so that each property will pay a share of the costs of the improvements which is proportional to the benefits which accrue to the property.

(2) If the applicant disposes of the properties for which he/she has entered into the reimbursement agreement before a certificate of authorization has been issued for a building permit, those properties shall be excluded from any part of the reimbursement agreement. [Ord. 671 § 5.3.H, 1995.]

15.85.100 Assessment methods.

The public works director and superintendent shall use a method of assessment which is based on the benefit to the property owner from the project. The methods of assessment authorized in Chapter 35.44 RCW for local improvement districts may be used. [Ord. 671 § 5.3.I, 1995.]

15.85.110 Notice to property owners.

Prior to the execution of any contract with the town establishing an assessment reimbursement area, the director and superintendent or designee shall mail, via registered mail, a notice to all recorded property owners within the assessment reimbursement area as determined by the town on the basis of information and materials supplied by the applicant, stating the preliminary boundaries of such area and assessments along with substantially the following statement:

As a property owner within the Assessment Reimbursement Area whose preliminary boundaries are enclosed with this notice, you or your heirs and assigns will be obligated to pay under certain circumstances a pro rated share of construction and contract administration costs of a certain street project that has been preliminarily determined to benefit your property. The proposed amount of such pro rata share or assessment is also enclosed with this notice. You, or your heirs and assigns, will have to pay such share, if any development permits are issued for development on your property within 10 years of the date of a contract establishing such area being recorded with Skagit County, provided such development would have required similar street improvements for approval. You have a right to request a hearing be-

fore the town council within 20 days of the date of this notice.

All such requests must be made in writing and filed with the town clerk. After such contract is recorded, it shall be binding on all owners of record within the assessment area who are not a party to the contract.

[Ord. 671 § 5.3.J, 1995.]

15.85.120 Written agreement.

(1) Upon approval of the application, determination of the estimated costs of construction, the reimbursement area, and estimated fees by the director and superintendent, the applicant shall sign a reimbursement agreement in the form provided by the town. The signed agreement, the application and supporting documents, together with the director's and superintendent's estimates of cost of construction, and determination of reimbursement area and estimated fees shall be presented to the town council with a request that the town council authorize the mayor to sign the reimbursement agreement on behalf of the town.

(2) If an owner of property within the proposed assessment reimbursement area requests a hearing, notice of such shall be given to all affected property owners in addition to the regular notice requirements specified by this code, the cost of which shall be borne by the applicant. At any such hearing, the town council shall authorize the execution of appropriate documents. The town council's ruling on these matters is determinative and final. If no hearing is requested, the council may consider and take final action on these matters at any public meeting 20 days after notice was mailed to the affected property owners. [Ord. 671 § 5.3.K, 1995.]

15.85.130 Reimbursement agreement must be recorded.

(1) In order to become effective, a reimbursement agreement must be recorded within 30 days with the office of the Skagit County auditor. It shall be the sole responsibility of the beneficiary of the reimbursement agreement to verify the agreement has been recorded.

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(2) If the contract is so filed and recorded, it shall be binding on owners of record within the assessment area who are not party to the agreement. [Ord. 671 § 5.3.L, 1995.]

15.85.140 Payment of town cost in excess of application fee.

In the event that costs incurred by the town for engineering or other professional consultant services required in processing the application exceed the amount of the application fee, the director and/or superintendent shall so advise the town council and council approval shall be conditioned upon receipt of payment by the applicant of an additional amount sufficient to compensate the town for its costs in excess of the application fee. The applicant for the street and/or utility reimbursement agreement shall reimburse the town for the full administrative and professional cost of reviewing and processing such application and preparing the agreement. At the time of application, a fee shall be deposited with the town. If actual costs are less than the fee, the difference will be refunded. If actual costs are greater than the fee, the applicant will reimburse the town for the difference before the contract may be recorded. [Ord. 671 § 5.3.M, 1995.]

15.85.150 Construction and acceptance of improvements – Recording of final fees.

(1) After the reimbursement agreement has been signed by both parties, and all necessary permits and approvals have been obtained, the applicant shall construct the improvements, and upon completion, request final inspection and acceptance of the improvements by the town, subject to any required obligation to repair defects. An appropriate bill of sale, deed of property, dedication, easement and/or any other document needed by the town to convey the improvements to the town and to insure right of access for maintenance and replacement shall be provided, along with documentation of the actual cost of the improvement and a certification by the applicant that all of such costs have been paid.

(2) In the event that actual costs are less than the director’s and superintendent’s estimate used in calculating the estimated fees by 10 percent or more, the director and superintendent shall recalcu-

late the fees, reducing them accordingly, and shall cause a revised list of fees to be recorded with the county auditor. [Ord. 671 § 5.3.N, 1995.]

15.85.160 Collection of reimbursement fees – No liability for failure to collect.

(1) Subsequent to the recording of a reimbursement agreement, the town shall not approve a certificate of authorization for a building permit within the reimbursement area, except those listed in LCMC 15.85.030 with prior approval by the director, unless the share of the costs of such facilities required by the recorded agreement is first paid to the town.

(2) Upon receipt of any reimbursement fees, the town shall deduct a six percent administrative fee and remit the balance of the reimbursement fees to the party entitled to the fees pursuant to the agreement. In the event that, through error, the town fails to collect a required reimbursement fee prior to approval of connection to a sewer, water or storm drainage facility, the town shall make diligent efforts to collect such fee; but shall under no circumstances be obligated to make payment to the party entitled to reimbursement, or in any other way be liable to such party, unless such reimbursement fee has actually been paid to the town. [Ord. 671 § 5.3.O, 1995.]

15.85.170 Disposition of undeliverable reimbursement fees.

In the event that, after reasonable effort, the party to which reimbursement fees are to be paid pursuant to a reimbursement agreement cannot be located, and upon the expiration of 180 days from the date the fees were collected by the town, the fees shall become the property of the town and shall be revenue to the town sewer, storm drainage, water and/or street project funds. [Ord. 671 § 5.3.P, 1995.]

Chapter 15.86**STREET DEVELOPMENT STANDARDS**

Sections:

- 15.86.010 Purpose.
- 15.86.020 Administration and enforcement authority.
- 15.86.030 Applicability.
- 15.86.040 Exemptions.
- 15.86.060 Right-of-way dedication required.
- 15.86.080 Public street and sidewalk design standards.
- 15.86.100 Dead end streets.
- 15.86.110 Alley standards.
- 15.86.120 Street lighting standards.
- 15.86.130 Private streets.
- 15.86.140 Shared driveways.
- 15.86.160 Timing for installation of improvements.
- 15.86.180 Plan drafting and surveying standards.
- 15.86.200 Review of construction plans.
- 15.86.210 Inspections.
- 15.86.220 Construction bond required.
- 15.86.230 Damage liability.
- 15.86.240 Latecomer's agreements.
- 15.86.260 Alternate requirements.
- 15.86.280 Deferral of improvement installation.
- 15.86.290 Appeals.
- 15.86.300 Violations and penalties.

15.86.010 Purpose.

It is the purpose of this chapter to establish design standards and development requirements for street improvements to ensure reasonable and safe access to developed properties. These improvements include sidewalks, curbs, gutters, street paving, monumentation, signage and lighting. [Ord. 867, 2002.]

15.86.020 Administration and enforcement authority.

The director of public works and/or his/her designated representatives are responsible for the general administration, enforcement and coordination of this chapter. [Ord. 867, 2002.]

15.86.030 Applicability.

(1) This chapter applies to all permit applications submitted under the provisions of the International Building Code for:

- (a) New construction;
- (b) Additions and remodels with a valuation of 50 percent or greater of the current assessed valuation of the existing structure;
- (c) Short plat and full subdivision located on a property adjacent to public rights-of-way;
- (d) The creation or addition of 5,000 square feet, or greater, of new impervious surface area. On-site impervious surfaces and parking areas of 5,000 square feet or more must comply with the landscaping and screening provisions of LCMC 15.90.040, Screening requirements.

The applicant for such permits shall build and install certain street improvements on adjacent and abutting rights-of-way, and all private street improvements on access easements, including, but not limited to, asphalt and/or cement concrete paving, adequate subgrade, curb and gutter, sidewalks, street signage and striping, storm drainage, and lighting. Adjacent and abutting rights-of-way may include that area as determined by projecting the lot(s) boundary(s), as determined by the town. All building permit applications within a 12-month period shall be considered cumulatively and subject to the aforementioned infrastructure improvements.

(2) The minimum design standards for streets are listed in the following tables. These standards will be used as guidelines for determining specific street improvement requirements for development projects, including short plats and subdivisions. [Ord. 963 § 6, 2005; Ord. 867, 2002.]

15.86.040 Exemptions.

The following exemptions shall be made to the requirements listed in this chapter:

- (1) Interior remodels of any value not involving a building addition or building rehabilitation.
- (2) The construction of a single-family house, or the modification or addition to an existing house, if the public street adjacent to the lot under construction is currently used for vehicular access and improved with pavement. If the street does not meet the criteria, then the street must be improved to meet minimum fire department standards. [Ord. 867, 2002.]

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15.86.060 Right-of-way dedication required.

(1) Dedication Required for Development. Where the existing width for any right-of-way adjacent to the development site is less than the minimum standards listed in Tables 2 and 3 of LCMC 15.86.080, additional right-of-way dedication will be required for the proposed development.

(2) Amount of Dedication. The right-of-way dedication required shall be half of the difference between the existing width and the minimum required width as listed in LCMC 15.86.080. In cases where additional right-of-way has been dedicated on the opposite side of the right-of-way from the development site in compliance with this section, then dedication of the remaining right-of-way width to obtain the minimum width as listed in LCMC 15.86.080 shall be required.

(3) Waiver of Dedication. The public works director may waive the requirement for additional right-of-way dedication pursuant to the waiver procedures specified in LCMC 15.86.260(1), where it is determined by the public works director that

construction of full street improvements are waived and not anticipated in the future. [Ord. 867, 2002.]

15.86.080 Public street and sidewalk design standards.

(1) Level of Improvements. The minimum level of street improvements required depends upon the project size as listed in the following tables. The project sizes listed shall be for square footage of new building and/or addition to existing buildings, number of units for apartments, or total number of final lots in the proposed plat or short plat.

(2) Minimum Standards. All such improvements shall be constructed to the town’s standards. Standards for construction shall be as specified in the following tables, and by the public works director or his/her duly authorized representative. Where standards are not specifically provided, AASHTO standards will apply.

(3) Application of Tables. The following tables establish the standards to be met for improvements subject to this chapter:

Table 1 – Public Street Improvement Requirements for Private Development

Project Size	Right-of-Way Width	Pavement Width	Sidewalks and Street Lighting	Distance to Arterial
2 – 4 units residential 0 – 5,000 sq. ft. commercial 0 – 10,000 sq. ft. industrial	As determined by Tables 2 through 5 of this section.	Provide half pavement width per standard plus minimum 10 feet – curb required on project side.	Provide sidewalk on project side. No street lighting required.	Minimum 20 feet pavement to arterial (500 feet maximum).
5 – 20 residential lots 5,000 – 10,000 sq. ft. commercial 10,000 – 20,000 sq. ft. industrial	As determined by Tables 2 through 5 of this section.	Provide full pavement width per standard – curb required on project side.	Provide sidewalk on project side. Street lighting required on project side.	Minimum 20 feet pavement to arterial (500 feet maximum).
More than 20 units residential 10,000 sq. ft. commercial 20,000 sq. ft. industrial	As determined by Tables 2 through 5 of this section.	Provide full pavement width per standard – curb required on project side.	Provide sidewalk on project side. Street lighting required on project side.	Minimum 20 feet pavement and pedestrian walkway to arterial.

Table 2 – Minimum Design Standards for Residential Access Streets

Right-of-Way Width	Pavement	Sidewalks	Other
50 feet	32 feet paved Parking both sides	5-foot sidewalk adjacent to curbs both sides	Combined public storm drainage detention Street lighting

Table 3 – Minimum Design Standards for Collector Streets

Right-of-Way Width	Pavement	Sidewalks	Other
60 feet	38 feet paved Parking both sides	5-foot sidewalks and 5-foot planting strip on both sides	Combined public storm drainage detention Street lighting

Table 4 – Minimum Design Standards for Commercial Access Streets

Right-of-Way Width	Pavement	Sidewalks	Other
60 feet	40 feet paved Parking both sides	5-foot sidewalks on the property line and 5-foot planting strip	Combined public storm drainage detention Street lighting

Table 5 – Minimum Design Standards for Industrial Access Streets

Right-of-Way Width	Pavement	Sidewalks	Other
60 feet	40 feet paved Parking both sides	5-foot sidewalks and 5-foot planting strip on both sides	Combined public storm drainage detention Street lighting

(4) Length of Improvements. Such improvements shall extend the full distance of such property to be improved upon and sought to be occupied as a building site or parking area for the aforesaid building for platting purposes and which may adjoin property dedicated as a public street.

(5) Special Design Standards for Arterial Streets. Arterial street rights-of-way shall be 60 feet to 150 feet in width as may be required by the public works director or his/her designee. The design standards for arterial streets will be established on a case-by-case basis by the public works director or his/her designee in accordance with the major arterials and streets plan.

(6) Grades. Grades on arterial streets shall not exceed 10 percent, and the grade on any public street shall not exceed 15 percent, except for within approved hillside subdivisions.

(7) Pavement Thickness. New pavement shall be a minimum of four inches of asphalt over six inches of crushed rock. Pavement thickness for new arterial or collector streets or widening of arterials or collector streets must be approved by the department. Pavement thickness design shall be based on standard engineering procedures. For the purposes of asphalt pavement design, the proce-

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dures described by the “Asphalt Institute’s Thickness Design Manual” (latest edition) will be accepted by the department.

(a) Alternate Provisions for Material Construction and Design. Alternate design procedures or materials may be used if approved by the public works director.

(8) Sidewalk Width Minimum and Measurement. New sidewalks must provide a minimum of four feet of horizontal clearance from all vertical obstructions. Sidewalk widths listed in the tables include curb width for those sidewalks constructed adjacent to the curb.

(9) Curves.

(a) Horizontal Curves. Where a deflection angle of more than 10 degrees in the alignment of a street occurs, a curve of reasonably long radius shall be introduced, subject to review and approval of the public works director.

(b) Vertical Curves. All changes in grade shall be connected by vertical curves of a minimum length of 200 feet unless specified otherwise by the public works director.

(c) Tangents for Reverse Curves. A tangent of at least 200 feet in length shall be provided between reverse curves for arterials, 150 feet for collectors, and 100 feet for residential access streets. [Ord. 931 § 2, 2004; Ord. 867, 2002.]

15.86.100 Dead end streets.

(1) When Permitted. Dead end streets are permitted where through streets are determined by the department not to be feasible. For other circumstances, dead end streets may be approved by the department or hearing examiner as part of the plat approval or site plan approval for a proposed development.

(2) Cul-de-Sacs and Turnarounds – Minimum Requirements. Minimum standards for dead end streets, when approved by the department, are as follows:

Table 6 – Cul-de-Sacs and Turnarounds

Length of Street	Type of Turnaround
For up to 150 feet in length	No turnaround required.
From 150 feet to 300 feet in length	Dedicated hammerhead turnaround or cul-de-sac required.
From 300 feet to 500 feet in length	Cul-de-sac required.
From 500 feet to 700 feet in length	Cul-de-sac required. Fire sprinkler system required for houses.
Longer than 700 feet in length	Two means of access and fire sprinklers required for all houses beyond 500 feet.

(3) Turnaround Design. The hammerhead turnaround shall have a design approved by the public works director and the La Conner fire chief.

(4) Cul-de-Sac Design. Cul-de-sacs shall have a minimum paved radius of 45 feet with a right-of-way radius of 55 feet for the turnaround. The cul-de-sac turnaround shall have a design approved by the public works director and the La Conner fire chief.

(5) Secondary Access. Secondary access for emergency equipment is required when a development of three or more buildings is located more than 200 feet from a public street.

(6) Waiver of Turnaround. The requirement for a turnaround or cul-de-sac may be waived by the public works director with approval of the La Conner fire chief when the development proposal will not create an increased need for emergency operations pursuant to LCMC 15.86.260(1), Waivers. [Ord. 867, 2002.]

15.86.110 Alley standards.

(1) Access Purpose. Alleys may be used for vehicular access to the adjacent lots, but are not to be considered as primary access for emergency or fire department concerns.

Table 7 – Minimum Alley Design Standards

Zoning Type	ROW Width
All residential	20 feet
Commercial	20 feet

[Ord. 867, 2002.]

15.86.120 Street lighting standards.

(1) Average Maintained Illumination. The street lighting shall be constructed to provide average maintained horizontal illumination as illustrated below. The lighting levels shall be governed by roadway classification and area zoning classification. Values are in horizontal foot-candles at the pavement surface when the light source is at its lowest level.

Table 8 – Street Illumination Levels

Arterial	Commercial	Industrial	Residential
Principal	1.4	1.4	1.0
Minor	1.4	1.2	0.6
Collector Street	1.2	0.9	0.6
Local Street	0.9	0.6	0.2

(2) Uniformity Ratios. Uniformity ratios for the street lighting shall meet or exceed four to one for light levels of 0.6 foot-candles or more and six to one for light levels less than 0.6 foot-candles.

(3) Guidelines. Street lighting systems shall be designed and constructed in accordance with the publication, “Guidelines and Standards for Street Lighting Design of Residential and Arterial Streets.” [Ord. 867, 2002.]

15.86.130 Private streets.

(1) When Permitted. Private streets are allowed for access to six or less residential lots, with no more than four of the lots not abutting a public right-of-way. Private streets will only be permitted if the proposed private street is not anticipated by the public works department to be necessary for existing or future traffic and/or pedestrian circulation through the subdivision or to serve adjacent property.

(2) Minimum Standards. Such private streets shall consist of a minimum of a 26-foot easement with a 20-foot pavement width. The private street shall provide a turnaround meeting the minimum requirements of this chapter. No sidewalks are required for private streets; however, drainage improvements per La Conner Municipal Code are required, as well as an approved pavement thickness (minimum of four inches asphalt over six inches crushed rock). The maximum grade for the private street shall not exceed 15 percent, except for within approved hillside subdivisions.

(3) Signage Required. Appurtenant traffic control devices including installation of traffic and street name signs, as required by the department, shall be provided by the subdivider. The street name signs will include a sign labeled “Private Street” yellow with black lettering.

(4) Easement Required. An easement will be required to create the private street.

(5) Timing of Improvements. The private street must be installed prior to recording of the plat unless deferred. [Ord. 867, 2002.]

15.86.140 Shared driveways.

(1) When Permitted. A shared private driveway may be permitted for access to two lots. The private access easement shall be a minimum of 20 feet in width, with a minimum of 12-foot paved driveway. [Ord. 867, 2002.]

15.86.160 Timing for installation of improvements.

No building shall be granted a certificate of final occupancy, or plat or short plat recorded, until all the required street improvements are constructed in a satisfactory manner and approved by the responsible departments, unless those improvements remaining unconstructed have been deferred by the public works director and security for such unconstructed improvements has been satisfactorily posted. [Ord. 867, 2002.]

15.86.180 Plan drafting and surveying standards.

The construction permit plans for street improvements shall be prepared and surveyed in conformance with standard detail documents as cited in the Developer Project Manual Sewer Extensions, Section D. [Ord. 867, 2002.]

15.86.200 Review of construction plans.

(1) Submittal. All street improvement plans prepared shall be submitted for review and approval to the department of public works. All plans and specifications for such improvements are to be submitted at the time application for a building permit is made.

(2) Fees and Submittal Requirements. All permits required for the construction of these improvements shall be applied for and obtained in the same manner and conditions as specified in LCMC 11.10.030, 11.30.050, 12.05.1320, 12.30.070 and 15.65.100 relating to excavating or disturbing streets, alleys, pavement or improvements. Fees shall be as stipulated in LCMC 3.60.080. Half of the fee is due and payable upon submittal for a construction permit application, and the remainder is due and payable prior to issuance of the construction permit.

(3) Cost Estimate Required. The applicant will be required to submit a cost estimate for the improvements. This will be checked by the department for accuracy. [Ord. 867, 2002.]

15.86.210 Inspections.

(1) Authority and Fees. The department shall be responsible for the supervision, inspection and acceptance of all street improvements listed in this section, and shall make a charge therefor to the applicant. [Ord. 867, 2002.]

15.86.220 Construction bond required.

(1) Acceptable Security. Prior to commencing construction, the person or entity constructing the street improvements shall post a construction bond in an amount sufficient to cover the cost of conforming said construction with the approved construction permit plans. In lieu of a bond, the applicant may elect to establish a cash escrow account with his/her bank, securing only this obligation and no other, in an amount deemed by the public works director to be sufficient to reimburse the town if it should become necessary for the town to complete the improvements.

(2) Instructions to Escrow. The instructions to the escrow shall specifically provide that after prior written notice unto the applicant and his/her failure to correct and/or eliminate existing or potential hazardous conditions or improperly constructed improvements, and his/her failure to timely remedy

same, the escrow shall be authorized without any future notice to the applicant or his/her consent to disburse the necessary funds unto the town of La Conner for the purpose of correcting and/or eliminating such conditions.

(3) Subsequent Conversion to Maintenance Bond. After determination by the department that all facilities are constructed in compliance with the approved plans, the construction bond can be reduced to 10 percent as a one-year maintenance bond. [Ord. 867, 2002.]

15.86.230 Damage liability.

Contractors engaged in development activities on private or public properties are liable for the repair or replacement of the town's infrastructure if damage to the town's infrastructure resulted from their activities. [Ord. 986 § 3, 2007.]

15.86.240 Latecomer's agreements.

(1) Latecomer's Agreements Authorized. Any party extending utilities that may serve other than that party's property may request a latecomer's agreement from the town. Where a development is required to construct street improvements that may also be required by other developments or by future development of other parcels in the vicinity, then the developer may request establishment of a latecomer's agreement to reimburse the developer for all initial costs of the improvements.

(2) Process for Latecomer's Agreements. Any latecomer's agreement shall be established in accordance with provisions set forth in LCMC 15.85.050. [Ord. 867, 2002.]

15.86.260 Alternate requirements.

(1) Waivers. The public works director may grant, in writing, waivers from the regulations and requirements of this chapter providing that the following conditions are present:

(a) The waiver requested arises from peculiar physical conditions not ordinarily existing elsewhere in the town or is due to the nature of the business or operation being presently conducted upon the applicant's property;

(b) The waiver does not permit a condition otherwise prohibited by code;

(c) The waiver requested is not against the public interest, particularly safety, convenience and general welfare;

(d) The granting of the waiver will not adversely affect the rights of adjacent property owners or tenants;

(e) The terms of this chapter will cause unnecessary hardship on the applicant, property owner or tenant.

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The decisions with regard to waivers may be appealed to the hearing examiner pursuant to LCMC 15.12.130.

(2) Variance Procedures.

(a) Authority and Applicability. The hearing examiner shall have the authority to grant variances from the provisions of this chapter where the proposed development requires any required permits set forth in this title.

(b) Filing of Application. A property owner, or duly authorized agent, may file an application for a variance which application shall set forth fully the grounds therefor and the facts deemed to justify the granting of such variance.

(c) Submittal Requirements. Submittal requirements for variances are set forth in LCMC 15.125.040.

(3) Half-Street Improvements.

(a) When Permitted. Half-street improvements may be allowed for residential, commercial and industrial access streets by the public works director or her/his designee when it is determined that the adjacent parcel of property has the potential for future development and dedication of the right-of-way necessary for the completion of the street right-of-way.

(b) Minimum Design Standards. The right-of-way for the half-street improvement must be a minimum of 35 feet with 28 feet paved. A curb and a six-foot sidewalk shall be installed on the development side of the street. If the street will require a cul-de-sac, then the right-of-way for the half of the cul-de-sac shall be dedicated, with installation of a temporary hammerhead turnaround. The property shall also dedicate easements to the town for street lighting and fire hydrants. Additional easements shall be provided for the franchise utilities outside of the dedicated right-of-way.

(c) Standards for Completion of the Street. When the adjacent parcel is platted or developed, an additional 15 feet of right-of-way shall be dedicated from the developing property. The pavement shall then be widened to 32 feet in total width, and a curb and six-foot wide sidewalk shall be installed on the developing side of the street. If the street is a dead-end street requiring a cul-de-sac, then the developing parcel shall dedicate the remainder of the right-of-way for the cul-de-sac and construct the final complete cul-de-sac, including curb and sidewalk improvements.

(4) Reduced Right-of-Way Dedication.

(a) When Permitted. The department may approve a reduction in the required right-of-way width for residential access streets for new streets within a short plat or subdivision to 42 feet when the extra area from the reduction is used for the creation of an additional lot(s) which could not be platted without the reduction; or when the platting with the required right-of-way width results in the creation of lots with less than 100 feet in depth.

(b) Additional Easements. The department may require additional easements be provided for the franchise utilities outside of the dedicated right-of-way when such a right-of-way reduction is approved. In no case shall a reduction in the required right-of-way width be approved unless it is shown that there will be no detrimental effect on the public health, safety or welfare if the right-of-way width is reduced, and that the full right-of-way width is not needed for current or future development. [Ord. 867, 2002.]

15.86.280 Deferral of improvement installation.

(1) Applicability. If a developer wishes to defer certain improvements required in this chapter until after certificate of occupancy for any structure, or in the case of plats or subdivisions, final approval, a written application shall be made to the public works director stating the reasons why such a delay is necessary.

(2) Decision Criteria. (Reserved).

(3) Security Required. If the deferral is approved by the public works director for good cause shown by the applicant, the applicant shall furnish security to the town in the amount equal to 150 percent of the estimated cost of the installation and required improvements. The decision by the public works director as to the amount of such security shall be conclusive.

(4) Plans for Improvements. Should the public works director grant the deferral of part or all of the necessary improvements, the full and complete engineering drawings of the improvements shall be submitted as a condition precedent to the granting of any deferral.

(5) Waiver of Requirement for Plans. The public works director may waive the requirement for short plat improvement deferrals.

(6) Expiration. The security shall list the exact work that shall be performed by the applicant and shall specify that all of the deferred improvements shall be completed within the time specified by the public works director, and if no time is specified then not later than one year. For plats, if no time is established, then no later than one year from the date of approval of the final plat by the town council, or one year after the recording of a short subdivision. The security shall be held by the finance director.

(7) Extension of Time Limit. The public works director shall annually review deferred improvements and the securities. If the public works director determines that any improvements need not be installed immediately, the director may extend the deferral for an additional period up to an additional year. Any improvement deferred for five years shall be required to be installed or shall be waived by the public works director pursuant to LCMC 15.86.260(1), Alternate Requirements – Waivers, unless the public works director determines that the improvements will be needed within the following five years. Should the improvement installation begin before the expiration of the extension time limit, and the work is diligently pursued, the director may extend the deferral equivalent to the time necessary to complete the construction of the improvements, but subject to the continuation of the security.

(8) Acceptable Security. Security acceptable under this section may be cash, letter of credit provided that the funds cannot be withdrawn, spent, or committed to any third party, or savings account assigned to the town and blocked as to withdrawal by the secured party without town approval. Only if these security devices are unavailable to the applicant, or the applicant can show hardship, will the town accept a performance bond. Any security device must be payable to the town upon demand by the town and not conditioned upon the approval or other process involving the applicant. Security must be unequivocally committed to the project being secured, and cannot be available for any other purpose.

Any security that, according to the terms, lapses upon a date certain will cause the deferral to lapse on that same date unless additional adequate substitute security has been posted prior to the termination date of the prior security. Each security

document posted with the town must be approved by the town's attorney, whose decision as to the acceptability of the security shall be conclusive.

(9) Special Security Option for Deferral of Street Improvements. A restrictive covenant running with the land, signed and properly recorded after review by the town's attorney, may be accepted as security if the covenant guarantees that the property will join in any future LID established to install the required improvements in addition to the following conditions:

(a) There are no similar improvements in the vicinity and there is no likelihood that the improvements will be needed or required in the following five years.

(b) There will be no detrimental effects on public health, safety or welfare if the improvements are not installed.

(c) There is no likelihood that the zoning or land use on or adjacent to the site will change to a higher classification within a period of five years increasing the likelihood that the improvements will be needed.

(d) A covenant approved by the public works director shall contain language that stipulates the property owner will immediately install the deferred improvements at his/her expense upon a determination by the public works director that the improvements have become necessary.

(10) Special Security Option for Short Plats. A restrictive covenant running with the land, signed and properly recorded after the town attorney's review, may be accepted as security if the covenant guarantees that the property will join in any future limited improvement district established to install the required improvements in addition to the following conditions:

(a) The restrictive covenant for deferrals occurs only for a single-family development no larger than a short plat.

(b) There are no similar improvements in the vicinity and there is no likelihood that the improvements will be needed or required in the following five years.

(c) There will be no detrimental effects on public health, safety or welfare if the improvements are not installed.

(d) There is no likelihood that the zoning or land use on or adjacent to the site will change to a higher classification within a period of five years

increasing the likelihood that the improvements will be needed.

(e) A covenant approved by the public works director shall contain language that stipulates the property owner will immediately install the deferred improvements at his/her expense upon a determination by the public works director that the improvements have become necessary.

(11) Security Requirement Binding. The requirement of the posting of any security shall be binding on the applicant and the applicant's heirs, successors and assigns.

(12) Notification of Administrator. The public works director shall notify the town administrator in writing of the following:

- (a) The improvements deferred;
- (b) The amount of security or check deposited;
- (c) The time limit of the security or check;
- (d) The name of the bonding company and any pertinent information.

(13) Transfer of Responsibility. Whenever security has been accepted by the public works director, then no release of the owner or developer upon that security shall be granted unless a new party will be obligated to perform the work as agreed in writing to be responsible under security, and has provided security.

(14) Public Works Director Approval Required Prior to Transfer of Responsibility. The town shall not be required to permit a substitution of one party for another on any security, if the public works director, after review, determines that the new owner does not provide sufficient security to the town that the improvements will be installed when required.

(15) Proceeding Against Security. The town reserves the right, in addition to all other remedies available by law, to proceed against such security or other payment in lieu of. In case of any suit or action to enforce any provisions of this code, the developer shall pay the town all costs incidental to such litigation including reasonable attorney's fees. The applicant shall enter into an agreement with the town requiring payment of such attorney's fees. [Ord. 867, 2002.]

15.86.290 Appeals.

Any decisions made in the administrative process described in this section may be appealed to the hearing examiner pursuant to LCMC 15.12.130. [Ord. 867, 2002.]

15.86.300 Violations and penalties.

Violations of the provisions of this chapter will be a civil infraction and punishable under LCMC 15.135.330, 15.135.340 and 15.135.350, civil penalties. [Ord. 867, 2002.]

Chapter 15.90

OFF-STREET PARKING AND LOADING

Sections:

- 15.90.010 General requirements.
- 15.90.020 Off-street parking lots.
- 15.90.030 Minimum off-street parking requirements.
- 15.90.040 Screening requirements.

15.90.010 General requirements.

(1) Reservation and designation of an area for off-street parking facilities shall be required for all land uses in accordance with the standards and requirements of this chapter.

(2) Lighting of areas provided for off-street parking shall be so arranged that it shall not constitute a nuisance or hazard to passing traffic or residential areas.

(3) All off-street parking spaces shall be accessible to a public or private street, but the spaces may not project into public street or right-of-way. Up to 50 percent of the required parking spaces may be compact size with dimensions 8-1/2 feet wide by 16 feet long. See off-street parking design standards/diagram at the end of this section.

(4) Any business in the industrial zone and all new construction and gas stations in the commercial zone having access to a public thoroughfare shall provide an off-street loading/unloading space.

(5) Parking facilities for residential dwellings of any type shall be located on the same property.

(6) Recreational vehicles, travel trailers, boats, or commercial vehicles shall not be parked on a public right-of-way longer than 72 hours and shall be subject to the following:

(a) Boats stored on land shall not be used for dwelling purposes.

(b) Recreation vehicles shall be used only for supplemental dwelling purposes. Dwelling use shall be limited to 30 days per year except as listed in subsection (6)(c) of this section.

(c) Recreational vehicles may be used as a dwelling, if a permanent dwelling is under construction on the lot, provided:

(i) A building permit for construction of a permanent dwelling has been issued.

(ii) Electrical connections have been inspected and approved by the State Electrical Inspector.

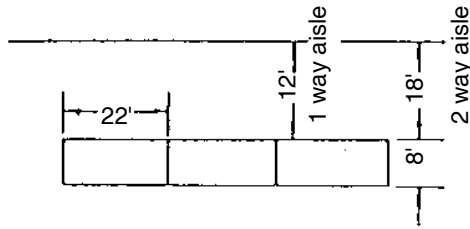
(iii) Use as a dwelling is discontinued when construction is completed, or within one year of issuance of the original building permit, whichever comes first.

(7) Two or more buildings and/or uses may collectively provide the required off-street parking; provided, that the number of spaces provided is no less than the sum of the required spaces for the several individual uses computed separately. Collective parking is subject to the provisions of LCMC 15.90.030(3)(c), wherein 50 percent of the required parking must be provided on-site. Collective parking may only be used when the buildings and/or uses are located immediately adjacent to each other. Legally binding documents between users shall be filed with and approved by the town.

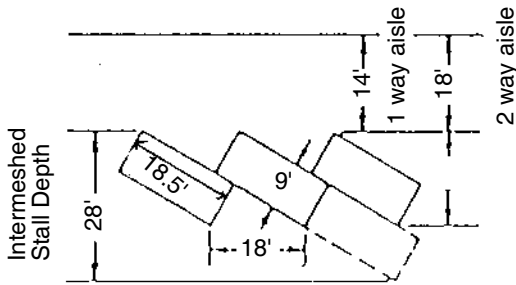
(8) Screening shall be provided when a commercial, industrial or public parking property abuts a residential area.

(9) A minimum of one barrier-free parking space shall be provided on-site for new construction in all zones except residential in accordance with the requirements of the International Building Code (IBC) for Barrier-Free Facilities. Existing buildings in industrial and public use zones shall also provide barrier-free parking spaces as required by the IBC.

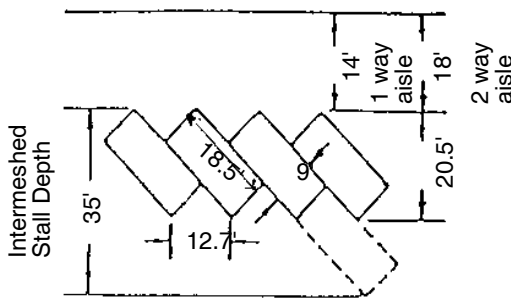
Off-Street Parking Design Standards



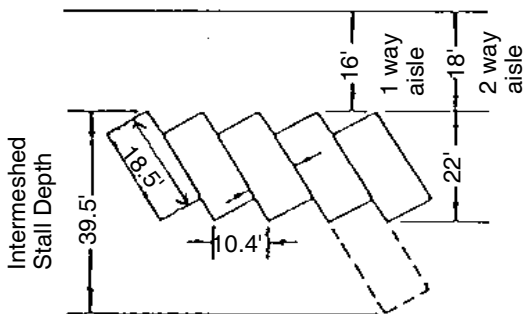
Parallel Parking



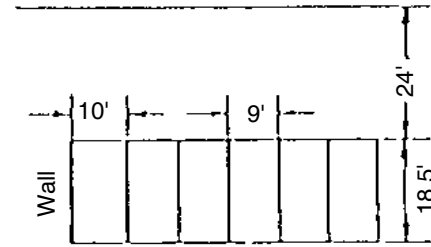
30° Parking



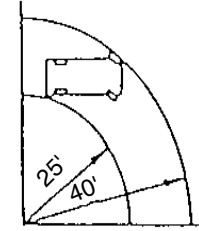
45° Parking



60° Parking

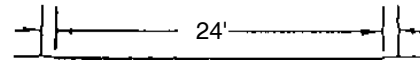


90° Parking

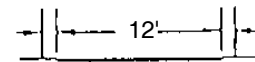


Minimum Turning Radius

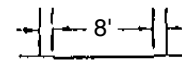
On-Site Driveway Standards



Two-Lane Drive: 24' Paved section.
26' between vertical obstructions.
25 or more spaces served.



One-Lane Drive: 12' Paved section.
14' between vertical obstructions.
Less than 25 spaces served.



One-Lane Drive: 8' Paved section.
10' between vertical obstructions.
Max. 2 residential spaces served.

Notes:

- Garage, carport and uncovered spaces with a wall on one or more sides shall be 10 feet by 18.5 feet. Unencumbered spaces may otherwise be 9 feet by 18.5 feet. Compact spaces shall be 8.5 feet by 16 feet.

[Ord. 963 § 6, 2005; Ord. 808 § 1, 2001; Ord. 685 § 2, 1996; Ord. 671 § 5.4.A, 1995.]

15.90.020

15.90.020 Off-street parking lots.

(1) All parking lots shall be improved with a minimum of two inches of gravel to eliminate problems of grading and drainage. All parking lots and driveways shall be impervious surface for purposes of computing maximum lot coverage.

(2) A parking lot shall be developed and completed as required in this code before an occupancy permit for the building is issued.

(3) Any ingress and egress agreements necessary for the functional use of a parking lot and/or loading area shall be executed by the respective property owners and recorded in the Skagit County auditor's office. [Ord. 808 § 1, 2001; Ord. 671 § 5.4.B, 1995.]

15.90.030 Minimum off-street parking requirements.

Minimum off-street parking requirements shall be determined in accordance with the following standards:

(1) Residential.

(a) Single-family, manufactured houses, duplexes – Two per unit.

(b) Multifamily dwellings, apartments, condominiums – Two per unit.

(2) Institutional.

(a) Hospitals, resthomes – One per three beds and one per staff.

(b) Senior housing and retirement homes – One per living unit and five per staff for each 60 living units or portion thereof.

(c) Elementary and middle schools – Two per classroom.

(d) High schools – Six per classroom.

(e) Auditoriums in conjunction with a school – One additional space per 100 square feet of floor area of the main auditorium, or portion thereof; or one additional space for each nine seats, or 18 feet of bench length, or portion thereof, whichever is greater.

(f) Day care/nurseries – one per full-time employee and one per load/unload area.

(3) Commercial.

(a) Any new construction or change in use shall comply with the off-street parking requirements set forth in this chapter, except that the property owner may pay a fee into the parking improvement fund in lieu of furnishing the required parking spaces that the owner does not or cannot provide on-site with the exception of hotels, motels, boarding houses, and bed and breakfasts, which must provide on-site facilities. The in-lieu-of fee may be used for up to 50 percent of the on-site parking requirements, pursuant to subsections (3)(d) and (3)(f) of this section.

(b) *Deleted by Ord. 842.*

(c) Adequate parking shall be provided as follows:

(i) Banks, offices and professional services: one per 400 square feet of floor area or portion thereof.

(ii) Retail and specialty shops, food and convenience stores: one per 400 square feet of usable retail floor area.

(iii) Storage and processing areas in conjunction with a commercial use: one per 1,000 square feet.

(iv) Hotels, motels, boarding houses, bed and breakfasts: one per each paid unit plus one per on-site manager.

(v) Eating and drinking establishments: one per 200 square feet of net floor area, or portion thereof.

(vi) All new construction in commercial zones shall provide a minimum of one barrier-free parking space on-site, and provide a loading area for passengers and/or freight.

(vii) Each residential unit in commercial zones shall provide one space for the first 1,200 square feet of the unit, and one additional space is required if the unit is larger than 1,200 square feet.

(viii) Fractional space requirements shall be rounded to the nearest whole space.

(ix) Requirements for uses not specifically listed herein shall be determined by the planning director based upon the requirements for comparable uses and upon the particular characteristics of the use. The planning director shall use this section as a guide when appropriate.

(x) In-lieu parking fees will not be made available to areas that are zoned residential or used for residential purposes.

(d) The parking requirements for a business use in a commercial zone shall be satisfied by providing the necessary parking on-site. Up to 50 percent of the required parking may be provided off-site or by the payment of an in-lieu parking fee.

(e) For existing structures which do not meet the above parking requirements, an annual fee shall be paid for each space required, but not provided, as may be established by town council in the fee ordinance. This sum shall be paid to the clerk-treasurer on or before January 10th of each year, in conjunction with business license fees, no proration. These moneys shall be deposited and utilized in the town parking improvement fund.

(f) If a reduction in barrier free parking requirements of this code is proposed by an applicant, the applicant must demonstrate that the proposed reduction assures continued compliance with state and federal requirements related to barrier free parking.

(g) The in-lieu parking fee shall be \$4,800 per space required or such other amount as the town council shall hereafter set by ordinance or resolution.

(h) The in-lieu parking fee shall be based on the following conditions:

(i) The fee shall be based on all anticipated costs as established in subsection (3)(h)(ii) of this section, and as recorded in the fee schedule. This amount may be amended from time to time. The amount of the fee shall be established annually

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by the town council with the advice of the town's public works director and planning director based on the current prices for purchase of land and construction of off-street parking spaces or rental fee for each required space.

(ii) The fees collected by the town shall be used for planning, acquisition, design, development, construction, financing, maintenance and operation, and enhancement of off-street parking facilities, and/or other programs intended to provide an appropriate supply and/or lessen the demand for parking spaces to serve the downtown business area.

(iii) The fee shall be paid before a building permit is issued.

(iv) In-lieu parking fees will not be made available to areas that are zoned or used for residential purposes.

(i) This regulation shall not be construed so as to preclude the imposition of a parking impact fee in the future, should the town council decide to do so. This fee should be based on the acquisition cost of additional parking facilities that would be needed to offset the impact of the new development.

(j) Parking Fund. There is hereby created a special fund to be known as the parking improvement fund. All payments made to the town in lieu of parking requirements on site shall be deposited into such fund, upon receipt. The fund shall be used exclusively for planning, acquisition, design, development, construction, financing, maintenance and operation, and enhancement of off-street parking facilities, and/or other programs intended to provide an appropriate supply and/or lessen the demand for parking spaces to serve the downtown business area. These goals should be consistent with the project priorities set forth in the parking development plan as adopted by the town council.

(k) Parking Exemption. In the event the town develops a street-end park or similar pedestrian-oriented area in an existing public right-of-way that prevents adequate access to or reduce turn-around space for off-street parking required of an adjacent property owner by code, such adjacent property owner may request a reduction of their off-street parking requirement by the number of off-street parking places for which access or safe turn-around space has been prevented.

Any approved development of property previously used for off-street parking but eliminated

by town development will not be subject to the off-street parking or fee in-lieu-of requirements.

This exemption does not apply to any property owner whose existing property does not or has not met off-street parking requirements.

(4) Amusement and Public Assembly.

(a) Churches and funeral homes – One per each 100 square feet, or portion thereof, of assembly area;

(b) Dance halls, places of assembly, skating rinks, and other commercial recreation places – One per each 100 square feet, or portion thereof, of assembly area;

(c) Athletic and health clubs – One per 200 square feet, or portion thereof, of exercise area;

(d) Stadiums, sports arenas, auditoriums, and places of assembly with fixed seating – One per three seats;

(e) Outdoor sports or parks without fixed seats are exempt;

(f) Exhibition halls, museums or libraries – One per 250 square feet or portion thereof.

(5) Industrial, Manufacturing and Processing.

(a) One for each employee on largest shift or one per each 600 square feet up to 25,000 square feet of gross area and one for each 1,000 square feet over 25,000 square feet of gross area, whichever is greater;

(b) Offices – one per 300 square feet gross floor area or portion thereof.

(6) Wholesale Stores, Warehouses, and Storage Buildings.

(a) Zero to 24,999 square feet – One per 2,000 square feet;

(b) 25,000 square feet and over – One per 5,000 square feet.

(7) Boat moorage, slip, or storage (public, private or pleasure) – One-half space per slip, excluding transient moorage.

(8) Requirements for uses not specifically listed herein shall be determined by the planning director based upon the requirements for comparable uses and upon the particular characteristics of the use. The planning director shall use this section as a guide when appropriate. [Ord. 918 § 1, 2004; Ord. 884 § 2, 2003; Ord. 852, 2002; Ord. 842 §§ 15, 17, 18, 19, 2002; Ord. 808 § 1, 2001; Ord. 791, 2000; Ord. 697 § 1, 1997; Ord. 671 § 5.4.C, 1995.]

15.90.040 Screening requirements.

The size of the planting area shall be as specified below, based on the type of screening used:

(1) Minimum Width. Screening shall be 10 feet wide unless the use of a fence or wall is incorporated into the screening, as provided under subsections (2) or (3) of this section.

(2) Fence Alternative. If a fence option is selected, the height shall be at least five feet and the width of the screening area may be reduced to two feet. The fence shall be constructed of wood and be sight-obscuring.

(3) Wall Alternative. If a wall at least five feet high is to be used for screening, the width of the screening area may be reduced to two feet. Climbing plants and vines shall be used to add texture and soften the appearance of the wall. Screen walls shall be constructed with masonry, blocks, or textured concrete, subject to design approval by the planner or planning commission. [Ord. 808 § 1, 2001; Ord. 671 § 5.4.D, 1995.]

Chapter 15.95

UTILITIES

Sections:

- 15.95.010 Requirements for all development.
- 15.95.020 Design standards.
- 15.95.030 Placement of utilities underground.
- 15.95.040 Utility easements.

15.95.010 Requirements for all development.

The following basic utilities are required for all development subject to the criteria listed herein as well as the goals and policies outlined in the comprehensive plan:

- (1) Electricity;
- (2) Telephone;
- (3) Potable water;
- (4) Sanitary sewer;
- (5) Natural gas/oil;
- (6) Illumination. All streets, driveways, sidewalks, bikeways, parking lots and other common areas and facilities in developments shall provide illumination meeting local and state standards;
- (7) Fire hydrants. [Ord. 671 § 5.5.A, 1995.]

15.95.020 Design standards.

All utilities required by this code shall meet or exceed the minimum standards set by local and state agencies. [Ord. 671 § 5.5.B, 1995.]

15.95.030 Placement of utilities underground.

(1) All underground utilities shall be installed, within easements or dedicated public rights-of-way, in accordance with local and state requirements.

(2) Lots abutting existing easements or public rights-of-way where overhead electric, telephone, or cable television distribution supply lines and service connections have previously been installed may be supplied with such services from the utilities' overhead facilities provided the service connection to the site or lot are placed underground.

(3) Screening of any utility apparatus placed above ground shall be required. [Ord. 671 § 5.5.C, 1995.]

15.95.040 Utility easements.

When a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such

15.95.040

facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate such facilities. [Ord. 671 § 5.5.D, 1995.]

Chapter 15.100

STORM WATER MANAGEMENT

Sections:

Article I. General Provisions

- 15.100.010 Purpose.
- 15.100.020 Findings of fact.
- 15.100.030 Need.
- 15.100.040 General provisions.
- 15.100.050 Applicability.
- 15.100.060 Regulated activities and allowed activities.
- 15.100.070 General requirements.

Article II. Small Parcel Minimum Requirements

- 15.100.080 Small parcel minimum requirements.

Article III. Large Development Minimum Requirements

- 15.100.090 New development.
- 15.100.100 Redevelopment.
- 15.100.110 Redevelopment conditions.
- 15.100.120 Minimum requirement #1 – Erosion and sediment control.
- 15.100.130 Minimum requirement #2 – Preservation of natural drainage systems.
- 15.100.140 Minimum requirement #3 – Source control of pollution.
- 15.100.150 Minimum requirement #4 – Runoff treatment BMPs.
- 15.100.160 Minimum requirement #5 – Streambank erosion control.
- 15.100.170 Minimum requirement #6 – Wetlands.
- 15.100.180 Minimum requirement #7 – Water quality sensitive areas.
- 15.100.190 Minimum requirement #8 – Off-site analysis and mitigation.
- 15.100.200 Minimum requirement #9 – Operation and maintenance.
- 15.100.210 Minimum requirement #10 – Financial liability.

Article IV. Administration and Enforcement

- 15.100.220 Administration.
- 15.100.230 Enforcement.

15.100.240 Variance and appeals.

Article I. General Provisions

15.100.010 Purpose.

(1) The town of La Conner intends to comply with the requirements of RCW 90.70.070 in establishing and implementing a storm water management program consistent with the Puget Sound Water Quality Management Plan. Further, the town finds that the provisions of the 1992 Storm Water Management Manual for the Puget Sound Basin (The Technical Manual), and subsequent amendments thereto, would best serve as a guideline for implementing this code.

(2) The provisions of this code are intended to guide new development or redevelopment within the town of La Conner and establish the minimum level of compliance which must be met to permit a property to be developed or redeveloped within the town. It is the purpose of this code to:

(a) Minimize water quality degradation and sedimentation in the Swinomish Channel and other water bodies within the town of La Conner and surrounding areas.

(b) Minimize the impact of increased runoff, erosion and sedimentation caused by land development and maintenance practices.

(c) Decrease potential landslide, flood and erosion damage to public and private property.

(d) Promote site planning and construction practices that are consistent with natural topographical, vegetational and hydrological conditions.

(e) Maintain and protect the town storm water management infrastructure.

(f) Provide a means of regulating clearing and grading of private and public land while minimizing water quality impacts in order to protect public health and safety.

(g) Provide minimum development regulations and construction procedures which will preserve, replace or enhance, to the maximum extent practicable, existing vegetation to preserve and enhance the natural qualities of lands, wetlands and water bodies. [Ord. 671 § 5.6.A, 1995.]

15.100.020 Findings of fact.

The town of the La Conner hereby finds that:

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(1) Storm water pollution is a problem associated with land use and development and the common occurrence of potential pollutants, including, but not limited to pesticides, fertilizers, petroleum products, and pet wastes.

(2) Land use and development is also known to increase runoff volume and peak flows. The resulting erosion, scouring, and deposition of sediment could affect the ecological balance of nearby water bodies.

(3) Storm water pollution can cause or contribute to loss of aquatic resources and restrictions on public use of the Swinomish Channel and sloughs adjacent to the town of La Conner.

(4) An expanding population and increased development of land can lead to:

(a) Water quality degradation through discharge of nutrients, metals, oil and grease, toxic materials, and other detrimental substances including insect and weed control compounds; and

(b) Drainage and storm and surface water runoff problems within the town of La Conner.

(5) Lack of a storm water management system could lead to water quality degradation, erosion, property damage; and possibly endanger the health and safety of the inhabitants of the town of La Conner.

(6) In the future such potential problems and dangers will be reduced or avoided if existing properties and future developers, both private and public, provide for storm water quality and quantity controls.

(7) Storm water quality and quantity controls can be achieved when land is developed or redeveloped by implementing and maintaining appropriate best management practices (BMPs).

(8) The adoption of this code will provide a means for implementation of the town's storm water comprehensive plan. [Ord. 671 § 5.6.B, 1995.]

15.100.030 Need.

The town of La Conner finds that this code is necessary in order to:

(1) Minimize or eliminate water quality degradation.

(2) Prevent erosion and sedimentation in the Swinomish Channel.

(3) Avoid adverse impacts on the natural, aesthetic, and recreational resources of the Swinomish Channel.

(4) Ensure the safety of town of La Conner streets and rights-of-way.

(5) Decrease storm water-related damage to public and private property from existing and future runoff.

(6) Protect the health, safety and welfare of the town's inhabitants. [Ord. 671 § 5.6.C, 1995.]

15.100.040 General provisions.

(1) Abrogation and Greater Restrictions. It is not intended that this code repeal, abrogate, or impair any existing regulations, easements, covenants, or deed restrictions. However, where this code imposes greater restrictions, the provisions of this code shall prevail.

(2) Interpretation. The provisions of this code shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this code. [Ord. 671 § 5.6.D, 1995.]

15.100.050 Applicability.

(1) When any provision of any other ordinance of the town of La Conner conflicts with this code, that which provides more environmental protection shall apply unless specifically provided otherwise in this code.

(2) The town council is authorized to adopt written procedures for the purpose of carrying out the provisions of this code.

(3) Meeting the requirements of this code shall be a condition of the town of La Conner granting any approval or permission to conduct a regulated activity including, but not limited to, the following: building permit, commercial or residential; conditional use permit; fill, grading and clearing permit; master plan development; planned unit development; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; variance; zone reclassification; short plat, special use permit; utility and other use permit; or any subsequently adopted permit or required approval not expressly exempted by this code.

(4) A storm water control plan must be submitted and approved before any activity regulated by this code is conducted within the town of La Conner. [Ord. 671 § 5.6.E, 1995.]

15.100.060 Regulated activities and allowed activities.

Consistent with the minimum requirements contained in this code, the town of La Conner shall approve or disapprove the following activities:

- (1) New Development.
 - (a) Land disturbing activities;
 - (b) Structural development, including construction, installation or expansion of a building or other structure;
 - (c) Creation of impervious surfaces;
 - (d) Short subdivisions;
 - (e) Multifamily and planned unit developments.
- (2) Redevelopment. On an already developed site, the creation or addition of impervious surfaces, structural development including construction, installation or expansion of a building or other structure, land disturbing activity, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land disturbing activities associated with structural or impervious redevelopment. [Ord. 671 § 5.6.F, 1995.]

15.100.070 General requirements.

(1) Storm Water Management Manual Adopted. The latest edition, now or as hereafter amended, of the Washington State Department of Ecology's Storm Water Management Manual for the Puget Sound Basin (The Technical Manual) is hereby adopted by reference and is hereinafter referred to as the manual.

(2) Storm Water Best Management Practices (BMPs). BMPs shall be used to control storm water quantity and quality. BMPs shall be used to comply with the standards in this code. BMPs are in the manual.

(3) Illicit Discharges. Illicit discharges to storm water drainage systems are prohibited. [Ord. 671 § 5.6.G, 1995.]

Article II. Small Parcel Minimum Requirements

15.100.080 Small parcel minimum requirements.

(1) The following new development shall be required to control erosion and sediment during construction, to permanently stabilize soil exposed

during construction, and to comply with small parcel requirements (3)(a) through (3)(e) of this section:

- (a) Individual, detached, single-family residences and duplexes;
- (b) Creation or addition of less than 5,000 square feet of impervious surface area;
- (c) Land disturbing activities of less than one acre.

(2) Compliance shall be demonstrated through the implementation of an approved small parcel erosion and sediment control plan.

(3) Small Parcel Requirements.

(a) Construction Access Route. Construction vehicle access shall be, whenever possible, limited to one route. Access points shall be stabilized with quarry spall or crushed rock to minimize the tracking of sediment onto public roads.

(b) Stabilization of Exposed Soil Areas. All exposed soils shall be stabilized by suitable application of BMPs, including but not limited to, sod or other vegetation, plastic covering, mulching, or application of ground base on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with an approved manual. From October 1st through April 30th, no soil shall remain exposed for more than two days unless other erosion sediment control BMPs are implemented. From May 1st through September 30th, no soils shall remain exposed for more than seven days unless other erosion sediment control BMPs are implemented.

(c) Protection of Adjacent Properties. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barriers or filter, dikes or mulching, or by a combination of these measures and other appropriate BMPs concurrent with start of construction and subject to approval by public works.

(d) Maintenance. All erosion and sediment control BMPs shall be regularly inspected and maintained to ensure continued performance of their intended function.

(e) Other BMPs. As required by the director of public works, other appropriate BMPs to mitigate the effects of increased runoff shall be applied. [Ord. 671 § 5.6.H.1, 1995.]

Article III. Large Development Minimum Requirements

15.100.090 New development.

(1) Multifamily development with more than two units.

(2) All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and/or land disturbing activity of one acre or greater, shall comply with the minimum requirements #1 through #10 found in LCMC 15.100.120 through 15.100.210.

(3) Compliance shall be demonstrated through the implementation of an approved storm water site plan consisting of a large parcel ESC plan and a PSQC plan, as appropriate.

(4) All new development that includes the creation or addition of 5,000 square feet, or greater, of new impervious surface area, and land disturbing activity of less than one acre, shall comply with the minimum requirements #2 through #10 found in LCMC 15.100.130 through 15.100.210 and the small parcel minimum requirements found in LCMC 15.100.080.

(5) Compliance shall be demonstrated through the implementation of an approved storm water site plan that includes a small parcel ESC plan and PSQC plan.

(6) This chapter does not apply to the construction of individual, detached, single-family residences and duplexes. These types of new development are included in the small parcel minimum requirements. [Ord. 671 § 5.6.H.2.a, 1995.]

15.100.100 Redevelopment.

(1) Where redevelopment of 5,000 square feet or more occurs new development minimum requirements #1 through #10 in LCMC 15.100.120 through 15.100.210 shall apply to that portion of the site that is being redeveloped, and source control BMPs shall be applied to the entire site, including adjoining parcels if they are part of the project.

(2) In addition to the above requirements, where one or more of the following conditions apply, a storm water management plan shall be prepared that includes a schedule for implementing the minimum requirements to the maximum extent practicable, for the entire site, including adjoining parcels if they are part of the project. [Ord. 671 § 5.6.H.2.b, 1995.]

15.100.110 Redevelopment conditions.

(1) Existing sites greater than one acre in size with 50 percent or more impervious surface.

(2) Sites that discharge to a receiving water that has a documented water quality problem. A documented water quality problem includes, but is not limited to, water bodies:

(a) Listed in reports required under section 305(b) of the Clean Water Act, and designated as not supporting beneficial uses;

(b) Listed under section 304(I)(1)(B) of the Clean Water Act as not expected to meet water quality standards or water quality goals;

(c) Listed in Washington State's Nonpoint Source Assessment required under section 319(a) of the Clean Water Act that, without additional action to control nonpoint sources of pollution cannot reasonably be expected to attain or maintain water quality standards.

(3) Sites where the need for additional storm water control measures have been identified through Growth Management Act Planning. [Ord. 671 § 5.6.H.2.c, 1995.]

15.100.120 Minimum requirement #1 – Erosion and sediment control.

All new development and redevelopment that includes land disturbing activities of one acre or more shall comply with erosion and sediment control requirements (1) through (15), below. Compliance with the erosion and sediment control requirements shall be demonstrated through implementation of an approved large parcel erosion and sediment control plan.

All new development and redevelopment that includes land disturbing activities of less than one acre shall comply with the small parcel minimum requirements found in LCMC 15.100.080.

Compliance with the small parcel requirements shall be demonstrated through implementation of a small parcel erosion and sediment control plan.

The following erosion and sediment control requirements shall be met:

(1) Stabilization and Sediment Trapping. All exposed and unworked soils shall be stabilized by suitable application of BMPs. From October 1st to April 30th, no soils shall remain unstabilized for more than two days unless other erosion sediment control BMPs are implemented. From May 1st to September 30th, no soils shall remain unstabilized

for more than seven days unless other erosion sediment control BMPs are implemented. Prior to leaving the site, storm water runoff shall pass through a sediment pond or sediment trap, or other appropriate BMPs.

(2) Delineate Clearing and Easement Limits. In the field, mark clearing limits and/or any easements, setbacks, sensitive/critical areas and their buffers, trees and drainage courses.

(3) Protection of Adjacent Properties. Properties adjacent to the project site shall be protected from sediment deposition.

(4) Timing and Stabilization of Sediment Trapping Measures. Sediment ponds and traps, perimeter dikes, sediment barriers, and other BMPs intended to trap sediment on-site shall be constructed as a first step in grading. These BMPs shall be functional before land disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched according to the timing indication in erosion and sediment control requirement (1).

(5) Cut and Fill Slopes. Cut and fill slopes shall be designated and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with erosion and sediment control requirement (1).

(6) Controlling Off-Site Erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of storm water runoff from the project site.

(7) Stabilization of Temporary Conveyance Channel and Outlets. All temporary on-site conveyance channels shall be designed, constructed and stabilized to prevent erosion from the expected velocity of flow from a 2-year, 24-hour frequency storm for the developed condition. Stabilization adequate to prevent erosion of outlets, slopes and downstream reaches shall be provided at the outlets of all conveyance systems.

(8) Storm Drain Inlet Protection. All storm drain inlets made operable during construction shall be protected so that storm water runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment.

(9) Underground Utility Construction. The construction of underground utility lines shall be subject to the following criteria:

(a) Where feasible, no more than 500 feet of trench shall be opened at one time.

(b) Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.

(c) Trench dewatering devices shall discharge into a sediment trap or sediment pond except during emergency situations.

(10) Construction Access Routes. Whenever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud) onto the paved road. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.

(11) Removal of Temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within 30 days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized.

(12) Dewatering Construction Sites. Dewatering devices shall discharge into a sediment trap or sediment pond except during emergency situations.

(13) Control of Pollutants other than Sediment on Construction Sites. All pollutants other than sediment that occur on-site during construction shall be handled and disposed of in a manner that does not cause contamination of storm water.

(14) Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be constructed in accordance with an approved manual.

(15) Financial Liability. Performance bonding, or other appropriate financial instruments, may be required for all projects to ensure compliance with the approved erosion and sediment control plan. [Ord. 671 § 5.6.H.2.d, 1995.]

15.100.130 Minimum requirement #2 – Preservation of natural drainage systems.

Natural drainage patterns shall be maintained, and discharges from the site shall occur at the natural location, to the maximum extent practicable. [Ord. 671 § 5.6.H.2.e, 1995.]

15.100.140 Minimum requirement #3 – Source control of pollution.

Source control BMPs shall be applied to all projects to the maximum extent practicable. Source control BMPs shall be selected, designed, and maintained according to an approved manual. [Ord. 671 § 5.6.H.2.f, 1995.]

15.100.150 Minimum requirement #4 – Runoff treatment BMPs.

(1) All projects shall provide treatment of storm water. Treatment BMPs shall be sized to capture and treat the water quality design storm, defined as the 6-month, 24-hour return period storm. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and ground water quality will not be impaired. Direct discharge of untreated storm water to ground water is prohibited. All treatment BMPs shall be selected, designed, and maintained according to an approved manual.

(2) Storm water treatment BMPs shall not be built within a natural vegetated buffer, except for necessary conveyance systems as approved by the town of La Conner. [Ord. 671 § 5.6.H.2.g, 1995.]

15.100.160 Minimum requirement #5 – Streambank erosion control.

The requirement below applies only to situations where storm water runoff is discharged directly or indirectly to a stream or where proposed development or land disturbing activity generates more impervious areas than adopted land use ordinances intend, and must be met in addition to meeting the requirements in minimum requirement #4, runoff treatment BMPs:

(1) Storm water discharges to streams shall control streambank erosion by limiting the peak rate of runoff from individual development sites to 50 percent of the existing condition 2-year, 24-hour design storm while maintaining the existing

condition peak runoff rate for the 10-year, 24-hour and 25-year, 24-hour design storms. As the first priority, streambank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and ground water quality is protected. Streambank erosion control BMPs shall be selected, design, and maintained according to an approved manual.

(2) Storm water treatment BMPs shall not be built within a vegetated buffer, except for necessary conveyance as approved by the local government. [Ord. 671 § 5.6.H.2.h, 1995.]

15.100.170 Minimum requirement #6 – Wetlands.

The requirements below apply only to situations where storm water discharges directly or indirectly through a conveyance system into a wetland, and must be met in addition to meeting the requirements in minimum requirement #4, runoff treatment BMPs:

(1) Storm water discharges to wetlands must be controlled and treated to the extent necessary to meet the State Water Quality Standards, Chapter 173-201 WAC, or Ground Water Quality Standards, Chapter 173-200 WAC, as appropriate.

(2) Discharge to wetlands shall maintain the hydroperiod and flows of existing site conditions to the extent necessary to protect the characteristic uses of the wetland. Prior to discharging to a wetland, alternative discharge locations shall be evaluated, and natural water storage and infiltration opportunities outside the wetland shall be maximized.

(3) Storm water treatment BMPs shall not be built within a vegetated buffer, except for necessary conveyance systems as approved by the local government. [Ord. 671 § 5.6.H.2.i, 1995.]

15.100.180 Minimum requirement #7 – Water quality sensitive areas.

(1) Where the public works director determines that the minimum requirements do not provide adequate protection of water quality sensitive areas, either on-site or within the basin, more stringent controls shall be required to protect water quality.

(2) Storm water treatment BMPs shall not be built within a local vegetated buffer, except for necessary conveyance systems as approved by the town. [Ord. 671 § 5.6.H.2.j, 1995.]

15.100.190 Minimum requirement #8 – Off-site analysis and mitigation.

An analysis of off-site water quality impacts resulting from a project shall be conducted for all development projects and any impacts shall be mitigated. The analysis shall be provided downstream from the project if subject to minimum requirement #5. The existing or potential impacts to be evaluated and mitigated shall include, at a minimum, but not limited to:

- (1) Excessive sedimentation;
 - (2) Streambank erosion;
 - (3) Discharges to ground water contributing or recharge zones;
 - (4) Violations of water quality standards;
 - (5) Spills and discharges of priority pollutants.
- [Ord. 671 § 5.6.H.2.k, 1995.]

15.100.200 Minimum requirement #9 – Operation and maintenance.

An operation and maintenance schedule shall be provided for all proposed storm water facilities and BMPs, and the party (or parties) responsible for maintenance and operation shall be identified. [Ord. 671 § 5.6.H.2.l, 1995.]

15.100.210 Minimum requirement #10 – Financial liability.

Performance bonding or other appropriate financial instruments may be required for all projects to ensure compliance with these standards. [Ord. 671 § 5.6.H.2.m, 1995.]

Article IV. Administration and Enforcement**15.100.220 Administration.**

(1) Director. The public works director or designee shall administer this code and shall be referred to as the director. The director shall have the authority to develop and implement administrative procedures to administer and enforce this code.

(2) Review and Approval. Prior to approval of any regulated activity the director may recommend approval, conditional approval or denial of an application for any such activity based on the activity's compliance with the provisions of this code.

(3) Inspection. All activities regulated by this code shall be inspected by the director. The director shall inspect projects at various stages of the

work requiring approval to determine that adequate control is being exercised. Stages of work requiring inspection include, but are not limited to, pre-construction, installation of utilities, landscaping, retaining walls and completion of project. When required by the director, a special inspection and/or testing shall be performed at the applicant's expense and to reasonable standards set by the director. [Ord. 671 § 5.6.I, 1995.]

15.100.230 Enforcement.

(1) Enforcement Authority. The director of public works, as the town council designee, in conjunction with the planning director, shall enforce this code.

(2) General. All violations of this code are determined to be detrimental to the public health, safety, and welfare and are hereby declared to be public nuisances. All conditions which are determined by the director or the town council to be in violation of this code shall be subject to the provisions of the town of La Conner uniform development code enforcement procedures, and any amendments thereto, or any other enforcement method authorized by law, and shall be corrected by any reasonable and lawful means as provided therein, except that:

(a) The choice of enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of documented bad faith of the person subject to the enforcement action.

(b) A civil penalty shall be imposed for violations of any of the requirements outlined in this code in the amount of \$500.00 per day for each continuous violation to be directly assessed by the town council until such violation is corrected. Each and every such violation shall be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this chapter and subject to the penalty herein provided for. In addition, a civil penalty so imposed shall be separate and distinct from any civil penalty levied by the Washington State Department of Ecology for such violation.

(3) Penalties Due. Penalties imposed under this chapter shall become due and payable upon receipt unless an application for reconsideration is made or

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an appeal is filed. Whenever an application for reconsideration or appeal is made, penalties shall become due and payable 30 days after receipt of the decision regarding the reconsideration or appeal. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. The town may take actions necessary to recover such penalty under any provision of law. Any judicial award pursuant hereto shall include an award of the town's reasonable attorney fees and costs.

(4) Penalty Recovered. Penalties recovered shall be credited to the drainage fund. [Ord. 671 § 5.6.J, 1995.]

15.100.240 Variance and appeals.

(1) The town council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination, except as to recommendations made pursuant to LCMC 15.100.220(2), Administration, made by the director in the enforcement or administration of this code.

(2) Exceptions to the requirements of this code may be granted after a public hearing by the hearing examiner, prior to permit approval and construction; provided, that a written finding of fact is prepared that addresses the following:

(a) The exception provides equivalent environmental protection and is in the overriding public interest; and that the objectives of safety, function, environmental protection and facility maintenance, based upon sound engineering, are fully met;

(b) That there are special physical circumstances or conditions affecting the property such that the strict application of these provisions would deprive the applicant of all reasonable use of the parcel of land in question, and every effort to find creative ways to meet the intent of the minimum standards has been made;

(c) That the granting of the exception will not be detrimental to the public health and welfare, nor injurious to other properties in the vicinity and/or downstream, and to the quality of water of the state; and

(d) The exception is the least possible exception that could be granted to comply with the intent of the minimum requirements.

(3) In granting a variance, the hearing examiner may prescribe conditions that are deemed necessary or desirable for the public interest.

(4) Any exception shall be approved prior to permit approval and construction.

(5) Duration of Variance. Upon granting of a variance, construction shall be complete within two years.

(6) Right of Appeal. Any judicial appeal thereof shall be commenced within 21 days of final action. [Ord. 898 § 4, 2003; Ord. 671 § 5.6.K, 1995.]

Chapter 15.105
LANDSCAPING

Sections:

- 15.105.010 Purpose.
- 15.105.020 Applicability.
- 15.105.030 General standards.
- 15.105.040 Landscape materials.
- 15.105.050 Existing site vegetation.
- 15.105.060 Corner vision.
- 15.105.070 Safety features – Utilities.
- 15.105.080 Right-of-way landscaping.
- 15.105.090 Maintenance.
- 15.105.100 Performance assurance – Bonding.
- 15.105.110 Pre-existing development – Alterations.
- 15.105.120 Street frontage requirements.
- 15.105.130 Perimeter landscaping.
- 15.105.140 Parking lot landscaping.
- 15.105.150 Screening requirements.
- 15.105.160 Review procedures – Minor modifications.

15.105.010 Purpose.

Landscaping is necessary to provide a well-balanced, aesthetically pleasing environment for the residents and visitors of La Conner. Specifically, the requirements of this chapter are intended to accomplish the following:

- (1) Maintain and enhance property values;
- (2) Enhance the appearance of the development;
- (3) Provide adequate buffers between different users;
- (4) Improve the character and appearance of the town;
- (5) Reduce erosion and storm water runoff. [Ord. 671 § 5.7.A, 1995.]

15.105.020 Applicability.

The standards of this chapter shall apply to all development within the town, except:

- (1) A single-family residence in any district in which a single-family residence is allowed.
- (2) The Historic Preservation District. This area shall be subject to the provisions of Chapter 15.50 LCMC. [Ord. 671 § 5.7.B, 1995.]

15.105.030 General standards.

The following general standards shall apply to all landscaping required under this chapter. [Ord. 671 § 5.7.C, 1995.]

15.105.040 Landscape materials.

Landscaped materials shall include the use of evergreen or deciduous trees and shrubs, perennial or annual flowers, and lawn or combination of such materials. No artificial lawn or plants will be permitted in landscaped areas. [Ord. 671 § 5.7.C.1, 1995.]

15.105.050 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. Trees shall be treated in accordance with Chapter 15.60 LCMC, Trees. [Ord. 671 § 5.7.C.2, 1995.]

15.105.060 Corner vision.

All landscaping shall provide for unobstructed visibility at intersections as outlined in Transportation Systems LCMC 15.75.130. [Ord. 671 § 5.7.C.3, 1995.]

15.105.070 Safety features – Utilities.

Installation of landscape materials shall not obstruct access to fire hydrants, standpipes, sprinkler connections, utility vaults, telephone pedestals, and other public and private utility facilities. [Ord. 671 § 5.7.C.4, 1995.]

15.105.080 Right-of-way landscaping.

In addition to all other landscaping requirements, the developer may landscape the unused right-of-way between the front property lines(s) and the improved roadway, subject to town planner approval. [Ord. 671 § 5.7.C.5, 1995.]

15.105.090 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

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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 be in violation of this code. [Ord. 671 § 5.7.C.6, 1995.]

15.105.100 Performance assurance – Bonding.

Unless otherwise required by the planning commission, 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 equal to 120 percent 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. [Ord. 671 § 5.7.C.7, 1995.]

15.105.110 Pre-existing development – Alterations.

Any development existing prior to the adoption of this chapter which does not satisfy the provisions of this chapter shall be considered a nonconforming use. Additions or alterations to these nonconforming buildings shall require that landscaping commensurate with the extent of improvement be provided in compliance with the provisions of this chapter. [Ord. 671 § 5.7.D, 1995.]

15.105.120 Street frontage requirements.

Planting areas along street frontages shall be designed to soften and enhance the development on the site and provide a pleasant pedestrian environment. Landscaping may include planter boxes, raised planter beds, street trees (which do not conflict with underground or overhead utilities). Plants shall be selected for their seasonal colors and interesting textures. Plants with barbs, thorns, poisonous flowers or berries, and other such characteristics shall be avoided along street frontages. [Ord. 671 § 5.7.E, 1995.]

15.105.130 Perimeter landscaping.

Plantings shall be required in areas within side and rear yards which area is not occupied by structures. A minimum of one tree shall be planted for every 30 linear feet, or fraction thereof, of perimeter length. Shrubs and ground cover plantings shall be in quantities and spacing that will provide for 80 percent ground coverage within three years. When applicable, the screening requirements in LCMC 15.105.150 shall supersede the requirements of this section. [Ord. 671 § 5.7.F, 1995.]

15.105.140 Parking lot landscaping.

Landscaping within parking areas is intended to soften the visual effect created by large expanses of barren asphalt or gravel; increase the amount of permeable surface; and reduce the quantity and speed of runoff from the site. Parking area landscaping shall be located along road frontages and at the ends of parking columns or between parking stalls or rows of parking to break up and define parking areas. [Ord. 671 § 5.7.G, 1995.]

15.105.150 Screening requirements.

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

(1) The requirements of this section are intended to reduce the visual impacts and incompatible characteristics of:

(a) Abutting properties with different land use classifications;

(b) Service areas and facilities, including loading and storage areas;

(c) Any other use or area as required under this section or by the planning commission.

(2) Screen planting shall consist of evergreen trees, such as fir, cedar, pine, etc., planted a maximum of 15 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 85 percent of the ground surface within two years.

(3) Dimensional Requirements. The size of the planting area shall be as specified below, based on the type of screening used:

(a) Minimum Width. Screening area shall be 10 feet wide unless the use of a fence or wall is

incorporated into the screening, as provided under (b) or (c) below.

(b) Fence Alternative. If a fence option is selected, the width of the screening area may be reduced to five feet. The fence shall be constructed of wood and be sight-obscuring.

(c) Wall Alternative. If a wall at least five feet high is to be used for screening, the screening area may be reduced to two feet. Climbing plants and vines shall be used to add texture and soften the appearance of the wall. Screen walls shall be constructed with masonry, block, or textured concrete, subject to design approval by the town planner or planning commission. [Ord. 671 § 5.7.H, 1995.]

- (c) Request a revised plan;
- (d) Deny the request. [Ord. 671 § 5.7.I, 1995.]

15.105.160 Review procedures – Minor modifications.

(1) Review Procedures. The town planner shall review development proposals under the provisions of this chapter. For developments which the planner has authority to approve, the action of the planner shall be final, unless appealed to the planning commission. When the planning commission has authority to approve a development, they shall consider the planner’s recommendation regarding the landscaping, but may modify the requirements during a public hearing or plan review process at a regularly scheduled meeting.

(2) Modification. Where full application of these landscaping regulations cannot be met due to lot size, configuration, topography, pre-existing development, etc., the planner and one member of the planning commission will consider minor modifications, substitutions and other methods deemed appropriate to meet the stated intent. If the development can otherwise be approved by the planner, the action of the planner and planning commission member shall be final. If the development must be approved by the planning commission, the planner and planning commission shall make a recommendation to the planning commission regarding the proposed modification. The planner and the planning commission member of the planning commission may take any of the following actions on a modification request:

- (a) Approve the request with or without specific stipulated conditions;
- (b) Approve the request with minor or major modifications;

**DIVISION V. ACCESSORY USES, SIGNS,
PERFORMANCE STANDARDS**

Chapter 15.107

AUTOMATIC FIRE SPRINKLER SYSTEMS

Sections:

- 15.107.010 Sprinkler system required – New construction.
- 15.107.020 Sprinkler system required – Remodels.
- 15.107.030 Approval by fire chief.
- 15.107.040 Permissible omissions.
- 15.107.050 Alarms.
- 15.107.060 Required maintenance.
- 15.107.070 Inoperative system.
- 15.107.080 Violation – Penalty.
- 15.107.090 Violation – False alarms.
- 15.107.100 Appeals.
- 15.107.105 Relationship to International Fire Code.
- 15.107.110 Conflicting provisions.

15.107.010 Sprinkler system required – New construction.

Automatic fire sprinkler systems installation shall be required for all new residential construction where the portion of the building occupied as a residence exceeds 4,000 square feet as measured from the inside surface of exterior walls, and for multifamily dwellings (LCMC 15.10.390), commercial, industrial and public use construction. [Ord. 778 § 2, 2000.]

15.107.020 Sprinkler system required – Remodels.

For existing commercial, industrial and public buildings automatic fire sprinkler system installation shall be required when:

(1) Any existing structure is remodeled and the value of such activity is deemed by the town planner, based on average “Building Valuation Data” unit cost compliant with IBC Section 108.3, to exceed \$30,000; or

(2) Any combination of reconstruction, alteration, or improvement to a structure, taking place over 10 consecutive years in which the cumulative cost equals or exceeds 50 percent of the assessed value of the structure as determined by the county assessor.

Additionally, whenever existing fully sprinkled buildings are remodeled and/or enlarged, the remodeled or added portion shall be fully sprinkled.

Remodels or renovations to commercial, industrial and public buildings without adequate fire access to one or more sides that are valued at \$10,000 or more may require automatic fire sprinklers upon review and determination by the La Conner fire chief. [Ord. 963 § 6, 2005; Ord. 906 § 2, 2003; Ord. 778 § 3, 2000.]

15.107.030 Approval by fire chief.

No automatic fire sprinkler system required or allowed by this chapter shall be installed or allowed to be installed without the prior written approval of the fire chief or his designee of the plans for installation, testing and maintenance of the system. No residential, commercial or industrial construction for which such system is required, including substantial redevelopment of the same, shall be occupied until testing of the automatic fire sprinkler system has been approved by the fire chief or designee. [Ord. 986 § 4, 2007; Ord. 778 § 4, 2000.]

15.107.040 Permissible omissions.

Subject to the approval of the fire chief or his designee, sprinklers may be omitted in the following instances:

(1) Rooms or areas which are of noncombustible construction with noncombustible contents. Sprinklers shall not be omitted from any room merely because it is damp or of fire-resistive construction.

(2) Where the application of water or flame and water, to contents constitutes a serious life or fire hazard, as in the manufacture or storage of quantities of aluminum powder, calcium carbide, calcium phosphide, metallic sodium, potassium, quicklime, magnesium powder or sodium peroxide.

(3) Safe deposit or other vaults of fire resistive construction, when used for storage of records, files and other documents, when stored in metal cabinets.

(4) If other approved automatic fire-extinguishing systems are installed to protect special hazards or occupancies in lieu of automatic sprinklers.

(a) The equipment areas are separated from the remainder of the building by a two-hour fire-resistive occupancy separation; and

(b) Such areas are used exclusively for such equipment and an approved automatic smoke detection system and heat sensing units are installed, or remote station service or a local alarm is installed which will give an audible signal at a constantly attended location; and

(c) Other approved fire-protective equipment is installed in said location, such as a portable fire extinguisher or Class II standpipes, CO₂ or Halon extinguishing systems. [Ord. 778 § 5, 2000.]

15.107.050 Alarms.

All automatic fire sprinkler systems serving 30 or more sprinklers shall be equipped with an alarm which shall give an audible signal on the building exterior. This shall be a bell or buzzer of sufficient volume in a location approved by the fire chief of his designee. In remote locations, the fire chief or his designee may exercise the option to require additional monitoring as deemed necessary. It is to be clearly understood that such audible alarm does not in itself summon the fire department. Additional monitoring, if not required, remains the option of the building owner/occupant. Sprinklered buildings which contain residential units and/or sleeping quarters shall also have an interior bell or horn (minimum 85 Dba) in each unit. The requirements of an automatic fire sprinkler system, including the alarms detailed above, does not eliminate the requirements for alarms and fire detection systems found in the international codes as adopted in LCMC 13.05.010. [Ord. 778 § 6, 2000.]

15.107.060 Required maintenance.

All automatic fire sprinkler systems shall be serviced annually by a qualified service person. A copy of the annual inspection report, signed by the individual who performed such service, shall be forwarded within five working days to the fire department. [Ord. 778 § 7, 2000.]

15.107.070 Inoperative system.

If, at any time, an automatic fire sprinkler system and/or the alarm system becomes inoperative, the fire department shall be notified within 24 hours. "Inoperative" shall be defined as any condi-

tion which prevents any sprinkler from operating or any alarm from sounding at its designated location. [Ord. 778 § 8, 2000.]

15.107.080 Violation – Penalty.

It shall be an infraction for any person, firm or corporation to violate any of the provisions of this chapter and such person, firm or corporation shall be liable for a civil penalty of \$800.00. Each day of continued violation shall constitute a separate additional infraction. [Ord. 812 § 13, 2001; Ord. 778 § 9, 2000.]

15.107.090 Violation – False alarms.

Provisions related to false alarms shall be controlled by Chapter 7.35 LCMC, Alarm Systems, as noted in the La Conner Municipal Code. [Ord. 778 § 10, 2000.]

15.107.100 Appeals.

Any person, firm or corporation who desires reconsideration of a decision made as a result of an interpretation made by the town planner, fire chief or their designees, pursuant to this chapter, shall be entitled to said appeal before the town's hearing examiner following the filing of the appeal within 14 days of notification of the aggrieved decision and the payment of an appeal fee of \$200.00. [Ord. 778 § 11, 2000.]

15.107.105 Relationship to International Fire Code.

The provisions of this chapter, as they relate to the installation of automatic fire sprinkler systems, are intended to augment and be in addition to any and all requirements of the International Fire Code. The installation of automatic fire sprinkling systems shall be required in all zones, as detailed in this chapter, and shall be in addition to any other required fire suppression construction methodologies and/or equipment required by the then current editions of building and fire codes. [Ord. 963 § 6, 2005; Ord. 778 § 12, 2000.]

15.107.110 Conflicting provisions.

In the event there is a conflict between the provisions of this chapter and the provisions of the latest adopted International Building Code, the more restrictive provisions shall apply. [Ord. 963 § 6, 2005; Ord. 778 § 13, 2000.]

Chapter 15.109

WIRELESS COMMUNICATION FACILITIES*

Sections:

- 15.109.010 Purpose.
- 15.109.020 Applicability.
- 15.109.030 Certificate of authorization.
- 15.109.040 Administering and enforcing authority.
- 15.109.050 Application requirements.
- 15.109.060 Standards and requirements for wireless communication facilities.
- 15.109.070 Airport restrictions – Notice to FAA.
- 15.109.080 Obsolescence.
- 15.109.090 Co-location required.
- 15.109.100 Permit limitations.
- 15.109.110 Alternatives, modifications, variances.
- 15.109.120 Enforcement.

*Code reviser’s note: Ordinance 786 adds these provisions as Chapter 15.110. The chapter has been editorially renumbered to prevent duplication of numbering.

15.109.010 Purpose.

The purpose of this chapter is to:

- (1) Provide for a range of locations and options for wireless communication providers; and
- (2) Minimize the inherent tendency of wireless facilities to appear inconsistent with the attributes of a historic community, and
- (3) Encourage creative approaches in locating communication facilities which will blend in with the surroundings of such facilities. [Ord. 786 § 1, 2000.]

15.109.020 Applicability.

This chapter applies to the construction, installation and operation of all personal wireless communication facilities (“WCF”) within the town limits except for the following:

- (1) Towers, or antennas that are under 50 feet in height, owned and operated by a federally licensed amateur radio station operator, or used exclusively for receive only signals. [Ord. 786 § 1, 2000.]

15.109.030 Certificate of authorization.

A certificate of authorization shall be obtained from the planning director prior to the construction, installation or operation of a wireless communication facility with the town limits. [Ord. 786 § 1, 2000.]

15.109.040 Administering and enforcing authority.

The planning director and/or his/her designated representative are responsible for the general administration, coordination and enforcement of this chapter. [Ord. 786 § 1, 2000.]

15.109.050 Application requirements.

An application for a certificate of authorization to construct, install or operate a personal wireless communication facility shall, at a minimum, include the following:

- (1) Detailed construction drawings, including plan and elevation views, showing the proposed wireless communication facility, support structures, equipment shelters or cabinets and utility lines servicing the proposal;
- (2) Estimated time of construction;
- (3) A description of materials, including exterior surface materials and colors;
- (4) A site plan showing the location of the proposal, topographic features, and existing vegetation;
- (5) A statement demonstrating that an effort to co-locate has been made, or would not be applicable to the specific proposed site. [Ord. 786 § 1, 2000.]

15.109.060 Standards and requirements for wireless communication facilities.

The following standards shall apply to all types of wireless communication facilities:

- (1) Equipment Shelters. Equipment shelters shall be contained wholly within a building or structure, or otherwise appropriately concealed, camouflaged or located underground. When they cannot be located in buildings or underground, equipment shelters or cabinets shall be fenced, screened and landscaped in conformance with Chapter 15.105 LCMC.
- (2) Landscaping. Landscaping shall include a minimum 15-foot sight-obscuring landscape buffer around the accessory equipment facility. Acces-

sory equipment facilities located on the roof of any building shall be enclosed so as to be shielded from view.

(3) Visual Impact. Site location and development shall preserve the pre-existing character of the surrounding buildings and land uses and the zone district. Wireless communication towers shall be integrated through location and design to blend in with the existing visual and structural characteristics of the site. Camouflage and concealment shall be required for towers to blend with the surrounding site features. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

(4) Screening of Accessory Equipment Shelters and Cabinets. Accessory equipment facilities used to house wireless communication equipment should be located within buildings or placed underground when possible. When they cannot be located in buildings, equipment shelters or cabinets shall be fenced, screened and landscaped to screen views from adjacent residential or commercial zoned properties. Any landscaping shall be in conformance with Chapter 15.105 LCMC. Accessory equipment facilities located on the roof of any building shall be enclosed so as to be shielded from view. Accessory equipment facilities may not be enclosed with exposed metal surfaces.

(5) Maximum Noise Levels. No equipment shall be operated so as to produce noise in levels above 45 dB as measured from the nearest property line on which the attached wireless communication facility is located. Operation of a back-up power generator in the event of power failure or the testing of a back-up generator between 8:00 a.m. and 9:00 p.m. are exempt from this standard. No testing of back-up generators shall occur between the hours of 9:00 p.m. and 8:00 a.m.

(6) Fencing. Security fencing, if used, shall be painted or coated with nonreflective color.

(7) Lighting. Towers shall not be artificially lighted, unless required by the United States Federal Aviation Administration ("FAA") or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. Security lighting for the equipment shel-

ters or cabinets and other on-the-ground ancillary equipment is also permitted, as long as it is appropriately down shielded to keep light within the boundaries of the site.

(8) Advertising Prohibited. No lettering, symbols, images, or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be placed on or affixed to any part of a telecommunications tower, antenna array or antenna, other than as required by the Federal Communications Commission ("FCC") regulations regarding tower registration or other applicable law. Antenna arrays may be located on previously approved signs or billboards without alteration of the existing advertising or sign.

(9) Building Standards. Wireless communication support structures shall be constructed so as to meet or exceed the most recent Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision F Standard entitled: "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent), as it may be updated or amended. Prior to issuance of a building permit the building official shall be provided with an engineer's certification that the support structure's design meets or exceeds those standards. A wireless communication support structure shall be located in such a manner that the structure must be within property boundaries and avoid conflicts with habitable structures, public streets, utility lines and other telecommunications towers.

(10) Radio Frequency Standards. The applicant shall ensure that the WCF will not cause localized interference with the reception of area television or radio broadcasts. If on review the town finds that the WCF interferes with such reception, and if such interference is not remedied within 30 days, the town may revoke or modify this permit.

(11) Height. Wireless communication facilities shall be limited in height to the minimum practical for the equipment to provide properly functioning service. Wireless communication facilities are allowed to extend above tree height or any other skyline only if the extension is required for the equipment to function properly, and the extension complies with the requirements of this chapter. [Ord. 931 § 6,2004; Ord. 786 § 1, 2000.]

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15.109.070 Airport restrictions – Notice to FAA.

A notice of proposed construction shall be submitted to the FAA a minimum of 30 days prior to the issuance of any building permit for any wireless communication support structure or attached wireless communication facilities. [Ord. 786 § 1, 2000.]

15.109.080 Obsolescence.

If the use of any wireless communication facility or attached wireless communication equipment is discontinued, the owner of the facility shall:

- (1) Report the discontinuance to the planning director within 15 days of the date the facility or equipment ceases to be operational; and
- (2) Decommission and remove the facility within six months of the date it ceases to be operational; and
- (3) Restore the site to its pre-existing condition; and
- (4) Be allowed to apply to the planning director for an extension of an additional six months if good cause is demonstrated. [Ord. 786 § 1, 2000.]

15.109.090 Co-location required.

(1) Demonstration of Efforts to Co-locate. No new wireless communication support structure shall be permitted unless the applicant demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna, or that co-location would result in expansion of a legal nonconforming use. Evidence submitted to demonstrate that an existing tower or structure can not accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) Existing towers are legally nonconforming with local code.
- (e) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the

antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

(f) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable, for instance if costs to co-locate exceed new tower development.

(g) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(2) Cooperation in Co-location Efforts. The certificate of authorization may be conditioned to require that a permittee shall cooperate with other wireless communication facility providers in co-locating additional antennas on support structures and/or on existing buildings provided said proposed co-locators have received a certificate of authorization permit for such use at said site from the town. Such a condition may require that a permittee shall exercise good faith in co-locating with other providers and sharing the permitted site, provided such shared use does not give rise to a substantial technical level of impairment of the ability to provide the permitted use (i.e., a significant interference in broadcast or reception capabilities as opposed to a competitive conflict or financial burden). Such good faith shall include sharing technical information to evaluate the feasibility of co-location. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the town may require a third party technical study at the expense of either or both the applicant and permittee.

(3) If co-location requires an extension in height or expansion of the tower profile, co-locators may be required by the planning director to camouflage or conceal the tower. [Ord. 931 § 6, 2004; Ord. 786 § 1, 2000.]

15.109.100 Permit limitations.

(1) Maintenance Required. The applicant shall maintain the WCF to standards that may be imposed by the town at the time of the granting of a permit. Such maintenance shall include, but shall not be limited to, maintenance of the paint, structural integrity and landscaping. If the applicant

fails to maintain the facility, the town may undertake the maintenance at the expense of the applicant or terminate the permit, at its sole option.

(2) Compliance with Federal Standards for Radio Frequency Emissions. The applicant shall comply with FCC standards for radio frequency emissions. Within 60 days after the issuance of its building permit, the applicant shall submit a project implementation report which provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site and compares the results with established federal standards. Said report shall be subject to review and approval of the administrator for consistency with federal standards. If on review the town finds that the wireless communication facility does not meet federal standards, the town may revoke or modify this permit.

(3) Notice to Town of Change of Ownership. The applicant shall notify the town of all changes in ownership or operation of the facility, within 60 days of the change. [Ord. 786 § 1, 2000.]

15.109.110 Alternatives, modifications, variances.

(1) Alternatives and Modifications. The applicant may propose alternatives and modifications to the provisions of this chapter. The applicant must demonstrate to the satisfaction of the planning director that such alternatives and modifications would achieve the desired outcome of the provisions of this chapter, and/ or the provisions of this chapter are not applicable to the proposal.

(2) Variances. See LCMC 15.125.040. [Ord. 786 § 1, 2000.]

15.109.120 Enforcement.

See Chapter 15.135 LCMC. [Ord. 786 § 1, 2000.]

Chapter 15.110

ACCESSORY AND TEMPORARY STRUCTURES AND USES

Sections:

- 15.110.010 Certificate of authorization not required.
- 15.110.020 Certificate of authorization required.
- 15.110.030 Temporary structures.
- 15.110.040 Conditional use permit required.
- 15.110.050 Temporary uses.
- 15.110.060 Open air vending.
- 15.110.070 Home occupation – Permit required.
- 15.110.080 Accessory dwelling units.

15.110.010 Certificate of authorization not required.

The following accessory structures and uses do not require a certificate of authorization:

- (1) Storage buildings, utility buildings and greenhouses under 120 square feet in area;
- (2) Antenna/satellite dish antenna less than 20 feet high, four feet wide, and having a bulk area less than 16 square feet;
- (3) Swimming pools, hot tubs, and similar structures, parks, playgrounds, tennis courts, and other recreational uses, all of a private nature, when provided in conjunction with a permitted or conditional use in a district;
- (4) Fences less than six feet high;
- (5) Gardens and orchards;
- (6) Temporary structures or temporary use of existing structures incidental to construction work, which shall be removed upon completion or abandonment of the construction work;
- (7) Interior storage areas for materials and products sold from a site. [Ord. 963 § 1, 2005; Ord. 671 § 6.1, 1995.]

15.110.020 Certificate of authorization required.

The following accessory structures and uses require a certificate of authorization:

- (1) Storage buildings, utility buildings, and greenhouses over 120 square feet in area, not to exceed 18 feet in height;
- (2) Antenna/satellite dish antenna more than 20 feet high, four feet wide, and having a bulk area more than 16 square feet. Transmission or receiv-

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ing towers shall be set back from all property lines a distance equal to or greater than the height of the tower;

(3) Recreational structures when not provided as part of a permitted or conditional use in a district;

(4) Fences over six feet high;

(5) On-site recycling and treatment of waste products associated with principal uses on the same site, subject to all applicable county, state, and federal regulations and permits;

(6) Any other use not exempted in LCMC 15.110.010. [Ord. 671 § 6.2, 1995.]

15.110.030 Temporary structures.

Temporary structures shall be defined as any structure or vehicle which is designed to be easily transported or dismantled after its function has been fulfilled, and which is used for residential, commercial or office purposes except the following:

(1) Floating structures used for sale of seafood and seafood products;

(2) Vehicles used for sale of produce in season, located in the Commercial Zone; provided, that this exception shall not affect any regulation of such uses imposed by other sections of this code;

(3) Small prefabricated utility buildings not exceeding 100 square feet, when used for residential accessory purposes;

(4) Recreational structures when used for recreation in an appropriately designated area;

(5) Temporary structures when used in conjunction with official local events. The structures are to be removed at the conclusion of the event. If not removed within 24 hours thereafter, the owner shall have forfeited any rights in the structure and the town of La Conner shall have the right to remove the structure;

(6) Temporary structures in the Industrial Zone for permitted uses;

(7) Shipping containers are prohibited for use as temporary structures in the Residential and Commercial Zones. [Ord. 986 § 9, 2007; Ord. 931 § 5, 2004; Ord. 671 § 6.3.A, 1995.]

15.110.040 Conditional use permit required.

(1) Temporary structures shall require an administrative conditional use permit which permit shall be limited to a set period to be established by the planning director, not to exceed 180 days. The

structure shall be removed at the end of the permit period. If not removed within 10 days thereafter, the permittee shall have forfeited any rights to the structure, and the town of La Conner shall have the right to remove the structure.

(2) An administrative conditional permit holder may request an extension of a temporary structure use before the planning commission. Extensions shall not exceed 180 days.

(3) The use of any temporary structure approved through the conditional use permit process shall remain subject to the restrictions and requirements of the zone in which it is located, parking and loading requirements and other applicable regulations.

(4) When approved in accordance with this section, the placement or erection of a temporary structure shall require a building permit from Skagit County Planning and Permit Center. [Ord. 931 § 5, 2004; Ord. 901 § 6, 2003; Ord. 671 § 6.3.B, 1995.]

15.110.050 Temporary uses.

Temporary uses in conjunction with an official local event shall be subject to the town's Special Events Application procedure and shall be exempt from the permit procedure of this chapter.

(1) Under this provision, the planning commission may allow a temporary permit, subject to the provisions of a conditional use permit, for a period not to exceed six months for a use not otherwise allowed in the zone, and not otherwise provided for under this chapter; provided, that the applicant provides evidence substantiating the following:

(a) There is no reasonable alternative to the temporary use;

(b) The permit will be necessary for a limited period of time;

(c) The temporary use does not involve the erection of a substantial structure or require any other permanent commitment of the land;

(d) The temporary use will not be detrimental to the area or to adjacent properties.

(2) The planning commission may renew a temporary permit, for a period not to exceed the maximum period of time allowed for an initial temporary permit under this chapter, according to the procedure for a conditional use permit; provided, that the applicant provides evidence substantiating the following:

(a) The circumstances under which the original permit was granted remain substantially similar;

(b) The use will not be detrimental to the area or to adjacent properties;

(c) The use will comply with the comprehensive plan. [Ord. 671 § 6.4, 1995.]

15.110.060 Open air vending.

Open air vending not involving those items listed in RCW 36.71.090 will not be permitted except where forming an integral part of a permanent sheltered business, except for during community events. [Ord. 671 § 6.5, 1995.]

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15.110.070 Home occupation – Permit required.

An applicant for a home occupation shall submit an application to Town Hall on forms provided by the planning director. A certificate of authorization for a home occupation may be issued by the planning director; provided, that the following conditions are met:

(1) The dwelling must be the primary residence of the applicant.

(2) The occupation or profession shall be carried on wholly within the principal building or other structure accessory thereto, and it shall utilize no more than 25 percent of the gross floor area of the buildings.

(3) Not more than one person who is not a member of the applicant's immediate family and who is not a resident in the applicant's home may be employed.

(4) There shall be no exterior display, no exterior alteration of the property including expansion of parking, no exterior storage of materials and no other exterior indication of a home occupation or variation from the residential character of the premises. A sign not exceeding three square feet, identifying the name of the business, may be attached to the building on the premises.

(5) No use shall require structural alterations to the interior of the building which changes the residential character thereof.

(6) The use of electrical or mechanical equipment that would change the fire rating of the structure or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited.

(7) In no case shall the home occupation cause more than two additional vehicles to be parked on or near the premises, on a regular basis.

(8) Any equipment or process used in a home occupation shall comply with Chapter 15.120 LCMC, Operational Performance Standards. [Ord. 671 § 6.6, 1995.]

15.110.080 Accessory dwelling units.

Accessory dwelling units shall be allowed in the residential zone by conditional permit under the following restrictions:

(1) The owner of the property must live in either the primary dwelling or the accessory dwelling. The owner shall file a certification of owner-occupancy with the town planning commission prior to the establishment of a conditional use permit.

(2) The applicant shall provide evidence of a recorded deed restriction prior to the issuance of a conditional use permit.

(3) The accessory dwelling may be no more than 700 square feet in size.

(4) The single-family appearance and character of the dwelling unit shall be maintained when viewed from the surrounding neighborhood. The accessory unit shall be compatible in appearance and character with the primary dwelling unit.

(5) At least two spaces of off-street parking will be provided for the primary dwelling and a single off-street parking space shall be provided for the accessory dwelling unit. [Ord. 671 § 6.7, 1995.]

Chapter 15.112

DEMOLITION STANDARDS

Sections:

- 15.112.010 Purpose.
- 15.112.020 Applicability.
- 15.112.030 Definitions.
- 15.112.040 Certificate of authorization.
- 15.112.050 Application requirements.
- 15.112.060 Economic analysis.
- 15.112.070 Architectural and historic inventory.
- 15.112.080 Criteria for approval of demolition – Type III structures.
- 15.112.090 Criteria for approval of demolition – Type II structures.
- 15.112.100 Criteria for approval of demolition – Type I structures.
- 15.112.110 Administration.
- 15.112.120 Enforcement.

15.112.010 Purpose.

The purpose of this chapter is to:

- (1) Encourage the retention of historic structures within the town that reflect the town’s architectural, artistic, aesthetic, historical, economic and social heritage; and
- (2) Provide standards for the demolition of structures which encourage retention of historic structures, but which do not deprive property owners of reasonable use of their property; and
- (3) Provide operational standards to ensure that noise, dust, dirt and debris resulting from demolition activities do not detrimentally affect the health, safety and general welfare of the general public. [Ord. 720 § 1, 1998.]

15.112.020 Applicability.

This section applies to the demolition of all structures within the town limits except for the following:

- (1) Type I and II structures under 120 square feet in gross floor area.
- (2) Type III structures under 200 square feet in gross floor area. [Ord. 720 § 1, 1998.]

15.112.030 Definitions.

- (1) Demolition. The destruction, removal, or relocation of more than 50 percent of an existing structure whether removed at one time or through successive actions, except that the removal of past

structural additions for the express purpose of restoring a structure to its historic appearance, form, or function shall be considered restoration.

(2) Type I Structure. A structure which is on the Historic Register, is a designated historic landmark, or which was completed for occupancy before January 1, 1940 and is located within the Historic Preservation District.

(3) Type II Structure. A structure located within the Historic Preservation District which is not a Type I structure.

(4) Type III Structure. A structure which is not a Type I or II structure, or any structure which has been damaged such that the cost to repair or reconstruct exceeds 50 percent of the fair market value of the structure prior to the damage.

(5) All other terms are as defined in Chapter 15.10 LCMC. [Ord. 720 § 1, 1998.]

15.112.040 Certificate of authorization.

A certificate of authorization shall be obtained prior to the demolition of any Type I, Type II, or Type III structure. [Ord. 720 § 1, 1998.]

15.112.050 Application requirements.

An application for a certificate of authorization to demolish a structure shall, at a minimum, include the following information:

(1) A listing of materials expected to be removed from the site, including any hazardous materials;

(2) The methods of demolition and removal from the site;

(3) The location and method of disposal of the materials;

(4) Dates and hours of operation;

(5) A plan for limiting or eliminating noise, dust and dirt impacts to adjacent properties, public rights-of-way, and environmentally sensitive areas;

(6) For demolition of Type II structures, the application shall also be accompanied by an architectural and historic inventory;

(7) For demolition of Type I structures, the application shall also be accompanied by an architectural and historic inventory, and an economic analysis;

(8) Fees for the review of the application as set by the town council. The review fee may include an additional fee to cover expert review of the eco-

nomical analysis in the event that the planning director determines that the application merits additional review;

(9) Other information as determined necessary by the planning director. [Ord. 720 § 1, 1998.]

15.112.060 Economic analysis.

(1) At the public hearing on any application for a certificate of authorization to demolish a Type I structure, or a Type II structure if the removal will be detrimental to the historic or architectural character of the Historic Preservation District, the commission shall, when requested by the property owner, consider evidence of the economic impact on the owner of the denial or partial denial of a certificate. In no case may a certificate be denied, in whole or in part, when it is established that the denial or partial denial will, when available incentives are utilized, deprive the owner of any reasonable economic use of the structure and when there is no viable or reasonable alternative which would have less impact on the features of significance.

(2) To prove the existence of a condition of unreasonable economic return, the applicant must establish and the commission must find, both of the following:

(a) The owner has the present intent and the secured financial ability, demonstrated by appropriate documentary evidence to complete the demolition, and, if applicable, reconstruction; and

(b) The historic property on which the structure is located is incapable of earning a reasonable economic return without completing the proposed demolition. This finding shall be made by considering, and the applicant shall submit to the commission, evidence establishing the following factors:

(i) The current level of economic return on the property considered in relation to the following:

(A) The amount paid for the property, the date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

(B) The annual gross and net income, if any, from the property for the previous five years; itemized operation and maintenance expenses for the previous five years; and depreciation

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deduction and annual cash flow before and after debt service, if any, during the same period;

(C) The remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the prior five years;

(D) Real estate taxes for the previous four years and assessed value of the property according to the two most recent assessed valuations;

(E) All appraisals obtained within the previous three years by the owner in connection with the purchase, financing or ownership of the property;

(F) The fair market value of the property immediately prior to its designation and the fair market value of the property at the time the application is filed;

(G) Form of ownership or operation of the property, whether sole, proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or both;

(H) Any state or federal income tax returns on or relating to the property for the last two years.

(ii) The property is not marketable or able to be sold when listed for sale or lease. The sale price asked, and offers received, if any, within previous two years, including testimony and relevant documents shall be submitted by the property owner. The following shall also be considered:

(A) Any real estate broker or firm engaged to sell or lease the property;

(B) Reasonableness of the price or lease sought by the owner;

(C) Any advertisements placed for the sale or lease of the property.

(iii) The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:

(A) A report from a licensed engineer or architect with experience in historic restoration or rehabilitation as to the structural soundness of the property and its suitability for restoration or rehabilitation.

(B) Estimates of the proposed cost of the proposed alteration and an estimate of any additional cost that would be incurred to comply with the recommendation and decision of the commission concerning the appropriateness of the proposed alteration;

(C) Estimated market value of the property in the current condition after completion of the proposed alteration; and, in the case of proposed demolition, after the renovation of the property for continued use;

(D) In the case of proposed demolition the testimony of an architect, developer, real estate consultant, appraiser or other real estate professional experienced in historic restoration or rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing property;

(E) The infeasibility of new construction around, above, or below the historic resource.

(iv) Potential economic incentives and/or funding available to the owner through federal, state, county, city or private programs.

(3) Notwithstanding the foregoing enumerated factors, the property owner may demonstrate other appropriate factors applicable to economic return.

(4) Upon reasonable notice to the owner, the town may appoint an expert or experts to provide advice and/or testimony concerning the value of the property, the availability of incentives and the economic impacts of approval, denial or partial denial of a certificate of authorization to demolish.

(5) Any adverse economic impact caused intentionally or by willful neglect shall not constitute a basis for granting a certificate of authorization. [Ord. 720 § 1, 1998.]

15.112.070 Architectural and historic inventory.

The architectural and historic inventory will provide a record of building size and scale, important site features, and the structure's historic relationship to surrounding properties, views and open spaces so that these features can be used in historic design review and incorporated into the design of new construction on the site. The inventory shall consist of the following:

(1) A site plan drawn to a standard engineering scale showing the location and size of existing structures, driveways, trees, sidewalks, open spaces, environmentally sensitive areas, and other site features.

(2) Diagrams, pictures, elevations or other descriptive illustrations which clearly show the current and past relationship of the structure to the site, to the street, to structures, open spaces, views

and significant natural features within 300 feet. This may take the form of one or a combination of the following: Figure-ground drawings of the site and surrounding area, architectural sections or elevations of the site and surrounding area, and/or pictures of the site, streetscape and surrounding area.

(3) Architectural elevations of the structure proposed for demolition.

(4) A written summary of the historical significance of the structure, including the following: Date of construction, history of its use, significant historical events that occurred in the structure, dates of significant additions to or changes to the structure which affect its character, and other relevant information. [Ord. 720 § 1, 1998.]

**15.112.080 Criteria for approval of demolition
– Type III structures.**

A certificate of authorization to demolish a Type III structure shall not be granted unless the following criteria have been met:

(1) The proposal meets the operational standards of Chapter 15.120 LCMC and the health, safety, and general welfare standards of Chapter 7.05 LCMC.

(2) All dust and debris will be kept from adjacent properties.

(3) Safety fencing will be placed around the site during activity.

(4) There will be no storage of debris or materials in public rights-of-way.

(5) Any debris accidentally deposited will immediately be cleared off of the public right-of-way.

(6) Dust or dirt will be cleaned off of the right-of-way at the end of each working day.

(7) All demolition debris will be removed to an approved landfill. [Ord. 720 § 1, 1998.]

**15.112.090 Criteria for approval of demolition
– Type II structures.**

A certificate of authorization to demolish a Type II structure shall not be granted unless all of the following criteria have been met:

(1) The application meets the requirements for demolition of a Type III building; and

(2) The applicant has received a certificate of authorization for the new replacement structure; and

(3) The removal of the structure will not be detrimental to the historic and architectural character of the Historic Preservation District. The removal of a structure will be determined to be detrimental to the historic and architectural character of the Historic Preservation District if the structure meets three or more of the following criteria:

(a) It embodies the distinctive architectural characteristics of a type, period, style, or method of design or construction.

(b) It is the only remaining, or one of the few remaining structures of a particular style, building type, design, material, or method of construction.

(c) It is a conspicuous visual landmark in the community or neighborhood.

(d) It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood or area.

(e) It is associated with the lives of persons significant in national, state, or local history.

(4) If the proposal would be detrimental to the historic and architectural character of the Historic Preservation District, as described above, the applicant demonstrates that the proposal meets the criteria for demolition of Type I structure, in which case an economic analysis must be submitted. [Ord. 720 § 1, 1998.]

**15.112.100 Criteria for approval of demolition
– Type I structures.**

A certificate of authorization to demolish a Type I structure shall not be granted unless the following criteria have been met:

(1) The application meets the requirements for demolition of a Type III building; and

(2) The applicant has received a certificate of authorization for the reconstruction of the structure if it meets the criteria found in LCMC 15.50.070(4); and

(3) Denial or partial denial of the permit will deprive the owner of reasonable economic use of the property and there is no viable or reasonable alternative which would have less impact; or

(4) The structure is so deteriorated, and there is so little historical information that it would be impossible to retain the historic, cultural and architectural significance of the structure through rehabilitation or renovation. [Ord. 720 § 1, 1998.]

15.112.110 Administration.

(1) The planning director shall review and approve, approve with conditions, or deny any application to demolish a Type III structure.

(2) The planning commission shall review and approve, approve with conditions, or deny any application to demolish a Type I or Type II structure. [Ord. 720 § 1, 1998.]

15.112.120 Enforcement.

It shall be unlawful to demolish a structure without a permit approved pursuant to the requirements of this chapter. This chapter shall be enforced pursuant to Articles VIII, IX, and X of Chapter 15.135 LCMC. Violations of this chapter shall be subject to a civil penalty of twice the amount of the fair market value of the structure prior to its demolition. [Ord. 720 § 1, 1998.]

Chapter 15.115

SIGNS

Sections:

- 15.115.010 Purpose.
- 15.115.020 Applicability.
- 15.115.030 Signs exempt from certificate of authorization.
- 15.115.040 General requirements.
- 15.115.050 Total allowable sign area.
- 15.115.060 Number of signs allowed.
- 15.115.070 Allowable sign types.
- 15.115.080 Lighting.
- 15.115.090 Allowable design materials and maintenance.
- 15.115.100 Compliance.
- 15.115.110 Prohibited signs.
- 15.115.120 Nonconforming signs.
- 15.115.130 Appeal of planning commission decision.

15.115.010 Purpose.

The purpose of this chapter is to regulate signage in an effort to keep the town of La Conner a safe and attractive place in which to live and do business, to reserve and reflect the historic character of the community and assure consideration of:

- (1) Pedestrians, motorists, cyclists, visitors, residents, home occupations, shops, other buildings, and real property;
- (2) Safety through care in placement, sizing and illumination of signs so as to avoid visual clutter, distraction or obstruction of vision of pedestrians and motorists, or obstruction of right-of-way;
- (3) Economy for those erecting signs, or maintaining or modifying already-existing signs, through care in style and construction by providing adequate time to replace signs which do not comply with the new standards; by protecting property values; and by preserving the community character which attracts visitors and new residents and sustains business development;
- (4) Aesthetic benefits to business districts and the community at large through consistency in style, placement, scale and harmony of signs with buildings and natural settings;
- (5) Compatibility of signs with the architectural and historical qualities of La Conner;

(6) General safety and welfare of the public, through fair and consistent enforcement of these sign regulations. [Ord. 671 § 7.1, 1995.]

15.115.020 Applicability.

(1) This chapter shall apply to all signs as defined by this code except traffic signs erected under the authority of the town, signs directing traffic or parking on private property containing no advertising, signs stating business hours, vending machines, and state agency recommended signs. Private traffic and parking signs shall not exceed two square feet in area.

(2) The town council intends that to the fullest extent authorized by Chapter 47.42 RCW, the Highway Advertising Control Act – Scenic Vistas Act, now or as hereafter amended, shall also govern any street, bridge, pier or dock in the town of La Conner. [Ord. 671 § 7.2, 1995.]

15.115.030 Signs exempt from certificate of authorization.

Except for the following, all signs shall require a certificate of authorization:

(1) Signs required by law pursuant to LCMC 15.115.020;

(2) Temporary signs no larger than 16 square feet promoting political candidates or issues, grand opening or going out of business sales or community events, to be removed within five days following cessation of activity or election. Grand opening sale signs shall be removed within 14 days of placement;

(3) Signs relating to construction in progress. Signs identifying contractor, architect or future business shall total no more than 16 square feet;

(4) Signs posted on or attached to the inside of store front windows;

(5) Signs within a building not to be intended to be viewed from a public right-of-way;

(6) Flags of state;

(7) Window merchandise displays;

(8) Commemorative plaque signs, in compliance with LCMC 15.115.040;

(9) Temporary real estate signs no larger than four square feet on private property. Only one sign per advertised unit is allowed;

(10) Signs required for the safe navigation of the Swinomish Channel.

(11) Sponsorship signs on the Maple Street public ball fields; provided, that:

(a) The signs shall not be directed toward adjacent streets.

(b) Signs must comply with the provisions of this chapter where applicable.

(c) The backs of the signs must be painted with the same muted, flat green paint.

(d) Each sign shall be no greater than 20 square feet and only one sign is allowed per sponsor.

(e) The signs must be removed during “off season” within two weeks of the end of the regular season. [Ord. 963 § 2, 2005; Ord. 671 § 7.3, 1995.]

15.115.040 General requirements.

All signs to which this chapter applies shall conform to the general requirements set forth in LCMC 15.115.050 through 15.115.100 regardless of whether a certificate of authorization is required. [Ord. 671 § 7.4, 1995.]

15.115.050 Total allowable sign area.

Includes all signs and all sides and stories of buildings unless otherwise exempted under LCMC 15.115.030.

(1) The total allowable sign area per building shall be the larger of 20 square feet or seven percent of any facade. Facade square footage shall be calculated as the vertical surface between the ground and roof line including all doors, windows, and parapet walls. Seven percent shall be determined by an as built drawing or legal verification if deemed necessary by the planner or planning commission.

(2) A directory sign on a multi-business building shall not exceed five square feet per business to a maximum of 30 square feet per building and shall not be included in the total allowable sign area.

(3) Commemorative plaques or home occupational signs in a residential zone shall be no larger than three square feet. [Ord. 671 § 7.4.A, 1995.]

15.115.060 Number of signs allowed.

(1) Single Business Buildings. No more than three signs, one of which may be freestanding or projecting, but not both.

(2) Multi-Business Buildings. No more than one per business outside an entrance or dock, flat mounted or projecting. One additional sign per business is allowed if it is part of a building direc-

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tory. One building identification sign per side facing a public thoroughfare with a normally used public entrance is allowed and will be included in the seven percent allowable sign area.

(3) One flatly affixed commemorative plaque allowed per building. [Ord. 671 § 7.4.B, 1995.]

15.115.070 Allowable sign types.

All signs shall conform to the height and setback requirements of the zone in which they are located. Signs may not exceed the height, width and depth of the building to which they are attached.

(1) Awning/Canopy Sign.

(a) Minimum eight feet clearance from ground;

(b) The entire awning shall not be considered a sign, except the face area of the awning to which the advertising copy is attached or placed, shall be considered a sign.

(2) Directional Sign.

(a) May be no more than nine square feet;

(b) Shall provide directions to public facilities such as restrooms, parks, parking lots, museums, and marinas;

(c) Directional signs may be off premises.

(3) Directory Sign.

(a) One per multi-business business building;

(b) Shall not exceed five square feet per business to a maximum of 30 square feet per building;

(c) Shall not be included in the total allowable sign area.

(4) Freestanding Sign.

(a) May not exceed 10 feet in height;

(b) Shall have a landscaped area twice the size of the sign area at the base of the sign;

(c) Limited to one per building regardless of the number of businesses within the building;

(d) Not allowed if a building already has a projecting sign.

(5) Projecting Sign.

(a) Shall project no more than four feet from building;

(b) Must leave at least eight feet of clearance from the ground;

(c) Are limited to one per building entrance regardless of the number of businesses within the building or advertised on the sign;

(d) Are not allowed if the building already has a freestanding sign;

(e) If projecting over a public right-of-way, a hold harmless agreement must be provided to, and approved by, the town of La Conner;

(f) If the same copy is on both sides, count one side in the sign area allotment; if different copy is on both sides, count both sides in the sign area allotment.

(6) Window Sign.

(a) Window graphics may not occupy more than 25 percent of the total area of the window in which they are displayed.

(b) Not to be included in total sign area allotment.

(7) Sandwich Board Sign.

(a) On-Site.

(i) One 24 inches wide by 36 inches high sign per business per street frontage allowed on private property but not in a designated parking area or fire lane;

(ii) Not included in the total sign allotment;

(iii) Not permitted on public property;

(8) Signs Painted on Walls or Fences.

(9) Morris Street Entrance Banner.

(a) Banner may only promote official community events or events approved by the town council.

(b) Proposed banner design must be submitted for approval at least six weeks in advance of the event.

(c) All approved banners must meet current banner specifications provided by the town public works department.

(d) Banner Message and Content.

(i) Primary content: event name and date;

(ii) Secondary content: sponsor logos only – fonts must be 50 percent of primary content font;

(iii) There should be no commercial content through sponsorship identity.

(e) Display Limitations.

(i) The banner may be displayed a maximum of three weeks prior to the event.

(ii) Where time conflicts occur, the town council will decide the priority display of the banners.

(f) Installation and Removal. All banner installations and removal will be conducted by the public works department staff. [Ord. 963 § 2, 2005; Ord. 887, 2003; Ord. 671 § 7.4.C, 1995.]

15.115.080 Lighting.

- (1) Indirect lighting only allowed.
- (2) Colored, flashing or intermittent lighting not allowed. Exterior neon signs are prohibited. [Ord. 887, 2003; Ord. 671 § 7.4.D, 1995.]

15.115.090 Allowable design materials and maintenance.

- (1) Signs shall be made of professional quality and durable materials, such as metal, wood or wood-like material.
- (2) Sign design shall be consistent with the district and neighborhood when in the Historic Preservation District.
- (3) Signs must be maintained and not left in disrepair, damaged condition, or in need of painting or material replacement. [Ord. 887, 2003; Ord. 671 § 7.4.E, 1995.]

15.115.100 Compliance.

All signs requiring a certificate of authorization must comply with this code and shall be made of materials and of colors compatible with the historic nature of the town and surrounding buildings. [Ord. 671 § 7.4.F, 1995.]

15.115.110 Prohibited signs.

The following exterior signs are prohibited:

- (1) Abandoned signs or signs in poor repair. Obsolete signs shall be removed within five days following termination of use;
- (2) Bench signs;
- (3) Billboards;
- (4) Flashing, revolving or any other moving signs, including streamers, banner signs (except those approved as temporary signs), and sandwich board signs worn by a person. A clock with moving hands and a barber pole are permitted;
- (5) Off-premises signs except those exempted in LCMC 15.115.030 and directional signs;
- (6) Roof mounted signs, including any signs painted directly on a roof surface;

(7) Signs which restrict the visibility of traffic or traffic control devices, which block fire lanes, create a safety hazard for pedestrian or vehicular traffic or block vistas, viewpoints, view corridors or visual access to the shoreline;

- (8) Signs attached to rocks, trees, utility poles, street signs or any other public property;
- (9) Backlighted signs;
- (10) Signs with colored lighting;
- (11) Portable signs other than sandwich board signs. [Ord. 963 § 2, 2005; Ord. 887, 2003; Ord. 671 § 7.5, 1995.]

15.115.120 Nonconforming signs.

- (1) Signs with certificates of authorization granted before the present sign ordinance adoption may be continued subject to provisions of subsection (2) of this section. Any sign without a current certificate of authorization shall be removed within 10 days of notice.
 - (2) Loss of nonconforming status occurs when:
 - (a) A sign is altered or replaced in any way in structure. Change of lettering style and routine maintenance are permitted.
 - (b) A sign is relocated.
 - (c) Any new sign is erected or placed in connection with the business using the nonconforming sign.
 - (d) The type of a business changes.
 - (e) Change of business name in a directory sign does not constitute loss of nonconforming status.
 - (3) With notification of loss of nonconforming status, the sign must be brought into compliance with this chapter and a new sign permit secured. [Ord. 887, 2003; Ord. 671 § 7.6, 1995.]

15.115.130 Appeal of planning commission decision.

An appeal of a planning commission or town planner decision may, by any aggrieved person, be made to the town council, in writing, within 10 days of the decision and payment of an appeal fee hereby set at one-half the original fee for a sign permit. The decision of the town council is final. [Ord. 671 § 7.7, 1995.]

Chapter 15.120

OPERATIONAL PERFORMANCE STANDARDS

Sections:

Article I. General

15.120.010 General.

Article II. Specific Requirements

- 15.120.020 Noise.
- 15.120.030 Vibration.
- 15.120.040 Air pollution – Emissions.
- 15.120.050 Fire and explosive hazards.
- 15.120.060 Electromagnetic interference.
- 15.120.070 Surface water.
- 15.120.080 Screening.
- 15.120.090 Outdoor storage areas.
- 15.120.100 Heat, glare, and steam.
- 15.120.110 Disposal of wastes.
- 15.120.120 Erosion.

Article I. General

15.120.010 General.

All uses shall meet the requirements of the Northwest Air Pollution Authority and Maximum Environmental Noise Levels, Chapter 173-60 WAC and other applicable federal and state regulatory agencies. [Ord. 671 § 8.1, 1995.]

Article II. Specific Requirements

15.120.020 Noise.

On-site sound levels and accumulative industrial district sound levels are not to exceed levels established by noise control regulations of the Department of Labor and Industries. Maximum permissible environmental noise levels to be emitted to adjacent properties are not to exceed levels of the environmental designations for noise abatement (EDNA) as established by the state of Washington Department of Ecology as now exists or is hereafter amended. EDNA classifications will conform to certain zone designations established under this code as follows:

- Class A EDNA: Residential Zone
- Class B EDNA: Commercial Zone, Public Use Zone
- Class C EDNA: Industrial Zone

[Ord. 671 § 8.2.A, 1995.]

15.120.030 Vibration.

Every use shall be so operated that the ground vibration inherently and/or recurrently generated from use and/or equipment other than vehicles is not perceptible without instruments at any point on or beyond any zone district boundary in which the use is located. [Ord. 671 § 8.2.B, 1995.]

15.120.040 Air pollution – Emissions.

Emissions of smoke, dust and other particulate matter, toxic and noxious gasses are not to exceed current standards set by the local air pollution authority (Northwest Air Pollution Control Authority) and all Washington State and federal standards as now exist, or are hereafter amended. [Ord. 671 § 8.2.C, 1995.]

15.120.050 Fire and explosive hazards.

The manufacture, use, or processing of flammable liquids or materials which produce flammable or explosive vapors or gasses shall be permitted only in accordance with the regulations of the fire prevention and building codes of the town of La Conner that now exist or are hereafter amended. [Ord. 671 § 8.2.D, 1995.]

15.120.060 Electromagnetic interference.

No activity shall emit electrical disturbance adversely affecting the operation of equipment or appliances at any point beyond the boundaries of the location of the use creating such disturbance. [Ord. 671 § 8.2.E, 1995.]

15.120.070 Surface water.

There shall be no pollution of surface or subsurface drainage waters. [Ord. 671 § 8.2.F, 1995.]

15.120.080 Screening.

Commercial and industrial uses and public parking areas shall be screened from adjacent residential uses. The use for which a sight-obscuring fence or planting is required shall not begin operation until the fence or planting is erected or in place and approved by the town council or designee. An

exception to the screening requirement may be granted if the owner of the residential use files a written statement that such screening is not desired, and that any such screening needed in the future shall be installed at the expense of the residential property owner. Fences for the purpose of screening shall be a minimum of five feet in height. [Ord. 671 § 8.2.G, 1995.]

15.120.090 Outdoor storage areas.

All outdoor storage yards shall be screened by a fence or wall at least six feet high. [Ord. 671 § 8.2.H, 1995.]

15.120.100 Heat, glare, and steam.

Any activity producing steam, heat or glare shall be carried on in such a manner that the steam, heat or glare shall not create a nuisance beyond the boundary lines of the district within which the use is located. No building materials may be used in construction of buildings where reflected sunlight would throw intense glare on adjacent areas. Direct light from high intensity lamps shall not result in glare upon surrounding residential areas. [Ord. 671 § 8.2.I, 1995.]

15.120.110 Disposal of wastes.

Disposal of wastes shall be subject to regulations of the state and local health department, Department of Ecology, and local, state and federal pollution controls as now exist, or are hereafter amended.

(1) Storage of Garbage. A plan approved by the town for temporary (one-week) storage of garbage will be required in the commercial and industrial areas.

(2) Recycling. New construction and major remodeling (\$25,000), in all zones, will include an approved site for temporary storage of on-site generated recyclables and garbage. [Ord. 671 § 8.2.J, 1995.]

15.120.120 Erosion.

Property owners must take all reasonable steps to prevent erosion by either wind or water which damages properties or carries objectionable substances into or through neighboring properties, ground water or storm drains. [Ord. 671 § 8.2.K, 1995.]

Chapter 15.125

HARDSHIP RELIEF – DISCRETIONARY PERMITS

Sections:

- 15.125.010 Existing nonconforming development.
- 15.125.020 Change of use.
- 15.125.030 Projections into required setbacks.
- 15.125.040 Variances.
- 15.125.050 Lot line adjustments.
- 15.125.060 Annexation.
- 15.125.070 Rezone – Definition – Basis.
- 15.125.080 Rezone – Procedure.
- 15.125.085 Rezone – Follow-up.
- 15.125.090 Comprehensive plan adoption and amendment – UDC amendments.
- 15.125.100 Amendments – Procedure.
- 15.125.110 Periodic revision of the comprehensive plan.

15.125.010 Existing nonconforming development.

(1) Nonconforming Buildings.

(a) Any nonconforming building may be continued and maintained.

(b) Reconstruction of nonconforming buildings may be done if the damage done does not exceed 50 percent of the existing assessed value, and if reconstruction is started within nine months and is completed within 18 months of the date of damage.

(c) *Repealed by Ord. 979.*

(2) Nonconforming Use.

(a) Any nonconforming use of a building or structure may be continued or maintained, provided the use is not altered in any way. If the use is discontinued for a period of six consecutive months or if superseded by a conforming use, it may not revert back to the nonconforming use. A maximum of three six-month extensions may be granted by the planning director following a written request; provided, that the planning director finds that the owner is actively marketing the property as its nonconforming use.

(b) The nonconforming use of land, where no building is involved, may be continued; provided, that it is not enlarged, changed or extended. If the use ceases for a period of more than 90 days, any subsequent use shall be a conforming use.

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(3) Effect of Annexation. Nonconformance as a result of annexation will be subject to the regulations set forth in this chapter. [Ord. 979 § 6, 2006; Ord. 931 § 3, 2004; Ord. 884 § 3, 2003; Ord. 791, 2000; Ord. 671 § 9.1, 1995.]

15.125.020 Change of use.

(1) The conversion of the use or the addition in square footage or the conversion of any dwelling so as to accommodate more dwelling units shall require a change of use permit prior to any such conversion or addition.

(2) The change of use shall be based on International Building Code (IBC) classifications for use or occupancy. A copy of the change of use permit shall be forwarded to the Skagit County permit center.

(3) For the purposes of this code, the conversion of an existing residential structure to housing for people with functional disabilities shall not be deemed a change of use. [Ord. 963 § 6, 2005; Ord. 671 § 9.2, 1995.]

15.125.030 Projections into required setbacks.

(1) Architectural features may project into the required setback not more than one-third the distance of the setback requirement, and not exceeding 40 inches into any required setback adjoining a street right-of-way.

(2) Open fire escapes may project a distance not exceeding 48 inches.

(3) An uncovered porch, deck, terrace, patio, or underground structure may extend to within three feet of a side lot line or within 10 feet of a front or rear line. [Ord. 671 § 9.3, 1995.]

15.125.040 Variances.

(1) Authority and Applicability.

(a) Hearing Examiner Variances (Type IV Permit). The hearing examiner shall have the authority to grant variances from the provisions of this code.

(b) Administrative Variances (Type II Permit). The planning director shall have the authority to grant variances from the following development standards when no other permit or approval requires hearing examiner review:

(i) Residential Land Uses. Lot dimensions, setbacks and allowed projections into setbacks; and

(ii) Commercial and Industrial Land Uses. Screening of surface and roof mounted equipment and landscaping requirements; and

(iii) Parking. Landscaping and screening requirements.

(c) Filing of Application. A property owner, or his duly authorized agent, may be required to file an application for a variance, which application shall set forth fully the grounds therefore and the facts deemed to justify the granting of such variance.

(d) Submittal Requirements and Application Fees. Shall be as listed in LCMC 15.135.070, Application for permit; and fees as approved by Council Resolution 236.

(e) Public Notice Requirements. Notice of the application shall be given pursuant to LCMC 15.135.110, Public notice requirements.

(2) Decision Criteria. The reviewing official shall have authority to grant a variance upon making a determination in writing that the conditions specified below have been found to exist. Under no circumstances shall the reviewing official grant a variance to allow a use not permissible under the terms of this code in the district involved on any use expressly, or by implication, prohibited by the terms of this code in said district. Variances shall only be granted when the applicant demonstrates that all of the following conditions are met:

(a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(b) That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this code;

(c) That the special conditions and circumstances do not result from the actions of the applicant;

(d) That granting of the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, structures, or buildings in the same district;

(e) That the granting of the variance will be in harmony with the general purpose and intent of this code will not be injurious to the neighborhood, or otherwise detrimental to public welfare.

(3) Findings by the Reviewing Official. The reviewing official shall grant a variance only upon finding that the application satisfies all the foregoing criteria. [Ord. 901 § 5, 2003; Ord. 842 § 8, 2002; Ord. 743 § 4, 1999; Ord. 671 § 9.4, 1995.]

15.125.050 Lot line adjustments.

(1) Lot lines may be adjusted between legal lots of record; provided, that no lot conforming to the minimum lot size requirement of the district is reduced below that minimum lot size, and any lot changed by the lot line adjustment shall satisfy, or not decrease, compliance with the minimum width, depth, frontage, yard and setback requirements of the district, and off-street parking requirements for existing uses are satisfied.

(2) Lot line adjustments may be allowed between undersized lots in any district; provided, that the resulting lots satisfy the minimum width, depth, frontage, and yard requirements of the district, and setbacks to existing structures are not reduced by the lot line adjustment below the minimum setback requirements, and off-street parking requirements for existing uses are satisfied. [Ord. 671 § 9.5, 1995.]

15.125.060 Annexation.

(1) Proposed annexations to the town of La Conner shall be considered and processed under the provisions of Chapter 35.13 RCW, Annexation of Unincorporated Areas.

(2) Applications shall be submitted to the town clerk on forms provided by the town together with any fees and information required for processing the application.

(3) The following criteria shall be considered during a review of a proposal for annexation:

- (a) Preservation of natural neighborhoods and communities;
- (b) Use of physical boundaries, including but not limited to bodies of water, highways, and land contours;
- (c) Creation and preservation of logical service areas;
- (d) Prevention of abnormally irregular boundaries;

- (e) Adjustment of impractical boundaries;
- (f) Protection of agricultural and rural lands which are designated for long-term productive agricultural and resource use by a comprehensive plan adopted by the county.

(4) The town clerk shall have the responsibility for administering the annexation process. [Ord. 671 § 9.6, 1995.]

15.125.070 Rezone – Definition – Basis.

(1) Zoning is defined as the legislative division of a community into areas in which are permitted only certain designated uses or land structures. A rezone authorizes uses on property that differ substantially from terms of the prior zoning designation.

(2) Rezones must be based on a change of circumstances or community needs. They cannot be based exclusively on the desires of public interest groups. The property owner/applicant must prove that a parcel-specific rezone is valid.

(3) Rezones must conform to the comprehensive plan and benefit the public. [Ord. 671 § 9.7.A – C, 1995.]

15.125.080 Rezone – Procedure.

(1) An application for rezone shall be submitted to the town clerk on a form provided by the town, a fee as set by the town council payable to the town of La Conner, and any other applicable information as required for processing the application.

(2) Information submitted with the application shall include the following:

- (a) A survey map of reproducible material, at least 18 by 24 inches in size signed by a registered land surveyor and eight copies containing:
 - (i) Name, address, and telephone number of property owner of record or certified designated agent;
 - (ii) Legal description of the property;
 - (iii) Existing zoning classification;
 - (iv) Date, scale of not less than 100 feet to the inch, and north arrow;
 - (v) Benchmarks and ground elevation at mean sea level when all or a portion of the area is located in the floodplain and land contours with intervals of five feet;
 - (vi) Boundary lines of entire area to be rezoned;

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(vii) Location, name and width of any existing easement, street and right-of-way;

(viii) Location of any existing structures;

(ix) Availability and location of utilities including water, sewer, and storm water drainage;

(x) Parcels of land intended to be dedicated or temporarily reserved for public use or to be reserved in the deeds for the common use of property owners;

(xi) Acknowledged signatures of property owners and notary public stamp;

(xii) Signature block for approval of planning commission and/or town council;

(b) Names and addresses of all property owners within 300 feet of the proposed rezone area as recorded by the county assessor;

(c) A completed SEPA environmental checklist;

(d) A statement of how the rezone would meet the goals and policies of the comprehensive plan.

(3) The planning director shall:

(a) Review the application and SEPA checklist and make a threshold determination for publication.

(b) Notify the applicant that the application has been received and a date set for a public hearing by the planning commission.

(c) Prepare a staff report and make a recommendation based on findings to the planning commission.

(4) The town clerk shall:

(a) Publish two notices of public hearing at least 10 days before the public hearing by the planning commission.

(b) Send notices to all property owners of record within 300 feet of the rezone site. Addresses for mail notice shall be obtained by the applicant based on the current Skagit County assessor's office records or obtained from a title company doing business in Skagit County and submitted with the application on one-inch by two-and-five-eighths-inch mailing labels.

(c) Post the notice of rezone on the property.

(5) The planning commission shall make a recommendation to the town council based on the staff report, testimony received at the public hearing, and the following criteria:

(a) Consistency with the comprehensive plan;

(b) Environmental impacts;

(c) Potential use. [Ord. 842 § 5, 2002; Ord. 671 § 9.7.D, 1995.]

15.125.085 Rezone – Follow-up.

At a convenient time, within three years after a rezone action, the town council will conduct a public hearing to take input on the impact that the rezone has had on the community. This is in compliance with the spirit of RCW 36.70A.070(6), which mandates concurrency for transportation impacts associated with development, but should also include an examination of other impacts on the community. [Ord. 963 § 9, 2005.]

15.125.090 Comprehensive plan adoption and amendment – UDC amendments.

(1) Proposed amendments to this code or the comprehensive plan may be submitted by the town council, planning commission or by any affected citizen or property owner by applying to the department of planning and development. Amendments must be adopted, certified, and recorded or filed in accordance with RCW 35.63.100.

(2) The town council will consider amendments to the comprehensive plan not more than annually except for emergencies. Formal application for comprehensive plan amendments shall be submitted by January 15th for consideration the following year. Application for preapplication review is recommended to occur by November 1st of the prior year. Comprehensive plan amendments shall be given the highest priority in the planning commission's work program, and review shall be initiated within the second quarter of the work year.

(3) The proposal shall demonstrate that the requested amendment is timely and meets at least one of the following criteria:

(a) The request supports the vision embodied in the comprehensive plan; or

(b) The request supports the adopted goals and policies of the town council as expressed through the comprehensive plan, uniform development code, and shoreline master program; or

(c) The request eliminates conflict with existing elements or policies; or

(d) The request amends the comprehensive plan to accommodate new policy directives of the town council.

Proposals that include a concurrent rezone request shall also comply with the decision criteria for a change of zone classification in LCMC 15.125.070 for the rezone portions of the application.

To maintain consistency with the comprehensive plan, any rezoning that would be required by approval of the proposed amendments to the comprehensive plan shall be considered concurrently with the proposed comprehensive plan changes.

(4) The uniform development code may be amended at any time. [Ord. 856, 2002; Ord. 671 § 9.8.A – C, 1995.]

15.125.100 Amendments – Procedure.

(1) An application for amendment to the UDC or the comprehensive plan shall include a SEPA checklist. The department of planning and development shall make a threshold determination, publish findings, solicit comments from the public in the local newspaper, and set a date for a public hearing by the planning commission following the end of the comment period.

(2) The director of planning and development shall publish the notice of public hearing.

(3) Review of Formal Applications for Comprehensive Plan Amendments. The planning commission shall review technical studies and other pertinent information as needed prior to making a recommendation to the town council on the merits of the application.

(4) The planning commission shall hold the public hearing and review the application for amendments to the UDC and the comprehensive plan based on the following considerations:

(a) The proposal demonstrates that the requested amendment is timely and meets at least one of the criteria in LCMC 15.125.090(3);

(b) The proposed amendment is consistent with the goals and policies of the comprehensive plan;

(c) The proposed amendment will not adversely impact the general health, safety, and welfare of the community;

(d) Recommendations of staff and public input.

(5) The planning commission shall submit a written recommendation to the town council that:

(a) Identifies any provisions of this code, comprehensive plan, or other law relating to the

proposed change and describes how the proposal relates to them;

(b) States factual and policy considerations pertaining to the recommendation;

(c) Includes written comments, if any, received from the public.

(6) The council will hold a public hearing, make modifications if necessary, and adopt or reject the proposed amendment to the UDC or the comprehensive plan or enact a modified proposal or remand the proposed amendments back to the planning commission for reconsideration with guidance from the council that is within the scope of matters considered in the hearing. [Ord. 898 § 7, 2003; Ord. 856, 2002; Ord. 671 § 9.8.D, 1995.]

15.125.110 Periodic revision of the comprehensive plan.

(1) In order for the plan to remain effective, it should be reviewed periodically. Conditions might change, and unforeseen events may occur, which might necessitate a re-evaluation. In accordance with RCW 36.70A.130, at least every five years the town shall take action to review and, if needed, revise the comprehensive land use plan and development regulations to ensure that the plan and regulations are complying with the requirements of Chapter 36.70A RCW. The comprehensive plan may also be revised through annual amendments as allowed by the Growth Management Act, or in an emergency.

(2) The department of planning and development shall maintain a docket file containing issues, errors, omissions and other materials pertinent to amendment of the comprehensive plan and uniform development code. The UDC may be amended at any time including concurrently with the annual comprehensive plan update. The department shall submit a staff report regarding the materials as a part of the annual update process LCMC 15.125.090(2). The planning commission will review each docket item and prepare a recommendation to the town council for review. [Ord. 856, 2002.]

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Chapter 15.130**BOARDS AND AGENCIES
(POWERS AND DUTIES)***

Sections:

- 15.130.010 Department of planning and development.
- 15.130.020 Planning commission – Membership.
- 15.130.030 Planning commission – Authority.
- 15.130.040 Planning commission – Powers and duties.
- 15.130.050 Town council.

*Prior legislation: Ord. 600 which provides that a planning commission member's term shall cease if he misses over four regularly scheduled meetings in a six-month period.

15.130.010 Department of planning and development.

(1) Planning Director Authority. The town planning director, or designee, shall have the authority to approve, approve with conditions, or deny Type I and II project permit applications which are not consolidated with Type III, IV, or V permit applications.

(2) Planning Director Duties.

(a) Publish a list of all permit decisions weekly.

(b) As the town SEPA official, the planning director shall review environmental checklists and make determinations on probable environmental impacts resulting from proposed projects.

(c) Review all development permit applications, prepare staff reports, and make recommendations to the planning commission, hearing examiner and/or town council.

(d) Administer and enforce land use development regulations under the provisions of this code.

(3) Appeals. Actions of the planning director may be appealed to the hearing examiner. [Ord. 743 § 5, 1999; Ord. 720 § 4, 1998; Ord. 691 § 2, 1997; Ord. 671 § 10.1, 1995.]

15.130.020 Planning commission – Membership.

(1) A planning commission established by the town shall consist of five members who are residents of the town of La Conner, appointed by the mayor with approval of the town council. Members may be removed from office by the mayor for

neglect of duty, inefficiency, or malfeasance in office after a public hearing and with the consent of the town council. Vacancies shall be filled by appointment by the mayor with approval of the town council. The term of office for planning commissioners is six years.

(2) The planning commission shall elect a chairman and vice chairman from among its members, shall appoint a secretary who need not be a member of the commission, and shall adopt rules for transaction of business and shall keep a record of transactions, findings, and determinations.

(3) No less than one regular meeting shall be held each month unless no matters are pending on the commission calendar. Three members shall constitute a quorum to conduct business. A majority is required for a motion to pass.

(4) It shall be deemed neglect of duty for any planning commissioner to miss three consecutive regularly scheduled meetings or to fail to attend at least one training session annually. [Ord. 931 § 4, 2004; Ord. 885 § 1, 2003; Ord. 776 §§ 1, 2, 2000; Ord. 743 § 5, 1999; Ord. 741, 1999; Ord. 671 § 10.2.A – C, 1995.]

15.130.030 Planning commission – Authority.

(1) The planning commission shall review and approve, approve with conditions, or deny Type III permit applications which are not consolidated with Type IV or Type V permit applications. Reference LCMC 15.135.050 for permit classifications and procedures.

(2) The planning commission shall review and make a recommendation for approval, conditional approval or denial to the hearing examiner on Type III permit applications which are consolidated with Type IV or Type V project permit applications. The recommendation shall be made following a public meeting.

(3) The planning director shall forward a copy of all complete Type IV and Type V project permit applications to the planning commission. If the planning commission, by recorded motion, decides to make a recommendation to the hearing examiner, it shall consider the application and make its recommendation at its next regular meeting. If the planning commission fails to decide to make its recommendation within 15 days of its receipt of a complete application, or if it fails to make a recom-

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mentation at the next regular meeting after deciding to make a recommendation, the recommendation shall be made by the planning director.

(4) The planning commission shall hold at least one public hearing before taking the following actions:

(a) Approving, approving with conditions or denying Type III permit applications not consolidated with Type IV or Type V permit applications.

(b) Recommending a plan change/general zone change request.

(c) Recommending text amendments to the comprehensive plan and uniform development code or land use ordinances.

(d) Any inconsistency between the duties conferred upon the planning commission herein and those duties delegated to the hearing examiner in Chapter 15.12 LCMC, as amended, shall be construed in favor of providing jurisdiction to the hearing examiner at the exclusion of the planning commission. [Ord. 743 § 5, 1999; Ord. 720 § 5, 1998; Ord. 691 §§ 3 – 6, 1997; Ord. 671 § 10.2.D, 1995.]

15.130.040 Planning commission – Powers and duties.

(1) Annual review of the comprehensive plan and preparation of possible amendments or additions to the plan, for referral to the town council.

(2) Provide recommendations to the hearing examiner on conformance of public or private projects to the comprehensive plan as provided in LCMC 15.130.030 and 15.135.050; provide recommendations to the town council to bring non-conforming projects into compliance.

(3) Hold hearings, take testimony and make recommendations to the town council on amendments to the town zoning map or this code or land use ordinances.

(4) Make recommendations or determinations on project permit applications as provided in LCMC 15.130.030 and 15.135.050 and other duties delegated by the town council as set forth herein and as are not inconsistent with the duties delegated to the hearing examiner by Chapter 15.12 LCMC, as amended. [Ord. 743 § 5, 1999; Ord. 691 § 7, 1997; Ord. 671 § 10.2.E, 1995.]

15.130.050 Town council.

The town council shall have authority under this code to:

(1) Hear all appeals of actions taken by the town planner and the planning commission not delegated to the hearing examiner.

(2) Hear all planning commission recommendations not made to the hearing examiner.

(3) Hear all appeals of action taken by the planning director under the State Environmental Policy Act not delegated to the hearing examiner.

(4) When procedures and authority are not specifically mentioned, the use, requirement, or regulations shall be determined by the town council; however, where these provisions conflict with provisions herein or Chapter 15.12 LCMC, as amended, delegating authority to the hearing examiner, the former shall control. [Ord. 743 § 5, 1999; Ord. 691 §§ 8 – 10, 1997; Ord. 671 § 10.3, 1995.]

Chapter 15.135

ADMINISTRATION AND ENFORCEMENT*

Sections:

Article I. Administration, Plan, Permit

- 15.135.005 Conflict of provisions.
- 15.135.010 General.
- 15.135.020 Designation of administrator.
- 15.135.030 Concurrency management systems and LOS standards.
- 15.135.040 Certificate of authorization required.

Article II. Procedure for Project Permit Review

- 15.135.050 Process classification and procedures.
- 15.135.060 Preapplication conference.
- 15.135.070 Application for permit.
- 15.135.080 Consolidated permit process.
- 15.135.090 Determination of complete application.
- 15.135.100 Notice of application received.
- 15.135.110 Public notice requirements.
- 15.135.120 Determination of consistency.
- 15.135.130 Public hearing.
- 15.135.140 Decision report.
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Article III. Conditional Use Criteria

- 15.135.190 Criteria for conditional use permits.

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- 15.135.220 Procedure for appeals.

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- 15.135.230 Challenges to impartiality.
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Article VII. Enforcement of Development Permits

- 15.135.290 Ongoing inspections.
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Article VIII. Enforcement of Code Provisions

- 15.135.310 General.
- 15.135.320 *Repealed.*
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Article IX. Enforcement Procedures

- 15.135.360 Commencement of proceedings.
- 15.135.370 Notice and order.
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- 15.135.420 Suspension of permits.
- 15.135.430 Revocation of permits.
- 15.135.440 Lien authorized.
- 15.135.450 Personal obligation authorized.
- 15.135.460 –
- 15.135.500 *Repealed.*

*Prior legislation: Ords. 691 and 671.

Article I. Administration, Plan, Permit

15.135.005 Conflict of provisions.

It is the intent of the town council, in adoption of this chapter, that in the event of inconsistencies between different sections of LCMC Title 15, the procedures found in this chapter shall prevail. [Ord. 743 § 7, 1999.]

15.135.010 General.

(1) Purpose. This section establishes a uniform framework for considering the consistency of a proposed project with the comprehensive plan and development regulations set forth in this code and outlines application and integrated project review procedures required for obtaining development permits. It includes procedures for appealing decisions and seeking legislative action.

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(2) Withdrawal of Applications. An application for development review may be withdrawn at any time; however, the fees paid for such review may not be refunded. [Ord. 743 § 6, 1999.]

15.135.020 Designation of administrator.

(1) The planning director shall review all permit applications to determine that the requirements of this code are met and all necessary permits have been obtained from other local, state, or federal governmental agencies from which prior approval is required.

(2) The proposal shall be reviewed under the applicable standards of this code and all documents received and prepared related to the proposal shall be filed in a permanent record maintained at Town Hall.

(3) The planning director shall issue a certificate of authorization for a use or development activity when all project permits required for the use or development activity have been issued or when other applicable development requirements for issuance are completed. [Ord. 743 § 6, 1999.]

15.135.030 Concurrency management systems and LOS standards.

(1) Concurrency Management System. The town shall prepare an annual capacity statement report that includes:

(a) A summary of building permits issued, including quantity and type of development;

(b) A summary of certificates of occupancy issued, including quantity and type of development;

(c) A summary of proposed development, including quantity and type of development;

(d) An evaluation of public facilities providing service to existing and planned development indicating:

(i) Capacity available at the beginning and end of each reporting period;

(ii) Capacity available for planned development;

(iii) A comparison of actual capacity and levels of service to adopted levels of service in the comprehensive plan;

(iv) A forecast of the capacity based upon the updated capital facilities plan element of the comprehensive plan.

(2) Adopted Levels of Service Standards (LOS). The town shall use the following LOS standards in

reviewing the impacts of new development and redevelopment upon public facility provision:

(a) Community parks – Six acres per 1,000 residents (now have minimum of 12 acres for Pioneer Park).

(b) Open space – 25 percent of total town area.

(c) Drainage – Storm water management system to retain the runoff from a 25-year, 24-hour storm event at peak discharge rates. Development will be regulated to ensure that the post-development runoff to the town system does not exceed the predeveloped discharge volume and/or rate to ensure the level of service of the existing storm water system is not compromised.

(d) Traffic circulation – Roadway link specific for all streets in the town. The LOS of C (occasional backups may develop, but delay to vehicles is short-term and still tolerable) is desirable for major access streets during peak traffic times. LOS designations are listed in the transportation element of the comprehensive plan.

(e) Sanitary sewer – 151 gallons per capita per day; 300 milligrams per liter strength.

(f) Potable water – 157 gallons per capita per day at 65 psi; 157 gallons per day for three days reserve.

(g) Fireflow – Minimum of 500 gallons per minute. [Ord. 743 § 6, 1999.]

15.135.040 Certificate of authorization required.

(1) No use or development activity which requires approval of a project permit pursuant to any section of the LCMC shall be undertaken unless the activity is authorized by a certificate of authorization. Under the integrated project process, environmental review in accordance with the State Environmental Protection Act (SEPA) must be combined with review under this code, the Shoreline Management Act, the requirements of the Federal Emergency Management Agency regulating floodplains, the International Building Code, fire code, and all other applicable local, state, and federal laws and regulations.

(2) After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification permit from the planning department or authorizing body. [Ord. 963 § 6, 2005; Ord. 743 § 6, 1999.]

Article II. Procedure for Project Permit Review

15.135.050 Process classification and procedures.

(1) Classification. Project permits shall be classified by the planning director as Type I through V according to Table A, below.

Table A – Permit Classifications

I Administrative	II Planning Director	III Planning Commission	IV Hearing Examiner	V Town Council
Building and construction permits; LCMC 15.135.020	Land use review of permitted and accessory uses exempt from SEPA; LCMC 15.135.120	Demolition permits for Type I and II structures; Chapter 15.110 LCMC		Nonarea wide rezone; LCMC 15.125.080
Lot line adjustments; LCMC 15.125.050	Historic design review of minor new construction; LCMC 15.50.060	Historic design review of major new construction; LCMC 15.50.060	Conditional use permits; LCMC 15.135.190	Final plat; Chapter 15.30 LCMC
Sign permits; Chapter 15.115 LCMC	Shoreline exemptions; LCMC 10.10.440	Tree removal permits inside the HPD; Chapter 15.60 LCMC	Tree removal outside the HPD, excluding residential; Chapter 15.60 LCMC	
Demolition permits for Type III structures; Chapter 15.110 LCMC	Critical areas; Chapter 15.65 LCMC			
Home occupation permits; LCMC 15.110.070	Short plat; Chapter 15.30 LCMC		Shoreline substantial development permits; LCMC 10.10.515	
Floodplain permits; Chapter 15.70 LCMC	Binding site plan; Chapter 15.55 LCMC		Shoreline conditional use permits; LCMC 10.10.520	
Change of use; LCMC 15.125.020	Administrative variance; LCMC 15.125.040		Temporary use permits; LCMC 15.110.050	
	Administrative conditional use permits; LCMC 15.20.055		Shoreline variances; LCMC 10.10.525	
			Variances; LCMC 15.125.040	
			Appeals of planning commission and administrative decisions; LCMC 15.12.110	
			SEPA appeals; LCMC 13.10.090	
			Preliminary plat approval; Chapter 15.30 LCMC	
			PURD; Chapter 15.25 LCMC	

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(2) Procedures. Type I through Type V shall be processed pursuant to the procedures outlines in Table B, below.

Table B – Review Procedures

Process Type	I	II	III	IV	V
Recommendation made by	N/A	N/A	Planning commission, if consolidated with Type IV or V permit applications	Planning director or planning commission	Planning commission
Final decision made by	Planning director, public works director or designees	Planning director or designee	Planning commission unless consolidated with Type IV or V permit applications	Hearing examiner	Town council
Notice of application	No	Yes ¹	Yes	Yes	Yes
Open record public hearing	No	Only if appealed, open record hearing before hearing examiner	Yes, before planning commission unless consolidated with Type IV or V permit applications	Yes, before hearing examiner for final decision	Yes, before hearing examiner for recommendation
Closed record appeal/final decision	Only if appealed, a closed record hearing before the hearing examiner, except that appeals of a building official order shall be remanded to the Skagit County building appeals board	No	Only if appealed, closed record hearing before hearing examiner	No	Yes, before town council
Judicial appeal	Yes	Yes	Yes	Yes	Yes

1. Type II – Open Record Public Hearing. For administrative variance and administrative conditional use applications, a public hearing before the hearing examiner may be requested by the applicant, interested parties, or the planning director.

[Ord. 986 § 6, 2007; Ord. 901 §§ 7, 8, 2003; Ord. 842 §§ 10, 14, 2002; Ord. 743 § 6, 1999.]

15.135.060 Preapplication conference.

An applicant may request a preapplication conference for development plan review prior to filing an application to discuss the review process and permit requirements. Any comments concerning the proposed development during the preapplication conference shall not be construed as approval or denial of the proposal. [Ord. 743 § 6, 1999.]

15.135.070 Application for permit.

Applications for all permits, including, but not limited to, certificate of authorization, change of use, conditional use, lot line adjustments, floodplain permit, fill/grade/excavation permit, shoreline permit, and environmental checklist, shall be made on forms provided by the town of La Conner. The following information shall be submitted as

required by the planning director or applicable code section:

(1) Name, address and telephone of property owner of record or certified designated agent, or the developer. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be submitted;

(2) Complete legal description of the property, including section, township and range;

(3) Vicinity map drawn to scale showing the position of the proposed development, together with principal roads, town limits, and/or other pertinent orientation information;

(4) A minimum of six sets of project plans on reproducible material at least 17 by 25 inches in size showing:

(a) Name, address, and telephone number of property owner of record or certified designated agent, the developer and the land surveyor and/or registered engineer preparing the plat map;

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- (b) Legal description of the property;
 - (c) Existing zoning classification;
 - (d) Scale of not less than 100 feet to the inch, and north arrow;
 - (e) Benchmarks and ground elevation at mean sea level when all or a portion of the plat is located in the floodplain and contours with intervals of 95 feet;
 - (f) Boundary lines of entire tract and individual lots in square feet and/or acres;
 - (g) Easements, existing public and private, with location, name and width of any existing street and right-of-way within the area and 200 feet thereof. Grades, profiles and cross-sections of proposed streets;
 - (h) Location of fire hydrants within 1,000 feet of the project site;
 - (i) Location of any existing structures;
 - (j) Availability and location of utilities including water, sewer, and storm water drainage;
 - (k) Parcels of land intended to be dedicated or temporarily reserved for public use or to be reserved in the deeds for the common use of property owners of the property or dedication;
 - (l) Relationship to nearest body of water or critical area;
 - (m) Existing or proposed parking areas;
 - (n) Pedestrian and vehicular ingress and egress/circulation patterns;
 - (o) Existing and proposed landscaping, vegetation, and trees;
 - (p) Building site, dimensions, gross floor area, architectural elevations, setbacks, cross-sections and specifications;
 - (q) Building floor plans with proposed use and occupancy of each room noted;
 - (r) Proposed open space and percentage of impervious surface;
 - (s) Lighting and signs as applicable;
 - (t) Buffer areas;
 - (u) Aerial photograph, soils map, and topographic map as applicable;
 - (v) Benchmark elevations provided on a FEMA Elevation Certificate and certified by a registered engineer or architect;
 - (w) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures and the extent to which any structure has been floodproofed;
 - (x) Registered architect/engineer/surveyor stamp and date;
 - (y) Acknowledged signatures of property owners and notary public stamp as applicable;
 - (z) Signature block for approval of planning commission and/or town council as applicable.
- (5) Section elevations taken near the centerline of any adjacent public rights-of-way showing proposed development and adjacent structures on the same block;
- (6) Samples of proposed colors and materials;
- (7) Architectural inventory;
- (8) Economic analysis;
- (9) A survey map of reproducible material, at least 18 by 24 inches in size with two-inch margins, signed by a registered land surveyor and eight copies shall be required for subdivision, short subdivision or PURD applications containing all of the information in subsection (2) of this section;
- (10) Evidence of title;
- (11) If lots are to be served by a private street, copies of applicable covenants or documents with provisions covering, but not limited to, ingress, egress, utility easements, and maintenance shall be furnished to the town and recorded with the county;
- (12) Certification by a registered engineer or architect on a FEMA certificate that the floodproofing methods for any nonresidential structure meet floodproofing criteria must be submitted upon completion of the building and before a certificate of occupancy is issued;
- (13) The town clerk shall affix a file number and date received to the application and plans upon submittal and payment of fees. A fee set by the town council shall be payable to the town clerk at the time of application. There is no fee for maintenance and repair of existing structures. [Ord. 743 § 6, 1999.]

15.135.080 Consolidated permit process.

An application that involves two or more classification types may be processed collectively under the highest numbered type required for any part of the application or processed individually under each of the procedures identified by code. The applicant may determine whether the application shall be processed collectively or individually, subject to the following requirements:

- (1) If the applications are processed individually, the highest numbered type shall be processed

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prior to the subsequent lower numbered type. Type V is the highest, followed by Type IV, then Type III, then Type II and Type I.

(2) A consolidated permit application shall not be considered complete until all information required for individual permit applications has been submitted.

(3) Applications processed through the consolidated permit process which involve different hearing bodies shall be heard collectively by the highest ranking body. The town council is the highest rank, followed by the hearing examiner, then the planning commission and then the planning director.

(4) In the case of Type III permits consolidated with Type IV or V permits, the planning commission shall consider the application and any written comments in a public meeting and make a recommendation to the hearing examiner.

(5) Projects involving comprehensive plan amendments may be consolidated with non-area-wide rezone proposals and reviewed pursuant to Chapter 15.125 LCMC (Procedure for Rezone Reviews by Planning Commission and Town Council). The hearing examiner shall hear and make recommendations to the town council regarding rezones only when no comprehensive plan amendment is required to be approved for the rezone proposal. [Ord. 842 § 12, 2002; Ord. 743 § 6, 1999.]

15.135.090 Determination of complete application.

(1) A project permit application is complete when it meets the procedural requirements of this code as determined by the planning director and is sufficient for continued processing, even though additional information may be required or project modifications may be undertaken subsequently. The determination of completeness shall not preclude requests for additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur. A determination of completeness may include the following:

(a) A preliminary determination of those development regulations that will be used for project mitigation.

(b) A preliminary determination of consistency.

(c) Other information as required to process the application.

(2) An application shall be deemed complete if the town does not provide a written determination to the applicant that the application is incomplete within 28 days of receipt of the application and required fees. Applications submitted after the close of business shall be deemed received on the next working day. [Ord. 743 § 6, 1999.]

15.135.100 Notice of application received.

(1) Within 28 days after receiving a project permit application, the planning director shall mail or provide in person a written determination to the applicant, stating either:

(a) That the application is complete; or

(b) That the application is incomplete and what is necessary to make the application complete; and

(c) To the extent known, other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

(2) Within 14 days after an applicant has submitted additional information identified by the planning director as being necessary for a complete application, the applicant, the public, and agencies determined by the planning director to have jurisdiction over the proposal shall be notified that the application is complete. Notice of application shall include:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application.

(b) A description of the proposed project and a list of permits applied for by the applicant, and if applicable, a list of any requested studies.

(c) To the extent known, the identification of other permits required but not included in the application.

(d) The identification of existing environmental documents that evaluate the proposed project, and the location where the application and any studies can be reviewed.

(e) A statement of the required public comment period, which shall be not less than 14 nor more than 30 days following the date of the notice of application.

(f) A statement of the public's procedural rights, including the right of any person to comment on the application, receive notice of and participate

in any hearings, request a copy of the decision once made, and any appeal rights. Public comments may be accepted at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit.

(g) The date, time, place and type of hearing.

(h) A statement of any preliminary determination of the development regulations that will be used for project mitigation.

(i) Any other appropriate information.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least 15 days prior to the open record hearing.

(4) A Determination of significance (DS) may be issued before expiration of the public comment period, but not a determination of nonsignificance (DNS) or mitigated determination of nonsignificance (MDNS).

(5) A notice of application shall not be required for project permits that are categorically exempt under Chapter 43.21C RCW, such as construction permits that do not require environmental review or public notice, unless a public comment period or an open record predecision hearing is required. [Ord. 743 § 6, 1999.]

15.135.110 Public notice requirements.

(1) The following shall be the minimum public notice requirements. Public notice greater than the minimum requirements may be required at the discretion of the planning director.

(a) Type I Permits. No notice required.

(b) Type II Permits. Notice of application, in the manner and form designated by the planning director, shall be posted on the site and mailed to all property owners within 300 feet of proposal site.

(c) Public meetings during which the planning commission will make a recommendation on Type III, Type IV, or Type V permit applications. The application number, project location, description and type of permit shall be listed in the planning commission agenda which is published in the newspaper of record at least five days prior to the meeting.

(d) Type III, Type IV and Type V. All of the following are required:

(i) Posting the notice of application on the project site in the manner and form designated by the planning director.

(ii) Publishing notice, including at least the project location; description; type of permit(s) required; comment period dates; hearing date, location and time; and the location where the complete application may be reviewed, in the newspaper of record at least 15 days before the open record hearing. A published SEPA threshold determination, notice of hearing or notice of application containing this information shall satisfy this requirement.

(iii) Mailing the notice of the hearing to neighboring property owners within 300 feet of the proposed site, and to any person or entity who has submitted written comments. The failure of any person to receive notice shall not invalidate an action if a good faith attempt was made to comply with the notice requirements of this code. Addresses for mail notices shall be obtained by the applicant based on the current rolls of the Skagit County assessor's office or obtained from a title company doing business in Skagit County and submitted with the application on one-inch by two-and-five-eighths-inch mailing labels.

(2) Additional public notice methods which may be used at the discretion of the planning director:

(a) Notifying the news media.

(b) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered.

(c) Placing notices in appropriate regional or neighborhood newspapers or trade journals.

(d) Publishing notice in agency newsletters or sending notice to agency mailing lists. [Ord. 901 § 9, 2003; Ord. 898 § 5, 2003; Ord. 842 § 7, 2002; Ord. 743 § 6, 1999.]

15.135.120 Determination of consistency.

(1) When the town receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan shall be determined through the process in this chapter and in the town's adopted SEPA procedures and policies. Applicable development regulations may include, but are not limited to, floodplain management regulations; shoreline mas-

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ter program goals, policies and regulations; state and federal statutes and regulations; and sewer, water and storm water management plans.

(2) Consistency. During the review of the project permit, the town shall determine whether subsections (2)(a) through (d) of this section are defined in the development regulations applicable to the proposed project. In the absence of applicable development regulations, the town shall determine whether the items listed in this subsection are defined in the town's adopted comprehensive plan. This determination of consistency shall include the following:

(a) The type of land use permitted on the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;

(b) The level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density;

(c) Availability and adequacy of infrastructure and public facilities identified in the comprehensive plan, if the plan or development regulations provide for the funding of these facilities as required by Chapter 36.70A RCW; and

(d) Character of the development, relative to adopted policies, regulations and guidelines. [Ord. 743 § 6, 1999.]

15.135.130 Public hearing.

Any public meeting or required open record hearing may be combined with any public meeting or hearing that may be held on the project by another local, state, regional, federal, or other agency. [Ord. 743 § 6, 1999.]

15.135.140 Decision report.

A single report stating all the decisions made as of the date of the report on all project permits included in the consolidated permit process that do not require an open record predecision hearing and any recommendations on project permits that do not require an open record predecision hearing. The report shall state any mitigation required or proposed under the development regulations or the agency's authority under RCW 43.21C.060. The report may be the local permit. If a threshold determination other than a determination of significance

has not been issued previously by the local government, the report shall include or append this determination. [Ord. 743 § 6, 1999.]

15.135.150 Appeal.

Except for the appeal of a determination of significance as provided in RCW 43.21C.075, no more than one consolidated open record hearing on an appeal shall be held by the hearing examiner. If an appeal is provided after the open record hearing, it shall be a closed record appeal before the hearing examiner. [Ord. 743 § 6, 1999.]

15.135.160 Notice of decision.

A notice of final decision on a project permit application shall be issued by the planning director within 120 days after the applicant is notified that the application is complete. In determining the number of days that have elapsed after notice of complete application, the following periods shall be excluded:

(1) Any period during which the applicant has been requested to correct plans, perform required studies, or provide additional required information. The period shall be calculated from the date the applicant is notified of the need for additional information until the earlier of the date the additional information has been determined to satisfy the request or 14 days after the date the information has been provided.

(2) If the information submitted by the applicant is determined to be insufficient, the applicant shall be notified of the deficiencies and the procedure under subsection (1) of this section shall apply as if a new request for studies had been made.

(3) Any period during which an environmental impact statement is being prepared following a determination of significance, if a time period has been established by the town council, or if the town council and the applicant agree in writing to a time period for completion of the environmental impact statement.

(4) Any period for administrative appeals of project permits, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period shall not exceed:

(a) Ninety days for an open record appeal hearing;

(b) Sixty days for a closed record appeal;

(c) Any extension of time mutually agreed upon by the applicant and the town planner or ordered by the hearing examiner.

(5) The time limits established above do not apply if a project permit application:

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(a) Requires an amendment to the comprehensive plan or a development regulation;

(b) Requires approval of a new fully contained community as provided in RCW 36.70A.350, a master planned resort as provided in RCW 36.70A.360 or the siting of an essential public facility as provided in RCW 36.70A.200; or

(c) Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete.

(6) If the town is unable to issue its final decision within the time limits provided for in this section, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated time for issuance of the final decision. [Ord. 743 § 6, 1999.]

15.135.170 Permit issued.

(1) A project permit may not be issued unless the proposed development activity is consistent with all applicable plans, regulations and policies as determined pursuant to LCMC 15.135.030(1) and (2). An issued permit shall include, but not be limited to, the following:

(a) A specific time period for which the permit is valid.

(b) A statement of availability for water, sewer, and drainage services.

(c) A schedule of construction phasing if applicable.

(d) Conditions of the permit.

(e) Statement of bond required if applicable.

(2) The development activity or use shall not commence until a certificate of authorization has been issued for the development activity or use.

(3) A certificate of authorization for a development activity or use shall not be issued until all project permits required for the use or activity have been issued. [Ord. 743 § 6, 1999.]

15.135.180 Limitations.

(1) A project permit approval shall become void if:

(a) Property/structure stands vacant for 12 months or more, or use changes substantially as determined by the planning director.

(b) Construction of new development is not completed and certificate of occupancy is not

granted within 24 months of all permit approvals; provided, that the body that originally decided the permit may, upon showing of good cause, extend the time limitations for periods, the cumulative total of which not to exceed 12 months; provided the period of time during which any judicial appeal of the project approval is pending shall not be counted.

(c) Construction of a project in a manner other than substantially in conformance with the plans authorized in the certificate of authorization.

(2) Within constraints established by this code, a project permit constitutes a permanent permit, regardless of transfers of ownership. However, if after a permit has been issued, and before the improvements are complete, the applicant or the successor makes any alterations in the use, size, appearance or the ability of the structure to meet the dimensional standards of this chapter, a new application shall be required to be approved by the individual or department of the town, or its designee, which gave final approval of the project. The review of such a change is appealable to the same extent and in the same manner as the original approval would have been, if appealed. [Ord. 743 § 6, 1999.]

Article III. Conditional Use Criteria

15.135.190 Criteria for conditional use permits.

(1) Conditional uses may or may not be permitted, depending on conformance with specific criteria. They are called conditional because they are allowed only when proper conditions exist, or when the proposal can be brought into conformance with the criteria by placing conditions on the permit. The applicant must provide evidence substantiating that all the requirements of this code relative to the proposed use are satisfied, and demonstrate that the proposed use also satisfies all of the following criteria:

(a) The use is listed as a conditional use in the underlying district.

(b) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.

(c) The site and proposed development is timely, considering the adequacy of transportation

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systems, public facilities and services existing or planned for the area affected by the use.

(d) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district.

(e) The proposal, through findings, satisfies the goals and policies of the comprehensive plan, Shoreline Management Act, and floodplain ordinance, which apply to the proposed use, if applicable.

(f) Setbacks or buffers proposed by applicant are shown to mitigate potential adverse impacts that might emerge from the proposed conditional use.

(g) The use must cause no adverse effect on the surrounding area due to traffic, parking, noise, odor, air or water pollution.

(h) Consideration shall be given to the cumulative impact of like uses within the neighborhood.

(2) No conditional use permit shall be approved unless the hearing examiner has made findings and/or conclusions that each of the foregoing criteria is met or is inapplicable. [Ord. 884 § 4, 2003; Ord. 743 § 6, 1999.]

Article IV. Development Agreements

15.135.210 Development agreements.

(1) The town may enter into a development agreement with a person having ownership or control of real property within its jurisdiction. The town may enter into a development agreement for real property outside its boundaries as part of a proposed annexation or a service agreement.

(2) A development agreement must set forth the development standards and other provisions that shall apply to and govern and vest the development, use, and mitigation of the development of real property for the duration specified in the agreement. A development agreement shall be consistent with applicable development regulations.

(3) A development agreement does not affect the validity of a contract rezone, concomitant agreement, annexation agreement, or other agreement in existence on the effective date of the development agreement.

(4) Development standards include, but are not limited to:

(a) Project elements such as permitted uses, residential and nonresidential densities, intensities or building sizes.

(b) Any reimbursement provisions, other financial contributions by the property owner, inspection fees, or dedications.

(c) Mitigation measures, development conditions, and other requirements under Chapter 43.21C RCW.

(d) Design standards such as maximum heights, setbacks, drainage and water quality requirements, landscaping, and other development features.

(e) Affordable housing.

(f) Parks and open space preservation.

(g) Phasing.

(h) Review procedures and standards for implementing decisions.

(i) A build-out or vesting period for applicable standards.

(j) Any other appropriate development requirement or procedure.

(5) The execution of a development agreement is a proper exercise of the town's police power and contract authority. A development agreement may obligate a party to fund or provide services, infrastructure, or other facilities. A development agreement shall reserve authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

(6) Unless amended or terminated, a development agreement is enforceable during its term by a party to the agreement. A development agreement and the development standards in the agreement govern during the term of the agreement, or for all or that part of the build-out period specified in the agreement, and may not be subject to an amendment to a zoning ordinance or development standard or regulation or a new zoning ordinance or development or regulation adopted after the effective date of the agreement. A permit or approval issued by the town or the county after the execution of the development agreement must be consistent with the development agreement.

(7) A development agreement shall be recorded with the real property records in the Skagit County office of records. During the term of the development agreement, the agreement is binding on the parties and their successors, including the town if it

assumes jurisdiction through incorporation or annexation of the area covering the property under the development agreement.

(8) The town council shall approve a development agreement by ordinance or resolution after a public hearing. If the development agreement relates to a project permit application, the provisions on appeal of the decision shall apply. [Ord. 743 § 6, 1999.]

Article V. Procedure for Appeals

15.135.220 Procedure for appeals.

(1) This chapter does not apply to judicial review of:

(a) Land use decisions made by bodies that are not part of a local jurisdiction;

(b) Land use decisions of a local jurisdiction that are subject to review by a quasi-judicial body created by state law, such as the Shorelines Hearings Board or the Growth Management Hearings Board;

(c) Claims provided by any law for monetary damages or compensation.

(2) Land use decisions by the planning director or planning commission may be appealed to the hearing examiner; provided the appeal is submitted, in writing, and a fee paid to the town clerk within 10 days of the decision. The decision of the hearing examiner is final.

(3) A land use decision by the hearing examiner or town council shall be appealed by filing a petition in superior court within 21 calendar days of the issuance of the land use decision. For the purposes of this section, the date on which a land use decision is issued is:

(a) Three days after a written decision is mailed by the town or, if not mailed, the date on which the town provides notice that a written decision is publicly available.

(b) If the land use decision is made by order, ordinance or resolution by the hearing examiner or town council, the date the order, ordinance or resolution is passed.

(c) If neither of the above applies, the date the decision is entered into the public record.

(4) A land use petitioner may be:

(a) The applicant and the owner of property to which the land use decision is directed.

(b) Another person aggrieved or adversely affected by the land use decision, or who would be aggrieved or adversely affected by a reversal or modification of the land use decision. A person is aggrieved or adversely affected within the meaning of this section only when all of the following conditions are present:

(i) The land use decision has prejudiced or is likely to prejudice that person.

(ii) That person's asserted interests are among those that the town was required to consider when it made the land use decision.

(iii) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the land use decision.

(iv) The petitioner has exhausted his or her administrative remedies to the extent required by law. [Ord. 743 § 6, 1999.]

Article VI. Special Provisions Relating to Administrative and Legislative Decision-Making Bodies

15.135.230 Challenges to impartiality.

A party to an administrative hearing may challenge the impartiality of any member of the hearing body. The challenge shall state by facts relating to a bias, prejudgment, personal interest, or other facts from which the challenger has concluded that the decision-maker cannot participate in an impartial manner. Any challenge shall be submitted in accordance with RCW 42.36.080 now or as hereafter amended. The challenge shall be incorporated into the record of the hearing. [Ord. 986 § 2, 2007; Ord. 743 § 6, 1999.]

15.135.240 Participation by interested officers or employees.

No nonelected officer or employee of the town who has a financial or other private interest in a proposal shall participate in discussions with or give an official opinion to the hearing body on a proposal without first declaring for the record the nature and extent of the interest. [Ord. 986 § 2, 2007; Ord. 743 § 6, 1999. Formerly 15.135.250.]

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15.135.250 Ex parte contacts.

Administrative decision-makers shall reveal any prehearing or ex parte, i.e., outside the hearing, contacts with regard to any matter at the commencement of their hearing on the matter. Typical preapplication discussions that do not dwell upon the particulars of the proposal are presumed and need not be stated. If the decision-maker's impartiality or ability to vote on the matter has been impaired, the decision-maker shall so state. [Ord. 986 § 2, 2007; Ord. 743 § 6, 1999. Formerly 15.135.260.]

15.135.260 Rights of disqualified member of the hearing body.

(1) An abstaining or disqualified member of a hearing body shall not be counted for purposes of forming a quorum.

(2) If the hearing body is reduced to less than a quorum by abstentions or disqualifications, all members present after stating their reasons for abstention or disqualification shall be requalified and proceed to resolve the issues.

(3) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received. [Ord. 986 § 2, 2007; Ord. 743 § 6, 1999. Formerly 15.135.280.]

15.135.270 Involuntary disqualification.

Repealed by Ord. 986. [Ord. 743 § 6, 1999.]

Article VII. Enforcement of Development Permits

15.135.290 Ongoing inspections.

(1) The Skagit County Permit Center, by inter-local agreement, is the inspecting authority on all development permits issued as a result of a town of La Conner certificate of authorization.

(2) Fire code compliance inspections shall be performed by the town fire department, or designee as required for new and existing development.

(3) If the work is found to have major deviations from authorized plans:

(a) The applicant shall submit revised plans to the planning department for review before proceeding with the development.

(b) A stop work order may be issued by the mayor or designee upon recommendation by the planning director and/or the certificate of occupancy may be withheld until the development complies with all codes and authorizations.

(c) A permit may be revoked based on a determination that the development cannot be brought into substantial compliance. Development activity shall not proceed on the site until a new permit is granted in accordance with procedures for original approval. [Ord. 743 § 6, 1999.]

15.135.300 Application for certificate of occupancy.

Upon completion of work authorized by permit and before the development is occupied, the developer shall apply to the Skagit County permit center for a certificate of occupancy. After final inspection by the permit center and the planning director to ensure that all code and permit requirements are met, the town of La Conner will deliver a certificate of occupancy. [Ord. 743 § 6, 1999.]

Article VIII. Enforcement of Code Provisions

15.135.310 General.

(1) Declaration of Intent. All violations of land use ordinances, codes, statutes and regulations are determined to be detrimental to the public health, safety, and welfare and are hereby declared to be public nuisances. All conditions which are determined by the town council, or designee, to be in violation of any land use ordinance, code, statute or regulation shall be subject to the provisions of this code and shall be corrected by any reasonable and lawful means as provided herein.

(2) Right of Entry.

(a) Whenever necessary to make an inspection to enforce the provisions of any land use ordinance, code, statute, or regulation, or whenever the town council or designee has reasonable cause to believe that any building, structure, property or portion thereof is being used in violation of any land use ordinance, code, statute or regulation, the director or designee may enter such building, structure, property or portion thereof at all reasonable times to inspect the same.

(b) If such building, structure, property or portion thereof is occupied, town council or designee shall present proper credentials and demand entry.

(c) If such building, structure, property or portion thereof is unoccupied, a reasonable effort shall be made to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the owner or such other persons are unable to be located and the town council or designee has reason to believe that conditions therein create an immediate and irreparable land use or health hazard, then entry shall be made.

(d) It shall be unlawful for any owner or occupant or any other person having charge, care or control of any building, structure, property or portion thereof to fail or neglect after proper demand to permit prompt entry thereon by the town council or designee for the inspection and examination pursuant to this code. [Ord. 743 § 6, 1999.]

15.135.320 Penalties – Misdemeanor.

Repealed by Ord. 812. [Ord. 743 § 6, 1999.]

15.135.330 Penalties – Civil penalty.

In addition to or as an alternative to any other judicial or administrative remedy provided herein or by law, any person who violates any land use ordinance, code, statute, regulation, or by any act of commission or omission procures, aids or abets such violation shall be subject to a civil penalty in an amount of \$100.00 per day for each continuous violation to be directly assessed by the mayor or designee until such violation is corrected. The penalty shall be \$200.00 per day for the second separate violation and \$300.00 per day for the third separate violation of the same regulation within any five-year period. All civil penalties assessed will be enforced and collected in the procedures specified in this code. [Ord. 839 § 30, 2001; Ord. 743 § 6, 1999.]

15.135.340 Penalties – Abatement.

In addition to or as an alternative to any other judicial or administrative remedy provided herein or by law, the mayor or designee may order a land use violation to be abated. The mayor or designee may order any person who creates or maintains a violation of any land use ordinance, code, statute or

regulation, to commence corrective work and to complete the work within such time as the mayor or designee determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, the mayor or designee will proceed to abate the violation and cause the work to be done. Costs thereof may be charged as a lien against the property and as both a joint and separate personal obligation of any person who is in violation. [Ord. 839 § 31, 2001; Ord. 743 § 6, 1999.]

15.135.350 Penalties – Additional enforcement.

Notwithstanding the existence or use of any other remedy, the mayor or designee may seek legal or equitable relief to enjoin any acts or practices or abate any conditions which constitute or will constitute a violation of any land use ordinance, code, or rules and regulations adopted thereunder. [Ord. 839 § 32, 2001; Ord. 743 § 6, 1999.]

Article IX. Enforcement Procedures*

*See also Chapter 15.13 LCMC.

15.135.360 Commencement of proceedings.

(1) Whenever the mayor or designee has reason to believe that a use or condition exists in violation of any land use code, ordinance, statute, or regulation, enforcement action shall be initiated as herein provided and/or, at the mayor or designee's option, administrative notice and order shall be commenced to cause the enforcement and correction of each violation.

(2) Pending commencement and completion of the notice and order procedure provided for in this section, the mayor or designee may cause a "stop work order" to be posted on the subject property or served on persons engaged in any work or activity in violation of a land use ordinance, code, statute or regulation. The effect of such a "stop work order" shall be to require the immediate cessation of such work or activity until authorized by the mayor or designee posting the order to proceed. [Ord. 839 § 33, 2001; Ord. 743 § 6, 1999.]

15.135.370 Notice and order.

Whenever the mayor or designee has reason to believe that violation of a land use ordinance, code, statute, or regulation will be most promptly and equitably terminated by an administrative notice

and order proceeding, a written notice and order shall be issued directed either to the owner or operator of the source of the violation, the person in possession of the property where the violation originates, or the person otherwise causing or responsible for the violation. The notice and order may be posted on the property and shall contain:

(1) The street address when available and a legal description of the real property and/or description of personal property sufficient for identification of the location where the violation occurred or is located.

(2) A statement that the mayor or designee has found the person to be in violation of a land use ordinance, code, statute or regulation with a brief and concise description of the conditions found to be in violation.

(3) A statement of the corrective action required to be taken. If the council or designee has determined that corrective work is required, the order shall require that all required permits be secured and the work physically commenced within such time and be completed within such time as the council or designee shall determine is reasonable under the circumstances.

(4) A statement specifying the amount of any civil penalty assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent.

(5) Statements advising that:

(a) If any required work is not commenced or completed within the time specified, the town clerk will proceed to abate the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation; and

(b) If any assessed civil penalty is not paid, the town clerk will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation.

(6) A statement advising that the order shall become final unless, no later than 10 days after the notice and order are served, any person aggrieved by the order submits to the clerk-treasurer a request in writing for a reconsideration conference with the town employee issuing the order. [Ord. 839 § 34, 2001; Ord. 743 § 6, 1999.]

15.135.380 Method of service.

Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mail, postage prepaid, return receipt requested. If the address of any such person cannot reasonably be ascertained, then a copy of the notice and order shall be mailed by certified mail to such person at the location of the violation and a copy shall be posted in a conspicuous location on the premises. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective two working days after mailing. [Ord. 839 § 35, 2001; Ord. 743 § 6, 1999.]

15.135.390 Reconsideration conference.

Upon receipt of a timely written request from aggrieved person for a reconsideration conference, the mayor or designee shall schedule such conference with the person or persons making the request. Such conference shall be by agreement of the mayor or designee and the requesting parties. The request for a reconsideration conference shall state on its face the telephone number and address at which the requesting party may be promptly contacted. The reconsideration conference shall be informal in nature at such time and place as the town shall specify and upon such reasonable oral or written notice as the town shall give at the telephone number or address indicated upon the face of the request. Within five days after the reconsideration conference or scheduled time thereof, the mayor or designee shall issue a final order which shall be served either personally or by certified mail at the address indicated upon the reconsideration request. The final order shall be effective and final three days after personal service or five days after mailing unless within that time the aggrieved party files an appeal directed to the hearing examiner as set forth in LCMC 15.12.130. Any such appeal shall be subject to Chapter 15.12 LCMC, now or as hereafter amended. Exhaustion of an appeal to the hearing examiner shall be a prerequisite to any district court action. [Ord. 839 § 36, 2001; Ord. 743 § 6, 1999.]

15.135.400 Supplemental notice and order.

The mayor or his designee may at any time add to, rescind in part, or otherwise modify a notice and

order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedure applicable to all notices and orders and contained in this code. [Ord. 839 § 37, 2001; Ord. 743 § 6, 1999.]

15.135.410 Enforcement of final order.

(1) If, after any order duly issued by the mayor or designee has become final, the person to whom such order is directed fails, neglects, or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, the mayor or designee may:

(a) Institute any appropriate action to collect a civil penalty assessed under this code; and/or

(b) Abate the land use violation using the procedures of this code; and/or

(c) File in the office of the Skagit County auditor a certificate describing the property and the violation and stating that the owner has been so notified; and/or

(d) Pursue any other appropriate remedy at law or equity.

(2) Enforcement of a civil penalty imposed with any notice and order of the mayor or designee issued pursuant to this code shall be stayed during the pendency of the request for reconsideration conference or appeal under this code, except when council or designee determines that the violation will cause immediate and irreparable harm and so states in the notice and order issued; provided, that if the hearing examiner rules that an appeal is frivolous, any civil penalty shall not be stayed during the pendency of the appeal. [Ord. 839 § 38, 2001; Ord. 743 § 6, 1999.]

15.135.420 Suspension of permits.

(1) The mayor or designee may temporarily suspend any permit issued under a land use or health ordinance for failure of the holder to comply with any notice and order issued pursuant to this code.

(2) Such permit suspension shall be carried out through the notice and order provisions of this code, and the suspension shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal suspension as provided by this code.

(3) Notwithstanding any other provision of this code, whenever the mayor or designee finds that a violation of any land use or public health ordi-

nance, code, statute, or regulation has created, or is creating, an unsanitary, dangerous, or other condition which, in the opinion of the mayor or designee, constitutes an immediate and irreparable hazard, the operations under the permit may be, without service of a written notice and order, suspended or terminated immediately. [Ord. 839 § 39, 2001; Ord. 743 § 6, 1999.]

15.135.430 Revocation of permits.

(1) The mayor or designee may permanently revoke any permit issued by the town for:

(a) Failure of the holder to comply with the requirements or any land use ordinance, code, statute, or regulation; or

(b) Failure of the holder to comply with any notice and order issued pursuant to this code; or

(c) Interference with the council or designee in the performance of duties; or

(d) Discovery by the mayor or designee that a permit was issued in error or on the basis of incorrect information supplied to the town.

(2) Such permit revocation shall be carried out through the notice and order provisions of this code and other revocation shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal such revocation, as provided by this code.

(3) A permit may be suspended pending its revocation or a hearing relative thereto. [Ord. 839 § 40, 2001; Ord. 743 § 6, 1999.]

15.135.440 Lien authorized.

The town of La Conner shall have a lien for the cost of any work of abatement done by it pursuant to this code, or both, against the real property on which the civil penalty was imposed or any of the above work was performed, to the extent and in the manner provided by law. [Ord. 839 § 41, 2001; Ord. 743 § 6, 1999.]

15.135.450 Personal obligation authorized.

The civil penalty and the cost of abatement are also joint and separate personal obligations of any person in violation. The town attorney on behalf of La Conner or the town's assignee may collect the civil penalty and the abatement work costs by use of all appropriate legal remedies. The town or its assignee shall be entitled to its attorney fees and

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costs, including appeals, incurred to collect. [Ord. 839 § 42, 2001; Ord. 743 § 6, 1999.]

15.135.460 Notice lien may be claimed.

Repealed by Ord. 839. [Ord. 743 § 6, 1999.]

15.135.470 Priority.

Repealed by Ord. 839. [Ord. 743 § 6, 1999.]

15.135.480 Claim of lien – General.

Repealed by Ord. 839. [Ord. 743 § 6, 1999.]

15.135.490 Duration of lien – Limitation of action.

Repealed by Ord. 839. [Ord. 743 § 6, 1999.]

15.135.500 Foreclosure – Parties.

Repealed by Ord. 839. [Ord. 743 § 6, 1999.]