

# **16E.**

## **COMMUNITY LAND USE**

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## 16E.01 PURPOSE

The general provisions and standards contained in this chapter apply to all uses and structures in all community design zones ~~districts~~. (Ord. 527, 1989)

## 16E.10 GENERAL DESIGN AND USE STANDARDS

**(Moved from 18.22.020-.055)**

### 16E.10.010 Landscaping.

All lots shall be generously landscaped, and consistent with the natural environment of Langley and appropriate to the planned use. Retention of natural landscaping is encouraged. (Ord. 527, 1989)

### 16E.10.020 Yards.

A. No yard shall be reduced in size or area below the minimum dimensions required by this title except as allowed by variance or under the provisions of subsection C of this section.

B. Yards— Setbacks. No portion of any building, or structure, over eighteen inches above grade shall extend into a required yard, with the exception of the following:

1. Eaves may extend no more than eighteen (18) inches into a required yard area; and

2. Accessory buildings and structures and detached accessory dwelling units may be located in the rear yard setback, as long as they are no closer than five feet from any property line; provided that, in the RS 15000 zone, dwelling units may not be closer than ten feet from any property line;

3. Rear Yard. A principal structure may extend up to six (6) feet into the rear setback, provided that the extended structure is limited in width to twenty (20) percent of the average lot width and is no higher than twelve (12) feet.

C. Yard requirements may be reduced by the planning official up to twenty-five percent of the required dimensions if necessary for the reasonable use of the property and upon a showing of unusual circumstances because of topography, vegetation or irregular lot shape. (Ord. 620, 1992; Ord. 617, 1992; Ord. 527, 1989; Ord. 696, 1995; Ord. 699, 1995; Ord. 771, 1999) (Ord. 834, 2003)

### 16E.10.030 Fences and hedges.

A. Natural evergreen screening is encouraged. Temporary fencing may be approved if erected simultaneously with permanent plantings.

B. No fence shall exceed seventy-two inches in height from the finished grade. Trellis and arbors over an entryway may not exceed a total height of eight feet and may not exceed 10% of lot width on each side of the lot up to a maximum of twelve feet in width on each side.

C. Fences are permitted in the street setback yard but shall be no higher than forty-two inches from the finished grade. Trellis and arbors over an entryway may not exceed a total height of eight feet and shall not be closer to the street lot line than ten feet or five feet to a side/rear lot line unless part of a fence enclosure.

D. At the intersection of two street setback areas, no structure, including trellis and arbors, fence or hedge shall exceed thirty inches in height in the triangular area formed by twenty-five feet of each street lot line from the point of intersection, or center of the arc of the curve, and a line connecting the ends of these lines. (Ord. 571, 1990; Ord. 527, 1989; Ord. 788, 2000; Ord. 798, 2001)

### 16E.10.040 Accessory structures ~~buildings~~. **(From 18.22.050)**

A. No accessory building shall be located in any street setback or side yard area. Accessory structures can be located in the rear yard setback provided that they are located no closer than five feet from the property line.

B. No accessory building shall have a gross floor area greater than nine hundred square feet, provided that:

1. On lots greater than one acre in size, the maximum gross floor area is twelve hundred square feet; and

2. On lots five acres or greater in size within the rural village design - 4000 zone, the maximum gross floor area is five thousand square feet, subject to each of the following requirements: **CHANGED ALLOWED ZONE FROM RS-15000 TO RVD - 4000**

a. Prior to the issuance of any building permit for an accessory building having a gross floor area greater than twelve hundred square feet, a written covenant shall be executed by the owner(s) of the lot upon which accessory building is to be located, and recorded in the records of the Island County Auditor. Such covenant shall legally describe an area within such lot, which is not greater than five acres in size, within which such accessory building and the principal building shall be located. Such covenant shall further provide that the size of the lot upon which such accessory building is to be located shall not be reduced to less than five acres for so long as that accessory building is situated on that lot. Such covenant shall further provide that the City may enforce the covenant on behalf of the public.

b. Design approval pursuant to Chapter 16H.70 of this code shall be required prior to the construction or substantial modification of any accessory building having a gross floor area greater than twelve hundred square feet. **CHANGED CODE CITATION**

c. For the purposes of establishing lot area, submerged lands and all but twenty-five per cent of sensitive areas do not qualify in making the calculation of lot area.

d. No more than two accessory buildings, which have gross floor areas greater than twelve hundred square feet, may be constructed upon any lot, and both of said buildings shall be located within the five-acre area provided for in Section 16E.40.010(B)(2)(a). **CHANGED CODE CITATION**

e. An accessory building having a gross floor area greater than twelve hundred square feet shall be subject to administrative review and approval pursuant to Section 16I.30.060 of this code. **CHANGED CODE CITATION** (Ord. 620, 1992; Ord. 617, 1992; Ord. 527, 1989; Ord. 733, 1997)(Ord. 834, 2003)

#### **16E.10.050 View preservation.**

Applications for permits for the construction of buildings and structures shall consider the impacts on the main vistas of adjacent properties in determining the height of the buildings and structures, the pitch of the roof, and the location of the buildings and structures on the lot(s). (527 (part), Added, 01/25/1989)

#### **16E.10.060 Water conservation.**

All new construction shall have toilets, which flush no more than one and one-half gallons per flush, low-flow shower heads (no more than two gallons per minute), and no more than three gallons per minute flow on faucets. Connection to the city water system shall not be approved until proof of compliance with these requirements is furnished to the city. (Ord.527,1989)

#### **16E.10.070 Outside storage.**

A. No outside storage, including garbage cans, firewood, construction materials, fuel or other tanks or any other materials not permanently affixed to the ground or buildings, is permitted in any street setback area.

B. All outside storage shall be enclosed by a sight obscuring screen at least seventy-eight inches high measured from the nearest street grade elevation. Fences required herein shall be landscaped at the base for a minimum of eighteen inches horizontally from any portion of the fence. Fences and hedges required for screening may exceed the limitations of other fences and hedges, but shall not exceed ninety-six inches in height, however, at street intersections, fences and hedges shall not obscure line of vision of intersecting traffic. (Ord. 527, 1989)

## **16E.12 GENERAL PERFORMANCE STANDARDS**

**(Moved from 18.24 and Changed Section Name)**

### **16E.12.010 Scope.**

All uses shall comply with all of the standards set forth below except:

A. When a temporary violation is caused by circumstances beyond reasonable anticipation and control of the operators of the site; or

B. When a temporary violation is necessary to protect the health and safety of persons and property under circumstances not caused by the operators of the site. (Ord. 527, 1989)

### **16E.12.020 Noise.**

Noise emanating from any use shall be muffled so as to not become objectionable due to intermittent beat, frequency or shrillness, and where use is within or adjoins a residential district. The sound measured at the lot line shall not exceed fifty decibels between the hours of ten p.m. and six a.m. and seventy decibels at other hours. (Ord. 527, 1989)

### **16E.12.030 Lighting.**

Lighting shall not be used in such a manner that produces a glare on public streets and neighboring property. (Ord. 527, 1989)

### **16E.12.040 Odors and gases.**

The emission of obnoxious odors of any kind or any toxic or corrosive fumes or gases shall not be permitted. Dust created by a use shall not be exhausted or wasted directly into the atmosphere. (Ord. 527, 1989)

### **16E.12.050 Particulate matter.**

A. The emission of smoke or particulate matter of a density greater than the standard permitted by the NWAPCA (Northwest Area Pollution Control Agency) is prohibited at all times, unless a permit is issued by the city.

B. Dust and other types of air pollution borne by the wind from such sources as storage areas and roads shall be minimized by landscaping, paving, or other acceptable means. Emission of particulate matter in excess of 0.2 grains per cubic foot of conveying gas or air measured at any property line is prohibited.

C. The rate of emission of particulate matter from all sources on any property shall not exceed a net weight of one pound per acre of property during any one hour. (Ord. 527, 1989)

### **16E.12.060 Vibration.**

Vibration shall not exceed three one-thousandths of one inch displacement applied to the frequency range of zero to five thousand cycles per second, as measured at any point on the boundary of the property from which the vibration is produced. (Ord. 527, 1989)

### **16E.12.070 Electrical interference.**

All mechanical, electrical, and electronic equipment shall be shielded to the extent necessary to prevent electrical, magnetic or radiological interference with the use of any equipment or process on abutting sites. (Ord. 527, 1989)

### **16E.12.080 Waste disposal.**

No organic or inorganic waste materials shall be disposed of or permanently stored or emplaced on the site. (Ord. 527, 1989)

**16E.12.090 Open storage.**

All storage of materials and equipment except licensed motor vehicles shall be within fully enclosed buildings or surrounded by screening. Materials in process shall be stacked, sorted, or arranged in an orderly manner. (Ord. 527, 1989)

**16E.12.100 Maintenance and alterations.**

All buildings and other structures shall be maintained in original condition with respect to exterior appearance. All additions to existing buildings, new structures, alterations and major maintenance which affects exterior appearance shall be subject to the same review and approval process as originally followed in approval of the principal structure as per the adopted Uniform Building Code and Uniform Fire Code. All landscaped and open space areas shall be kept free of litter and debris. All plant material shall be kept thrifty, free of disease, dead material and weeds in landscaped areas. (Ord. 527, 1989)

**16E.12.110 Investigation and compliance.**

If the mayor has reasonable doubt that a business or use is, or can be, conducted within the limits of the above performance standards, it may require that the user or proposed user retain, at his expense, an independent, qualified, testing laboratory of experts, acceptable to the city, to make an analysis of the use to determine its compliance with the standards and make the results of such analysis available to the city. If the site operator does not provide the required analysis within thirty days of the request, the mayor shall initiate such investigation and bill all expenses thereof to the site operator. (Ord. 527, 1989)

**16E.12.120 Enforcement.**

In the even the analysis indicates existing or impending noncompliance with these standards, the city building official or other authorized official shall require the user or proposed user to either institute remedial measures to bring the use into compliance or to cease operation. Further enforcement shall be as per Chapter 16I.60 of this code. (Ord. 527, 1989) **CHANGED CODE CITATION**

## **16E.20 STANDARDS FOR RESIDENTIAL USES**

**16E.20.010 Accessory dwelling units. (Moved from 18.22.155)**

The following provisions apply to accessory dwelling units:

A. Permitted as a second dwelling added to, created within, or detached from the principal residence;

B. Not less than 300 nor more than 800 square feet in size;

C. May be established in either an existing or new residence;

D. Limit of one ADU per legally established lot;

E. Must be served by City water and sewage services;

F. The total lot coverage requirement of the applicable zone may be exceeded by up to fifteen (15) percent if necessary to accommodate an ADU; **CHANGED FORMAT**

G. One off-street parking space is required in addition to the spaces required for the principal or other approved uses on the property;

H. If the ADU is included within or attached to the principal residence, only one entrance is allowed on the front of the principal residence unless more than one entrance on a front or street side existed as of March 1, 1995; additional entrances shall be on the sides or rear of the residence;

I. An ADU and a ~~home occupation~~ Type I non-residential use are allowed on the same lot ~~when the home occupation is of a type that does not: generate significant additional traffic, conduct retail sales, or employ persons who do not reside in the principal building;~~ **CHANGED TO ACCOMMODATE NON-RESIDENTIAL USE STANDARDS**

J. Approval of an ADU is subject to administrative zoning compliance review, ~~and~~ building permitting (if applicable) and the owner recording a covenant with Island County acknowledging that he/she/they have read and understand the provisions of this code section. In the case where a Type II or greater non-residential use or home occupation equivalent to a Type II or greater non-residential use is already established on the property ~~and such home occupation is characterized by the conditions set forth in Section 18.22.060 of this code,~~ a conditional use permit shall be required to establish an ADU on the same property. (Ord. 696, 1995) **CHANGED TO ACCOMMODATE NON-RESIDENTIAL USE STANDARDS**

**16E.20.020 Cottage housing. (Moved from 18.22.180)**

The following regulations apply to cottage housing developments (CHDs):

A. Density and minimum lot area.

1. In CHDs the permitted density shall be one (1) dwelling unit per two thousand nine hundred and four (2,904) square feet of lot area (fifteen units per acre).

2. The minimum lot area for a CHD shall be eleven thousand six hundred and sixteen (11,616) square feet.

3. On a lot to be used for a CHD, an existing detached single-family residential or duplex structure, which may be nonconforming with respect to the standards of this section, shall be permitted to remain, but the extent of the nonconformity may not be increased.

B. Height limit and roof pitch.

1. The height limit permitted for structures in CHDs shall be eighteen (18) feet.

2. The ridge of pitched roofs with a minimum slope of six to twelve may extend up to 25 feet. All parts of the roof above eighteen feet shall be pitched.

C. Lot coverage and floor area.

1. The maximum lot coverage permitted for principal and accessory structures in CHD shall not exceed forty percent (40%).

2. The maximum first floor or main floor area for an individual principal structure in a CHD shall be as follows:

a. For at least fifty (50) percent of the units, floor area shall not exceed six hundred and fifty (650) square feet;

b. For no more than fifty (50) percent of the units, the floor area may be up to eight hundred 9800) square feet.

3. The total floor area of each cottage shall not exceed ~~either~~ 1.5 times the area of the main level ~~or nine hundred seventy five (975) square feet, whichever is less.~~

D. Yards.

1. Front Yards. The front yard shall be an average of ten (10) feet and at no point shall be less than five (5) feet.

2. Rear yards. The minimum rear yard shall be ten (10) feet.

3. Side yards. The minimum required side yard shall be five (5) feet.

E. Required Open Space.

1. A minimum of four hundred (400) square feet per unit of common open space is required.

2. At least 50% of the cottage unit shall abut the common open space, all of the cottage units shall be within 60 feet walking distance of the common open space, and the common open space shall have cottages abutting at least two sides.

F. Parking.

1. One and one quarter (1.25) spaces per dwelling unit shall be required.

2. Location.

- a. Parking shall be on the CHD property.
- b. Parking may be in or under a structure or outside a structure, provided that:
  - 1. The parking is screened from direct street view by one or more street facades, by garage doors, or by a fence and landscaping.
  - 2. Parking between structures is only allowed when it is located toward the rear of the principal structure and is served by an alley or private driveway.
  - 3. Parking may not be located in the front yard.
  - 4. Parking may be located between any structure and the rear lot line of the lot or between any structure and a side lot line, which is not a street side lot line.

G. Design Review.

Cottage housing developments are subject to design review per the requirements set forth in Chapter 16H.70 of this code. (Ord. 699, 1995; Ord. 733, 1997; Ord. 771, 1999; Ord. 788, 2000) **CHANGED CODE CITATION**

**16E.20.030 Manufactured homes. (Moved from ADMIN. CODE DEFINITIONS)**

A manufactured home may be allowed to be placed within any residential zone that allows single-family homes, provided the following conditions are met:

- A. The home must be placed on a permanent foundation;
- B. If applicable, skirting must be provided;
- C. The home shall have a pitched roof and shall be made of either composition, shakes or shingles;
- D. All requirements of this title and other applicable regulations must be met.

**16E.20.040 Multifamily units. (Moved from Performance Standards – Multifamily 18.25)**

A. Purpose. These standards for multifamily housing are for the purpose of fostering multifamily development of low height and small bulk with private, landscaped open space directly accessible to each unit. The primary objective is the development of housing that fits in with the scale, siting and landscaping of single-family areas. Bulky buildings are discouraged by limiting the width of structures. Housing types to be encouraged would include ground-related structures such as duplexes, triplexes, townhouses and tandem houses. (Ord. 527, 1989)

B. Height.

1. Maximum Height. The maximum height shall be twenty-five feet, provided that the height may be built to thirty feet with a pitched roof if the lowest part of the pitch begins no higher than twenty-five feet.

2. Sloped Lots. On sloped lots, additional height shall be permitted along the lower elevation of the structure footprint, at the rate of one foot for each six percent of slope, to a maximum additional height of five feet.

3. Solar Access/Rooftop Features. In order to protect solar access for property to the north, the applicant shall either locate rooftop features at least ten feet from the north edge of the roof, or provide shadow diagrams to demonstrate that the proposed location of such rooftop features would shade property to the north on January 21st at noon no more than would a structure built to maximum permitted bulk. (Ord. 527, 1989)

C. Structure width and depth.

1. Maximum Width.

- a. The maximum width of a structure on a lot when the front facade is not modulated shall be:
  - i. Thirty feet if there is no principal entrance facing the street, or
  - ii. Forty feet if a principal entrance faces the street.
- b. The maximum width of each structure on a lot shall be sixty feet when the front facade is modulated.

2. Maximum Depth. The maximum depth of a structure shall be sixty-five percent of the lot.

3. Modulation Requirements.

a. Front facades: see above.

b. Side facades: on corner lots, side facades greater than forty feet in width, which face the street, shall be modulated.

c. Interior facades: within a cluster development, all interior facades wider than forty feet shall be modulated provided that maximum modulation width shall be forty feet. Perimeter facades shall follow standard development requirements.

d. Modulation Standards.

i. The minimum depth of modulation shall be four feet,

ii. When balconies are part of the modulation and have a minimum dimension of at least six feet, the minimum depth of modulation shall be two feet.

e. The minimum width of modulation shall be five feet.

f. Maximum width of modulation: the modulation width shall emphasize the identity of individual units, but shall not be greater than thirty feet. For units located one above the other, the individuality of the units shall be emphasized through the location of driveways, entrances, walkways, and open spaces.

g. Required modulation may start a maximum of ten feet above existing grade, and shall be continued up to the roof. (Ord. 527, 1989)

D. Front, rear and side setbacks.

1. The general setbacks are specified in Section 16C.40 and Table 16C-2. **CHANGED CODE CITATION.**

2. Required Setbacks for Cluster Developments. Where two or more principal structures are located on a lot, the required setback between those portions of interior facades, which face one another, shall be a minimum of ten feet.

3. Structures in Required Setbacks.

a. Permitted fences, freestanding walls, bulkheads, signs, and other similar structures, no greater than six feet in height, are permitted in required front, side, or rear setbacks;

b. Decks, which average no more than eighteen inches above existing or finished grade, whichever is lower, may project into required setbacks. Such decks shall not be permitted within five feet of any lot line, unless they abut a permitted fence or freestanding wall, and are at least three feet below the top of the fence or wall. The fence or wall shall be no higher than seventy-eight inches. (Ord. 527, 1989)

E. Open space.

1. A minimum of three hundred square feet per unit of private, usable open space, at ground level and directly accessible to each unit, shall be required.

2. Development Standards.

a. The required open space shall be provided in one contiguous parcel, and no horizontal dimension of the open space shall be less than ten feet.

b. Required open space may be located in the front, sides, or rear of the structure.

c. Required open space may be located a maximum of ten feet above or below the unit it serves, provided that the access to such open space does not go through or over common circulation areas, common or public open spaces, or the open space serving another unit;

d. Required open space shall be landscaped.

e. At least fifty percent of the required open space for a unit shall be level, provided that:

i. The open space may be terraced, and

ii. Minor adjustments in level shall be permitted as long as the difference in elevation between the highest and lowest point does not exceed two feet.

f. To ensure privacy of open space, openings such as windows and doors on the ground floor of walls of a dwelling unit or common area which directly faces the open space of a different unit are prohibited, unless such openings are screened by view-obscuring fences, freestanding walls,

wing walls, or landscaping. Fences, freestanding walls, or wing walls located in setbacks shall be no more than seventy-eight inches.

g. Parking areas, driveways and pedestrian access, except for pedestrian access meeting the Washington State Rules and Regulations for Barrier-Free Design, shall not be counted as open space. (Ord. 527, 1989)

F. Parking and access.

1. Parking Quantity. Parking shall be required as provided in Chapter 16E.50. **CHANGED CODE CITATION**

2. Access to Parking. Street or alley access permitted: access to parking may be from either the alley or the street. The following factors shall be considered:

- a. Safety; and
- b. Impacts on adjacent zones, particularly single-family; and
- c. Topography.

3. Location of Parking.

- a. Parking shall be located on the same site as the principal use.
- b. Parking may be located in or under the structure, provided that the parking is screened from direct street view by the street facing facades of the structure and/ or by garage doors.
- c. Solar collectors are permitted in required setbacks. (Ord. 527, 1989; Ord. 527, 1989)

#### **16E.20.050 Townhouse units (Moved from 18.22.230.1)**

The purpose of these design guidelines is to encourage good design and site planning and to ensure that attached dwelling development is sensitive to the character of other development in the surrounding area.

The guidelines are meant to indicate preferred conditions while allowing for other equal or better solutions to be considered. They are to be applied with an attitude of flexibility, recognizing that each development site and project will have particular characteristics that may suggest that some guidelines be emphasized and others de-emphasized.

1. Maintain major vegetation. The intent is to soften new, more intensive-appearing development by preserving significant trees on the site. Some portion of the trees should be used, if possible, to break the appearance of buildings and parking.

2. Screen surface parking. The intent is to provide a transition between more intensive-appearing development and detached single family residential development. Where surface parking lots would be adjacent to single family zones ~~districts~~, there should be a planting strip on an average of fifteen feet in width containing a full landscape screen. Walking paths are allowed as part of the landscaping.

3. Reducing the visual impact of townhouse development. The intent is to modulate development so that it is compatible with the surrounding area (See Section 16E.20.040 Multifamily Units).

4. Pedestrian connections and open space. The intent is to provide residents of the development access throughout the development and connection to existing or potential off-site public access or access to which the public is entitled.

5. Building design. The intent is to ensure that buildings are compatible with forms typically associated with single family detached structures. All buildings, including accessory structures, should incorporate pitched roofs.

6. Concealing garages. The intent is to minimize the visual impact of garages. Where feasible, garages should be arranged so that they do not face directly upon the street or principal access to the development.  
(Ord. 834, 2003)

#### **16E.20.060 Temporary housing. (Moved from 18.22.240)**

Temporary housing to be used during construction of a residence may be authorized pursuant

to the following:

A. Permit issuance. The Mayor or his designee may authorize the issuance of a temporary permit to place and occupy a mobile structure during construction of a residence. Such permit shall be issued for periods of one hundred and twenty days and shall be issued only where the proposed location, parking and uses of the structure will comply with the regulations of the city, laws of the state and the rules and regulations of the Island County Health Department relating to sewage disposal, if sewer connection is not feasible.

B. Permit Extensions. At the end of one hundred and twenty days a person holding a temporary housing permit may apply for an extension thereof and the Mayor or his designee may authorize the extension if the applicant is proceeding with reasonable diligence in the construction of the residence and all other requirements for location and occupation of the temporary structure have been met.

(Ord. 834, 2003)

**16E.20.070 Adult family home. (Moved from 18.22.165)**

The following requirements apply to adult family home facilities:

A. An adult family home provider is a person who is licensed by the State of Washington to operate an adult family home. The provider shall reside at the adult family home unless an exception is authorized by the State Department of Social and Health Services (DSHS) for good cause. A provider shall not be licensed for more than one adult family home unless an exception is authorized by the DSHS for good cause.

B. For the purposes of this section, an adult is a person eighteen years of age or older.

C. Each adult family home shall meet all applicable local licensing, zoning, building and housing codes and State and local fire safety regulations. It is the responsibility of the provider to meet local codes. (Ord. 703, 1995)

**16E.20.080 Retirement living facilities, nursing or convalescent facilities, and congregate care facilities: the following regulations apply. (Moved from 18.22.210):**

A. All buildings and structures shall conform to the setbacks of the underlying zone;

B. The accommodations and numbers of persons cared for, and all provisions for health and sanitation, conform to state regulations pertaining thereto;

C. The amount of off-street parking required;

1. For retirement facilities (independent living) shall not be less than two parking spaces per unit, plus one for each day shift employee.

2. For nursing or convalescent facilities and assisted living facilities, shall not be less than one parking space for each day shift employee;

3. For congregate care facilities (common living, meals and services) shall not be less than one parking space per every two rooms, plus one parking space per each day shift employee.

D. The minimum lot area per unit shall be one-half that established for the zoning classification of the site. (Ord. 778, 2000)

## **16E.30 STANDARDS FOR DAY CARE USES**

**16E.30.010 In-home family day care. (Moved from 18.22.150)**

The following conditions apply to in-home family day care facilities:

A. Comply with all city building, fire, safety, and health codes and all business licensing requirements.

B. Conform to lot size, building size, setbacks and lot coverage standards applicable to the design zone ~~district~~.

C. Be certified by the State Department of Licensing as providing a safe passenger loading/unloading area.

D. Signage shall conform to the city sign regulations.

E. The hours of operation are subject to the determination of the Planning Advisory Board to ensure neighborhood compatibility, while also providing appropriate opportunity for persons who use family day care and who work a non-standard work shift.

F. Provide a written statement that the immediately adjoining property owners have been informed of the intent to locate and maintain an in-home family day care facility at the applicant's locale. This statement is to be submitted to the state licensing agency and the City before state licensing is approved. (Ord. 687, 1994)

**16E.30.020 Day care centers. (Moved from 18.22.090)**

The following conditions apply to day care centers:

A. A maximum of twelve children are cared for in any twenty-four-hour period, provided further that the facility shall conform to the occupancy requirements of Chapter 8 of the Uniform Building Code as adopted by the city whenever more than six children are cared for at one time.

1. Outdoor play areas shall be provided with a minimum of seventy-five square feet in area for each child using the area at one time, and shall be screened to minimize visual and noise impacts and prevent trespassing on adjacent residentially classified properties;

2. Play equipment shall not be located closer than twenty feet to any property lines;

3. The hours of operation may be restricted to assure compatibility with surrounding development;

4. A minimum of two off-street parking spaces shall be required which shall not be located in the required yards.

B. When more than twelve children are to be cared for in any twenty-four-hour period, the facility shall be subject to the following provisions:

1. A minimum site area of seven thousand two hundred square feet is required for thirteen children, and an additional four hundred square feet of site area is required for each additional child to be cared for;

2. The facility shall conform to the occupancy requirements of Chapter 8 of the Uniform Building Code as adopted by the city;

3. Direct access to a designated and developed arterial street shall be required;

4. A minimum of one off-street parking space for each ten children cared for, plus one for each employee on duty shall be required, provided no parking shall be located within required yards;

5. Buildings, structures and landscaping shall be of a character, which is appropriate for the area;

6. Outdoor play areas shall be provided with a minimum of seventy-five square feet in area for each child using the area at one time, and shall be screened to minimize visual and noise impacts and prevent trespassing on adjacent residentially classified properties;

7. Play equipment shall not be located closer than twenty feet to any property lines;

8. The hours of operation may be restricted to assure compatibility with surrounding development;

9. One sign not to exceed four square feet in area is permitted.

C. Loading/unloading area shall be provided on site to accommodate the safe pickup and delivery of children at the center. One loading/unloading space shall be provided for each twelve children. (Ord. 527, 1989)

**~~16E.34 STANDARDS FOR HOME OCCUPATIONS~~**

**(Moved from 18.22.060...COVERED BY NEW NON-RESIDENTIAL USE SECTION)**

~~16E.34.010 Intent.~~

~~A. Home occupations are accepted and encouraged as a welcome addition to the local economy of Langley provided that:~~

~~1. The home occupation's impact on the residential character of its neighborhood is kept within limits stated in the following code; and~~

~~2. The home occupation complies with the city's building, zoning, and other codes.~~

~~B. This intent shall govern the interpretation of this code.~~

**~~16E.34.020 — Structure of the home occupation code.~~**

~~A. Classification of home occupations falls into three ordered types: Type I, low impact, totally residence contained occupations; Type II, some impact due primarily to customer/client visitation; and Type III, conditional use permit required.~~

~~B. The three types represent increasing levels of impact on the neighborhood. Occupations which do not clearly fall into a lower level of classification will use the rules of the next higher level.~~

**~~16E.34.030 — Application process.~~**

~~A. Every owner and/or operator of a home occupation that meets the requirements for a business license (Chapter 5.04) must complete a home occupation application and return that application and its fee to the planning official.~~

~~B. The planning official will inform the applicant within 14 days if the application is complete and if an inspection by the Building Official and/or the planning official is required and will make arrangements with the applicant for that inspection.~~

~~C. The Building Official will determine if the proposed application requires building permits for alterations, additions or changes in use of the residence or accessory structure. All home occupations require the approval of the Building Official.~~

~~D. If no inspection or additional permits are required and the application is otherwise complete the planning official will classify the home occupation as Type I and issue a home occupation permit.~~

~~E. If an inspection is required, the planning official will determine the type based on the application and inspection, and follow the process appropriate to that type described later in this chapter.~~

**~~16E.34.040 — Appeals.~~**

~~A. A resident of a neighborhood who feels that a neighbor's home occupation is affecting them inappropriately can bring their concerns to the planning official of the City for resolution according to this code and the procedures in Chapter 18.36.~~

~~B. Residents with home occupations not satisfied with the classification or resolution determined by the planning official may appeal according to the procedures in Chapter 18.36.~~

**~~16E.34.050 — General provisions.~~**

~~A. All home occupations shall be conducted entirely within the principal residence and/or accessory buildings on the subject parcel;~~

~~B. The residential portion shall be occupied by the owner(s), operator(s) and/or employee(s) of the home occupation(s).~~

~~C. A maximum of 49% of the habitable floor area of the principal residence, as defined in 18.01.040, shall be used primarily for the home occupation(s);~~

~~D. Home occupation(s) may be located in an accessory building provided that the total square footage used primarily for the home occupation(s) in all buildings on the subject parcel not exceed a maximum of 49% of the habitable floor area of the principal residence;~~

~~E. The home occupation activity shall not generate noise, vibration, smoke, dust, odor, heat, glare, light, electrical interference, or externally visible signs of activity that exceed levels customarily associated with residential use;~~

~~F. There shall be no outside storage of materials;~~

~~G. Retail sales, unless conducted by mail order or through the Internet, shall be limited to items produced on site and shall be occasional and incidental to home occupation use;~~

~~H. One non-illuminated sign, not to exceed two square feet is allowed for Types II and III, provided it is made of natural materials, is attached flush to the principal or accessory building in which the home occupation is located, and satisfies the provisions of Chapter 18.35;~~

~~I. Some businesses have both a home component and an off site component. That portion of the business that occurs in the home must meet the home occupation guidelines;~~

~~J. The interior design and structure of the principal residential building shall be such that the whole building could easily be converted to purely residential use if the home occupation were to cease at that location;~~

~~K. The exterior appearance of the principal residential building and accessory structures shall be residential in character and consistent with the surrounding neighborhood;~~

~~L. All home occupations require a City of Langley business license (Chapter 5.04);~~

~~M. "Workers" include employees, contract workers, volunteers, and anyone who is more than incidentally involved in the business activity at the home occupation location.~~

**16E.34.060 — Type I provisions.**

The following provisions shall apply to all Type I home occupations in all zone districts:

~~A. No non resident workers are permitted;~~

~~B. Regular customer / client meetings are not part of the home occupation;~~

~~C. There is no signage for the home occupation.~~

~~D. There is no limit to the number of Type I home occupations per residence provided that all, when considered as a total, meet the general provisions listed in section E and in this section;~~

~~E. The average number of deliveries and collections to and from the home occupation address per week will not exceed three (3);~~

~~F. May be inspected by the Building Official prior to the commencement of business activities at the discretion of the Building Official and/or the planning official.~~

**16E.34.070 — Type II provisions.**

~~Type II occupations are those which have some impact on the neighborhood, primarily in the form of traffic increases. The following provisions shall apply to all Type II home occupations in all zone districts:~~

~~A. Businesses conducted one on one with clients or customers and generating traffic of not more than one client per hour. One off street parking space for visitors and customers must be available during hours of operation;~~

~~B. Customer / client contact shall be limited to the hours between eight a.m. and nine p.m.;~~

~~C. No more than one worker who is not resident at the home occupation location shall work at any given time at the home occupation;~~

~~D. Deliveries and collections to and from the home occupation address shall be limited to two per day. Average daily vehicle trips (ADT) generated by the home occupation address shall be limited to sixteen;~~

~~E. Must be inspected by the Building Official prior to commencement of business activities.~~

**16E.34.080 — Type III home occupations.**

~~A. Home occupations that are not classifiable as Type I or Type II shall fall under Type III. For example, any home occupation with any of the following characteristics will be classified as Type III:~~

~~1. More than one nonresident worker works at any given time at the home occupation location. The number of workers a Type III home occupation may have is not limited except as may be necessary to meet building code occupancy requirements;~~

~~2. Generates more traffic than a type II home occupation;~~

~~3. Include frequent instructional classes with between five and ten participants.~~

~~B. Type III occupations require conditional use permit approval and administrative review by the Planning official after six (6) months of operation and annually thereafter to ensure compliance with the CUP conditions. The following provisions apply to Type III home occupations:~~

~~1. Up to two off street parking spaces may be required in addition to those needed for residence. A parking plan shall be approved as part of the conditional use permit and routine on-street parking may be disallowed;~~

~~2. Deliveries and collections to and from the home occupation address shall be limited to two per day; Average daily vehicle trips (ADT) generated by the home occupation address shall be limited to twenty;~~

~~3. Must be inspected by the Building Official prior to commencement of business activities;~~

~~4. Type III home occupations may require review by the City's design review board to insure that the residential character of buildings and of the neighborhood is maintained;~~

~~5. Permits granted under the conditional use process are not transferable to another individual or to another location;~~

#### **16E.34.090 — Businesses not permitted.**

Not all businesses are permitted as home occupations. The following businesses are examples of those not accepted as legitimate home occupations in residential zones under this section of the code:

~~A. Automobile or heavy equipment repair services;~~

~~B. Businesses that require more than one service vehicle such as trucks, backhoes, cranes, bull dozers, and so forth;~~

~~C. Short and long term lodging facilities;~~

~~D. Group care facilities;~~

~~E. Medical, dental, and veterinary offices;~~

~~F. Rental of space for storage;~~

~~G. Restaurants;~~

~~H. Fire arm sales and services;~~

~~I. Motorized tool and appliance repair;~~

## **16E.34 STANDARDS FOR TRANSIENT ACCOMODATIONS**

### **16E.34.010 Bed and breakfast rooms. (Moved from 18.22.070)**

The following provisions apply to bed and breakfast rooms:

A. Not more than two rooms on the premises are utilized for bed and breakfast rooms;

B. Parking spaces for all guest vehicles shall be provided on the premises except in the central business zone pursuant to Section 16E.50.020(N); **(CHANGED CODE CITATION)**

C. Only one business sign, having an area not more than four square feet, shall be located on the premises (except in the commercial zones);

D. No bed and breakfast room shall be rented to more than two persons;

E. The construction of the building in which the bed and breakfast room is situated and the operation of the bed and breakfast room shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly

constituted public authority, including, without limitation, local and state health and fire regulations, local business license, and building code requirements; and

F. No other business, service or commercial activity is conducted or provided on the premises, except in one of the business-commercial zones.

G. Bed and breakfast room(s) in the building of principal use are subject to administrative review by the city planning official. Notice shall be given to the owners of the property adjacent to the property that is the subject of the application. The notification shall be given in a manner designed to give the property owners notice of the application and sufficient time to comment on the application. The city planning official's review shall include but not be limited to:

1. A determination that city regulations applicable to bed and breakfast rooms have been satisfied;

2. A determination that the bed and breakfast proposal contained in the application is compatible with the permitted uses in the residential zone.

The city planning official may attach such conditions to his/her recommendation that are reasonable required to insure that the use of the rooms as bed and breakfast rooms will not be significantly detrimental to the public health, safety and welfare, will not diminish the value of nearby property, or will not disturb persons in the use of their property. (Ord. 583, 1990; Ord. 527, 1989)

**16E.34.020 Bed and breakfast inns. (Moved from 18.22.080)**

The following conditions apply to bed and breakfast inns:

A. A full-time manager shall be domiciled on the premises (except in the business-commercial zones); and

B. Parking spaces for all guest vehicles shall be provided on the premises, except in the central business zone pursuant to 16E.50.020(N) of this code; **(CHANGED CODE CITATION)**

C. Only one business sign, having an area not more than eight square feet shall be located on the premises;

D. The bed and breakfast inn shall be compatible with the character of the surrounding residential area (if applicable);

E. The construction and operation of the bed and breakfast inn shall comply with all applicable rules, regulations, ordinances, statutes and orders of the federal, state and municipal governments, or other duly constituted public authority including, without limitation, local and state health and fire regulations, local business license and building code requirements; and

F. No other business, service or commercial activity is conducted or provided on the premises (not applicable in business-commercial zones). Accessory dwelling units are excluded from being located on the same property with a bed and breakfast inn. (Ord. 527, 1989; Ord 798, 2001)

**16E.34.030 Tourist Accommodations – Commercial. (Moved from 18.22.085)**

The following conditions apply to such accommodations:

A. Compliance with City business license regulations.

B. Limited to a single sign of not more than eight square feet and on-premises.

C. Parking - Same requirement as for Multiple Residential as set forth in Chapter 16E.50.020(D)(2). **(CHANGED CODE CITATION)**

D. Signed certification that the residence shall be maintained in a habitable condition and be subject to inspection by the City Building Official.

E. Cannot be both a B&B and Single Family Tourist Accommodation.

F. Subject to administrative review. (Ord. 733, 1997)

**16E.34.040 Campgrounds. (Moved from 18.19.030B and reformatted to fit within section)**

The following conditions apply to campgrounds:

- A. A visual screen from adjacent properties and roadways is required.
- B. Service by the city water and sewer systems, including dumping facilities for recreational vehicles is required.
- C. A minimum ten (10) foot separation between recreational vehicles or tents is required.
- D. Stays are limited to no more than thirty (30) consecutive days within a sixty (60) day period

## 16E.36 NON-RESIDENTIAL LAND USE DESIGN NEW SECTION

### 16E.36.010 Purpose and Intent.

The purpose of this section is to establish location and design standards by which non-residential land uses may be located in areas outside the Village Center and Dispersed Business Design Zones. The intent of this section is to increase the vitality and diversity of areas outside downtown by selectively and appropriately permitting a range of non-residential uses in these neighborhoods.

### 16E.36.020 Establishing Scale and Use Classes.

The following tables classify by scale and use class a range of non-residential uses that may be permitted within the TVD, TVD-MR, MSD, SED, RVD - 6000 and RVD - 4000 zones. These tables must be used in combination with Figure 16E-1, Location Standards for Non-Residential Uses and the standards specified later in this section.

**Table 16E-1 – Scale of Use**

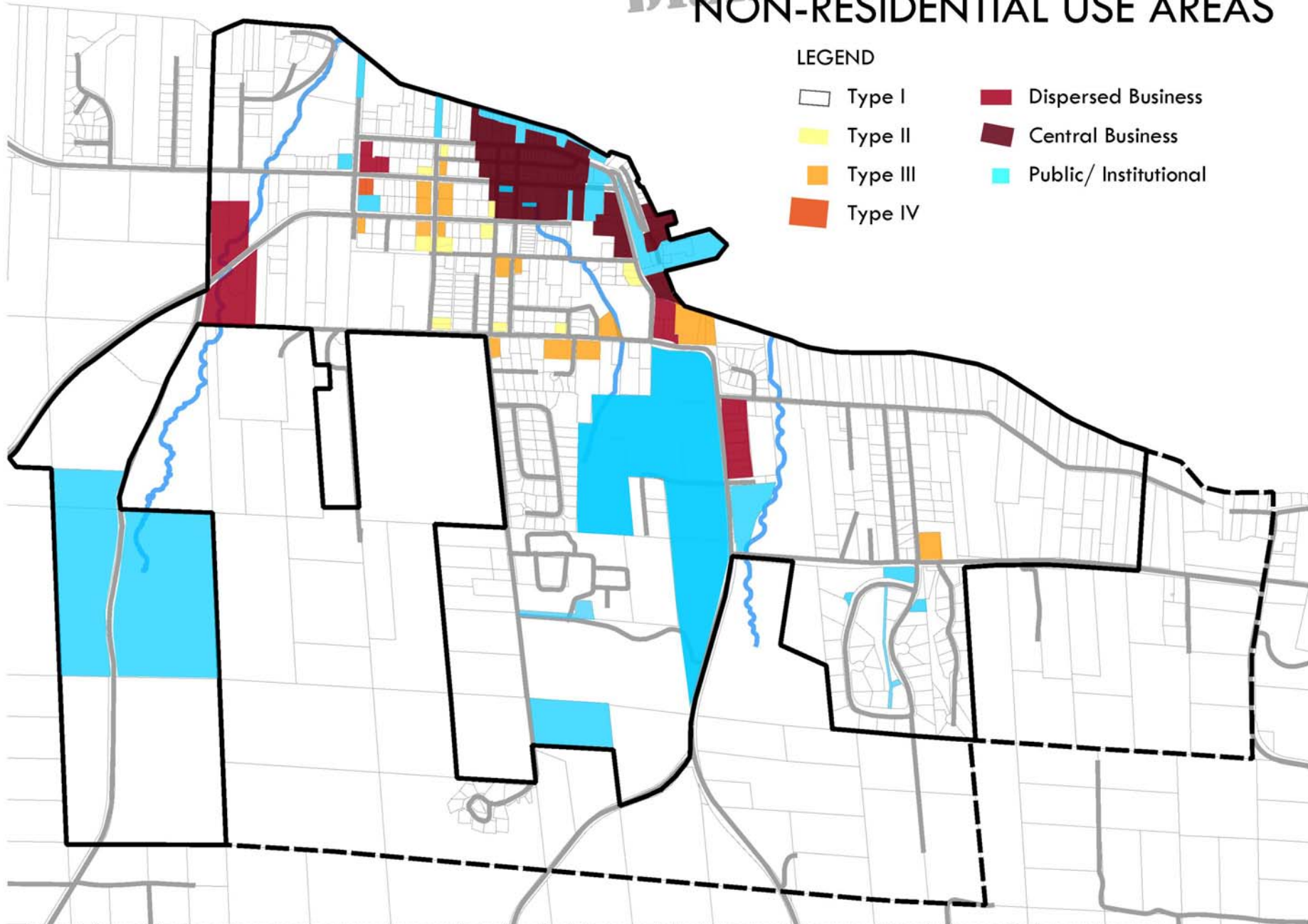
Type of Non-Residential Use	Minor	Moderate	Major
Workshop (With Incidental Customer Visits)	1 to 2 employees	3 to 5 employees	6 or more employees
Individual Client Based Business	1 employee	2 to 3 employees	4 or more employees
Multiple Client Based Business	1 to 2 employees- 1 to 6 clients at one time	1 to 2 employees- 6 to 12 clients at one time	4 or more employees- 12 or more clients at one time
Restaurant and Retail (including Workshops with Customer Visits)	-	-	Community-oriented business
Institution	-	-	Community-oriented business

**Table 16E-2 – Use Class**

Types of Uses	Minor	Moderate	Major
Workshop (With Incidental Customer Visits)	Type I	Type II	Type IV
Individual Client Based Business	Type I	Type III	Type IV
Multiple Client Based Business	Type II	Type III	Type IV
Restaurant and Retail (including Workshops with Customer Visits)	-	-	Type IV
Institution	-	-	Type IV

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# NON-RESIDENTIAL USE AREAS



LEGEND

- Type I
- Type II
- Type III
- Type IV
- Dispersed Business
- Central Business
- Public/ Institutional

Please note: Several designations on this map do not encompass entire parcels. The locations articulated are approximations that are meant to show appropriate locations for non-residential uses on these parcels .

**16E.36.030 Standards for Non-Residential Use Classes.**

**A. Type I Non-Residential Use Standards.** The following standards shall apply to the Type I Non-Residential Use Class within the TVD, TVD-MR, MSD, SED, RVD – 6000 and RVD – 4000 zones:

1. Location standard. Type I uses are permitted anywhere as an accessory use.
2. Use standards.
  - a. Allowed number of employees. A maximum of two non-resident employees are allowed per business.
  - b. Required parking. One off-street parking space is required for each two employees traveling to the non-residential use from off-site.
  - c. Customer/ client visits. Regular customer/ client meetings shall not exceed one trip per hour and shall be limited to the hours between seven a.m. and nine p.m.
  - d. Deliveries. Deliveries and collections to and from the business address shall be limited to two three per day.
  - e. Signage. Two square feet of signage is allowed flush-mounted on the building surface.
3. Review Process. Administrative approval is required.

**B. Type II Non-Residential Use Standards.** The following standards shall apply to the Type II Non-Residential Use Class within the TVD, TVD-MR, MSD, SED, RVD – 6000 and RVD – 4000 zones:

1. Location standards.
  - a. ~~Historically Built Areas.~~ TVD, TVD-MR, MSD, SED Zones. Type II uses are permitted in locations specified on Figure 16E-1.
  - b. ~~Historically Rural Areas.~~ RVD – 6000 and RVD – 4000. Type II businesses are permitted ~~in historically rural neighborhoods~~ at the intersection of a major collector street and a lesser classified road; or in locations where a major collector provides private access to a parcel greater than five (5) acres.
2. Use standards.
  - a. Allowed number of employees.
    - i. Small multiple-client based use. One to two employees per structure if the use serves up to six individuals at one time.
    - ii. Medium workshop use with incidental customer visits. Up to five employees if the use has no customer visits or incidental customer visits.
  - b. Customer/ client visits. Customer client contact shall be limited to the hours between seven a.m. and nine p.m.
  - c. Required Parking.
    - i. Small multiple-client based use. Three (3) spaces are required if the site serves up to six individuals at one time.
    - ii. Medium workshop use. One parking space is required for each two employees.
  - d. Deliveries. Deliveries and collections to and from the business address shall be limited to four (4) trips per day.
  - e. Signage. Two square feet of signage is allowed flush-mounted on the building surface.
3. Supplemental Use Standards. The use shall conform to any standards applicable to the use as specified within Title 16.
  4. Design standards. Type II non-residential uses shall be designed to respect the residential character of the surrounding area and incorporate the following elements to promote compatibility with the surrounding uses:
    - a. Setbacks for new buildings shall be similar to those for other structures found on the same street.

- b. No shopfront-style windows shall be used.
- c. The primary entrance for the use shall be located on the front of the building.
- d. The building shall have a front building elevation area and overall building mass in proportion (within 10%) to the average of other principal structures on the street.
- e. Parking shall be placed on the side or rear of the building, and should generally be accessed via the lower classified street that provides access to the site.
- f. Where a Type II use abuts residential uses, screening of the parking through measures such as an accessory building, vegetation, or other visible barrier is required.
- 5. Other requirements. When a Type II non-residential use is placed within an area suitable for a Type IV non-residential use, the use must meet the design requirements specified for Type IV uses.
- 6. Review process. Administrative approval is required for all Type II non-residential uses.

**C. Type III Non-Residential Use Standards.** The following standards shall apply to the Type III Non-Residential Use Class within the TVD, TVD-MR, MSD, SED, RVD – 6000 and RVD – 4000 zones:

- 1. Location standards.
  - ~~a. Historically Built Areas.~~ TVD, TVD-MR, MSD, SED Zones. Type III uses are permitted in locations specified on Figure 16E-1.
  - ~~b. Historically Rural Areas.~~ RVD – 6000 and RVD – 4000. Type III non-residential uses are permitted ~~in historically rural neighborhoods~~ at the intersection of two major collector streets; the intersection of a major collector and other highly trafficked road; or on parcels greater than five (5) acres that are solely accessed by a major collector street.
- 2. Use standards.
  - a. Allowed number of clients.
    - i. Medium individual client based use. The business may serve one client every 30 minutes.
    - ii. Medium multiple client based use. Up to twelve clients at a time are allowed.
  - b. Customer/ client visits. Customer client contact shall be limited to the hours between seven a.m. and nine p.m.
  - c. Required Parking. Type III uses are subject to the parking requirements specified for the use in LMC Section 16E.50.
  - d. Deliveries. Deliveries and collections to and from the business address shall be limited to eight (8) trips per day
  - e. Signage. Four square feet of signage is allowed.
- 3. Design standards. Type III non-residential uses shall be designed to respect the residential nature of the surrounding area and incorporate the following elements to promote compatibility with the surrounding uses:
  - a. Setbacks for the use shall be similar to those for other uses found on the street.
  - b. No shopfront style windows shall be used.
  - c. The main entrance for the use shall be on the front of the building or oriented to the nearest intersection. A secondary entrance or use may be oriented to the rear of the building.
  - d. The building shall have a front building elevation area and overall building mass in proportion (within 10%) to the average of other principal structures on the street.
  - e. No parking is allowed in front of the use except as necessary to provide handicapped parking.
  - f. Parking shall be placed on the side or rear of the building, and shall generally be accessed via the lesser used street or an alley.
  - g. Where a type III non-residential use abuts a neighboring property that could also become a non-residential use, the access to the parking area shall be set on the shared property line to allow for shared access to the future parking areas on both lots.

h. Where a type III non-residential use abuts neighboring residential uses, screening of the parking through measures such as an accessory building, vegetation or other visible barrier is required.

4. Other requirements. When a Type III, non-residential use is placed within an area suitable for a Type IV non-residential use, the use must meet the design requirements specified for Type IV uses.

5. Approval process.

a. Type III non-residential uses not part of a land division. A conditional use permit is required for all Type IV non-residential uses that do not occur as part of a land division.

b. Type III non-residential uses as part of a land division. Where a Type III non-residential use will occur as part of a land division, review for the Type III use shall occur as part of the land division review. If the use occurs as part of an application with four or fewer lots, the application shall require review by the Planning Advisory Board.

**D. Type IV Non-Residential Uses.** The following standards shall apply to Type IV Non-Residential Use Class within the TVD, TVD-MR, MSD, SED, RVD – 6000 and RVD – 4000 zones:

1. Location standards.

a. ~~Historically Built Areas~~-TVD, TVD-MR, MSD, SED Zones. Type IV uses are permitted in all infill locations specified on Figure 16E-1.

b. ~~Historically Rural Areas~~-RVD – 6000 and RVD – 4000. Type IV non-residential uses are permitted on lots located at the intersection of two major collector roads that are over five acres in size, prior to any land division that may occur as part of a project.

2. Use standards.

a. Mixed use required. A type IV non-residential use must contain a residential component in the design of the project.

b. Customer/ client visits. Customer client contact shall be limited to the hours between seven a.m. and nine p.m.

c. Required Parking. Type IV uses are subject to the parking requirements specified for the use in LMC Section 16E.50.

d. Deliveries. Deliveries and collections to and from the business address shall be limited to eight (8) trips per day.

e. Signage. Twenty (20) square feet of signage is allowed for a Type IV business.

f. Other use standards. The use shall conform to any standards applicable for the specific use articulated in 16E.

3. Design standards. Type IV non-residential uses shall be designed to respect the residential nature of the surrounding area and shall incorporate the following elements to promote compatibility with the surrounding uses:

a. When a Type IV use is placed on a lot with the potential for land division, but is not developed through a land division process, the use shall be set in the location nearest to the intersection to best meet the location standard specified above.

b. The use shall be set at or near the front property line to create a focal point for the surrounding residential uses. Where this standard conflicts with provisions regarding frontyard setbacks within a zone, this standard shall prevail.

c. Shopfront style windows are encouraged.

d. The main entrance for the use shall be on the front of the building or oriented to the nearest intersection. A secondary entrance or use may be oriented to the rear of the building to provide direct access from any parking area.

e. Parking Placement.

i. No parking is allowed in front of the use except as may be required for handicapped parking.

ii. Parking shall be placed on the side or rear of the building, and shall generally be accessed via the lesser classified street or an alley.

iii. Where a type IV non-residential use abuts a neighboring property that could also become a non-residential use, the access to the parking area shall be set on the shared property line to allow for shared access to the future parking areas on both lots.

iv. Where a type IV non-residential use abuts neighboring residential uses, screening of the parking through measures such as an accessory building, vegetation, or other visible barrier is required.

4. Approval required.

a. Type IV non-residential uses not part of a land division. A conditional use permit is required for all Type IV non-residential uses that do not occur as part of a land division.

b. Type IV non-residential uses as part of a land division. Where a Type IV non-residential use will occur as part of a land division, review for the Type IV use shall occur as part of the land division review. If the use occurs as part of an application with four or fewer lots, the application shall require review by the Planning Advisory Board.

#### **16E.36.040 Additional Standards for Type I through IV Non-Residential Uses**

1. Compliance with performance standards required. All non-residential uses must comply with the performance standards specified in 16E.10 and 16E.12.

2. Businesses not permitted as non-residential use: The following businesses are examples of non-residential uses that are not appropriate for residential areas:

a. Automobile or heavy equipment repair services.

b. Businesses that require more than one service vehicle such as trucks, backhoes, cranes, bull dozers.

c. Medical, dental or veterinary facilities that draw fluids, use diagnostic technology or allow overnight boarding.

d. Rental space for storage.

e. Fire arm sales and services.

f. Motorized tool and appliance repair.

3. Business license required. All non-residential uses shall receive a city of Langley business license.

## **16E.38 STANDARDS FOR RESIDENTIAL-ZONE OFFICES (FROM 18.22.065)**

### **16E.38.010 Purpose.**

To foster creative use of land and promote diversity of productive activity within the city, buildings designed for up to 100% commercial use may be allowed in proposed residential subdivisions that will exceed 25 (twenty-five) lots. Such commercial structures must meet the following requirements:

A. The number of these commercial buildings shall not exceed 15% of the buildings in any new development;

B. The lots on which these commercial buildings will be placed must be identified as part of the subdivision proposal;

C. The buildings must be building-code compliant for their intended commercial use;

D. The design, structure, and placement of the building shall be such that the whole building could be converted to purely residential use;

E. The same set-back, height, lot-coverage, floor area, and other design requirements which apply to residential building in this zone shall also apply to these commercial structures;

F. The exterior appearance of the building must be consistent with the surrounding neighborhood.

**16E.38.020 Conditional Use Approval Required. (ADDED PHRASE)**

The commercial use of all or part of such a building requires conditional use permit approval and administrative review by the planning official after six (6) months of operation and annually thereafter to ensure compliance with the CUP conditions. The commercial use must meet the following requirements:

A. The building must be inspected by the Building Official prior to commencement of business activities;

B. The commercial use shall not generate noise, vibration, smoke, dust, odor, heat, glare, light, electrical interference, or externally visible signs of activity that exceed levels customarily associated with residential use;

C. There shall be no outside storage of materials;

D. Retail sales, unless conducted by mail order or through the Internet, shall be limited to items produced on site and shall be occasional and incidental to the commercial use;

E. Up to two off-street parking spaces may be required. A parking plan shall be approved as part of the conditional use permit;

F. Deliveries and collections to and from the business shall be limited to two per day. Average daily vehicle trips (ADT) generated by the business shall be limited to twenty;

G. Permits granted under the conditional use process are not transferable to another business or to another location. (Ord. 875, 2006)

## **16E.40 STANDARDS FOR SPECIAL USES**

**16E.40.010 Essential Public Facilities. (Moved from 18.22.160)**

A. Application submittal requirements.

In addition to the application submittal requirements specified in other chapters and codes, applicants for essential public facilities shall address each of the review criteria of this chapter in their application materials and provide additional information as required to complete review of the project.

B. Review Criteria.

1. In reviewing an application for a proposed essential public facility, the following shall be considered:

a. Interjurisdictional analysis. A review to determine the extent to which an interjurisdictional approach may be appropriate, including consideration of possible alternative sites for the facility in other jurisdictions and an analysis of the extent to which the proposed facility is of a county-wide or state-wide nature, and whether uniformity among jurisdictions should be considered.

b. Financial analysis. A review to determine if the financial impact upon the City can be reduced or avoided by intergovernmental agreement.

c. Special Purpose Districts. When the public facility is being proposed by special purpose district, the City should consider the facility in the context of the district's overall Plan and the extent to which the plan and facility are consistent with the City comprehensive plan.

d. Measures to facilitate siting. The factors that make a particular facility difficult to site should be considered when a facility is proposed, and measures should be taken to facilitate siting of the facility in light those factors (such as availability of land, access to transportation, compatibility with neighboring uses, and the impact on the physical environment).

2. If attaching conditions to the permit approval will facilitate project siting in light of the considerations identified above, conditions may be established for that purpose. (Ord. 699, 1995)

**16E.40.020 Computer, internet, software and related technology use**

**(Moved from 18.08.030(O) AND UNDERLINED PORTION ADDED)**

The following provisions apply to computer, internet, software and related technology uses in residential areas:

A. Impacts such as traffic, noise, dust, odor, radiation and glare shall be subject to mitigation so as to be compatible with the surrounding residential area.

B. The minimum lot size for the use is five (5) acres.

**16E.40.030 Retreat or conference center**

**(Moved from 18.08.030(O) AND UNDERLINED PORTION ADDED)**

The following provisions apply to retreat or conference centers in residential areas:

A. Impacts such as traffic, noise, dust, odor, radiation and glare shall be subject to mitigation so as to be compatible with the surrounding residential area.

B. The minimum lot size for the use is five (5) acres.

**16E.40.040 Wireless communications facilities. (Moved from 18.22.190)**

The following provisions apply to wireless communications facilities:

A. Wireless communication antenna arrays are permitted in any zone as long as they are located upon an existing structure (sign structures are not considered structures for this purpose) that provides sufficient elevation for the array's operation without the necessity of constructing an apparatus to extend the antenna array more than fifteen (15) feet above the highest point of the structure.

B. The following limits apply to the number of arrays on a structure:

1. All residential zones: one.
2. Commercial zones: three
3. Public use zone: three

C. Installation on city property is subject to execution of the necessary agreement(s) with the city.

D. Landscaping and screening – equipment shelter and cabinets and other on-the-ground ancillary equipment shall be screened by the use of shrubs that achieve sufficient height and fullness upon maturity to screen such facilities.

E. Color and lighting – the antenna array shall be placed and colored to blend into the architectural detail and coloring of the host structure.

F. Setback requirements – all equipment shelters, cabinets or other in-the-ground ancillary equipment shall meet the setback requirements of the zone in which the equipment is located.

G. Electromagnetic field/radio frequency radiation standards shall conform to such standards as are required by the Federal Communication Commission's regulations.

H. Co-location of facilities – it is the policy of the City to encourage the co-location of antenna arrays of more than one wireless communication service provider on a single support structure.

I. Discontinuance of use – any wireless communication facility that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the City. Discontinued facilities shall be completely removed within six months and the site restored to the pre-existing condition. (Ord. 754, 1997)

## **16E.50 STANDARDS FOR PARKING**

**16E.50.010 Vehicle parking. (From 18.22.110 Vehicle parking.)**

A. All property owner passenger vehicles including pickup trucks shall be parked in a designated driveway, parking space, carport or garage.

B. No recreation vehicle, boat, trailer, inoperable or seldom-used vehicles shall be parked or stored in any street setback area. (Ord. 527, 1989)

**16E.50.020 Off-street parking. (From 18.22.130)**

A. Applicability.

1. Parking as required by this title shall be provided when:

a. A new principal building is constructed;

b. A principal building is relocated;

c. The use or building is changed from one category to another within or among 16E.50.020 (D) or (E); provided that this provision is only applicable if the parking requirement for the proposed use is greater than the parking requirement for the prior use; the use(s) are expanded; or new uses are added. (CHANGED CODE CITATION)

d. A building is expanded.

2. The circumstances under which parking is required as set forth in subsection 1 above apply as follows;

a. To new developments or uses and not to those that have occurred prior to the adoption of this code section;

b. Only one time to the same square footage unless there is a change in use that has a greater parking requirement. In this case, the parking requirements only apply to the difference between the two uses.

B. Methods of Meeting Parking Requirements. Methods of meeting parking requirements shall be as follows:

1. Off-street;

2. Fee in lieu.

C. Maintenance of Space. All required parking spaces shall remain open and accessible for parking during the hours the use is open to the public or residents.

D. Residential Requirements.

1. Single-family dwellings shall have two spaces per dwelling unit;

2. Multiple Residential.

a. Duplexes and townhouses shall have two spaces per dwelling unit,

b. One bedroom dwelling units shall have one and one-half spaces per dwelling unit,

c. Two or more bedroom dwelling units shall have two spaces per dwelling unit;

3. Boardinghouses shall have one space per bed;

4. Retirement, nursing and related housing, see Chapter 16E.30.020 of this code for parking requirements. (CHANGED CODE CITATION)

E. Commercial Uses.

1. Retail stores except as specified below, convenience stores, department stores, drug stores, grocery stores shall have one space per six hundred square feet of floor space;

2. Furniture, appliance and hardware stores shall have one space per six hundred square feet of floor space;

3. Personal service facilities shall have one space per six hundred square feet of floor space;

4. Health care, veterinarian clinics and banks shall have one space per four hundred square feet of floor space;

5. Offices shall have one space per six hundred square feet of floor space;

6. Bowling alleys shall have two spaces per lane;

7. Commercial recreation facilities shall have one space per six hundred square feet of floor space;

8. Car repair, commercial garage shall have one space per four hundred square feet of floor space;

9. Service stations and automobile sales shall have one space per eight hundred square feet of lot area;

10. Restaurants, Taverns, and Cocktail Lounges.

a. If less than four thousand square feet in floor area: one space per four hundred square feet of floor area,

b. If over four thousand square feet in floor area: ten plus one space per two hundred square feet in excess of four thousand square feet;

11. Outdoor nurseries shall have one space per one thousand square feet of outdoor retail area,

12. Motels, hotels and bed and breakfast rooms/inns shall have one space per room or unit;

13. Building materials yards shall have one space per one thousand square feet of storage area and one space per three employees;

14. Manufacturing and laboratories, contract printing, research, kennels, shall have one space per one thousand square feet of building or storage area plus one space per employee on the largest shift;

15. Mortuaries and funeral homes shall have one space per six fixed seats or one space per sixty square feet of assembly area, whichever is greater,

16. Self-storage warehouses shall have one space for each ten storage units.

F. Community Facilities.

1. Theaters: one space per ten seats;

2. Indoor places of public assembly, including churches, auditoriums: one space per six seats or one space per sixty feet of assembly area, whichever is greater

3. Schools: one space per employee, plus one space for every eight seats in a main auditorium or similar assembly area; for high schools, additionally, one for each five students;

4. Museums and libraries: one space per four hundred square feet;

5. Day care centers: one space for each ten children or one space for each staff person, whichever is greater; one space for passenger loading/unloading for every twenty children;

6. Hospitals: one space for each two beds, plus one space per two full-time staff and one for each vehicle operated in conjunction with the facility;

7. Maintenance yard, municipal or utility: one space per two employees.

G. Uses Not Specified. Any use not listed above shall meet the requirements of the most similar use as determined by the planning advisory board.

H. Handicapped Spaces. All retail commercial, offices, personal service, health care, community facilities, multifamily buildings with dwelling units for rent and other places of public accommodation which are subject to these parking regulations shall provide a minimum of one handicapped space and one additional handicapped space for every fifty spaces required.

I. Combination of Uses. On lots or in buildings with combined uses, the required number of parking spaces shall be the sum of the spaces required for each use reduced by ten percent. Examples of combined uses are: a furniture store with a retail display area and an attached storage warehouse, a storage warehouse with attached office, a church with a parochial school, and so forth.

J. Mixed Hours of Use. If more than one use is made of a structure, the total requirements for off-street parking shall be the sum of the various uses' requirements; provided, however, if the hours of use do not overlap, the requirements for the structure shall be that of the use or combination of uses which overlap, requiring the greater amount of parking.

K. Joint Facilities. In cases where there are uses in close proximity to each other that operate or are used at entirely different times of the day or week, joint parking facilities may satisfy the parking requirements of such uses if the parking facilities are within three hundred feet of all uses being served and if the owners of the uses involved present a written, recorded (with county auditor) agreement, clearly setting forth the respective rights to such facilities so long as the

parking space is required under this title, together with proof that the operating times are not in conflict. This agreement shall run with the property as long as the uses remain the same.

L. Off-street Parking, Leased or Purchased. Leased parking spaces or land purchased for parking spaces may satisfy the parking requirements of this code if the leased or purchased spaces are within three hundred feet of the uses being served and if the owner(s) of the uses involved present a written agreement recorded with the county auditor clearly setting forth the respective rights to such parking spaces as long as the parking space is required under this title. The agreement shall run with the land as long as the uses remain the same.

M. Calculations.

1. Area, Square Feet. Unless otherwise specified, square feet refers to the gross building square footage, less the floor area dedicated to stairways and restrooms. In the case of outdoor areas, square feet refers to the gross outdoor eating area.

2. Fractions. When the total number of required spaces results in a fractional number of parking spaces, a full space shall be provided or payment of a Fee in Lieu fee shall be made in the amount resulting from multiplying the fraction (to two decimal points), times the Fee in Lieu fee.

N. Downtown Business Area Parking Requirements.

1. In-lieu Fee.

a. An option for meeting parking requirements in the downtown business area is a fee in-lieu. The planning advisory board shall approve the method of meeting the parking requirements after review of an applicant's proposal and considering the characteristics of the use and the development site. The amount of the fee shall be established annually by the city council with the advice of the city's public works director based on the current prices for purchase of land and construction of off-street parking spaces or a rental fee for each required space. The fee shall be paid before a building permit or occupancy permit is issued, whichever is earlier.

b. The fee in-lieu of providing parking is set by Resolution of the Council per the Municipal Code Fee Schedule.

2. Commercial Parking Fund. The in-lieu fees shall be deposited in the commercial parking fund and shall be used to pay for the costs of acquiring land for and/or parking improvements to off-street or on-street parking areas and/or other programs that will lessen the demand for additional parking downtown.

3. Downtown Business Area Defined. The downtown business area consists of all land zoned "~~CB~~" "VCD" and generally located in the area east of the mid-block between Anthes and Park, north of 3rd Street, west of Wharf Street and south of Saratoga Passage. **CHANGED ZONE NAME**

0. Improvement of Parking Spaces. Any parking facility in the downtown business area and commercial development in areas zoned ~~Neighborhood-Dispersed Business~~ shall be developed in accordance with the following requirements: **CHANGED ZONE NAME**

1. Off-street parking facilities shall be surfaced with a concrete, asphalt concrete, or similar surface approved by the city and shall include a drainage system to dispose of surface water to the satisfaction of the city engineer, shall be maintained in a condition free of weeds, dust, trash, and debris, and shall be landscaped;

2. The location and layout of all entrances and exits shall be subject to the approval of the city engineer and city services director;

3. If the parking area is located adjacent to residentially zoned property, illumination shall be so arranged as to deflect light away from adjoining residential premises. (Ord. 648, 1993; Ord. 640, 1993; Ord. 629, 1992; Ord. 579, 1990; Ord. 563, 1990; Ord. 657, 1993; Ord. 696, 1995; Ord. 733, 1997; Ord. 740, 1997; Ord. 771, 1999; Ord. 788, 2000)

**16E.50.030 Design and construction requirements— Parking. (Moved from 18.22.140)**

A. Location. Parking spaces required for residential uses in the residential and commercial zones shall be provided on the same lot as the principal building or an abutting lot if this lot is

owned by the same owner, provided that provision is made for meeting the parking requirements on the lot with the principal residential structure. Front driveways shall extend a minimum of twenty-four feet from the edge of improvements in the right-of-way. Off-site parking for nonresidential uses shall be within three hundred feet of the principal building or use being served.

B. Handicapped Spaces. All handicapped parking spaces shall be provided and designed in accordance with WAC Chapter 5 1-10.

C. Dimensional Requirements. All parking spaces shall comply with the dimensional standards of Figure 16E-2 on file in the office of the city clerk/treasurer. Up to fifty percent of all required spaces may be designated and clearly marked for compact cars.

D. Access. All parking facilities, except residential, shall have direct access to a street without backing onto the right-of-way.

E. Control Devices. A wheel stop shall be provided for each space which abuts a pedestrian walkway less than ten feet wide or any structure. All structures shall be guarded with suitable control devices visible to the driver.

F. Landscaping. All parking facilities shall be landscaped by a fence, hedge or other suitable vegetation where bordering a public right-of-way or residential zone district. Additional landscaping may be required.

G. Maintenance. All parking facilities shall be maintained in a clean and litter free condition. Landscaped areas shall be free of weeds and dead plant material. Plantings shall be thrifty and pruned if appropriate.

H. Commercial Vehicles. No commercial vehicle or combination of vehicle and trailer over ten thousand pounds total gross weight shall be parked on any lot in a residential zone.

I. Design Review. Parking facilities in the commercial zones are subject to design review per Chapter 16H.70. **CHANGED CODE CITATION**  
(Ord. 527, 1989; Ord. 696, 1995; Ord. 788, 2000)

## **16E.60 STANDARDS FOR SIGNAGE** **(Moved from 18.35 and Changed Name)**

### **16E.60.010 Purpose and intent.**

A. The purpose of this chapter is to preserve and maintain the small-town quality and the unique historic character of the city. It is to promote and protect the public welfare, health, safety and aesthetics by regulating existing and proposed signs.

B. Sign design shall be a creative response to the location on which it is to be placed. It shall consider:

1. Scale compatibility and visual appropriateness with both the natural beauty of the environment and the unique building-scape of the city;
2. Symbolic appropriateness with the activity to which it pertains;
3. Expressive identity of individual proprietors, yet never violating the visual character of the surroundings in which it is to be placed;
4. Legibility at the distance and pace (speed) at which it is to be seen;
5. Un-due blocking of public view from the public right-of-way;
6. Reduction of distractions contributing to traffic confusion or accidents.

(Ord. 465 § 1.1985)

~~18.35.030~~ — ~~Definitions.~~ **MOVED TO ADMINISTRATION DEFINITION CHAPTER**

### **16E.60.020 Exempt signs.**

The following signs are exempt under this chapter:

- A. Signs required by law, including, but not limited to, official traffic signs, directional signs, signals, public notices, court and sheriff notices, all of which are erected by public authorities;
- B. Informational services signs, including, but not limited to, "Customer Parking," "Driveway Entrance" and "Exit," not to exceed three square feet;
- C. Signs identifying public conveniences, including, but not limited to, restrooms, telephones, bus stops and taxicab stands, not to exceed three feet;
- D. Information warning signs, including, but not limited to, "No Trespassing," "No Dumping" and "No Parking," not to exceed three feet;
- E. Building address identification number limited to six inches in height;
- F. Temporary political signs and signs displayed in windows of party political headquarters, not to exceed four square feet; provided they are removed within fourteen days after the election.
- G. Temporary decorations customarily displayed at special holidays, such as Christmas and Independence Day; provided they are removed within fourteen days after the holiday;
- H. One temporary real estate sign for each street frontage located on the premises for sale, lease or rent, not exceeding four square feet; provided, that it is removed fourteen days after the sale, lease or rent of the premises;
- I. One temporary sign for each street frontage denoting the architect, engineer or contractor, or future business under construction, not to exceed sixteen square feet; provided, it is removed fourteen days after completion of construction;
- J. Any sign located within a building not visible from the street or sidewalk;
- K. Flags of government or non-commercial institutions such as schools;
- L. Sandwich board signs worn by a person while walking the public ways of the city;
- M. Window signs, where such signs are temporary and not a window graphic;
- N. Signs in the interior of a building more than one foot from the closest window or not facing a window.
- O. Signs or plaques denoting historical structures or sites designated on municipal, county, state or federal historic registers;  
(Ord. 465, 1985; Ord. 788, 2000)(Ord. 834, 2003)

**16E.60.030 Sign area.**

A. Size Limit. **ADDED PHRASE**

1. The total sign area for any single enterprise may be up to twenty square feet, subject to review and approval by the Design Review Board, taking into consideration the criteria set forth in Section 15.16.010 of this Chapter.

2. For public institutional buildings and churches over 5,000 square feet in size, the total sign area for both building identification and announcement of events shall not exceed seventy square feet; provided that, the total allowable sign area for identification shall not exceed thirty-eight square feet and the sign area for announcement of events shall not exceed thirty-two square feet. Individual signs containing both a message and identification shall not exceed fifty square feet on all sides and individual signs not containing a message shall not exceed twenty square feet. These signs and sign areas are subject to the same review requirements set forth in A.1. above.

B. If a sign is a painted wall sign, only the total area of the letters or symbols themselves need be assessed against the allowable sign area, but if the background contrasts strongly with the wall it is painted on and is thus construed to be part of the architecture, the area measured is the smallest circle, triangle or quadrangle that can be drawn around all parts of the visible area.

C. Visible structures designed to be a part of the sign display shall be included in the sign area calculation.

D. The total area of a double-sided sign shall not exceed twenty square feet in area on each side.

(Ord. 465, 1985; Ord. 704, 1995 Ord, 729, 1996) (Ord. 729, 1996;) (Ord. 788, 2000; Ord. 846, 2004)

**16E.60.040 Permitted sign types.**

A. Freestanding Signs. Signs supported by uprights extending from the ground, not attached to a building. Height of freestanding signs shall not exceed nine feet and freestanding signs shall not exceed twenty square feet in area each side, including support structure. The height of freestanding signs is measured from the grade at the edge of the right-of-way to the top of the sign. If unusual topography, architectural or landscape elements, building setting or road curvature merit special considerations, an exemption may be considered.

Freestanding signs, forty-two (42) inches or less in height may be located in the street setback a minimum of five (5) feet from the property line or edge of improvements. Signs exceeding forty-two inches in height shall setback one additional foot for every foot over forty-two inches. Freestanding signs shall not block visibility from driveways, accesses or at street intersections.

B. Joint Freestanding Signs. Signs supported by uprights extending from the ground, not attached to a building shared by more than one enterprise. The total area of any joint freestanding signs shall not exceed twenty-eight square feet in area each side including support structure.

1. Each enterprise is entitled to an equal share of the sign space including the building name.
2. If more than one freestanding sign is used, it shall be similar or the same in design.

C. Building Surface Signs. Signs that are attached parallel to or painted directly on a wall surface of a building.

1. If an applicant demonstrates to the satisfaction of the design review board that a wall sign is an integral part of the architecture and constitutes a "super graphic," the board may waive the size restrictions.

2. A wall sign shall not project more than nine inches parallel to the face of the wall.

D. Projecting Signs. Signs that extend outwardly from a building wall plane.

1. No sign shall extend into or over a public right-of-way unless written permission has been granted by the director of public works and a hold harmless agreement has been provided to the city.

2. Projecting signs may be displayed by any establishment, not to exceed six square feet in size for a single face

3. Projecting signs shall clear the sidewalk by seven and one-half feet, and projecting signs shall not be lower than seven and one-half feet from the ground, and shall not extend more than six feet from the building, or one-half the width of the public sidewalk, whichever is less.

E. Window Signs. Window graphics may not occupy more than twenty-five percent of the total area of the window in which they are displayed.

F. Directional or Locator Signs. Directional or locator signs may be erected by a public or civic body, may be freestanding or wall mounted, shall not exceed twenty-eight square feet in area.

G. Auxiliary Design Elements. Elements such as illumination of all types, movement, banners, awnings, canopies, marquees, window graphics and sidewalk displays.

1. Illumination.

a. Bare Bulb Illumination. The use of bare bulbs is restricted to establishments which would normally be associated with this light source, such as eating and drinking places, amusements and recreation. Wattage and bulb type shall be determined at time of review.

b. Flashing and Moving Light. No flashing and moving lights are allowed except when out of view of all streets, parking lots and views from properties uphill as a part of a planned atmosphere appropriate to a group of enterprises.

c. Indirect Illumination. An indirectly illuminated graphic is one which is lighted externally and directed towards the graphic or sign in such a manner that none of the light glares or shines onto a neighboring property or into the eyes of motorists and pedestrians. Indirect illumination is permitted in the commercial zones and for institutional or non-profit organizations and residential developments with five or more housing units.

d. Neon Tube Illumination. A neon graphic is one with a light source supplied by a neon tube which is bent to form letters, symbols or other shapes and is permitted to all establishments in a commercial area.

2. Special Features. Special features referred to here (banners, awnings, canopies, etc.) are essentially pedestrian-oriented and will most frequently be used in conjunction with some other type of street sign.

a. Awnings and canopies may be used by all types of establishments. Only individual cutout letters and/or symbols may be attached to painted stencils or otherwise placed on these devices; all other types of graphic treatment are prohibited;

b. Marquees;

c. Moving signs, except wind-powered signs, are not allowed except in those cases that the proprietor can demonstrate that such a sign would be more appropriate to the business;

d. Banners, pennants, flyers, ribbons or other fluttering devices may be used with approval of the design review board;

e. Sidewalk showcases and kiosks. These may be used with special permission of the Design Review Board provided written permission has been granted by the director of public works and a hold harmless agreement has been furnished to the city.

H. Temporary Signs. Temporary signs may be approved by the planning official, subject to the following criteria:

1. The maximum sign size is twenty (20) square feet except for public institutional buildings and churches over five thousand (5,000) square feet which may be allowed a maximum thirty-six (36) square feet and subject to the specific circumstances, including the relationship of the sign to the surface area/structure to which it is mounted, the scale of the structure, etc.;

2. The maximum length of time for display shall be 30 days per calendar year except for public institutional or church uses each sign may be displayed for a maximum of ten (10) days and the total number of days allowed for all temporary signs is sixty days per calendar year.

3. No more than one temporary sign per property/use may be allowed at a time.

4. A cash deposit may be required to ensure compliance with the time limitations.  
(Ord. 465, 1985) (Ord. 704, 1995) (Ord. 788, 2000) (Ord. 834, 2003; Ord. 846, 2004)

#### **16E.60.050 Prohibited signs.**

The following signs are prohibited:

A. All roof-mounted signs, directly on the roof surface;

B. Billboards;

C. Temporary signs attached to, located on or resting against a motor vehicle or trailer for the purpose of advertisement or directing people to a business;

D. All signs which resemble legal traffic signs;

E. All signs which have no permanent attachment to a building or the ground, including, but not limited to pole attachments, mobile signs and sandwich board or "A" board signs except for temporary real estate signs as provided in Section 15.16.040H;

F. Abandoned Signs. A sign which is located on property which becomes vacant or unoccupied for a period of ninety days or more, or which was erected for an occupant or business other than the present occupant or business, or contains content which pertains to a time, event or purpose which no longer pertains, is an abandoned sign. If the sign does not conform to the criteria described in this guideline and/or unrelated to the present occupant or business, it must be removed by the property owner.

G. Signs on Public Property. All signs on public property that are not approved for such location by the City are prohibited. Approved signs are subject to compliance with all provisions of this Chapter.

H. Internally illuminated signs and digital image signs.  
(Ord. 465, 1985) (Ord. 704, 1995) (Ord. 834, 2003; Ord. 846, 2004)

**16E.60.060 Existing signs.**

A. This ordinance shall not apply to permanent signs in place on or before the date of the ordinance codified in this chapter, unless the user of the sign wishes to change the shape, dimensions or content of the sign. In that case, the sign must comply with the applicable sections of this chapter. It shall not be deemed a change in content of a sign if the change is merely changing the message that may appear on the changeable portion of a reader board-type sign.

B. All signs, preexisting the effective date of the ordinance codified in this chapter or otherwise, must be kept in good repair, be well maintained, and not a safety hazard to the members of this community.

C. This section shall cease to apply to a preexisting sign if the business or other entity that the sign advertises ceased to do business in the same location for more than ninety days. After that time, any preexisting sign must meet all applicable standards of this chapter.

(Ord. 465, 1985)(Ord. 834, 2003)

**16E.60.070 Permit-Required-Application.**

A permit shall be obtained for each sign erected within the city limits, excepting those signs which are exempted by this chapter. Each permit application shall be filed with the city Land Use Coordinator by the property owner, lessee, contract purchaser or other persons entitled to possession of the property, or by an authorized agent, on a form provided by the city, and shall contain and include the following:

A. Building name and location;

B. Building owner and lessee, sign owner and sign lessee, name of business, primary product and/or service;

C. Location of existing and proposed signs;

D. Description of signs, including dimensions, materials and copy material;

E. Required fee;

F. Name, address and telephone number of sign installer.

(Ord. 465, 1985)(Ord. 704, 1995)

**16E.60.080 Surety required.**

The city may require, as a condition to the granting of a permit, that the applicant furnish a surety approved by the city to secure the applicant's obligation to adhere to the sign guidelines.

(Ord. 465, 1985)

**16E.60.090 Permit-Review of application.**

All sign permit applications shall be approved by the design review board.

(Ord. 465, 1985) (Ord. 704, 1995)

**16E.60.100 Permit-Fee schedule.**

A permit fee in an amount as shall from time to time be set by the city council by resolution shall be paid to the city clerk/treasurer at the time of permit application.

(Ord. 465, 1985) (Ord. 704, 1995)

**16E.60.110 Permit-Expiration.**

A sign permit shall become null and void if the work for which the permit was issued has not been completed within ninety days of its issuance.

Ord. 465, 1985) (Ord. 704, 1995)

**16E.60.120 Exception to permit requirement.**

No permit shall be required:

A. For repainting, cleaning or other normal maintenance or repair of a sign for which a permit has previously been issued, so long as the sign structure or content is not modified in any way;

B. For the changing of the advertising copy or message on an approved reader-board or theater marquee.

(Ord. 465, 1985)

**16E.60.130 Permit-Denial-Notice.**

When a sign permit is denied by the design review board, written notice of denial shall be given to the applicant along with a brief written statement of the reasons for the denial.

(Ord. 465, 1985)

**16E.60.140 Variance procedure.**

A. Special Circumstances Required. A variance from the requirements of this chapter can be considered by the planning advisory board when special circumstances applicable to a specific piece of property exist and it is considered necessary to provide a means to modify the regulations contained in this chapter as they might apply to a particular property. Modifications to the regulations in this chapter are permitted only after obtaining a variance.

B. Criteria for Granting a Variance. The applicant shall demonstrate to the planning advisory board's satisfaction that:

1. The literal interpretation and strict application of the provisions and requirements of this chapter would cause undue and unnecessary hardship to the applicant because of unique or unusual conditions pertaining to the specific building or parcel of property in question;

2. The granting of the requested variance would not be materially detrimental to the property owners in the vicinity;

3. The unusual conditions applying to the specific property do not apply generally to other properties in the city;

4. The granting of the variance will not be contrary to the general objectives of this chapter of moderating the size, number and obtrusive placement of signs;

5. The special conditions and circumstances do not result from the actions of the applicant;

6. The variance is the minimum that will make possible the reasonable use of the property.

C. Application Procedures. The application procedure for a sign variance is the same as for a zoning variance and regulations in Sections 16H.60 of this code shall apply. **CHANGED CODE CITATION** (Ord. 465, 1985)

**16E.60.150 Enforcement**

In addition to all other methods of enforcement identified in this Chapter and elsewhere in this code, the City shall remove all signs on public property that have not been approved per all relevant portions of this Chapter and specifically Section 15.16.070 (G).

(Ord. 704, 1995)

**16E.60.160 Conflicting provisions.**

If any provision of this chapter is found to be in conflict with any provision of any zoning, building, fire safety or health ordinance or code of the city, the provision which establishes the higher standard shall prevail.

(Ord. 465, 1985)

**16E.60.170 Violation-Penalty.**

Violation of or failure to comply with any of the provisions of this chapter shall be subject to a civil penalty as set forth in Chapter 1.14. When violations are of a continuing nature, the penalty shall increase each day of the violation as set forth in Section 1.14.050(5).

(Ord. 834, 2003)

## **16E.70 STANDARDS FOR NON CONFORMING USES, STRUCTURES AND LOTS**

**(Moved from 18.32)**

### **16E.70.010 Nonconforming uses.**

A. Continuance. Nonconforming uses may be continued if:

1. The use was lawful at the time it was established;
2. The use has not been discontinued for a period of twelve consecutive months since the nonconformity was established; and
3. The use has not been enlarged in scope or size in any way, except as required to meet state or federal standards.

B. Discontinuance. All nonconforming uses not conducted in buildings or accessory buildings on the same lot shall be discontinued within three years of the starting date of nonconformity or adoption of this title, whichever is later. (Ord. 527, 1989)

### **16E.70.020 Nonconforming structures.**

A. Alterations. A nonconforming structure may be altered or enlarged, if:

1. Alterations to the structure do not increase the nonconformity in any way;
2. Alterations are necessary to meet city, state, or federal requirements; or
3. Alterations meet the existing requirements of the zone in which the structure is located.

B. Restoration of Damage. A nonconforming structure may be restored, if damaged by fire or other hazard, in the same location and dimensions as existed before the damage occurred if restoration begins within six months of the date the damage occurred. Upon a showing of hardship or conditions causing delay, which are beyond the control of the applicant, the mayor may grant an extension of time for up to six additional months. (Ord. 527, 1989)

### **16E.70.030 Nonconforming lots.**

A. Continuance. A nonconforming lot may be continued if:

1. The lot was a lawfully established lot at the time the nonconformity was established;
2. It does not adjoin a lot which has no structure on it and is under the same ownership, if the nonconformity is due to lot size; and
3. All uses of the nonconforming lot comply with all other provisions of this title.

B. Discontinuance. The nonconforming status of a lot shall be discontinued if:

1. A single, nonconforming lot adjoins another, unimproved lot under the same ownership. Such lots shall be merged by lot line adjustment as provided in this code;

2. A nonconforming lot adjoins more than one adjoining unimproved lot under the same ownership. Such lots shall be merged into the least number of lots, which most nearly meet the requirements of this title. (Ord. 527, 1989)