



City of Longview

1525 Broadway
Longview, WA 98632
www.ci.longview.wa.us

Agenda

Attend in-person or virtually using the link below.
<https://us02web.zoom.us/j/86788038944>
Telephone: US: +1 253 215 8782 Webinar ID: 867 8803
8944

Planning Commission

Wednesday, May 11, 2022

7:00 PM

City Hall

1. **ROLL CALL**
2. **APPROVAL OF MINUTES**
3. **AUDIENCE PARTICIPATION OF CORRESPONDENCE**
4. **DECLARATION OF EX-PARTE COMMUNICATIONS AND APPEARANCE OF FAIRNESS**
5. **PUBLIC HEARINGS**

22-000266 PC 2022-1 Downtown Commerce District zoning code amendments.

Recommended Action: Hold a public hearing.

Motion to adopt the findings and recommendation of the staff report, with adjustments to the proposed amendments as noted in the report to leave religious establishments and community centers unchanged and include a new definition for restaurant in the amendments.

6. **NON-PUBLIC HEARING ITEMS**
7. **OTHER BUSINESS**

22-000273 Set Public Hearing for Olive Way subdivision, date to be determined at meeting; June 1 or July 6.

22-000272 Set public hearing for June 1, 2022 for West End Manufactured Home Park Binding Site Plan, 5721 Ocean Beach Hwy.

The full project documents and environmental checklist are online at:
<https://mylongview.box.com/s/ri42gdnikkajxfu1ozqcqdw0kl11dl2v>

22-000277 Request to set a public hearing for updates to the Chapter 17.24 FLOOD DAMAGE PREVENTION Ordinance as required by FEMA and Department of Ecology.

Staff will present changes required by the Department of Ecology, to the Longview Flood Damage Prevention ordinance and answer questions about this critical area regulation.

The chapter is online at:

<https://www.codepublishing.com/WA/Longview/#!/Longview17/Longview1724.html#17.24>

Recommended Action: Motion to set a public hearing for June 1, 2022.

8. PLANNER'S REPORT

9. ADJOURNMENT



Staff Report

TO: Longview Planning Commission

FROM: Adam Trimble, Planning Manager

HEARING

DATE: May 11, 2022

SUBJECT: Amend the zoning code Title 19, LMC 19.44.020 Uses permitted in the Downtown Commerce District, D-C zone. The proposed changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other 'walk-up' restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with location restrictions and making congregate care and similar facilities not permitted in the zone. Staff is recommending one additional change to add a definition for Restaurant to the zoning code.

CASE #: PC 2022-1

TYPE OF

DECISION: Legislative

BACKGROUND

At the January 13, 2022 regular meeting, the City Council introduced and passed an emergency ordinance enacting a moratorium on all applications for new uses or developments in the D-C zone except for "sales oriented: stores selling, leasing, or renting consumer, home and business goods; or personal service oriented: financial, insurance, real estate, professional outlets and offices, and beauty/barber shops." With the adoption of the moratorium, the City Council directed the Planning Commission to review the uses permitted in the Downtown Commerce district, D-C zone and recommend zoning amendments to ensure a vibrant mixture of for-profit uses including the sale of goods and services, entertainment and dining are present.

The moratorium noted a trend of new uses downtown that are not complimentary to for-profit retail sales, personal services and restaurant uses. Two corner buildings have converted recently to house offices for mental health counseling and drug rehabilitation. To address this concern and the direction of the City

Council the planning commission considered approaches used by other cities to use zoning regulations to control what types of uses and businesses are able to locate in downtown areas. The Planning Commission also requested a survey of land-uses downtown and heard from experts in real-estate regarding trends in demand for commercial buildings and different uses like health care which is expanding and restaurants which have not recovered or come back since Covid.

The current zoning code for downtown Longview was adopted in 2010. The 2010 zoning code for commercial districts implemented a regulatory structure that addresses categories of uses instead of specific lists, and makes less use of special property uses, which require a subjective public hearing process. The updated code keeps the same use categories across all commercial zones in a table format for ease of implementation, clarity and consistency. It replaced a zoning code that listed specific types of uses allowed such as nail salons or barbers instead of a *personal services* category. The previous code was not consistent across commercial zones, with each separate zone having slightly different lists of uses. While the new zoning code is the favored modern approach to zoning, broad categories and consistency across all zones limits the ability to introduce nuanced variation for one zone or within one use category.

Singling out specific businesses or types of uses within a category for exclusion can easily violate with the equal protection clause of the 14th amendment and court precedent that requires there be a 'rational basis' for such treatment. When all commercial zones permit Health Care Providers and a proposal is made to allow Health Care Providers, except for Mental Health Counseling in one zone, that unequal application of the law must have a rational basis or it runs the risk of being an illegal arbitrary restriction. The Practice of Local Government Planning, 3rd edition describes: "An equal protection challenge to a land use regulation would be based on the claim that the regulation treats similar persons dissimilarly."¹The Cornell Law School, Legal Information Institute provides that "To pass the rational basis test, the statute or ordinance must have a legitimate state interest, and there must be a rational connection between the statute's/ordinance's means and goals."² While considering options to meet the direction of City Council the Planning Commission found that some approaches would either lead to arbitrary restrictions inconsistent with restrictions placed on similar uses, such as allowing office uses but not allowing non-profit office uses, or that restrictions which pass the equal protection test, such as limiting entire categories of uses to 2nd floor locations, or less than 2,000 square feet, would hurt the zone more than help and stymie business development.

As an example of the drawbacks to the kinds of zoning restrictions that pass the constitutional equal protection test, the previous zoning code applied a City

¹ Hoch, C. J., Dalton, L. C., & So, F. S. (2000). The practice of Local Government Planning (3rd ed.). American Planning Association (APA). P.317

² *Rational Basis Test*. (n.d.). Cornell Law School/ Legal Information Institute. Retrieved May 5, 2022, from https://www.law.cornell.edu/wex/rational_basis_test

Council public hearing requirement to any use in the D-C zone where more than 50 people could gather at one time, and to medical clinics, rehabilitation services, counseling services, alcohol and drug dependency treatment and counseling services proposed on the ground floor of a building. Ground floor uses which could accommodate more than 50 people were also limited to 20 % of each side of a street within a block. The public hearing requirement applied to uses that were otherwise permitted, if the space they occupied was rated for occupancy by 50 or more which led to restaurants, auction business and other commercial/retail uses where people gathered, being forced to go through the delay and uncertainty of a public hearing process or withdrawing from that location. While the trigger for the public hearing applied equally to all ‘assembly’ type uses, the public hearing process could still result in outcomes that are arbitrary and capricious if identical uses received different hearing outcomes. Inevitably, the approach of the former zoning code resulted in amending the code to exempt restaurants and other desired uses from the public hearing requirement, jeopardizing the equal application of the rule.

In addition to the rational basis test, zoning laws must not violate the Religious Land Use and Institutionalized Persons Act of 2000: “RLUIPA prohibits zoning and landmarking laws that substantially burden the religious exercise of churches or other religious assemblies or institutions absent the least restrictive means of furthering a compelling governmental interest.” And ... “prohibits zoning and landmarking laws that... treat churches or other religious assemblies or institutions on less than equal terms with nonreligious assemblies or institutions’...or ‘unreasonably limit religious assemblies, institutions, or structures within a jurisdiction.”³ The 2010 zoning code update addressed this federal law by allowing churches and community centers in 4 of 6 commercial zones but in the D-C zone, required; “In the D-C district any property use intended to primarily provide meeting areas for secular and nonsecular uses without an ongoing active ground floor use is prohibited. An ‘active ground floor use’ means a retail, business, or entertainment use where persons come and go on a constant and frequent basis.”⁴

PROPOSAL

The Planning Commission considered several approaches to meet the direction given by the City Council. Ultimately, a positive approach of allowing and removing barriers for more for-profit uses including the sale of goods and services, entertainment and dining was taken. The proposed changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other ‘walk-up’ restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with

³ Religious Land Use And Institutionalized Persons Act. (2020, October 15). The United States Department of Justice. <https://www.justice.gov/crt/religious-land-use-and-institutionalized-persons-act>

⁴ Longview Municipal Code. COMMERCIAL ZONING DISTRICTS: Chapter 19.44.020 Uses. <https://www.codepublishing.com/WA/Longview/#!/Longview19/Longview1944.html#19.44.020>

location restrictions and making congregate care and similar facilities not permitted in the zone. After the planning commission recommendation to set a public hearing on draft amendments staff received legal advice that any additional restrictions proposed on Religious Assembly and Institutions, Community Centers, would likely be illegal and is removed from the draft amendments. Staff is recommending one additional change: to add a definition for ‘Restaurant’ to the zoning code, to read: “a business where food and beverages are sold to the public on demand from a menu during stated business hours and may include incidental delivery or pickup service.” There is not currently a definition for restaurant in the zoning code, which limits the ability of the City to determine what is a food and beverage serving use allowed or not allowed in commercial zones.

The proposed changes are attached as Exhibit A.

S.E.P.A. Determination

An Environmental Checklist for the proposed zoning code revisions was reviewed pursuant to the State Environmental Policy Act and a determination of non-significance was issued on April 27, 2022. [E 2022-6 SEPA checklist] The comment period for the SEPA checklist ends May 11, 2022. SEPA documents are attached as Exhibit B.

Additional Information

Pursuant to Chapter 19.81 of the Longview Municipal Code, a legal notice was published in the Longview Daily News on Sunday May 1, 2022 and Sunday, May 8, 2022. A press release about this public hearing was sent Wednesday, May 4, 2022.

Citizen Correspondence

As of this writing, the City has received no comments. The Downtown Advisory Committee have had opportunity to provide a recommendation on the draft amendments but chose to do so at their May 19, 2022 meeting.

Comprehensive Plan Goal and Policies (underline added for emphasis)

The comprehensive plan contains multiple goals, objectives and policies relating to land use compatibility including the following:

- | | |
|-----------------|--|
| Goal LU-F | Support existing businesses and provide an energetic business environment for new industrial and commercial activity providing a range of service, office, commercial, and mixed uses. |
| Policy LU-E.4.6 | New multi-family land use classifications should be applied as follows: <ul style="list-style-type: none">a. located in or abutting areas already containing multi-family uses; orb. in or next to Central Business, Regional or Community Commercial Districts or more intensive institutions;c. <u>located in areas offering unique amenities such as in Downtown</u> or along the Cowlitz and Columbia River waterfronts; ord. along arterials where access consolidation and transit are available.e. In all cases, existing or planned transportation capacity should be adequate to accommodate projected travel demand according to City standards. |

- Policy LU-A.1.5 Facilitate redevelopment of existing developed land when appropriate, and encourage infill development on vacant or underdeveloped land.
- Goal ED-B To create a downtown in Longview whose viability is based on a unique character, is easily differentiated from other commercial areas in the Longview/Kelso area, is attractive to residents and visitors, is active 24 hours a day, and attracts residents and visitors from Longview and other areas.
- Objective ED-B.1 Continue the implementation of the Downtown Plan through City staff support, development code updates, and coordination with Longview business groups. Key activities and programs should be identified biennially in conjunction with the adoption of the City's budget.
- Policy ED-B.1.1 Retain and promote existing retail and office uses. Consistent with the Downtown Plan, expand customer marketing, business development, streetscape improvement, property owner/developer programs, and promote parking efficiencies for a well-defined downtown retail core and mixed-use district.
- Policy ED-B.1.3 Encourage more market rate housing in and near Downtown to strengthen Downtown businesses, support transit service, increase housing diversity, and provide an active, social character. Consider adaptive reuse of some city-owned parking facilities to jump-start the process.

COMPREHENSIVE PLAN FUTURE LAND USE MAP

The proposal will affect areas in Downtown Commerce District, D-C zone.

COMPREHENSIVE PLAN INTENT STATEMENT

Central Business District (underlines added for emphasis)

The CBD is the commercial area which is, shall be maintained, promoted as, and redeveloped as a major retail, service, financial, professional, and cultural center if not also the regional retail trade center for the Longview-Kelso urban area and vicinity. This area shall be developed and redeveloped with a dense, highly intensive land use pattern focusing on high quality, urban style of development and architecture. This land-use designation recognizes the downtown and Triangle Shopping Center as areas of special concern to the City because of their importance and potential in maintaining the community's long-term economic viability and cultural attractiveness. Encouraged uses, activities, and structures include but are not limited to the following:

- large department stores;
- smaller retail stores;
- service, financial, insurance, real estate, and professional outlets and offices;
- municipal and private shared parking garages and lots;
- pedestrian malls and plazas;
- performing arts and other entertainment and cultural facilities and activities;
- hotel, motel, and conference or convention centers;
- transportation terminal;
- mixed use projects;
- upper story residential uses; and
- pedestrian walkways linking key facilities.

Pedestrian, bicycle, and transit access is emphasized to ensure that this area is walkable. Discouraged uses are those that are land consumptive, such as warehouses, automobile sales lots, and individual business parking lots and thus diminish the area's compactness and convenience as an integrated shopping goods and services area. Uses that are strictly automobile access-oriented, such as drive-in restaurants and gas stations, as opposed to pedestrian oriented, are discouraged in the downtown portion of the CBD.

STAFF DISCUSSION

The Planning Commission considered several approaches to both broaden and increase the allowed uses that will contribute to a 'vibrant mixture of for-profit uses including the sale of goods and services, entertainment and dining are present,' and to limit and prevent uses not complimentary to the above. It was quickly realized, with the current zoning code emphasis on categories of uses, excluding specific uses, activities, or non-profit type businesses, will result in unintended consequences for businesses and uses that are desired. A re-write of the zoning code was not the direction given to the Planning Commission and zoning codes based on lists of specific uses inevitably result in unintentionally excluding a business that would be acceptable. Other constitutionally sound zoning restrictions must treat all similar uses the same, limiting the ability to target undesired uses within a desired category of uses. Planning Commission members discussed at length the concerns which prompted the D-C zone moratorium and direction from City Council. The members also recognized that zoning codes are restrictions and not practical solutions that can address underlying problems driving increased need for social service providers and drug rehabilitation clinics. Property maintenance, attracting investment and addressing crime and loitering likewise are not part of the zoning code but could be practical solutions to some of the concerns raised by downtown business and property owners. Where the zoning regulations appeared to stand in the way or limit or restrict desired uses, the Planning Commission has recommended removal. Uses that did not compliment the sale of goods and services, entertainment and dining are recommended to be limited or prohibited. In the pages below, each change or deliberate no-change is summarized and detailed with notes.

Staff Discussion of Planning Commission final draft proposed amendments to Downtown-Commerce Zone, D-C, permitted use regulations 4-6-22.

Note: Uses that could be added or removed are highlighted to aid understanding. Underlined text is proposed to be added, ~~strikethrough~~ to be removed. ATJ

19.44.020 Uses.

Table 19.44.020-1 includes uses that are permitted (“P”) or allowed through a special property use permit (“SPU”). If a field is blank, or the use is not listed, the use is not allowed in that particular zone.

Table 19.44.020-1. Permitted uses in commercial zones.

Use								
Retail Sales and Service	D-C	<i>Summary</i>	<i>Staff Comments</i>	CBD	RC¹	NC²	GC	O/C
Sales oriented: stores selling, leasing, or renting consumer, home and business goods	P			P	P	P	P	P ¹⁰
Personal service oriented: financial, insurance, real estate, professional outlets and offices, and beauty/barber shops	P	Considered limiting offices to a list consisting only of for-profit uses, limiting offices to second floor and limiting the amount of ground floor frontage.	The category includes professional outlets and offices which provides for both real estate, investment, insurance and a multitude of other offices focused on sales of services and products. It also covers offices for social service providers, non-profits, consultants and other uses that simply need a commercial space to work, in an office. The Planning Commission considered the potential threat of demand for office space to ground floor retail and restaurant spaces and ultimately concluded that the measures available to restrict these uses would result in exclusion of desired uses, and inject uncertainty into the law. The benefit of office uses to the D-C zone was also considered: employees and customers for offices uses, including social services, will inevitably contribute to the vitality of the zone by their constant proximity to downtown restaurants, retail shops and services.	P	P	P	P	P
Health care providers ³	P	Considered prohibition, limiting size, limiting to specific types of services and or limiting to second floor only.	The Planning Commission after considering various ways to allow some but not all healthcare providers in the zone concluded that there are and have been several healthcare provider uses in the zone which were beneficial to the mixture of uses, resulting in employees and patients visiting downtown throughout the day. Realtors shared that private practitioners of mental health services are good businesses in multi-tenant buildings and expressed concern that limiting health care providers to the second floor was equivalent to a ban for those with patients with mobility challenges. The planning commission concluded retaining the use in the district was beneficial even if it also allowed some non-profit mental health focused uses in the district.	P	P	P	P	P
Repair oriented: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; tailor; locksmith; and upholsterer	P			P		P	P	P

Use								
Stand-alone liquor store		<i>Summary</i>	<i>Staff Comments</i>	P ⁸	P		P	
Recreational marijuana retail outlets per LMC 19.44.100				P	P		P	P
Eating and Drinking Establishments	D-C			CBD	RC¹	NC²	GC	O/C
Restaurant	P		Staff will recommend the Planning Commission include in their recommended amendments a new definition for restaurant in the zoning code, to ensure that a restaurant is defined and understood as “a business where food and beverages are sold to the public on demand from a menu during stated business hours and may include incidental delivery or pickup service.” There is not currently a definition for restaurant in the zoning code, which limits the ability of the City to determine what is a food and beverage serving use allowed or not allowed in commercial zones.	P	P	P	P	P
Restaurant, with incidental consumption of alcoholic beverages	P			P ⁸	P	SPU	P	P
Bars, taverns, and nightclubs	P			P ⁸	P		P	
Restaurant, with drive-through facility	SPUP	Accommodating take-out business and delivery services is the main reason for this change	The Planning Commission heard from real estate experts that the restaurant industry has not recovered from impacts of Covid and this change is only expected to result in existing businesses opening or offering a pick-up window to benefit from the trend of take-out and food delivery service. One restaurant with a drive-through exists in the zone and few other suitable locations for another exist.	P	P		P	P
Restaurant, with seating in the public right-of-way	P			P		P	P	P
Walk-up food establishment with no indoor seating	SPUP	Removing the public hearing barrier for food truck pods to accommodate this trend without the added time and expense.	Recent changes to allow food trucks in more areas of the city retained a public hearing process for the Downtown Commerce District. In the interest of increasing opportunity for restaurants and a vibrant street atmosphere the Planning Commission recommends permitting these uses such as food trucks and food truck pods on a permanent basis without a hearing process.	P		SPU	P	SPU
Brewpub	P			P	P ⁹		P	P
Lodging, temporary stay	D-C	<i>Summary</i>	<i>Staff Comments</i>	CBD	RC¹	NC²	GC	O/C
Hotels, motels and lodges	P		New state law in 2021, mandated that where hotels are permitted, emergency shelters and emergency housing must also be permitted. The Planning Commission and City Council voted to retain Hotels in the D-C zone when the issue was considered in fall of 2021 to allow for new hotels to be built near the Columbia Theatre, consistent with longer term plans to support the arts.	P			P	P
Recreational vehicle (RV) parks per Chapters 19.65 and 19.90 LMC							P	
Bed and breakfast inns	P ⁴					P		
Vehicle sales, renting, service, and storage	D-C	<i>Summary</i>	<i>Staff Comments</i>	CBD	RC¹	NC²	GC	O/C
Vehicle repair and service of consumer motor vehicles, including motorcycles, all-				P			P	P

Use								
terrain vehicles and light and medium trucks								
Automobile, light and medium truck dealers				P			P	P ¹⁰
Bus, heavy truck, RV, travel trailer or other large vehicle dealers								
Bicycle, motorcycle, all-terrain vehicle dealers	P ⁵			P	P		P	
Boat or marine craft dealer							P	P
Vehicle storage, outdoor							P	
Vehicle washing							P	P
Vehicle renting and leasing				P			P	P
Vehicle fueling station				P	P ¹¹	P ¹²	P	P ¹⁰
Amusement/Cultural	D-C	Summary	Staff Comments	CBD	RC¹	NC²	GC	O/C
Indoor continuous entertainment activities such as bowling alleys, skating rinks, game arcades and pool halls	P			P	P		P	
Outdoor continuous entertainment activities such as miniature golf and skateboard facilities	P	While the lack of un-built space will self-limit this, permitting this use could contribute to diverse entertainment options	Staff noted that new entertainment trends arise continuously: axe throwing and corn hole game tournaments for example, could be accommodated outdoors in the D-C zone, likely in combination with an eating and drinking establishment. Permitting the use may not result in many new businesses due to a lack of suitable un-developed lots but would allow them if proposed.				P	
Theaters, indoor	P			P	P		P	
Drive-in theaters, stadiums and arenas							P	
Museums, botanical and zoological gardens, public plazas, performing and cultural arts studios	P			P			P	
Athletic, health and racket clubs	P			P	P	P	P	P
Circuses, carnivals, or amusement rides				SPU			SPU	
Membership clubs such as fraternal organizations	P ^{6, 14}	A location restriction is proposed for these uses to be off Commerce Ave	The American Legion and the Elks Lodge are located in the D-C zone currently, on 12 th Avenue and these uses serve as places of assembly for their members and the community, and draw people to downtown. The Planning Commission concluded the uses were compatible with the zone when not located on Commerce Avenue and recommends adding a new footnote with this restriction, in the D-C zone.	P			P	
Gambling casinos, card rooms, bingo parlors, pari-mutuel betting parlors, and video arcades	SPU ¹⁴	Once permitted in downtown this use is currently not allowed. Proposal would allow them off-Commerce, if they receive	Gambling and cardrooms are often combined with eating and drinking establishments, bars and entertainment offerings, which could contribute to a vibrant mixture of for-profit uses in the district. The Planning Commission concluded these uses were compatible with the zone when not located on Commerce Avenue and recommends adding a new footnote with this restriction, in the D-C zone. The Planning Commission also recommends allowing these	SPU ⁸				

Use								
		approval from the City Council.	uses as a Special Property use as they are permitted in another commercial zone, so that potential impacts can be assessed and addressed prior to allowing the use.					
Residential	D-C	Summary	Staff Comments	CBD	RC¹	NC²	GC	O/C
Residential dwellings above the first story of commercial buildings	P			P		P	P	P
Mixed-use multifamily residential/commercial developments per LMC 19.46.015	P ¹⁴	Multiple developers have expressed interest in ground-floor housing units as part of housing development proposals in downtown.	The Planning Commission recommends allowing mixed-use housing developments where only 50% of the ground floor street frontage is dedicated to commercial uses, when not located on Commerce Ave. Considering the zone has always allowed residences above the first floor of commercial buildings, this recommendation will broaden the options available to potential mixed-use developers considering downtown Longview. The future of retail and commercial space remains questionable while housing demand is currently high. This option could make it more likely for a new housing development to occur downtown.				P	
Congregate care, assisted living and continuing care facilities and nursing homes for elderly individuals; including accessory services to the above uses	SPU	There do not appear to be any such uses in the zone nor any interest.	Recommendation is to remove this use from the D-C zone as it does not appear consistent with the direction from City Council.				SPU	SPU
Existing residences without any increase in density					P			
Permanent supportive housing	P			P	P	P	P	P
Transitional housing	P			P	P	P	P	P
Emergency shelters per LMC 19.44.110	P			P			P	P
Emergency housing per LMC 19.44.110	P			P			P	P
Residential care facilities per Chapter 19.17 LMC	P			P	P	P	P	P
Education	D-C			CBD	RC¹	NC²	GC	O/C
Schools that meet state requirements for elementary, secondary or higher education, public or private	SPU							
Vocational or technical institutions and colleges	SPU			P			P	P
Dance, music or art schools or studios; athletic, sports-training or martial arts facilities or schools	SPU			P		SPU	P	P
Driving school	SPU			P			P	P
Miscellaneous	D-C			CBD	RC¹	NC²	GC	O/C
Day care facilities for the care of more than 12 children	SPU			P		P	P	P
Commercial off-street parking lots and garages	SPU			P			P	P
Temporary uses per Chapter 19.41 LMC	P			P	P	P	P	P

Use								
Sidewalk businesses in accordance with LMC 12.30.090 through 12.30.140	P			P		P	P	P
Funeral parlors				P			P	P
Basic utility facilities, non-building structures ¹³	SPU			SPU	SPU	SPU	P	SPU
Self-service storage (mini warehouses)							P	SPU
Convention centers	SPU			P	P		P	P
Bus terminals and stations, transportation and transit facilities	SPU			P	P	P	P	P
Drive-in and drive-through facilities associated with an allowed use	SPU			P	P		P	P
Telecommunications structures and equipment, subject to the provisions of Chapter 16.75 LMC				P	P	P	P	P
Small animal clinics or veterinary hospitals	P ⁷			P ⁷			P ⁷	P ⁷
Pet grooming	P			P	P	P	P	P
Boat marinas								P
Microbrewery/microwinery/craft distillery				SPU			P	
Religious assembly and institutions, community centers	P ^{6, 44}	For new assembly uses, a location restriction, 'off-commerce' is proposed.	The Planning Commission has indicated support for adding a location restriction for these uses, to be allowed in the zone but not on Commerce Ave. Staff has since concluded such a restriction would not survive a legal challenge and will recommend the use remain as is. The inclusion of footnote 6 to have an "active ground floor use" ... a retail, business, or entertainment use where persons come and go on a constant and frequent basis, was part of the 2010 code update solution to accommodating these uses consistent with religious freedom protections and also the intent of the zone.	P			P	P
Public safety facility				P	SPU		SPU	P

1. See LMC 19.44.050 for further clarification on what is a permitted use within the regional commercial district.
2. See LMC 19.44.040 for further clarification on what is a permitted use within the neighborhood commercial district.
3. Providers of ambulance services need a special property use permit.
4. Bed and breakfast inns must be located above the first floor in the D-C district.
5. No outdoor display of motorized vehicles is allowed.
6. In the D-C district any property use intended to primarily provide meeting areas for secular and nonsecular uses without an ongoing active ground floor use is prohibited. An "active ground floor use" means a retail, business, or entertainment use where persons come and go on a constant and frequent basis.
7. The medical care and services administered to animals shall occur only within the confines of the principal building located on the premises.
8. These uses are not allowed within 700 feet of the centerline of the west end of the city street named Mark Morris Court.
9. Brewpubs are permitted outright only in conjunction with LMC 19.44.050(4), sit-down restaurants with a minimum enclosed floor area of 5,000 square feet.

10. These uses are only allowed in the O/C district if they are located west of 12th Avenue, except Assessor's Parcel Number 08749 is allowed to have these uses also.

11. Per LMC 19.44.050.

12. Per LMC 19.44.040.

13. City water, sewer, and drainage pump stations are permitted outright in all commercial districts and are not subject to setback requirements of this chapter.

14. In the D-C zone, these uses may only be located on lots with frontage on 12th and 14th Avenues.

(Ord. 3450 § 7, 2021; Ord. 3442 § 4, 2021; Ord. 3425 § 2, 2020; Ord. 3421 § 2, 2020; Ord. 3395 § 3, 2019; Ord. 3362 § 2, 2017; Ord. 3358 § 1, 2017; Ord. 3297 § 7, 2015; Ord. 3268 § 3, 2014; Ord. 3262 § 2, 2014; Ord. 3202 § 14, 2012).

19.44.030 Downtown commerce district – Special property use.

In the downtown commerce district special property use permits are granted by the city council. Per LMC 2.03.060, the city council shall conduct an open-record public hearing prior to their decision. Per LMC 2.27.070, the planning commission shall make recommendations to the city council for the granting or denial of such permits. (Ord. 3450 § 7, 2021; Ord. 3202 § 14, 2012).

Chapter 19.09 Definitions:

19.09.522: Restaurant.

“Restaurant means a business where food and beverages are sold to the public on demand from a menu during stated business hours and may include incidental delivery or pickup service.”

STAFF FINDINGS

Staff has examined the merits of the proposal to amend the Longview Zoning Code and makes the following findings:

1. The amendments are proposed in response City Council direction to review the uses permitted in the Downtown Commerce district, D-C zone and recommend zoning amendments to ensure a vibrant mixture of for-profit uses including the sale of goods and services, entertainment and dining are present.
2. The proposed amendments will remove limitations and restrictions from desired uses in the Downtown Commerce District, D-C zone.
3. Uses that do not compliment the sale of goods and services, entertainment and dining are recommended to be limited or prohibited.
4. The proposed amendments are consistent with the goals, objectives and policies of the Comprehensive Plan.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission approve the staff recommended changes to the draft amendments, adopt the staff findings and recommend the City Council adopt the subject zoning code amendments.

EXHIBITS

- A. Application for Zone Text Amendment
- B. SEPA Documents

Report Date: Thursday, May 05, 2022

Planning Commission final draft proposed amendments to Downtown-Commerce Zone, D-C, permitted use regulations 4-6-22.

Note: Uses that could be added or removed are highlighted to aid understanding.

Underlined text is proposed to be added, ~~strikethrough~~ to be removed. AT]

19.44.020 Uses.

Table 19.44.020-1 includes uses that are permitted (“P”) or allowed through a special property use permit (“SPU”). If a field is blank, or the use is not listed, the use is not allowed in that particular zone.

Table 19.44.020-1. Permitted uses in commercial zones.

Use						
Retail Sales and Service	D-C	CBD	RC¹	NC²	GC	O/C
Sales oriented: stores selling, leasing, or renting consumer, home and business goods	P	P	P	P	P	P ¹⁰
Personal service oriented: financial, insurance, real estate, professional outlets and offices, and beauty/barber shops	P	P	P	P	P	P
Health care providers ³	P	P	P	P	P	P
Repair oriented: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; tailor; locksmith; and upholsterer	P	P		P	P	P
Stand-alone liquor store		P ⁸	P		P	
Recreational marijuana retail outlets per LMC 19.44.100		P	P		P	P
Eating and Drinking Establishments	D-C	CBD	RC¹	NC²	GC	O/C
Restaurant	P	P	P	P	P	P
Restaurant, with incidental consumption of alcoholic beverages	P	P ⁸	P	SPU	P	P
Bars, taverns, and nightclubs	P	P ⁸	P		P	
<u>Restaurant, with drive-through facility</u>	<u>SPU</u> <u>P</u>	P	P		P	P
Restaurant, with seating in the public right-of-way	P	P		P	P	P
<u>Walk-up food establishment with no indoor seating</u>	<u>SPU</u> <u>P</u>	P		SPU	P	SPU
Brewpub	P	P	P ⁹		P	P
Lodging, temporary stay	D-C	CBD	RC¹	NC²	GC	O/C
Hotels, motels and lodges	P	P			P	P
Recreational vehicle (RV) parks per Chapters 19.65 and 19.90 LMC					P	
Bed and breakfast inns	P ⁴			P		
Vehicle sales, renting, service, and storage	D-C	CBD	RC¹	NC²	GC	O/C
Vehicle repair and service of consumer motor vehicles, including motorcycles, all-terrain vehicles and light and medium trucks		P			P	P
Automobile, light and medium truck dealers		P			P	P ¹⁰

Use						
Bus, heavy truck, RV, travel trailer or other large vehicle dealers						
Bicycle, motorcycle, all-terrain vehicle dealers	P ⁵	P	P		P	
Boat or marine craft dealer					P	P
Vehicle storage, outdoor					P	
Vehicle washing					P	P
Vehicle renting and leasing		P			P	P
Vehicle fueling station		P	P ¹¹	P ¹²	P	P ¹⁰
Amusement/Cultural	D-C	CBD	RC¹	NC²	GC	O/C
Indoor continuous entertainment activities such as bowling alleys, skating rinks, game arcades and pool halls	P	P	P		P	
Outdoor continuous entertainment activities such as miniature golf and skateboard facilities	<u>P</u>				P	
Theaters, indoor	P	P	P		P	
Drive-in theaters, stadiums and arenas					P	
Museums, botanical and zoological gardens, public plazas, performing and cultural arts studios	P	P			P	
Athletic, health and racket clubs	P	P	P	P	P	P
Circuses, carnivals, or amusement rides		SPU			SPU	
Membership clubs such as fraternal organizations	P ^{6, 14}	P			P	
Gambling casinos, card rooms, bingo parlors, pari-mutuel betting parlors, and video arcades	<u>SPU¹⁴</u>	SPU ⁸				
Residential	D-C	CBD	RC¹	NC²	GC	O/C
Residential dwellings above the first story of commercial buildings	P	P		P	P	P
Mixed-use multifamily residential/commercial developments per LMC 19.46.015	<u>P¹⁴</u>				P	
Congregate care, assisted living and continuing care facilities and nursing homes for elderly individuals; including accessory services to the above uses	<u>SPU</u>				SPU	SPU
Existing residences without any increase in density			P			
Permanent supportive housing	P	P	P	P	P	P
Transitional housing	P	P	P	P	P	P
Emergency shelters per LMC 19.44.110	P	P			P	P
Emergency housing per LMC 19.44.110	P	P			P	P
Residential care facilities per Chapter 19.17 LMC	P	P	P	P	P	P
Education	D-C	CBD	RC¹	NC²	GC	O/C
Schools that meet state requirements for elementary, secondary or higher education, public or private	SPU					
Vocational or technical institutions and colleges	SPU	P			P	P

Use						
Dance, music or art schools or studios; athletic, sports-training or martial arts facilities or schools	SPU	P		SPU	P	P
Driving school	SPU	P			P	P
Miscellaneous	D-C	CBD	RC¹	NC²	GC	O/C
Day care facilities for the care of more than 12 children	SPU	P		P	P	P
Commercial off-street parking lots and garages	SPU	P			P	P
Temporary uses per Chapter 19.41 LMC	P	P	P	P	P	P
Sidewalk businesses in accordance with LMC 12.30.090 through 12.30.140	P	P		P	P	P
Funeral parlors		P			P	P
Basic utility facilities, non-building structures ¹³	SPU	SPU	SPU	SPU	P	SPU
Self-service storage (mini warehouses)					P	SPU
Convention centers	SPU	P	P		P	P
Bus terminals and stations, transportation and transit facilities	SPU	P	P	P	P	P
Drive-in and drive-through facilities associated with an allowed use	SPU	P	P		P	P
Telecommunications structures and equipment, subject to the provisions of Chapter 16.75 LMC		P	P	P	P	P
Small animal clinics or veterinary hospitals	P ⁷	P ⁷			P ⁷	P ⁷
Pet grooming	P	P	P	P	P	P
Boat marinas						P
Microbrewery/microwinery/craft distillery		SPU			P	
Religious assembly and institutions, community centers	P ^{6, 44}	P			P	P
Public safety facility		P	SPU		SPU	P

1. See LMC 19.44.050 for further clarification on what is a permitted use within the regional commercial district.

2. See LMC 19.44.040 for further clarification on what is a permitted use within the neighborhood commercial district.

3. Providers of ambulance services need a special property use permit.

4. Bed and breakfast inns must be located above the first floor in the D-C district.

5. No outdoor display of motorized vehicles is allowed.

6. In the D-C district any property use intended to primarily provide meeting areas for secular and nonsecular uses without an ongoing active ground floor use is prohibited. An “active ground floor use” means a retail, business, or entertainment use where persons come and go on a constant and frequent basis.

7. The medical care and services administered to animals shall occur only within the confines of the principal building located on the premises.

8. These uses are not allowed within 700 feet of the centerline of the west end of the city street named Mark Morris Court.

9. Brewpubs are permitted outright only in conjunction with LMC 19.44.050(4), sit-down restaurants with a minimum enclosed floor area of 5,000 square feet.

10. These uses are only allowed in the O/C district if they are located west of 12th Avenue, except Assessor’s Parcel Number 08749 is allowed to have these uses also.

11. Per LMC 19.44.050.

12. Per LMC 19.44.040.

13. City water, sewer, and drainage pump stations are permitted outright in all commercial districts and are not subject to setback requirements of this chapter.

14. In the D-C zone, these uses may only be located on lots with frontage on 12th and 14th Avenues.

(Ord. 3450 § 7, 2021; Ord. 3442 § 4, 2021; Ord. 3425 § 2, 2020; Ord. 3421 § 2, 2020; Ord. 3395 § 3, 2019; Ord. 3362 § 2, 2017; Ord. 3358 § 1, 2017; Ord. 3297 § 7, 2015; Ord. 3268 § 3, 2014; Ord. 3262 § 2, 2014; Ord. 3202 § 14, 2012).

19.44.030 Downtown commerce district – Special property use.

In the downtown commerce district special property use permits are granted by the city council. Per LMC 2.03.060, the city council shall conduct an open-record public hearing prior to their decision. Per LMC 2.27.070, the planning commission shall make recommendations to the city council for the granting or denial of such permits. (Ord. 3450 § 7, 2021; Ord. 3202 § 14, 2012).

Staff recommended inclusion:

19.09.522: Restaurant.

“Restaurant means a business where food and beverages are sold to the public on demand from a menu during stated business hours and may include incidental delivery or pickup service.”



April 27, 2022

To: Washington State E.C.Y., Environmental Review Section
Ted Sprague, Cowlitz County EDC
Lindsey Cope, Cowlitz County EDC, Longview Downtowners
Jon Dunaway, Longview Fire Marshal
Erik Byman, Commercial Building Inspector
John Reeves, Longview Police Department
Kelso-Longview Chamber of Commerce
The Daily News

From: Ann Rivers, Director of Community Development

Subject: SEPA Environmental Checklist Review - Application #E 2022-6

Project: Adam Trimble, Planning Manager with City of Longview, has submitted a SEPA checklist for a non-project action by the City of Longview to amend the zoning code Title 19, LMC 19.44.020 Uses permitted in the Downtown Commerce District, D-C zone. The proposed changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other 'walk-up' restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with location restrictions and making congregate care and similar facilities not permitted in the zone. The specific proposal is attached. The non-project action affects properties in the D-C zone.

The applicant has submitted an Environmental Checklist for review under WAC 197-11, the SEPA Rules.

The project affects the **Downtown Commerce District , D-C zone**. The Comprehensive Plan classification is **Central Business District**. Adjacent uses to the D-C zone include: Commercial buildings with offices, retail and parking, restaurants, fuel stations, residential neighborhoods with multi-family and single family housing, auto sales.

The SEPA Responsible Official has determined that this proposal will not likely have an adverse impact on the environment and has issued a DNS on this application. Please review the attached SEPA documents and provide your written comments to me no later than **6:00 p.m. May 11, 2022**.

If you have any questions or need additional information, please contact Adam Trimble, Planning Manager at (360) 442-5092 or me at (360) 442-5080.

Thank you.

Attachments: Proposed zoning code amendments

Cc: Applicant: City of Longview
File



**DETERMINATION OF NON-SIGNIFICANCE
SEPA RULES - WAC 197-11-970**

Description of Proposal: E 2022-6— a non-project action by the City of Longview to amend the zoning code Title 19, LMC 19.44.020, Uses permitted, in the Downtown Commerce District, D-C zone. The specific proposal is attached. The property is zoned Downtown Commerce District , D-C zone.

Proponents: Adam Trimble, Planning Manager
City of Longview
PO Box 128
1525 Broadway Street
Longview, WA 98632
Phone: 360-442-5092

Location of Proposal, Including Street Address, if any: The non-project action will affect properties in the Downtown Commerce District, D-C zone, roughly bound by Washington Way, 14th Ave, Florida Street and 12th Ave. Located in the NE ¼ of Section 33, T8N, R2W.

Lead Agency: City of Longview, Washington

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after a review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.



The comment period for this DNS ends at 6:00 on May 11, 2022.

Responsible Official: Ann Rivers

Position/Title: Community Development Director

Department: Community Development

Address: PO Box 128, Longview, WA 98632

Contact Person: Adam Trimble, Planning Manager

Phone: (360) 442-5092

Date: April 27, 2022

Signature: _____

A handwritten signature in blue ink, appearing to read "Ann Rivers", is written over a horizontal line.

**City of Longview
Community Development**

**SEPA ENVIRONMENTAL CHECKLIST
UPDATED 2014**

Purpose of checklist:

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants: [\[help\]](#)

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. You may use "not applicable" or "does not apply" only when you can explain why it does not apply and not when the answer is unknown. You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to all parts of your proposal, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for Lead Agencies:

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals: [\[help\]](#)

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B plus the [SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS \(part D\)](#). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in Part B - Environmental Elements –that do not contribute meaningfully to the analysis of the proposal.

A. Background [\[help\]](#)

E 2022-6

1. Name of proposed project, if applicable: **A non-project action by the City of Longview to amend the zoning code Title 19, LMC 19.44.020 Uses permitted in the Downtown Commerce District, D-C zone**

2. Name of applicant: *City of Longview*

3. Address and phone number of applicant and contact person:

***Adam Trimble, Planning Manager
PO Box 128/1525 Broadway Street
Longview, WA 98632
360-442-5092***

4. Date checklist prepared: ***April 25, 2022***

5. Agency requesting checklist: *City of Longview*

6. Proposed timing or schedule (including phasing, if applicable): **Planning Commission public hearing in May 2022, City Council review and approval in June 2022.**

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. **No**

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. **None**

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. **A moratorium was enacted in January 2022 on new uses in the D-C zone except for retail, personal services and professional office uses. The moratorium is set to expire in January 2022.**

10. List any government approvals or permits that will be needed for your proposal, if known. **Longview City Council adopting an ordinance approving Code updates**

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

A non-project action by the City of Longview to amend the zoning code Title 19, LMC 19.44.020 Uses permitted in the Downtown Commerce District, D-C zone. The proposed

changes include allowances for restaurants with drive-up service, removal of public hearing requirements for food truck pods and other 'walk-up' restaurants, allowing outdoor entertainment activities, adding location restrictions to membership clubs and fraternal organizations, allowing gambling casinos and cardrooms with location restrictions, allowing mixed-use residential/commercial developments with location restrictions and making congregate care and similar facilities not permitted in the zone.. The specific proposal is attached.

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The non-project action will affect properties in the Downtown Commerce District, D-C zone, roughly bound by Washington Way, 14th Ave, Florida Street and 12th Ave. Located in the NE ¼ of Section 33, T8N, R2W.

B. ENVIRONMENTAL ELEMENTS [\[help\]](#)

1. Earth

a. General description of the site [\[help\]](#)

(circle one): Flat, rolling, hilly, steep slopes, mountainous,

other _____ **Not applicable, this is a non-project action.**

b. What is the steepest slope on the site (approximate percent slope)?

Not applicable, the proposal is a non-project action

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils. **Not applicable**

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe. **Not applicable**

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. **Not applicable**

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe. **Not applicable**

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? **Not applicable**

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any: **Not applicable**

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. **Not applicable, the proposal is a nonproject action.**

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. **Not applicable**

c. Proposed measures to reduce or control emissions or other impacts to air, if any: **Not applicable**

3. Water

a. Surface Water: [\[help\]](#)

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. **Not applicable, the proposal is a nonproject action**

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. **Not applicable**

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. **Not applicable**

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. **Not applicable**

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. **Not applicable**

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. **Not applicable**

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. **Not applicable, the proposal is a nonproject action**

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals. . . ; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve. **Not applicable**

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. **Not applicable**

2) Could waste materials enter ground or surface waters? If so, generally describe. **Not applicable**

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. **Not applicable**

d. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: **None**

4. Plants [\[help\]](#)

a. Check the types of vegetation found on the site: **Not applicable, the proposal is a nonproject action**

____deciduous tree: alder, maple, aspen, other

____evergreen tree: fir, cedar, pine, other

____shrubs

____grass

____pasture

____crop or grain

____Orchards, vineyards or other permanent crops.

____wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other

____water plants: water lily, eelgrass, milfoil, other

____other types of vegetation

b. What kind and amount of vegetation will be removed or altered? **Not applicable**

c. List threatened and endangered species known to be on or near the site. **Not applicable**

- d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: **Not applicable**
- e. List all noxious weeds and invasive species known to be on or near the site. **Not applicable**

5. Animals

- a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: **Not applicable**

birds: hawk, heron, eagle, songbirds, other:
mammals: deer, bear, elk, beaver, other:
fish: bass, salmon, trout, herring, shellfish, other _____

- b. List any threatened and endangered species known to be on or near the site. **Not applicable, the proposal is a nonproject action**
- c. Is the site part of a migration route? If so, explain. **Not applicable**
- d. Proposed measures to preserve or enhance wildlife, if any: **None**
- e. List any invasive animal species known to be on or near the site. **Not applicable**

6. Energy and natural resources

- a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. **Not applicable, the proposal is a nonproject action**
- b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. **Not applicable**
- c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: **Not applicable**

7. Environmental health

- a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe. **Not applicable, the proposal is a nonproject action**

- 1) Describe any known or possible contamination at the site from present or past uses. **Not applicable**
- 2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. **Not applicable**
- 3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project. **Not applicable**
- 4) Describe special emergency services that might be required. **None**
- 5) Proposed measures to reduce or control environmental health hazards, if any: **Not applicable**

b. Noise

- 1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? **Not applicable, the proposal is a nonproject action**
- 2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. **Not applicable**
- 3) Proposed measures to reduce or control noise impacts, if any: **Not applicable**

8. Land and shoreline use

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. **Not applicable, the proposal is a nonproject action**
- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? **Not applicable**
 - 1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: **Not applicable**
- c. Describe any structures on the site. **Not applicable**
- d. Will any structures be demolished? If so, what? **No**

- e. What is the current zoning classification of the site? **The proposal applies to the Downtown Commerce District, D-C zone.**
- f. What is the current comprehensive plan designation of the site? **The proposal applies to Central Business District Comprehensive Plan classifications.**
- g. If applicable, what is the current shoreline master program designation of the site? **Not applicable**
- h. Has any part of the site been classified as a critical area by the city or county? If so, specify. **Not applicable**
- i. Approximately how many people would reside or work in the completed project? **Not applicable**
- j. Approximately how many people would the completed project displace? **Not applicable**
- k. Proposed measures to avoid or reduce displacement impacts, if any: **None**
- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: **None**
- m. Proposed measures to ensure the proposal is compatible with nearby agricultural and forest lands of long-term commercial significance, if any: **None**

9. Housing

- a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing. **Not applicable, the proposal is a nonproject action**
- b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing. **Not applicable**
- c. Proposed measures to reduce or control housing impacts, if any: **None**

10. Aesthetics

- a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? **Not applicable, the proposal is a nonproject action**
- b. What views in the immediate vicinity would be altered or obstructed? **None**
- c. Proposed measures to reduce or control aesthetic impacts, if any: **None.**

11. Light and glare

- a. What type of light or glare will the proposal produce? What time of day would it mainly occur? **Not applicable, the proposal is a nonproject action**
- b. Could light or glare from the finished project be a safety hazard or interfere with views? **Not applicable**
- c. What existing off-site sources of light or glare may affect your proposal? **Not applicable**
- d. Proposed measures to reduce or control light and glare impacts, if any: **None.**

12. Recreation

- a. What designated and informal recreational opportunities are in the immediate vicinity? **Not applicable, the proposal is a nonproject action**
- b. Would the proposed project displace any existing recreational uses? If so, describe. **Not applicable**
- c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: **Not applicable**

13. Historic and cultural preservation

- a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers located on or near the site? If so, specifically describe. **Not applicable, the proposal is a nonproject action**
- b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources. **Not applicable**
- c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc. **Not applicable**
- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required. **None**

14. Transportation

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any. **Not applicable, the proposal is a nonproject action**
- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop? **Not applicable**
- c. How many additional parking spaces would the completed project or non-project proposal have? How many would the project or proposal eliminate? **Not applicable**
- d. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private). **Not applicable**
- e. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. **Not applicable**
- f. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates? **Not applicable**
- g. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe. **Not applicable**
- h. Proposed measures to reduce or control transportation impacts, if any: **None**

15. Public services

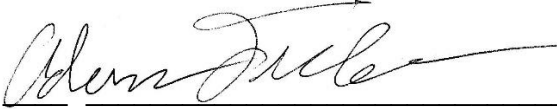
- a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe. **The proposal is a nonproject action and includes adding gambling, casinos and similar uses on streets other than Commerce Avenue in the zone. These uses can result in an increased need for police services when combined with a bar or night club, both of which are already allowed in the zone.**
- b. Proposed measures to reduce or control direct impacts on public services, if any. **None**

16. Utilities

- a. Circle utilities currently available at the site: **Not applicable, the proposal is a nonproject action**
electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other _____
- b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed. **Not applicable**

C. Signature [\[HELP\]](#)

I declare under penalty of the perjury laws that the information I have provided on this form/application is true, correct and complete:

Signature: _____

Name of signee: *Adam Trimble*

Position and Agency/Organization: *Planning Manager, City of Longview*

Date Submitted: April 25, 2022

D. supplemental sheet for nonproject actions [\[help\]](#)

(IT IS NOT NECESSARY to use this sheet for project actions)

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The changes proposed to the zoning code are unlikely to contribute to increases of the above.

Proposed measures to avoid or reduce such increases are: **None**

2. How would the proposal be likely to affect plants, animals, fish, or marine life? **The proposal is not likely to affect the above.**

Proposed measures to protect or conserve plants, animals, fish, or marine life are: **None**

3. How would the proposal be likely to deplete energy or natural resources? **The proposal is not likely to deplete energy or natural resources**

Proposed measures to protect or conserve energy and natural resources are: **None**

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks,

wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands? **The proposal is not likely to effect any of the above.**

Proposed measures to protect such resources or to avoid or reduce impacts are: **None**

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

The proposal will allow restaurants with drive-through service in the D-C zone. One drive-through restaurant currently exists in the zone. The change is likely to accommodate existing restaurants adding a drive-up window. Traffic counts in the zone are unlikely to attract new drive-up restaurants. The zone currently allows residences above the first floor of commercial; the amendments will allow developments with 50% residential/commercial on the ground floor and residential above, on streets other than Commerce Avenue.

Proposed measures to avoid or reduce shoreline and land use impacts are: **None.**

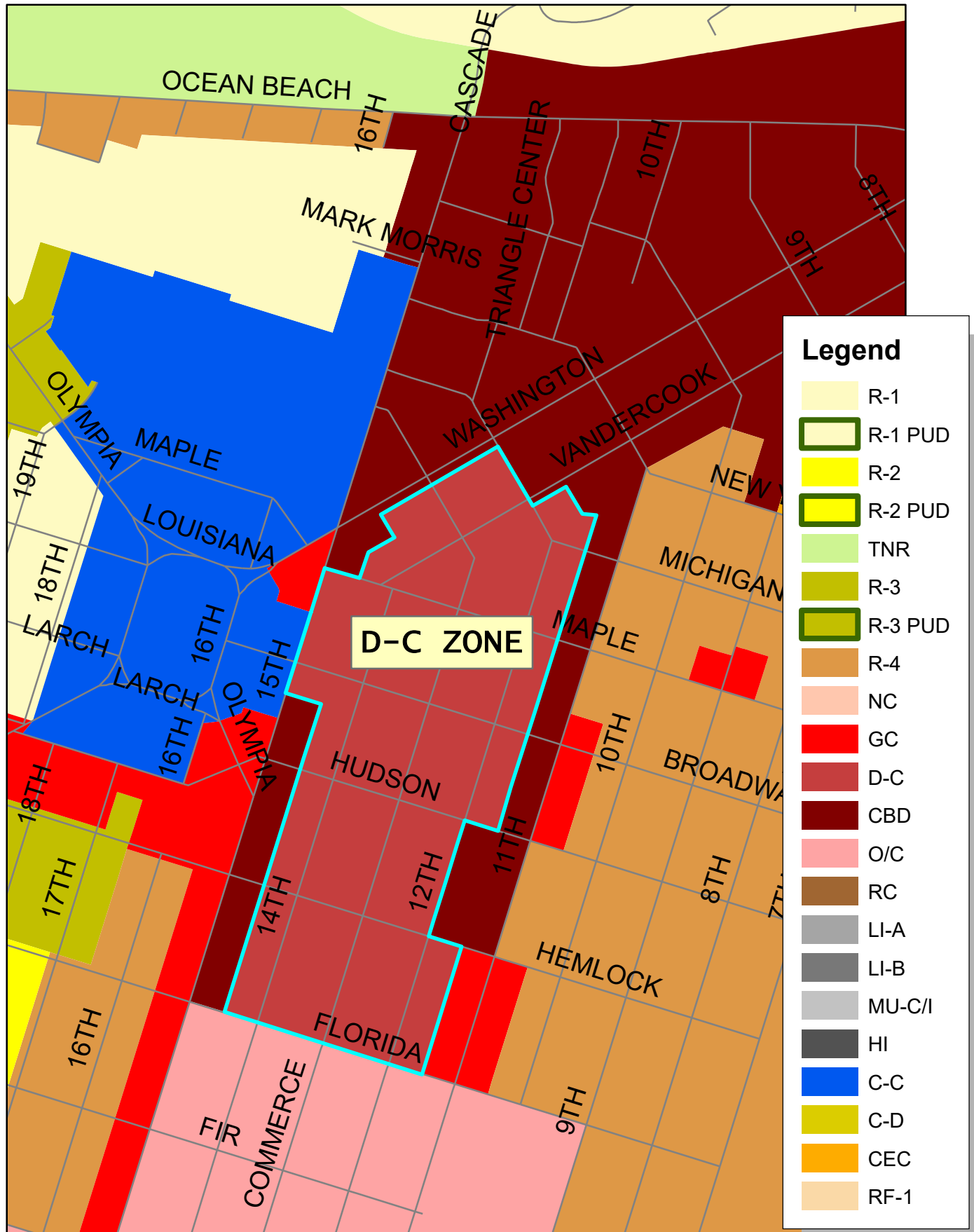
6. How would the proposal be likely to increase demands on transportation or public services and utilities?

The proposal is not likely to increase demands on the above as all changes are currently allowed in commercial zones in the city.

Proposed measures to reduce or respond to such demand(s) are: **None.**

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment. **None known.**

DOWNTOWN COMMERCE DISTRICT, D-C ZONE



Planning Commission proposed amendments to Downtown-Commerce Zone, D-C, permitted use regulations

Note: Uses that could be added or removed are highlighted to aid understanding.

Underlined text is proposed to be added, ~~strikethrough~~ to be removed. AT]

19.44.020 Uses.

Table 19.44.020-1 includes uses that are permitted (“P”) or allowed through a special property use permit (“SPU”). If a field is blank, or the use is not listed, the use is not allowed in that particular zone.

Table 19.44.020-1. Permitted uses in commercial zones.

Use						
Retail Sales and Service	D-C	CBD	RC¹	NC²	GC	O/C
Sales oriented: stores selling, leasing, or renting consumer, home and business goods	P	P	P	P	P	P ¹⁰
Personal service oriented: financial, insurance, real estate, professional outlets and offices, and beauty/barber shops	P	P	P	P	P	P
Health care providers ³	P	P	P	P	P	P
Repair oriented: repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop-off; quick printing; tailor; locksmith; and upholsterer	P	P		P	P	P
Stand-alone liquor store		P ⁸	P		P	
Recreational marijuana retail outlets per LMC 19.44.100		P	P		P	P
Eating and Drinking Establishments	D-C	CBD	RC¹	NC²	GC	O/C
Restaurant	P	P	P	P	P	P
Restaurant, with incidental consumption of alcoholic beverages	P	P ⁸	P	SPU	P	P
Bars, taverns, and nightclubs	P	P ⁸	P		P	
Restaurant, with drive-through facility	SPU <u>P</u>	P	P		P	P
Restaurant, with seating in the public right-of-way	P	P		P	P	P
Walk-up food establishment with no indoor seating	SPU <u>P</u>	P		SPU	P	SPU
Brewpub	P	P	P ⁹		P	P
Lodging, temporary stay	D-C	CBD	RC¹	NC²	GC	O/C
Hotels, motels and lodges	P	P			P	P
Recreational vehicle (RV) parks per Chapters 19.65 and 19.90 LMC					P	
Bed and breakfast inns	P ⁴			P		
Vehicle sales, renting, service, and storage	D-C	CBD	RC¹	NC²	GC	O/C
Vehicle repair and service of consumer motor vehicles, including motorcycles, all-terrain vehicles and light and medium trucks		P			P	P
Automobile, light and medium truck dealers		P			P	P ¹⁰

Use						
Bus, heavy truck, RV, travel trailer or other large vehicle dealers						
Bicycle, motorcycle, all-terrain vehicle dealers	P ⁵	P	P		P	
Boat or marine craft dealer					P	P
Vehicle storage, outdoor					P	
Vehicle washing					P	P
Vehicle renting and leasing		P			P	P
Vehicle fueling station		P	P ¹¹	P ¹²	P	P ¹⁰
Amusement/Cultural	D-C	CBD	RC¹	NC²	GC	O/C
Indoor continuous entertainment activities such as bowling alleys, skating rinks, game arcades and pool halls	P	P	P		P	
Outdoor continuous entertainment activities such as miniature golf and skateboard facilities	<u>P</u>				P	
Theaters, indoor	P	P	P		P	
Drive-in theaters, stadiums and arenas					P	
Museums, botanical and zoological gardens, public plazas, performing and cultural arts studios	P	P			P	
Athletic, health and racket clubs	P	P	P	P	P	P
Circuses, carnivals, or amusement rides		SPU			SPU	
Membership clubs such as fraternal organizations	P ^{6, 14}	P			P	
Gambling casinos, card rooms, bingo parlors, pari-mutuel betting parlors, and video arcades	<u>SPU¹⁴</u>	SPU ⁸				
Residential	D-C	CBD	RC¹	NC²	GC	O/C
Residential dwellings above the first story of commercial buildings	P	P		P	P	P
Mixed-use multifamily residential/commercial developments per LMC 19.46.015	<u>P¹⁴</u>				P	
Congregate care, assisted living and continuing care facilities and nursing homes for elderly individuals; including accessory services to the above uses	SPU				SPU	SPU
Existing residences without any increase in density			P			
Permanent supportive housing	P	P	P	P	P	P
Transitional housing	P	P	P	P	P	P
Emergency shelters per LMC 19.44.110	P	P			P	P
Emergency housing per LMC 19.44.110	P	P			P	P
Residential care facilities per Chapter 19.17 LMC	P	P	P	P	P	P
Education	D-C	CBD	RC¹	NC²	GC	O/C
Schools that meet state requirements for elementary, secondary or higher education, public or private	SPU					
Vocational or technical institutions and colleges	SPU	P			P	P

Use						
Dance, music or art schools or studios; athletic, sports-training or martial arts facilities or schools	SPU	P		SPU	P	P
Driving school	SPU	P			P	P
Miscellaneous	D-C	CBD	RC¹	NC²	GC	O/C
Day care facilities for the care of more than 12 children	SPU	P		P	P	P
Commercial off-street parking lots and garages	SPU	P			P	P
Temporary uses per Chapter 19.41 LMC	P	P	P	P	P	P
Sidewalk businesses in accordance with LMC 12.30.090 through 12.30.140	P	P		P	P	P
Funeral parlors		P			P	P
Basic utility facilities, non-building structures ¹³	SPU	SPU	SPU	SPU	P	SPU
Self-service storage (mini warehouses)					P	SPU
Convention centers	SPU	P	P		P	P
Bus terminals and stations, transportation and transit facilities	SPU	P	P	P	P	P
Drive-in and drive-through facilities associated with an allowed use	SPU	P	P		P	P
Telecommunications structures and equipment, subject to the provisions of Chapter 16.75 LMC		P	P	P	P	P
Small animal clinics or veterinary hospitals	P ⁷	P ⁷			P ⁷	P ⁷
Pet grooming	P	P	P	P	P	P
Boat marinas						P
Microbrewery/microwinery/craft distillery		SPU			P	
Religious assembly and institutions, community centers	P ⁶	P			P	P
Public safety facility		P	SPU		SPU	P

1. See LMC 19.44.050 for further clarification on what is a permitted use within the regional commercial district.

2. See LMC 19.44.040 for further clarification on what is a permitted use within the neighborhood commercial district.

3. Providers of ambulance services need a special property use permit.

4. Bed and breakfast inns must be located above the first floor in the D-C district.

5. No outdoor display of motorized vehicles is allowed.

6. In the D-C district any property use intended to primarily provide meeting areas for secular and nonsecular uses without an ongoing active ground floor use is prohibited. An “active ground floor use” means a retail, business, or entertainment use where persons come and go on a constant and frequent basis.

7. The medical care and services administered to animals shall occur only within the confines of the principal building located on the premises.

8. These uses are not allowed within 700 feet of the centerline of the west end of the city street named Mark Morris Court.

9. Brewpubs are permitted outright only in conjunction with LMC 19.44.050(4), sit-down restaurants with a minimum enclosed floor area of 5,000 square feet.

10. These uses are only allowed in the O/C district if they are located west of 12th Avenue, except Assessor’s Parcel Number 08749 is allowed to have these uses also.

11. Per LMC 19.44.050.

12. Per LMC 19.44.040.

13. City water, sewer, and drainage pump stations are permitted outright in all commercial districts and are not subject to setback requirements of this chapter.

14. In the D-C zone, these uses may only be located on lots with frontage on 12th and 14th Avenues.

(Ord. 3450 § 7, 2021; Ord. 3442 § 4, 2021; Ord. 3425 § 2, 2020; Ord. 3421 § 2, 2020; Ord. 3395 § 3, 2019; Ord. 3362 § 2, 2017; Ord. 3358 § 1, 2017; Ord. 3297 § 7, 2015; Ord. 3268 § 3, 2014; Ord. 3262 § 2, 2014; Ord. 3202 § 14, 2012).

19.44.030 Downtown commerce district – Special property use.

In the downtown commerce district special property use permits are granted by the city council. Per LMC 2.03.060, the city council shall conduct an open-record public hearing prior to their decision. Per LMC 2.27.070, the planning commission shall make recommendations to the city council for the granting or denial of such permits. (Ord. 3450 § 7, 2021; Ord. 3202 § 14, 2012).

NOTICE OF DETERMINATION OF NON-SIGNIFICANCE

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN As lead agency under the State Environmental Policy Act (SEPA), the City of Longview Community Development Department has issued a **Determination of Non-significance (DNS)** per the State Environmental Policy Act Rules (Chapter 197-11 WAC) for the following proposal on April 21, 2022:

Application #: E 2022-4

Applicant: Nick Little, Chilton Development Services for Perry Gilmore

Proposal: A new 24 unit manufactured home park, with each site large enough to support a double wide manufactured home and three parking spaces. Includes a private roadway to provide access, stormwater system, water/sewer line extensions, and a play area. Small portion of project will encroach within the wetland buffer.

Address: 5721 Ocean Beach Hwy. Parcel numbers involved: 10729010, 107280100, 107220100

Copies of the notice, environmental checklist, and other application materials supporting this determination are online at the website below, and on file with the Community Development Department, and are available for public review between the hours of 7:00 a.m. to 6:00 p.m., Monday through Thursday, except holidays.

The public has a right to submit written comments concerning the proposal's environmental impacts. **Written comments need to be submitted no later than 6:00 p.m. on May 6, 2022** at the Community Development Department located in City Hall; 1525 Broadway, [PO Box 128], Longview, WA 98632.

NOTICE OF PUBLIC HEARING Longview Planning Commission June 1, 2022

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Longview Washington will hold a public hearing, at Longview City Hall, 1525 Broadway Street, and on the virtual meeting platform Zoom (online or phone-in), beginning at **7:00 pm, Wednesday, June 1, 2022** to consider the project above. The project is in the R-1 zone and requires Type B Binding Site Plan approval.

You are invited to attend the Type B Binding Site Plan public hearing starting at 7:00 pm upstairs in Longview City Hall, in person or virtually, to express your position regarding this proposal.

For Information on this Proposal Contact:

Phone: City of Longview Planning Division: 360-442-5092

In person: City Hall Community Development Department at
1525 Broadway, Longview, WA 98632

Email: adam.trimble@ci.longview.wa.us

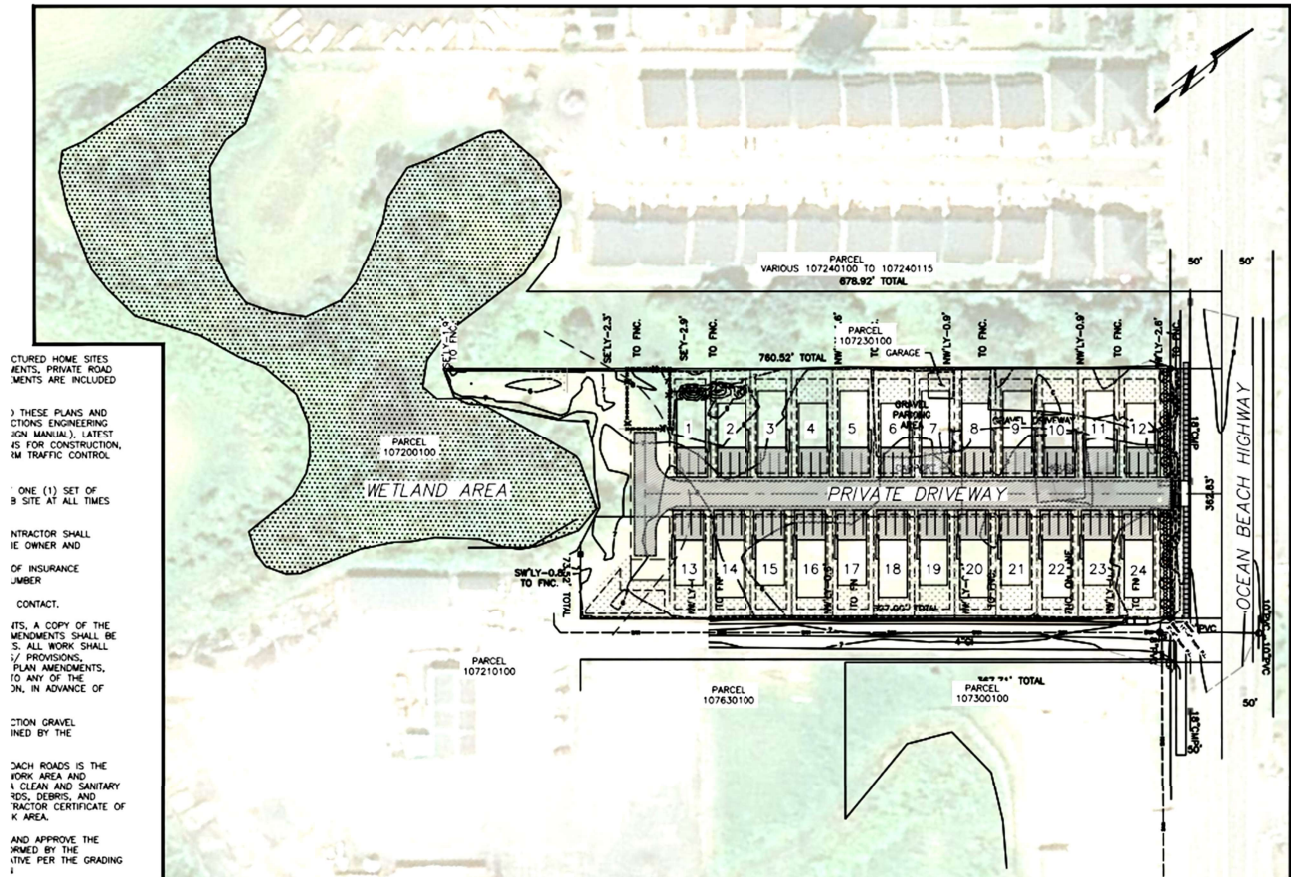
Notice Posted by: Adam Trimble Planner

Website: <https://mylongview.box.com/s/ri42gdnikkajxfu1ozqcgdw0kl11dl2v>



Site Map
Application #: E 2022-4
Address/Area: 5721 Ocean Beach Hwy

WEST END MANUFACTURED HOME PARK





Memorandum

May 5, 2022

TO: Longview Planning Commission

FROM: Adam Trimble, Planning Manager

SUBJECT: Draft amendments to LMC Chapter 17.24 Flood Damage Prevention

The WA Dept. of Ecology, working as partner with the Federal Emergency Management Agency (FEMA) has provided the city with planning assistance to review and produce a periodic update to Longview Municipal Code Chapter 17.24 Flood Damage Prevention which is one of the Longview Critical Areas Ordinances. Floodplain maps and federal and state flood damage preventions laws are regularly updated. As a result local jurisdictions are required to examine and update as needed their flood hazard development codes. The last major update of the Longview Municipal Code Chapter 17.24 Flood Damage Prevention was in the year 2015.

State Department of Ecology Floodplain Management staff have compared the City's code with the FEMA Region X Flood Damage Prevention Washington Model Ordinance and consulted with city staff. The Planning Commission is being asked to review the draft amendments and provide comments. A public hearing to adopt the updates can be set for June 1, 2022.

The flood damage prevention code is not used much. Almost all of the City's lowlands are protected by the levee system and are not subject to most of the code requirements. Land uses on the river side of the levees are affected and those land uses adjacent to the West Longview drainage ditches are sometimes affected.

If you have any questions or concerns, please contact me at 442-5092.

Cc: Ann Rivers, Community Development Director
Jim McNamara, City Attorney
Christopher Eastwood, Assistant City Attorney
Ken Hash, City Engineer/PW Director

Chapter 17.24
FLOOD DAMAGE
PREVENTION

Sections:

- 17.24.010 Findings of fact.
- 17.24.020 Statement of purpose.
- 17.24.030 Methods of reducing flood losses.
- 17.24.040 Definitions.
- 17.24.050 General provisions – Lands to which this chapter applies.
- 17.24.060 General provisions – Basis for establishing the areas of special flood hazard.
- 17.24.070 General provisions – Compliance.
- 17.24.080 General provisions – Abrogation and greater restrictions.
- 17.24.090 General provisions – Interpretation.
- 17.24.100 General provisions – Warning and disclaimer of liability.
- 17.24.110 Administration – Establishment of development permit.
- 17.24.120 Administration – Designation of community development director.
- 17.24.130 Administration – Duties and responsibilities of community development director.
- 17.24.140 Administration – Variance procedure.
- 17.24.145 Appeals.
- 17.24.150 Provisions for flood hazard protection – General standards.
- 17.24.160 Provisions for flood hazard protection – Specific standards.
- 17.24.170 Provisions for flood hazard protection – Floodways.
- 17.24.180 Critical facility.
- 17.24.190 Manufactured homes.
- 17.24.200 Recreational vehicles.

17.24.010 Findings of fact.

(1) The flood hazard areas of the city are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.020 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare; reduce the annual cost of flood insurance; and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood-control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

The Longview Municipal Code is current through Ordinance 3453, passed November 18, 2021.

- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and
- (9) To implement the Washington State Flood Control Zone Permit Program pursuant to the requirements of Chapter 86.16 RCW and Chapter 173-158 WAC. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.030 Methods of reducing flood losses.

In order to accomplish its purposes this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.040 Definitions.

Unless specifically defined below in this section, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

Alteration of watercourse: Any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

(1) "Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. Also referred to as the sheet flow area.

(2) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. "Special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard".

ASCE 24: The most recently published version of ASCE 24, Flood Resistant Design and Construction, published by the American Society of Civil Engineers.

Base flood: The flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the "100-year flood").

Base Flood Elevation (BFE): The elevation to which floodwater is anticipated to rise during the base flood.

(3) "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

(4) "Critical facility" means a facility to which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

Commented [GM(1): Discussion Item:

The WA Model Ordinance states:

"Participate in and maintain eligibility for flood insurance and disaster relief."

Ecology would recommend adjusting this language. There is no "Washington State Flood Control Zone Permit Program."

Commented [GM(2): Recommended addition.

(5) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

Elevated Building: For insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

Commented [GM(3)]: Recommended addition.

Elevation Certificate: An administrative tool of the National Flood Insurance Program (NFIP) that can be used to provide elevation information, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

Commented [GM(4)]: Recommended addition.

Essential Facility: This term has the same meaning as "Essential Facility" defined in ASCE 24. Table 1-1 in ASCE 24-14 further identifies building occupancies that are essential facilities.

Commented [GM(5)]: Recommended addition.

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the community.

Commented [GM(6)]: Recommended addition.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Commented [GM(7)]: Recommended addition.

(6) "Flood" or "flooding" means

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters; ~~and/or~~

(b) The unusual and rapid accumulation of runoff of surface waters from any source; ~~and/or~~

(c) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (1)(b) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (1)(a) of this definition.

Flood elevation study: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Insurance Study (FIS).

(7) "Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Floodplain or flood prone area: Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

Floodplain administrator: The community official designated by title to administer and enforce the floodplain management regulations.

Flood proofing: Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

(8) "Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

(9) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot designated height. Also referred to as "Regulatory Floodway."

Functionally dependent use: A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

Highest adjacent grade: The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure: Any structure that is:

1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) By an approved state program as determined by the Secretary of the Interior, or

b) Directly by the Secretary of the Interior in states without approved programs.

(10) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at LMC 17.24.160(2).

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

(12) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level: For purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

(13) "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this section.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations adopted by the community.

Commented [GM(8)]: Recommended addition.

Reasonably Safe from Flooding: Development that is designed and built to be safe from flooding based on consideration of current flood elevation studies, historical data, high water marks and other reliable data known to the community. In unnumbered A zones where flood elevation information is not available and cannot be obtained by practicable means, reasonably safe from flooding means that the lowest floor is at least two feet above the Highest Adjacent Grade.

*Recreational Vehicle: A vehicle,

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(14) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For substantial improvement, the "actual start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(15) "Structure" means a walled or roofed building including a gas or liquid storage tank and a manufactured home that is principally above ground.

(16) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(17) "Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or

other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

(c) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(d) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(18) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.050 General provisions – Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Longview. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.060 General provisions – Basis for establishing the areas of special flood hazard.

(1) Frequently Flooded Areas. Frequently flooded areas may include lands outside of Federal Emergency Management Agency defined floodplains and shall include:

(a) Areas Identified on the Flood Insurance Map(s). Those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Cowlitz County and Incorporated Areas," dated December 16, 2015, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto. The Flood Insurance Study and accompanying map(s) are hereby adopted by reference, declared part of this chapter, and are available for public review at the county.

(b) Use of Additional Information. The director may use additional flood information, such as provided by the Army Corps of Engineers, that is more restrictive or detailed than that provided in the Flood Insurance Study conducted by the Federal Emergency Management Agency to designate frequently flooded areas. The flood insurance maps are to be used as a guide for the county, project applicants and/or property owners, and the public and should be considered a minimum designation of frequently flooded areas. As flood insurance maps may be continuously updated as areas are reexamined or new areas are identified, newer and more accurate information for flood hazard area identification shall be the basis for regulation, including photographs of past flooding, location of restrictive floodways, maps showing future build-out conditions, maps that show riparian habitat areas, or similar information. (Ord. 3307 § 1, 2015; Ord. 2817 § 1, 2001; Ord. 2786 § 1, 2000).

17.24.070 General provisions – Compliance.

All development within special flood hazard areas is subject to the terms of this ordinance and other applicable regulations. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined or imprisoned in accordance with Chapter 1.33 LMC. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

Commented [GM(9): This sentence is required per "WA State Model ordinance section 3.3."

17.24.080 General provisions – Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions.

However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.090 General provisions – Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

(1) Considered as minimum requirements;

(2) Liberally construed in favor of the governing body; and

(3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.100 General provisions – Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

3.8 Severability

This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

Commented [GM(10)]: The severability section is mandatory from the WA model ordinance. It can be included anywhere within the ordinance at the City's discretion. Including in this location following the flow of the WA model ordinance.

17.24.110 Administration – Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in LMC 17.24.060. This permit shall be for all structures including manufactured homes, as set forth in the definitions (LMC 17.24.040), and for all other development including fill and other activities, also as set forth in the definitions. Application for a development permit shall be made on forms furnished by the community development director, and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in LMC 17.24.160(2); and

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

(5) Where development is proposed in a floodway, an engineering analysis indication no rise of the Base Flood Elevation, and

(6) Any other such information that may be reasonably required by the Floodplain Administrator in order to review the application.

17.24.120 Administration – Designation of community development director.

The community development director is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.130 Administration – Duties and responsibilities of community development director.

Duties of the community development director shall include, but not be limited to:

(1) Permit Review.

(a) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

(b) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

(c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of LMC 17.24.170(1) are met.

(d) Review all development permits to ensure the site is reasonably safe from flooding.

(e) Notify FEMA when annexations occur in the Special Flood Hazard Area.

(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with LMC 17.24.060, the community development director shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer LMC 17.24.160, specific standards, and LMC 17.24.170, floodways.

(3) Information to Be Obtained and Maintained.

(a) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in subsection (2) of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement. Recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;

(b) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in subsection (2) of this section:

(i) Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed, and

(ii) Maintain the floodproofing certifications required in LMC 17.24.110(3);

(c) Maintain for public inspection all records pertaining to the provisions of this chapter including all records of floodplain hazards, certificates of floodproofing, floodway encroachment certifications, variance actions including justification for their issuance, improvement and damage calculations, and flood elevation data.

(4) Alteration of Watercourses.

(a) Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of watercourse, and submit evidence of such notification to the Federal Insurance Administration;

(b) Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(5) Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in LMC 17.24.140. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.140 Administration – Variance procedure.

(1) The appeal board of adjustment may consider applications for variances from the requirements of this chapter, subject to the provisions of this section.

(2) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use; provided, that (a) the criteria of subsections (3), (4), and (5) of this section are met; (b) the structure or other development is protected by measures that minimize flood damages during the regulatory flood; and (c) the development will create no additional threats to public safety.

(3) Variances shall only be granted upon:

Commented [GM(11): These additions reflect required language from the WA Model ordinance section 4.3-3. I worked the language in to follow the existing format. Each piece can be broken out at the City's discretion.

- (a) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (b) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, or conflict with Chapter 86.16 RCW or other laws, regulations, or ordinances.
- (4) The following requirements and guidelines apply to the granting of variances:
- (a) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.
 - (b) Variances shall not be issued within a floodway if any increase in flood levels during the base flood discharge would result.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, or economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
 - (e) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined there is low damage potential, and it complies with all other variance criteria.
 - (f) Any applicant to whom a variance from the lowest floor elevation standards is granted shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (5) Criteria. When acting on a variance request, the appeal board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
- (a) The danger to life and property due to flooding, erosion damage, or materials swept onto other lands during flood events;
 - (b) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (c) The importance of the services provided by the proposed use to the community;
 - (d) The necessity to the proposed use of a waterfront location, where applicable, and the availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
 - (e) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (f) The safety or access to the property in times of flood for ordinary and emergency vehicles;
 - (g) The expected height, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (h) The cost of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

The Longview Municipal Code is current through Ordinance 3453, passed November 18, 2021.

(6) Conditions. The appeal board of adjustment may attach such reasonable conditions to the granting of the variance as may be appropriate to further the purposes of this code. Such conditions may include a requirement that the applicant record a document reciting the granting of the variance and providing notice of flood hazards.

(7) Reporting. The director shall report any variances to the Federal Insurance Director of the Federal Emergency Management Agency and the Department of Ecology upon request.

(8) The procedure for considering a variance application is the same as provided in LMC 17.24.145 as applicable. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.145 Appeals.

(1) A person aggrieved by the issuance or denial of a permit may appeal such action to the appeal board of adjustment, appointed pursuant to LMC 19.12.010. Any such appeal shall be filed in writing with the community development department within 20 calendar days of the issuance of the community development director's decision, with the first day being the day after the decision is issued. The appeal shall specify the reasons therefor. The director shall provide the appeal board of adjustment with the findings and documentation relating to the decision being appealed. The appeal board of adjustment, following a de novo hearing, shall affirm, modify or reverse the director's decision. The appellant carries the burden of proof on appeal.

(2) Upon the filing of an appeal with appropriate fee, the community development director shall set the public hearing before the appeal board of adjustment. If the appeal is filed 20 calendar days or more before the appeal board of adjustment's regularly scheduled monthly meeting, the board shall hear the appeal at that meeting as set by the director. For appeals filed within 19 calendar days of the regularly scheduled monthly meeting, the appeal board of adjustment shall hear the appeal in the subsequent month.

(3) Notice of the time, date and place of the hearing shall be sent to the appellant and the permittee by first class mail prior to the public hearing. Legal notice of the hearing shall be published in a newspaper of general circulation and the subject property shall be posted with said notice not less than 10 calendar days prior to the public hearing.

(4) Within 10 calendar days after the public hearing, the appeal board of adjustment shall issue a written decision, including findings of fact on which its decision is based. Such written decision shall be available to the appellant and the public upon request. Appeals of appeal board of adjustment decisions shall be to a court of competent jurisdiction, pursuant to the Land Use Petition Act, Chapter 347, Washington Laws, 1995. (Ord. 3307 § 1, 2015).

17.24.150 Provisions for flood hazard protection – General standards.

In all areas of special flood hazards the following standards are required:

(1) Anchoring.

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation and Flood Hazard Areas" guidebook for additional techniques).

(2) Construction Materials and Methods.

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within

the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

(3) Utilities.

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. Water wells shall be located on high ground that is not in the floodway;
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- (c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during the flooding.

(4) Subdivision Proposals.

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

(5) Review of Building Permits. Where elevation data is not available through the Flood Insurance Study, FIRM, or from another authoritative source (LMC 17.24.130(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.160 Provisions for flood hazard protection – Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in LMC 17.24.060 or 17.24.130(2) the following provisions are required. (Additional standards were clarified in FEMA Technical Bulletin 11-01 to allow crawlspace construction for buildings located in the special flood hazard areas; however, adopting this provision can result in a 20 percent increase in flood insurance premiums.)

~~(1) Residential Construction.~~ New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the level of the base flood elevation (BFE). ~~Mechanical equipment and utilities shall be waterproofed or elevated least one foot above the BFE.;~~

New construction and substantial improvement of any residential structure in an Unnumbered A zone for which a BFE is not available and cannot be reasonably obtained shall be reasonably safe from flooding, but in all cases the lowest floor shall be at least two feet above the Highest Adjacent Grade.

(2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (b) The bottom of all openings shall be no higher than one foot above grade;

Commented [GM(12): City of Longview has unnumbered A zones and must include this provision from the WA Model ordinance (section 5.2-1).

(c) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters;

(d) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry and exit of floodwaters; and

(3) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water or dry flood proofed to the elevation required by ASCE 24, whichever is greater;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in LMC 17.24.130(3);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as is described in subsection (1) of this section;

(e) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to one foot above the base flood level will be rated as at the base flood level). (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.170 Provisions for flood hazard protection – Floodways.

Located within areas of special flood hazard established in LMC 17.24.060 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge;

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, construction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, reconstruction, or repair is started; or (ii) if the structure has been damaged, and is being restored before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or the structures identified as historic places, may be excluded in the 50 percent;

(3) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of LMC 17.24.150 through 17.24.190. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.180 Critical facility.

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to three feet or more above the level of the base flood elevation at the site or to the height of the 500-

year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood plain shall be provided to all critical facilities to the extent possible. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.190 Manufactured homes.

All manufactured homes to be placed or substantially improved within zones A1-30, AH, and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of LMC 17.24.150. (Ord. 3307 § 1, 2015; Ord. 2786 § 1, 2000).

17.24.200 Recreational vehicles.

Recreational vehicles placed on sites within a special flood hazard area are required to either:

- (1) Be on the site for fewer than 180 consecutive days; or
- (2) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- (3) Meet the requirements of LMC 17.24.190 and the elevation and anchoring requirements for manufactured homes. (Ord. 3307 § 1, 2015).

5.3 AE and A1-30 Zones with Base Flood Elevations but No Floodways

In areas with BFEs (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Commented [GM(13)]: Required to be included in the ordinance. Location can be at City's discretion.