AGENDA
Lynnwood Planning Commission
Thursday, July 28, 2011 — 7:00 pm
City Council Chambers, 19100 – 44th Ave. W., Lynnwood WA

A. CALL TO ORDER – ROLL CALL

B. APPROVAL OF MINUTES
   Meeting of July 14, 2011

C. PUBLIC COMMENTS – on matters not on tonight’s agenda for a public hearing.

D. PUBLIC HEARINGS
   None

E. WORK SESSIONS

   2. Outdoor Business Activities Code Amendment (2011CAM0009). Amendments to Lynnwood Municipal Code Title 21 (Zoning Code) regarding primary and accessory uses of property that are conducted outside of a building or structure.

F. OTHER BUSINESS
   Meeting Schedule for Remainder of 2011

G. COUNCIL LIAISON REPORT

H. DIRECTOR’S REPORT

I. COMMISSIONERS’ COMMENTS

J. ADJOURNMENT

The public is invited to attend and participate in this public meeting. Parking and meeting rooms are accessible to persons with disabilities. Upon reasonable notice to the City Clerk’s office (425) 670-5161, the City will make reasonable effort to accommodate those who need special assistance to attend this meeting.
ACTION
Discussion only, at this work session.

BACKGROUND
At several of the City Council meetings, members of the public have spoken under Citizen Comments requesting that they be allowed to keep/raise chickens within the city limits. At the present time in the single-family residential zones, the Lynnwood Municipal Code allows the keeping of one animal per 20,000 square feet. Under the Municipal Code definitions, a chicken is classified as “livestock”. No differential is made between the types of small animals.

The matter was referred to staff. We researched the regulations for raising or keeping of chickens in other cities. See the attached matrix regarding the code provisions in other cities. Based in that review, an ordinance that would allow the raising of three chickens on a residential lot was prepared. The ordinance would also establish setbacks for the enclosures for chickens.

RELEVANT LEGAL CITATIONS

21.02.465 Livestock.
"Livestock" means horses, bovine animals, sheep, goats, rabbits, swine, reindeer, donkeys, mules, chickens, mink and like animals.

21.42.400 Accessory Structures and Uses.
C. Keeping Small Animals as Pets. The keeping of small animals as pets shall be permitted as an accessory use; the keeping of livestock shall not be permitted except that an occupant shall be able to keep one animal, i.e., horse, cow or sheep, on a lot having a minimum of 20,000 square feet and an additional animal for each 20,000 square foot additional lot area. The entire square footage of roaming area shall be fenced. Fences must be of such a type and size as to prevent encroachment on adjacent property. Encroachment shall be defined as reaching over, under or
through, as well as trespassing or intruding upon, the property of another. Accessory buildings used for housing animals shall be provided, and shall be a minimum of 200 and a maximum of 250 square feet in area per animal, except as allowed by variance, and shall not be closer than 25 feet to a property line. An accessory building for the housing of small animals or fowl shall not exceed 36 square feet in floor area when located on a residential lot and neither the building nor the fenced area for their roaming shall be closer than 25 feet to a property line. The keeping of mink, goats, foxes, or hogs is prohibited.

COMMENT

This work session is to introduce the proposal to amend the single family residential code regarding the keeping of small animals as pets to allow the raising of chickens. Staff will give a brief explanation of the existing codes, the codes of adjacent cities, and the proposed code language. As part of review of the proposed code amendments, the Planning Commission will be asked to consider the follow questions:

- Should the raising of chickens be allowed?
- What is the number of chickens that should be allowed?
- Are the proposed setbacks sufficient?

Future Commission meetings will include opportunities for more detailed discussion (including staff from other departments, as appropriate). Following these work sessions, a public hearing will be held to provide the opportunity for the public to comment on the proposals. Following the hearing, the Commission will be asked to make a recommendation to the City Council.

RECOMMENDATION

Discuss questions and proposal.

ATTACHMENTS

A. Matrix of other City Codes allowing the raising of chickens
B. Proposed ordinance with code amendments to allow the raising of chickens in the single-family residential zones.
CITY OF LYNNWOOD

ORDINANCE NO. ________

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING REGULATIONS FOR THE KEEPING OF CHICKENS IN SINGLE FAMILY RESIDENTIAL ZONES, AMENDING LMC 21.42.400(C) AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

WHEREAS, the existing Lynnwood Municipal Code treats the keeping of chickens in single family residential zones similar to the keeping of other livestock (e.g. horses, cows) with respect to lot size requirements; and,

WHEREAS, historically, the keeping of livestock had been considered to be inconsistent with residential zoning; and,

WHEREAS, it is desirable to promote sustainability and environmentally friendly practices where practical but in a manner that takes into account the urbanized nature of the city; and;

WHEREAS, allowing chickens to be harbored in the city to take advantage of their food production is a small step towards making Lynnwood more sustainable city and is desirable as long as the potential negative impacts of doing so is mitigated; and,

WHEREAS, trends in local food production and sustainable practices have led to renewed popularity of backyard chickens; and,

WHEREAS, the City wishes to allow the keeping of chickens while balancing this flexibility with protection of the residential environment; and,

WHEREAS, the proposal was transmitted to State agencies for State agency review and received by the Washington State Department of Commerce on ________, 2011 in accordance with RCW 36.70A.106; and,

WHEREAS, on ________________, 2011, the City of Lynnwood Environmental Review Committee issued a [TBD] on the proposal with ____ public comments having been received during the public comment period and no appeal having been filed; and,

WHEREAS, on ________, 2011, the City of Lynnwood Planning Commission held a duly noticed public hearing to take testimony on the proposed ordinance and,

July 12, 2011 draft
following the public hearing, made a recommendation to the Lynnwood City Council to adopt this ordinance; and,

WHEREAS, on ____________, 2011 the City of Lynnwood City Council held a duly noticed public hearing to take testimony on the proposed ordinance; now therefore

WHEREAS, it is in the public interest for the City Council to adopt new animal regulations for residential areas which establishes development regulations for keeping chickens within the City of Lynnwood; now therefore,

THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Lynnwood Municipal Code section 21.42.400 is hereby amended as follows:

"21.42.400 Accessory structures and uses.
A. Solar Energy Systems. The use of solar energy systems (for example, attached solar greenhouses, attached solar sunspaces, and solar collectors) can be an effective and efficient method for producing energy and reducing energy consumption. The majority of residential structures within Lynnwood were constructed before solar energy systems became a viable means for producing energy, thus lot yard setbacks and height restrictions do not take such systems into account. The city of Lynnwood finds that it is in the best public interest to encourage solar energy systems. If it is found that a solar energy system would have a positive impact on energy production and conservation while not having an adverse environmental impact on the community, but the placement of such system requires violation of city setback or maximum height limitations, allowance of such systems may be permitted through the variance process and shall be encouraged. In viewing such variance request, the following shall be considered in making a determination:

1. That the solar energy system has a net energy gain;
2. That the solar energy system is designed to minimize glare towards vehicular traffic and adjacent properties;
3. That the solar energy system not adversely affect solar access to adjacent properties;
4. That the solar energy system comply with all other city zoning, engineering, building, and fire regulations; and
5. That the solar energy system is found to not have any adverse impacts on the area, which impacts shall include, but not be limited to, the effects of such system upon the views from neighboring properties and public ways.
In order to show that the proposed energy system will conform to the above, the applicant shall be required to submit a site plan and elevations showing the location, size, and dimensions of the solar energy system and its relation to all adjacent properties. Care shall be taken to ensure that the design, materials used and colors architecturally blend in with the existing structure. The city may require that the site plan and elevations and/or energy-saving calculations be prepared by an engineer, architect or builder specializing in solar energy construction.

B. Family Child Care Homes. Family child care homes are permitted as an accessory use to a dwelling.

C. Keeping Small Animals as Pets.

1. The keeping of small animals as pets shall be permitted as an accessory use.

2. Livestock, except chickens. The keeping of livestock (except chickens; See LMC section 21.42.400(C)(3)) shall not be permitted except that an occupant shall be able to keep one animal, i.e., horse, cow or sheep, on a lot having a minimum of 20,000 square feet and an additional animal for each 20,000 square feet additional lot area. The entire square footage of roaming area shall be fenced. Fences must be of such a type and size as to prevent encroachment on adjacent property. Encroachment shall be defined as reaching over, under or through, as well as trespassing or intruding upon, the property of another. Accessory buildings used for housing animals shall be provided, and shall be a minimum of 200 square feet and a maximum of 250 square feet in area per animal, except as allowed by variance, and shall not be closer than 25 feet to a property line, except for those provisions provided for chickens, below. An accessory building for the housing of small animals or fowl (except chickens, see below) shall not exceed 36 square feet in floor area when located on a residential lot and neither the building nor the fenced area for their roaming shall be closer 25 feet to a property.

3. Chickens. The keeping of chickens shall be permitted subject to the following:

a. A maximum of three (3) chickens may be kept per lot associated with a single-family residential dwelling unit.

b. Pens, structures, and enclosures. A suitable pen, structure, or enclosure to house chickens shall be provided and shall be set back a minimum of 15 feet from side and rear property lines. Pens, structures, and enclosures are not permitted in the area between the primary dwelling unit and the front property line.
Such enclosure shall be less than 120 square feet in area. All chickens shall be kept within an enclosure built and maintained to prevent the chickens from breaking through, out, over, or under the same. Enclosures shall be kept in good working condition, shall not cause odor or noise nuisances, and must be kept in a clean and well maintained condition at all times.

c. Roosters shall be prohibited.

4. The keeping of mink, goats, foxes, or hogs is prohibited.”

D. Carnivals, Circuses, and Other Temporary Special Events. These uses are permitted if accessory to a school, church, park, or other facility of a similar nature. Such activities shall not be subject to regulation by Chapter 5.30 LMC.

Section 2. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL, the ______ day of ______________, 2011.

APPROVED:

______________________________
Don Gough, Mayor

ATTEST/AUTHENTICATED:

______________________________
Lorenzo Hines
Finance Director

APPROVED AS TO FORM:

______________________________
Rosemary Larson
City Attorney

FILED WITH ADMINISTRATIVE SERVICES: _______________

PASSED BY THE CITY COUNCIL: _______________

PUBLISHED: __________________

EFFECTIVE DATE: _______________

ORDINANCE NUMBER: _______________

5
<table>
<thead>
<tr>
<th>Considerations for Chickens</th>
<th>Mukilteo</th>
<th>Edmonds</th>
<th>Federal Way</th>
<th>Seattle</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Number of Chickens</td>
<td>4</td>
<td>3</td>
<td>4</td>
<td>8</td>
<td>Six hens or rabbits. No roosters (Mill Creek)</td>
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<td>Six hens. No roosters (Blaine)</td>
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<td>Twelve chickens and/or rabbits. Six ducks, geese, or turkeys or combo (Tukwila)</td>
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<td>Five chickens (Kirkland)</td>
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<td>Other codes generally have a range of 3 to 12, with an average of 4 - 6 hens.</td>
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<tr>
<td>Minimum Setback for Enclosure from Property Line (and/or Residential Structure on Adjacent Lot)</td>
<td>15 feet from lot line and no closer than 25 feet to a dwelling on an adjacent lot.</td>
<td>10 feet from any residential structure on an adjacent lot.</td>
<td>10 feet from side and rear property lines. Not allowed in front.</td>
<td>10 feet from any dwelling unit on an adjacent lot.</td>
<td>If enclosure less than 6 feet high, 4 feet from side property line and zero from rear property line. If over six feet, must meet accessory structure setbacks (Blaine)</td>
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<td>Coop 65 feet from a residence on an adjacent property and not less than 20 feet from the property line with roaming area not less than 35 feet from an adjacent residence (Tukwila)</td>
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<td>Other codes generally have the coops 7 to 20 feet from the property line. Some codes also specify a distance from a dwelling on the adjacent property with ranges from 25 to 50 feet.</td>
</tr>
<tr>
<td>Pen/Enclosure Required/Minimum Size</td>
<td>Other Fowl</td>
<td>Pen Size/Coop Size</td>
<td>Registration</td>
<td></td>
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<tr>
<td>Fence, pen, or coop. Less than 120 sq. ft. (Blaine)</td>
<td>Pigeons and doves (12 maximum total)</td>
<td>Turkeys, ducks, geese, guinea fowl, pheasants, quail, and pea fowl, and other similar domesticated birds</td>
<td>Yes - Coop. Dimensions of coop and pen given.</td>
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</tr>
<tr>
<td>Fence with access to a shelter/No size restriction (Mill Creek)</td>
<td>Prohibited: Peacocks and peahens, roosters</td>
<td>Chickens, ducks</td>
<td>Yes</td>
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<tr>
<td>Coop, pen, or enclosure/No size restriction (Edmonds)</td>
<td></td>
<td>No roosters</td>
<td>No</td>
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<td>Enclosure in general (Tukwila)</td>
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<td>Geese, ducks, turkeys, pigeons (Tukwila)</td>
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<td>Some have a registration for the coop and others have a permit per chicken.</td>
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<td>Ducks, geese, turkeys, pigeons or other domestic or wild fowl (Kirkland)</td>
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ACTION

Discussion only, at this work session.

BACKGROUND

The Zoning Code addresses business activities that are conducted outside of a building or structure in only limited cases. The lack of regulations in the Zoning Code, on the one hand, prohibits activities that otherwise would be desirable (outdoor dining) and, other the other hand, limits staff's ability to address the undesirable impacts of such activities.

RELEVANT LEGAL CITATIONS

A summary of current regulations for outdoor activities is attached.

Definitions in the Zoning Code:

21.02.010 Accessory

"Accessory" means a use, a building or structure, part of a building or other structure, which is subordinate to and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage. If an accessory building is attached to the main building by common wall or roof, such accessory building shall be considered a part of the main building.

21.02.580 Principal use

"Principal use" means the primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

ANALYSIS AND COMMENT

With greater interest in mixed use zones and pedestrian-oriented areas, which are intended to encourage both outdoor dining and outdoor sales and display of some merchandise (grocer or store), adopting regulations for outdoor activities would make the expectations and limitations more clear. Some of the major issues that new regulations should address include:

- Outdoor activities that should be permitted in Commercial and other zones;

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• Encroachment on public sidewalks;
• Noise, dust, lighting and other potential nuisances;
• Use of shipping containers for storage; and
• Compatibility with other uses allowed in the zone or at adjoining properties;

This work session will include a review of existing regulations for outdoor activities and a discussion of potential approaches to developing regulations for these activities.

**RECOMMENDATION**

Discussion only, at this work session.

**ATTACHMENTS**

• Regulations on Outdoor Business Activities (Zoning Code)
Regulations on Outdoor Activities

The Zoning Code provides the following regulations for outdoor business activities:

**Single Family Zones – Non-residential Uses**
Reviewed as part of conditional use permit application.

**Multi-Family Zones – Non-residential Uses**
Reviewed as part of conditional use permit application, except for “mini-day-care programs”.

**Public – Semi Public Zone**
For conditional uses, reviewed as part of conditional use permit application.
Otherwise, treated as an accessory use – no regulations.

**Commercial Zones, PRC Zone and Commercial-Recreation Zone**
For conditional uses, reviewed as part of conditional use permit application.

**21.46.100 Limitations on Uses – General**

B. Outdoor Uses. All business uses and activities shall be located within an entirely enclosed building, except as indicated below:

1. General Regulations. Any uses and activities which are permitted to occur outdoors by LMC 21.46.100, or by other provisions of this title, subject to the following:

   a. The use or activity shall not encroach on site-screening or landscaping as currently required by this title or other city ordinances;
   b. The use or activity shall not block pedestrian traffic or fire lanes;
   c. The use or activity shall observe the same minimum front, side, and rear yards as apply to buildings, on sides adjoining public streets, except that such yards may be used for outdoor customer parking and for other uses and activities which are permitted outdoors;
d. The highest point of any item displayed within that area shall be not more than six feet in height from an even grade and at least 10 feet from the right-of-way line; and

e. Items which, in the opinion of the fire chief, present a potential fire hazard shall be located 15 feet from any interior property line and shall be arranged to provide 20-foot fire lanes no more than 300 feet apart.

2. Incidental Outdoor Displays. For uses not included in the foregoing subsection (B)(1) of this section, incidental outdoor displays are permitted in conjunction with the indoor sales of similar merchandise conducted by the same business. Such displays shall be displayed on racks, pallets, or in neat stacks and shall be located in areas underneath marquees, canopies, or overhanging roofs. If no marquees, canopies, or overhanging roofs exist, such displays shall be not more than eight feet from the walls of buildings. All limitations specified in subsection (B)(1) of this section shall apply.

3. Business Serving Customers in Automobiles. Automobile service stations, drive-in restaurants, and other businesses which primarily service customers in automobiles as an inherent trait of the business shall not be permitted to store or display merchandise outdoors, except as specified herein and in subsections (B)(1) and (B)(2) of this section.

4. Commodities Requiring Outdoor Storage. Commodities which would be damaged if required to be kept indoors, including but not limited to growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots or containers; open air sales areas for firewood, trees, shrubs, plants, and home gardening supplies and equipment; and public utility facilities (see LMC 21.46.118(B)) are allowed outdoors subject to the provisions of subsection (B)(1) of this section.

5. At Properties Zoned to the Community Business Zone. The on-site parking and storage of rental automobiles and light trucks (rated at one ton capacity or less) is allowed; however, such parking and storage shall be restricted to:

a. A staging area for a maximum of five vehicles. This area may be located within existing parking lots, but shall not utilize parking stalls required by LMC 21.18.800 for the uses on the site. The staging area shall be paved and striped to the standards of Chapter 21.18 LMC and shall be designated for use by rental vehicles only.

b. A storage area for a maximum of 15 vehicles. This area shall be located no closer to a public street than a point equal to the closest part of any building on the site to the street and shall be screened with landscaped area at least five feet wide containing evergreen conifer trees with a minimum height of six feet and spaced no more than 15 feet on center, backed by a six-foot fence which forms an effective barrier to sight; the
remainder of the planting strip shall be planted with low evergreen plantings which will mature to a total groundcover within five years.
c. No service or sales of rental vehicles shall be allowed.

6. Cross Reference. See also LMC 2.16.100.

21.46.210.A. Additional Development Standards

A. Site-Screening Standards for Outdoor Displays and Outdoor Storage Areas. Any outdoor displays or outdoor storage which are permitted in commercial zones, and which are not affected by the standards of LMC 21.46.220, shall be enclosed within a site-screening fence of sufficient height to effectively screen the outdoor display or storage from view, and not less than six feet high in any case, set back five feet from the property line. The outer five feet shall be landscaped with evergreen conifer trees with a minimum height of six feet spaced a maximum of 15 feet on center and low evergreen plantings which will mature to a total groundcover within five years; provided, however, that where these requirements do not apply because the principal use of a property involves the display of merchandise for view from the streets, the display area shall be improved as a parking lot (except for paving where the nature of the merchandise makes paving impractical) with a 10-foot planting strip along the entire street frontage, as per subsection (B)(2) of this section. Display areas shall be segregated from the required customer parking so that there is always sufficient customer parking to meet the minimum parking requirements of this code.

Industrial Zones

For conditional uses, reviewed as part of conditional use permit application.

21.50.210.F. Screening of Service Yards

F. Screening of Service Yards. Service yards shall be site-screened so that a visual barrier is established between the storage yard and local streets and arterials. Screening shall be installed on side yard setbacks between street right-of-way and service buildings or storage yards (except for driveways). It shall consist of either:
1. One row of evergreen conifer trees, spaced a maximum of 10 feet on center. Minimum tree height shall be six feet. The remainder of the planting strip shall be promptly planted with low evergreen plantings which will mature to a total groundcover within five years; or
2. A site-screening evergreen hedge that provides a sight, sound, and psychological barrier between zones with some degree of incompatibility. The spacing of plants shall be such that they will form a dense hedge within five years. Minimum plant height shall be four feet.
21.50.150.H. Open Storage in Light Industrial Zone

H. Open Storage. All storage shall be located within an area no closer to the street right-of-way line than designated in LMC 21.50.200 and shall be enclosed with a heavy wire fence or of a similar type, with the top of the fence not to be less than six feet above the adjoining street level, or by an attractive hedge or board fence at least six feet high.

In case of the open storage of lumber, coal or other combustible material, a roadway shall be provided, graded, surfaced, and maintained from the street to the rear of the storage area to permit free access of fire trucks at any time.

Mixed Use / Business Zone

For conditional uses, reviewed as part of conditional use permit application.

Otherwise, treated as an accessory use – no regulations.

College District Mixed Use Zone

For conditional uses, reviewed as part of conditional use permit application.

21.57.500 Development Standards

C. Outdoor Areas.

1. To enhance the pedestrian environment of the CDM zone, the design of open front yard areas and spaces between buildings shall consider and incorporate such elements as decorative landscaping and paving, seating areas, outdoor eating areas, bike racks, public art, kiosks, trees, awnings or other protection from the natural elements, and access to drinking fountains and public restrooms.

2. Plans for outdoor pedestrian areas shall include a coordinated design for safe and convenient outdoor lighting and signage.

3. Deciduous street trees having a minimum caliper size of two inches shall be provided at 30 feet intervals along 68th Avenue and 202nd Street as a design element of the project.

4. Unless designed as a plaza or other outdoor pedestrian area, not more than 10 percent of landscaped areas may be covered with inanimate materials, unless the applicant can document a problem on the site that makes it unsuitable for plant materials.

5. In areas determined to be unsuitable for plants, such alternatives as fences, walls, and paving of brick, wood, stone, concrete pavers, gravel or cobbles may be used in the design – subject to design review approval.

D.1: Cross reference to regulations for Commercial zones – see above.
College District Overlay Zone

Regulations in underlying zone

21.58.400. Development/Design Standards

B.3. Outdoor Areas.
   a. Open front yard areas and side yards between buildings shall be landscaped and designed for pedestrian uses.
   b. When appropriate for the location and function involved, the designer of outdoor public areas shall consider and incorporate such elements as decorative paving, seating areas, bike racks, community kiosks, and other features that will enhance the pedestrian environment.
   c. Plans for outdoor pedestrian areas and trails shall include a coordinated design for safe and attractive outdoor lighting.
   d. Signs. The following types of signs are prohibited within the CDO zone, with the exception of commercially-zoned properties fronting 196th Street and Highway 99:
      i. Freestanding signs, other than ground signs;
      ii. Pole signs;
      iii. Roof signs.
   e. Off-street parking, whether in surface lots or structures, shall be located beside or behind buildings and prohibited between buildings and streets, with the exception of master-planned parking on the EdCC campus.
   f. With the exception of required “accessible spaces,” development proposals may include provisions for off-site parking and shared parking agreements to meet parking requirements and maximize parking space utilization, provided the proposed parking is within a walking distance of 500 feet of its principal use.
   g. Provisions shall be made by the developer for the construction of public access sidewalks, bikeways or trails when new development is located along an existing or planned greenway or trail link.
   h. Deciduous street trees having a minimum caliper size of two inches shall be provided at 30-foot intervals along public street frontages, or clustered when such spacing is not feasible, as a requirement of all new development.

City Center Zones

Proposed amendments address outdoor activities