

# CITY OF LYNDEN

## CITY COUNCIL



City Council - Regular Meeting  
Annex - 205 Fourth Street  
January 16, 2024

### **Call to Order**

### **Pledge of Allegiance**

### **Roll Call**

### **Oath of Office**

### **Summary Reports and Presentations**

### **Approval of Minutes**

1. Draft Council Meeting Minutes - January 2, 2024

### **Citizen Comment**

### **Consent Agenda**

2. Approval of Payroll and Claims
3. ORD-24-1682 Setting the Final Property Tax for 2024
4. RES-24-1089 Adoption of the Unified Fee Schedule (UFS)
5. 2024-2025 Contract Renewal for City Attorney Services

### **Public Hearing**

6. RES-24-1088 Amending the Building Valuation Data Data (BVD) Table used to Calculate Building Permit Fees
7. RES-24-1090 Resolution of Intent to Annex – Weg Property, 8634 Double Ditch Road

### **Unfinished Business**

8. ORD-23 1680 Amending the Civil Penalties Code
9. Notification Plan for Fluoride Public Hearing

### **New Business**

10. ORD-24-1683 Update LMC 2.05.010, Position Titles

### **Reports**

### **Executive Session**

### **Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Council Meeting Draft Minutes	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: None
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft council minutes.	
<b>Summary Statement:</b>	N/A	
<b>Recommended Action:</b>	Review and approval of draft council minutes.	

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



January 2, 2024

### 1. CALL TO ORDER

Mayor Korthuis called to order the January 2, 2024 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

### PLEDGE OF ALLEGIENCE

### OATH OF OFFICE

*Mayor Korthuis swore in newly elected council members Lee Beld and Gary Vis and re-elected council members Gary Bode and Brent Lenssen.*

### ROLL CALL

Members present: Councilors Gary Bode, Lee Beld, Gary Vis, Brent Lenssen, Nick Laninga, Kyle Strengholt, and Mark Wohlrab.

Members absent: None.

Staff present: Community Development Director Heidi Gudde, Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Brent DeRuyter, Police Chief Steve Taylor, Public Works Director Jon Hutchings, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael and Luke Phifer.

### SUMMARY REPORTS AND PRESENTATIONS

#### APPROVAL OF MINUTES

***Councilor Bode moved, and Councilor Laninga seconded, to approve the December 4, 2023, regular council meeting minutes. Motion approved on 7-0 vote.***

### CITIZEN COMMENT

**Councilor Laninga gave a charge to the Council concerning the acronym VECTOR. V is for vision. E is for excellence. C is for character. T is for teamwork. O is for organization and R is for respect.**

# CITY OF LYNDEN



CITY COUNCIL  
MINUTES OF REGULAR MEETING

## 2. CONSENT AGENDA

### Approval of Claims – December 29, 2023

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>29098</u>	through	<u>29136</u>		\$402,556.70
EFT Payments					\$97,603.77
				Sub Total	\$500,160.47
				Total Accounts Payable	<b>\$500,160.47</b>

### Payroll Liability to December 17 through December 30, 2023

#### **EFT & Other Liabilities**

#### **Non-L&I Liabilities**

Monthly EFT .....	\$604,519.47
Check Liability .....	\$0.00
Total Non-L&I Liabilities .....	\$604,519.47
Quarterly Liabilities .....	\$13,018.31
<b>Total EFT &amp; Other Liabilities</b>	<b>\$617,537.78</b>

Set Public Hearing Date – RES-24-1088, Update to the Building Valuation Data (BVD) used to calculate building permit fees.

Contract with Brightly Software, Citywide Permitting Software – **Pulled from consent agenda**

Appoint Mayor Korthuis to the 2024 Whatcom Transportation Authority (WTA) Board of Directors

Re-Appoint to the Planning Commission – Blair Scott

Re-Appoint to the Planning Commission – David Vos

Addendum to the Public Defender Contract – Indigent Criminal Defense Services

***The contract with Brightly Software, citywide permitting software pulled from Consent Agenda for further council review and discussion.***

***Motion made by Councilor Strengholt, seconded by Councilor Bode to approve the remaining items on the Consent Agenda. Motion approved 7-0.***



# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



***After directing questions to staff and some council discussion a motion was made by Councilor Vis, seconded by Councilor Strengholt to approve and support the Mayor's signature on the December 19, 2023 order form with Brightly Software Inc. Motion approved 7-0.***

### 3. PUBLIC HEARING

#### Public Hearing – 2024 Unified Fee Schedule (UFS)

Mayor opened the public hearing at 7:20 pm.  
There were no comments from the public.  
Mayor closed the public hearing at 7:20 pm.

***After Council discussion the 2024 UFS remained as a public hearing item to return before council at the January 16, 2024 council meeting. No action was taken.***

#### ORD-23-1680, Amending Civil Penalties Code

Mayor opened the public hearing at 7:33 pm.  
There were no comments from the public  
Mayor closed the public hearing at 7:33 pm.

***After Council extended question/answer and discussion with the City Attorney, Ordinance-23-1680 remained as a public hearing item to return before council at the January 16, 2024 council meeting. No action was taken.***

### 4. UNFINISHED BUSINESS

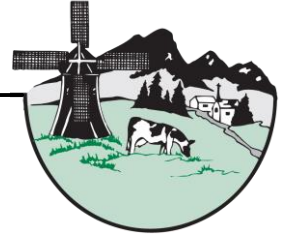
### 5. NEW BUSINESS

#### Select Mayor Pro Tem for 2024

***Motion made by Councilor Vis, seconded by Councilor Laninga, to approve Councilor Gary Bode as 2024 Mayor Pro Tem. Motion approved 7-0.***

# CITY OF LYNDEN

CITY COUNCIL  
MINUTES OF REGULAR MEETING



## 6. REPORTS

***Motion made by Councilor Bode, seconded by Councilor Laninga to remove from the table the Notification Plan for Discontinuation of Fluoride in City's Water Supply. Motion approved 7-0.***

***Motion made by Councilor Bode, seconded by Councilor Strengholt to place the Notification Plan for Discontinuation of Fluoride in City's Water Supply on the January 16, 2024 council meeting. Motion approved 7-0.***

***Motion made by Councilor Vis, seconded by Councilor Strengholt, to re-appoint Mayor Korthuis to the 2024 Board of the Whatcom Council of Government and to appoint Council Bode and as alternate. Motion approved 7-0.***

### Council Committee Member Selection

#### Community Development Committee:

Brent Lenssen  
Gary Bode  
Kyle Strengholt

#### Finance Committee:

Kyle Strengholt  
Nick Laninga  
Lee Beld

#### Parks Committee:

Gary Vis  
Nick Laninga  
Mark Wohlrab

#### Public Safety Committee:

Mark Wohlrab  
Lee Beld  
Gary Vis

#### Public Works Committee:

Gary Bode  
Brent Lenssen  
Gary Vis

***Motion made by Councilor Vis, seconded by Councilor Lenssen, to approve the 2024 council committee structure, with the understanding that committee assignments can be revised at any time. Motion approved 7-0.***

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



Councilor Vis asked that Council, Mayor, and City Administrator hold a council vision and goal session from noon to five pm on January 29, 2024. Councilor Bode suggested that each Council Committee come to the meeting with a stated agenda.

Councilor Bode reported Public Works Committee discussion on the following:

- Bradly Road reconstruction.
- First Street/Hannegan Road work.

City Administrator John Williams introduced City Attorney Luke Phifer.

### **7. EXECUTIVE SESSION**

Council did not hold an executive session

### **8. ADJOURNMENT**

January 2, regular session of the Lynden city council adjourned at 8:20 p.m.

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Pamela D. Brown, City Clerk

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Scott Korthuis, Mayor

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Ordinance No. ORD-24-1682 Setting the Final Property Tax for 2024	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	ORD-24-1682 Real Estate Property Tax Levy 2024	
<b>Summary Statement:</b>	<p>The City of Lynden is required by State regulations to adopt a 2024 property tax levy. On November 20, 2023 the City Council approved Ordinance No. 1679 which was passed relying on the preliminary figures for the assessed valuation of the City's tax base, as provided by the Whatcom County Assessor's Office at that time.</p> <p>The original executive summary presented to Council on November 20, 2023 indicated that an ordinance setting the exact final levy would be forwarded to the Finance Committee City Council for consideration when the County Assessor's Office provided the final assessed valuation for 2023. The County Assessor's office has provided the final numbers.</p> <p>For Council information, the final calculations result in a total dollar levy amount of \$3,925,068. Per Council's direction this amount incorporated a 1.0% increase in the regular property tax, as allowed per the Revised Code of Washington. This total dollar levy reflects a mil rate of \$1.05772 per \$1,000 of assessed valuation. This is a decrease of approximately 15 cents from the 2023 rate.</p>	
<b>Recommended Action:</b>	Approve Ordinance No. ORD-24-1682 and authorize the Mayor's signature.	

**ORDINANCE NO. ORD-24-1682**

**AN ORDINANCE FOR THE CITY OF LYNDEN, WASHINGTON  
LEVYING TAXES FOR GENERAL MUNICIPAL PURPOSES FOR  
TAXES COLLECTIBLE AND PAYABLE IN 2024  
IN THE CITY OF LYNDEN, WASHINGTON**

The City Council of the City of Lynden does ordain as follows:

Section A. The City of Lynden hereby levies, for 2024 taxes, for the purpose of meeting the expenditures of the City of Lynden, Washington, for the year 2024, the following specific sums:

CURRENT EXPENSE FUND	\$3,319,318
BERTHUSEN PARK	\$65,000
2012 LTGO REFUNDING BOND DEBT	<u>\$540,750</u>
TOTAL	\$3,925,068

Section B. In order to raise said specific sums, there is needed a levy of \$1.05772 per thousand dollars of assessed valuation of the property in the City of Lynden as shown by the assessment roll for the year 2023.

Section C. Any ordinance or parts of ordinances in conflict herewith are hereby amended.

Section D. This ordinance amends Ordinance No. 1663 and shall take effect and be in force from and after its passage by the City Council and after its approval by the Mayor if approved, otherwise, as provided by law and five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR,  
\_\_\_\_\_ AGAINST AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF JANUARY 2024.

\_\_\_\_\_  
Scott Korthuis  
Mayor

ATTEST:

\_\_\_\_\_  
Pamela Brown  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Carmichael  
City Attorney

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	RES-24-1089 Adoption of the Unified Fee Schedule (UFS)	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
RES-24-1089 Adoption of the Unified Fee Schedule and a copy of the UFS.		
<b>Summary Statement:</b>		
<p>To provide transparency of City fees, ease of use in finding the fees, and consistency in the fee structure, the Finance Department has developed a Unified Fee Schedule (UFS).          The proposed schedule was presented in committee for review, and on January 2, 2024 at City Council a public hearing was held to allow for public commentary.          Revisions proposed by Council since then have been implemented and are in the current schedule.</p>		
<b>Recommended Action:</b>		
Approve RES-24-1089 as written and authorize the Mayor's signature.		

**RESOLUTION NO. RES-24-1089**

**A RESOLUTION OF THE CITY COUNCIL  
FOR THE CITY OF LYNDEN, WASHINGTON  
ADOPTING A UNIFIED FEE SCHEDULE**

WHEREAS, the City Council of the City of Lynden has determined that it is in the best interests of the City to provide a single, efficient, and convenient listing of all fees for permits, licenses, services, applications and filing fees; and

WHEREAS, such a listing better facilitates the updating and uniform review of all such fees, and charges on a periodic basis; and

WHEREAS, previous resolutions established fees that require review from time to time; and

WHEREAS, the City’s approved Budget establishes various rates, but does not establish Permits and Fee’s; and

WHEREAS, the City needs to adjust fees to better reflect the current cost environment; and

NOW THEREFORE, BE IT RESOLVED, the Lynden City Council authorizes the adoption of a Unified Fee Schedule:

Section A: After passage by the City Council and upon approval by the Mayor the Unified Fee Schedule be made accessible to the public.

Section B: That the Unified Fee Schedule be reviewed annually during the annual budget process, and that any proposed revisions be made at the time of the adoption of the budget.

Section C: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section D: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this resolution. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact than any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this resolution should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section E: This resolution shall take effect and be in force on February 1, 2024 after its passage by the Council and after its approval by the Mayor, if approved, otherwise, as provided by law and five (5) days after the date of its publication.



PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR, \_\_\_\_\_ AGAINST AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF JANUARY 2024.

\_\_\_\_\_  
Scott Korthuis  
Mayor

ATTEST:

\_\_\_\_\_  
Pam Brown  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Carmichael  
City Attorney

	<i>Department</i>	<i>Fee Name</i>	<i>Fee Description</i>	<i>Current Fee</i>	<i>Proposed Fee 2024</i>	<i>Notes:</i>
1	Community Dev - Building	Building permit	New residential construction.	Contact Comm Dev Department	Contact Comm Dev Department	To be revised by separate resolution.
2	Community Dev - Building	Building permit	New commercial or industrial construction.	Contact Comm Dev Department	Contact Comm Dev Department	To be revised by separate resolution.
3	Community Dev - Building	Building permit	Plan Check Fee/Building plan review	65% of permit fee	65% of permit fee	
4	Community Dev - Building	Building permit	State building code fee (BCF) on residential permits.	\$6.50 + \$2.00/additional unit	\$6.50 + \$2.00/additional unit	Set by RCW 19.27.085
5	Community Dev - Building	Building permit	State building code fee (BCF) on commercial permits.	\$25.00 + \$2.00/additional unit if mixed occupancy	\$25.00 + \$2.00/additional unit if mixed occupancy	Set by RCW 19.27.086
6	Community Dev - Building	Building permit	Mobile home -single wide placement fee. Permit fees would also include those associated with any addition exterior structural construction.	\$150.00	\$ 188.00	25% fee increase of 2018 rates
7	Community Dev - Building	Building permit	Mobile home -double wide placement fee. Permit fees would also include those associated with any addition exterior structural construction.	\$200.00	\$ 250.00	25% fee increase of 2018 rates
8	Community Dev - Building	Building permit	Mobile home - triple wide placement fee. Permit fees would also include those associated with any addition exterior structural construction.	\$250.00	\$ 313.00	25% fee increase of 2018 rates
9	Community Dev - Building	Building permit	Solar Panel	\$120.00 + BCF	\$150.00 + BCF	25% fee increase of 2018 rates
10	Community Dev - Building	Building permit	Demolition	\$50.00	\$ 63.00	25% fee increase of 2018 rates
11	Community Dev - Building	Building permit	Residential Re-roof	\$114.00	deleted	City has not been requiring permits for re-roofs.
12	Community Dev - Building	Building permit	Commercial Re-roof	Fee based on valuation	deleted	City has not been requiring permits for re-roofs. Mechanical permit may be
13	Community Dev - Building	Building permit	Fence Permit	\$25.00	\$ 31.00	25% fee increase of 2018 rates
14	Community Dev - Building	Building permit	Temporary Structures	Fee based on valuation of set up costs	Fee based on valuation of set up costs	
15	Community Dev - Building	Building permit	Signs	Based on Construction Cost	Based on Construction Cost	
16	Community Dev - Building	Building permit	Short Term Rental Inspection or Community Residential Facility Inspection	\$25.00	\$50 per bed/occupant	
17	Community Dev - Building	Inspection and Fees	Building plan review and Inspection Services - Pass thru option	Consultant cost +10%	Consultant cost +10%	
18	Community Dev - Building	Inspection and Fees	Outside consultants and/or inspections	Admin+Overhead costs	Admin+Overhead costs	
19	Community Dev - Building	Inspection and Fees (Hourly Charge)	Outside of normal business hours (minum one-hour charge)	\$75.00	\$ 94.00	25% fee increase of 2018 rates
20	Community Dev - Building	Inspection and Fees (Hourly Charge)	Re-Inspection fees	\$60.00	\$ 75.00	25% fee increase of 2018 rates
21	Community Dev - Building	Inspection and Fees (Hourly Charge)	Inspections for which no fee is specifically indicated	\$60.00	\$ 75.00	25% fee increase of 2018 rates
22	Community Dev - Building	Inspection and Fees (Hourly Charge)	Additional plan reviw required by changes, additions or revisions to plans	\$60.00	\$ 75.00	25% fee increase of 2018 rates
23	Community Dev - Building	Building Permit	Improvements to existing structures	Fee based on owners construction cost	Fee based on owner construction cost	
24	Community Dev - Building	Inspection and Fees (Hourly Charge)	Improvements to existing structures	Owners Construction Cost	Owners Construction Cost	
25	Community Dev - Building	Mechanical Inspection/Permit Fees	A/C Air/Handling Units HP	\$11.00	\$ 13.75	25% fee increase of 2018 rates
26	Community Dev - Building	Mechanical Inspection/Permit Fees	Water Heater-Gas (Electric water heaters - see Plumbing	\$15.00	\$ 18.75	25% fee increase of 2018 rates
27	Community Dev - Building	Mechanical Inspection/Permit Fees	Gas Fireplace, Clothes Dryer, Heat Pump, Unit Heater	\$15.00	\$ 18.75	25% fee increase of 2018 rates
28	Community Dev - Building	Mechanical Inspection/Permit Fees	Range Hood/Exhaust Fans	\$11.00	\$ 13.75	25% fee increase of 2018 rates
29	Community Dev - Building	Mechanical Inspection/Permit Fees	Furance <100,000 BTU (Including Ducts and Vents)	\$15.00	\$ 18.75	25% fee increase of 2018 rates
30	Community Dev - Building	Mechanical Inspection/Permit Fees	Furance >100,000 BTU	\$19.00	\$ 23.75	25% fee increase of 2018 rates
31	Community Dev - Building	Mechanical Inspection/Permit Fees	Ventilation Fan	\$8.00	\$ 10.00	25% fee increase of 2018 rates
32	Community Dev - Building	Mechanical Inspection/Permit Fees	Incinerator - Commercial/Industrial	\$15.00	\$ 18.75	25% fee increase of 2018 rates
33	Community Dev - Building	Mechanical Inspection/Permit Fees	Boiler or Compressor	\$15.00	\$ 18.75	25% fee increase of 2018 rates
34	Community Dev - Building	Mechanical Inspection/Permit Fees	For each gas-piping system of one to four outlets	\$10.00	\$ 12.50	25% fee increase of 2018 rates
35	Community Dev - Building	Mechanical Inspection/Permit Fees	For each gas-piping system of one to four outlets - per outlet	\$2.00	\$ 2.50	25% fee increase of 2018 rates
36	Community Dev - Building	Mechanical Inspection/Permit Fees	Miscellaneous Fixtures (regulated by the IMC but not listed above)	\$15.00	\$ 18.75	25% fee increase of 2018 rates
37	Community Dev - Building	Mechanical Inspection/Permit Fees	Base permit fee (+ fixture fee)	\$30.00	\$ 37.50	25% fee increase of 2018 rates
38	Community Dev - Building	Mechanical Inspection/Permit Fees	Gas water heater	\$15.00	\$ 18.75	25% fee increase of 2018 rates
39	Community Dev - Building	Mechanical Inspection/Permit Fees	Evaporate Coolers			
40	Community Dev - Building	Mechanical Inspection/Permit Fees	Gas fireplace, heat pump, dryer, heater	\$15.00	\$ 18.75	25% fee increase of 2018 rates

41	Community Dev - Building	Mechanical Inspection/Permit Fees	Suspended heater, recessed wall heater, floor mounted unit	\$15.00	\$	18.75	25% fee increase of 2018 rates
42	Community Dev - Building	Mechanical Inspection/Permit Fees	Incinerator - Residential				
43	Community Dev - Building	Mechanical Inspection/Permit Fees	Appliance Vents	\$8.00	\$	10.00	25% fee increase of 2018 rates
44	Community Dev - Building	Mechanical Inspection/Permit Fees	Gas-piping system (1-4 outlets)	\$10.00/outlet	\$12.50/outlet		25% fee increase of 2018 rates
45	Community Dev - Building	Mechanical Inspection/Permit Fees	Gas-piping system (4+ outlets)	\$2.00/outlet	\$2.50/outlet		25% fee increase of 2018 rates
46	Community Dev - Building	Mechanical Inspection/Permit Fees	Repairs and Additions				
47	Community Dev - Building	Mechanical Inspection/Permit Fees	Miscellaneous fixtures	\$15.00	\$	18.75	25% fee increase of 2018 rates
48	Community Dev - Building	Plan Check Fees	Plan Check Fees	65% of permit fee - in addt.to permit fees - all construction			
49	Community Dev - Building	Plan Check Fees	An estimated plan review fee paid at time of permit app. For construction valuations over \$5000, base on estimated valuation.				
50	Community Dev - Building	Plan Check Fees	Single Family Homes all pay an estimated plan review fee of \$400 at time off application.	\$400	\$	500.00	25% fee increase of 2018 rates
51	Community Dev - Building	Plan Check Fees	State Bulding Code Fee -BCF (RCW 19.27.085)	\$6.50 for each residential building permit plus \$2.00 for each additional residential unit, if mixed use occupancy	\$8.00 for each residential building permit plus \$2.50 for each additional residential unit, if mixed use occupancv.		
52	Community Dev - Building	Plan Check Fees	State Bulding Code Fee -BCF (RCW 19.27.085)	\$25.00 for each commercial building permit plus \$2.00 for each additional reidential until if mixed use occupancy.	\$31.00 for each commercial building permit plus \$2.50 for each additional residential unit, if mixed use occupancv.		
53	Community Dev - Building	Plumbing Inspection/Permit Fees	Base Fee	\$30	\$	37.50	25% fee increase of 2018 rates
54	Community Dev - Building	Plumbing Inspection/Permit Fees	Per Fixture: Bathtub, Bath sinks, Shower, Kitchen sink, Dishwasher, Clothes, Toliet, Urinal, Drinking Fountain, Drain or Floor Drain, Hot tub, Laundry Sink, Bar/Service sink, Electric Water Heater	\$7	\$	8.75	25% fee increase of 2018 rates
55	Community Dev - Building	Plumbing Inspection/Permit Fees	Backflow Protective Device	\$10	\$	12.50	25% fee increase of 2018 rates
56	Community Dev - Building	Plumbing Inspection/Permit Fees	Roof Drains - Commercial/Industrial	\$7	\$	8.75	25% fee increase of 2018 rates
57	Community Dev - Building	Plumbing Inspection/Permit Fees	Vacuum Breakers	\$5	\$	6.25	25% fee increase of 2018 rates
58	Community Dev - Building	Plumbing Inspection/Permit Fees	Grease Traps	\$15	\$	18.75	25% fee increase of 2018 rates
59	Community Dev - Building	Plumbing Inspection/Permit Fees	Medical Gas Piping	\$50	\$	62.50	25% fee increase of 2018 rates
60	Community Dev - Building	Plumbing Inspection/Permit Fees	Miscellaneous Fixtures (regulated by the IPC but not listed above)	\$7	\$	8.75	25% fee increase of 2018 rates
61	Community Dev - Building	Plumbing Inspection/Permit Fees	Electric Water Heater	\$7	\$	8.75	25% fee increase of 2018 rates
62	Community Dev - Building	Plumbing Inspection/Permit Fees	Sprinkler System	\$10.00	\$	12.50	25% fee increase of 2018 rates
63	Community Dev - Building	Plumbing Inspection/Permit Fees	Installation/alteration/repair	\$0.00			
64	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Backflow	\$10	\$	12.50	25% fee increase of 2018 rates
65	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Bath Sink	\$7	\$	8.75	25% fee increase of 2018 rates
66	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Bathtubs	\$7	\$	8.75	25% fee increase of 2018 rates
67	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Clothes Washer	\$7	\$	8.75	25% fee increase of 2018 rates
68	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Dishwasher	\$7	\$	8.75	25% fee increase of 2018 rates
69	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Drain	\$7	\$	8.75	25% fee increase of 2018 rates
70	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Drinking Fountain	\$7	\$	8.75	25% fee increase of 2018 rates
71	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Floor Drain	\$7	\$	8.75	25% fee increase of 2018 rates
72	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Grease Trap	\$15	\$	18.75	25% fee increase of 2018 rates
73	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Hot Tub	\$7	\$	8.75	25% fee increase of 2018 rates
74	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Kitchen Sink	\$7	\$	8.75	25% fee increase of 2018 rates
75	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Laundry Sink	\$7	\$	8.75	25% fee increase of 2018 rates
76	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Medical Gas Piping	\$50	\$	62.50	25% fee increase of 2018 rates
77	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing MISC Fixture	\$7	\$	8.75	25% fee increase of 2018 rates
78	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Repair/ALT	\$7	\$	8.75	25% fee increase of 2018 rates
79	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing REV/ADDTN	\$7	\$	8.75	25% fee increase of 2018 rates
80	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Roof Drains	\$7	\$	8.75	25% fee increase of 2018 rates
81	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Showers	\$7	\$	8.75	25% fee increase of 2018 rates
82	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Sink (Bar, Service)	\$7	\$	8.75	25% fee increase of 2018 rates
83	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Toilets	\$7	\$	8.75	25% fee increase of 2018 rates

84	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Urinal	\$7	\$	8.75	25% fee increase of 2018 rates
85	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Vacuum Breakers	\$5	\$	6.25	25% fee increase of 2018 rates
86	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Water Electric Heater	\$7	\$	8.75	25% fee increase of 2018 rates
87	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Water Treatment Equip	\$7	\$	8.75	25% fee increase of 2018 rates
88	Community Dev - Planning	Land Use Fee - Type 1	Lot Line Adjustment	\$250	\$	313.00	25% fee increase of 2020 rates
89	Community Dev - Planning	Land Use Fee - Type 1	Clearing, Grading & Fill - Type B	\$100	\$	125.00	25% fee increase of 2020 rates
90	Community Dev - Planning	Land Use Fee - Type 1	Shoreline Written Exemption Determination	\$100	\$	125.00	25% fee increase of 2020 rates
91	Community Dev - Planning	Land Use Fee - Type 1	Design Review Variance	\$150	\$	188.00	25% fee increase of 2020 rates
92	Community Dev - Planning	Land Use Fee - Type 1	Historic Preservation	\$300	\$	375.00	25% fee increase of 2020 rates
93	Community Dev - Planning	Land Use Fee - Type 1	Critical Area Review	\$100.00 + cost of City's consultant review if required	\$100.00 + cost of City's consultant review if required		No increase proposed to the fee.
94	Community Dev - Planning	Land Use Fee - Type 1	Pre-Application Meeting	0	0.00		no fee for this service
95	Community Dev - Planning	Land Use Fee - Type 1	Clearing, Grading & Fill - Type A	\$100	\$	125.00	25% fee increase of 2020 rates
96	Community Dev - Planning	Land Use Fee - Type 1	SEPA Environment Checklist	\$350	\$	438.00	25% fee increase of 2020 rates
97	Community Dev - Planning	Land Use Fee - Type 1	Design Review (Buildings)	\$200	\$	250.00	25% fee increase of 2020 rates
98	Community Dev - Planning	Land Use Fee - Type 1	Design Review (Signage)	\$50	\$	63.00	25% fee increase of 2020 rates
99	Community Dev - Planning	Land Use Fee - Type 1	Site Plan Approval (excluding SF)	\$250	\$	313.00	25% fee increase of 2020 rates
100	Community Dev - Planning	Land Use Fee - Type 2	Subdivision Plat - Preliminary	\$350 + \$120 per lot	\$438 + \$150 per lot		25% fee increase of 2020 rates
101	Community Dev - Planning	Land Use Fee - Type 2	Subdivision Plat - Final	\$70 per lot	\$88 per lot		25% fee increase of 2020 rates
102	Community Dev - Planning	Land Use Fee - Type 2	General Binding Site Plan	\$350 + \$120 per lot	\$438.00 + \$150.00 per lot		25% fee increase of 2020 rates
103	Community Dev - Planning	Land Use Fee - Type 2	Specific Binding Site Plan	\$300 + \$100 per lot	\$375 + \$120 per lot		25% fee increase of 2020 rates
104	Community Dev - Planning	Land Use Fee - Type 2	Development Agreement	\$200 + cost of City's legal review fees	\$250 + cost of City's legal review fees		25% fee increase of 2020 rates
105	Community Dev - Planning	Land Use Fee - Type 2	Shoreline Substantial Development	\$550.00	\$	687.50	25% fee increase of 2020 rates
106	Community Dev - Planning	Land Use Fee - Type 2	Shoreline Conditional Use	\$500.00	\$	625.00	25% fee increase of 2020 rates
107	Community Dev - Planning	Land Use Fee - Type 2	Shoreline Variance	\$1,000.00	\$	1,250.00	25% fee increase of 2020 rates
108	Community Dev - Planning	Land Use Fee - Type 2	Planned Residential Development	\$600 + \$100 per lot	\$750 + \$125 per lot		25% fee increase of 2020 rates
109	Community Dev - Planning	Land Use Fee - Type 2	Short Plat	\$300 + \$120 per lot	\$375 + \$150 per lot		25% fee increase of 2020 rates
110	Community Dev - Planning	Land Use Fee - Type 3	Conditional Use Permit	\$400.00	\$	500.00	25% fee increase of 2020 rates
111	Community Dev - Planning	Land Use Fee - Type 3	Variance - Hearing Examiner	\$400.00	\$	500.00	25% fee increase of 2020 rates
112	Community Dev - Planning	Land Use Fee - Type 3	Fence Variance	\$150.00	\$	188.00	25% fee increase of 2020 rates
113	Community Dev - Planning	Land Use Fee - Type 3	Development Standard Variance (per variance)	\$350.00	\$	438.00	25% fee increase of 2020 rates
114	Community Dev - Planning	Land Use Fee - Type 3	Rezone	\$450.00	\$	563.00	25% fee increase of 2020 rates
115	Community Dev - Planning	Land Use Fee - Type 3	Comprehensive Plan Amendment	\$600.00	\$	750.00	25% fee increase of 2020 rates
116	Community Dev - Planning	Land Use Fee - Type 3	Plat Amendment (Major)	\$400.00	\$	500.00	25% fee increase of 2020 rates
117	Community Dev - Planning	Land Use Fee - Type 3	Plat Amendment (Prior to final plat or plat expiration)	\$200.00	\$	250.00	25% fee increase of 2020 rates
118	Community Dev - Planning	Land Use Fee - Type 3	Amendment to a Planned Residential	\$400.00	\$	500.00	25% fee increase of 2020 rates
119	Community Dev - Planning	Land Use Fee - Type 3	Development (PRD) or Master PRD	\$400.00	\$	500.00	25% fee increase of 2020 rates
120	Community Dev - Planning	Land Use Fee - Type 3	CC&R modifications of PRD's	\$100 + legal fee	\$125 + cost of legal review		25% fee increase of 2020 rates
121	Community Dev - Planning	Land Use Fee - Type 3	Zoning Text Amendment	\$400 + Base fee or FRC	\$500 + cost of legal review		25% fee increase of 2020 rates
122	Community Dev - Planning	Land Use Fee - Type 3	Vacation of Right-of-Way or Easement	\$300	\$375.00		25% fee increase of 2020 rates
123	Community Dev - Planning	Land Use Fee - Type 4	Home Occupation	\$100	\$	125.00	25% fee increase of 2020 rates
124	Community Dev - Planning	Land Use Fee - Type 4	Annexation	\$300 + legal review	\$375 + cost of legal review		25% fee increase of 2020 rates
125	Community Dev - Planning	Land Use Fee - Type 4	Appeal of Administrative Decision (SEPA)	\$500	\$	625.00	25% fee increase of 2020 rates
126	Community Dev - Planning	Land Use Fee - Type 4	Cell Tower Revision or Addition	\$400 + building permit costs	\$500 + building permit costs		25% fee increase of 2020 rates
127	Community Dev - Planning	Land Use Fee - Type 4	ADU Covenant	\$100	\$	125.00	Maintain this fee as is.
128	Community Dev - Planning	Land Use Fee - Type 4	Zoning Verification Letter	\$200	\$	250.00	25% fee increase of 2020 rates
129	Community Dev - Planning	Land Use Fee - Type 4	Request to Petition for Annexation	\$100	\$	125.00	25% fee increase of 2020 rates
130	Community Dev - Planning	Land Use Fee - Type 4	Appeal of Administrative Decision (non-SEPA)	\$200	\$	250.00	25% fee increase of 2020 rates
131	Community Dev - Planning	Land Use Fee - Type 4	Cell Towers Construction/Replacement	\$1000 + cost of outside review if needed	\$1,250 + cost of 3rd party review if needed		25% fee increase of 2020 rates

132	Community Dev - Planning	Land Use Fee - Type 4	Small Cell Network Plan Review for installation of Equipment within City's ROW and Franchise Agreement	\$600 + cost of legal review	\$750 + cost of legal review	25% fee increase of 2020 rates
133	Community Dev - Planning	Land Use Fee - Type 4	Removal of ADU Covenant	\$100	\$	125.00 Maintain this fee as is.
134	Community Dev - Planning	Land Use Fee - Type 4	HBD Commercial Parking - Payment in lieu of on-site parking	\$2350.00 per required stall	\$11,000 per stall	market rate to construct w/ drainage
135	Fire Dept	Change to Sprinkler System	1 - 20 Heads	\$100.00	\$150.00	
136	Fire Dept	Change to Sprinkler System	21 - 40 Heads	\$175.00	\$200.00	
137	Fire Dept	Change to Sprinkler System	41 - 60 Heads	\$250.00	\$300.00	
138	Fire Dept	Change to Sprinkler System	61 - 80 Heads	\$325.00	\$400.00	
139	Fire Dept	Change to Sprinkler System	81 - 100 Heads	\$400.00	\$500.00	
140	Fire Dept	Change to Sprinkler System	Over 100 Heads	\$0.00	\$500 + \$1.00 per head	
141	Fire Dept	CPR	Community CPR Class	\$10.00	\$10.00	
142	Fire Dept	Fire Alarm System	1 - 50 Devices	\$200.00	\$300.00	
143	Fire Dept	Fire Alarm System	51 - 75 Devices	\$300.00	\$400.00	
144	Fire Dept	Fire Alarm System	76 - 100 Devices	\$400.00	\$500.00	
145	Fire Dept	Fire Alarm System	101 - 125 Devices	\$500.00	\$600.00	
146	Fire Dept	Fire Alarm System	126 - 150 Devices	\$600.00	\$700.00	
147	Fire Dept	Fire Alarm System	Over 150 Devices	\$600 + \$1.50 per defice	\$700 + \$2.00 per device	
148	Fire Dept	Fire Hood	Per System	\$175.00	\$250.00	
149	Fire Dept	Fire Line	Per Line	\$250.00	\$400.00	
150	Fire Dept	Fire Pump	Per Pump	\$100.00	\$250.00	
151	Fire Dept	Hazardous Materials	Fireworks Sales	\$25.00	\$150.00	
152	Fire Dept	Hazardous Materials	Fireworks Display	\$50.00	\$200.00	
153	Fire Dept	Hazardous Materials	Explosives	\$100.00	\$150.00	
154	Fire Dept	Hazardous Materials	Flammable Liquids	\$100.00	\$150.00	
155	Fire Dept	Hazardous Materials	Install Tank	\$250.00	\$350.00	
156	Fire Dept	Hazardous Materials	Remove Tank <1000 gal	\$75.00	\$100.00	
157	Fire Dept	Hazardous Materials	Remove Tank >1000 gal	\$250.00	\$300.00	
158	Fire Dept	Impact Fees	Residential Single Family/Duplex per unit	\$517.00	\$517.00	
159	Fire Dept	Impact Fees	Residential Multi-family per unit	\$389.00	\$389.00	
160	Fire Dept	Impact Fees	Non-Residential	\$.28 per square foot	\$.28 per square foot	
161	Fire Dept	Inspection Fee	Regular	\$84/hr	\$120/hr	
162	Fire Dept	Inspection Fee	After Hours	\$126/hr	\$180/hr	
163	Fire Dept	New Sprinkler System	1-100 Heads	\$375.00	\$400.00	
164	Fire Dept	New Sprinkler System	101 - 200 Heads	\$425.00	\$450.00	
165	Fire Dept	New Sprinkler System	201 - 300 Heads	\$475.00	\$500.00	
166	Fire Dept	New Sprinkler System	301 - 400 Heads	\$525.00	\$550.00	
167	Fire Dept	New Sprinkler System	401 - 500 Heads	\$575.00	\$600.00	
168	Fire Dept	New Sprinkler System	Over 500 Heds	\$575 + \$.30 per head	\$600 + \$1.00 per head	
169	Fire Dept	Plan Review Fee (Value Based)	\$0 - \$2,000	\$0.00	\$0.00	
170	Fire Dept	Plan Review Fee (Value Based)	\$2,001 - \$10,000	\$26.00	\$35.00	
171	Fire Dept	Plan Review Fee (Value Based)	\$10,001 - \$20,000	\$75.00	\$100.00	
172	Fire Dept	Plan Review Fee (Value Based)	\$20,001 - \$50,000	\$158.00	\$210.00	
173	Fire Dept	Plan Review Fee (Value Based)	\$50,001 - \$100,000	\$225.00	\$300.00	
174	Fire Dept	Plan Review Fee (Value Based)	\$100,001 - \$250,000	\$300.00	\$400.00	
175	Fire Dept	Plan Review Fee (Value Based)	\$250,001 - \$500,000	\$450.00	\$600.00	
176	Fire Dept	Plan Review Fee (Value Based)	\$500-001 - \$1,000,000	\$750.00	\$1,000.00	
177	Fire Dept	Plan Review Fee (Value Based)	Over \$1,000,001	\$750.00 + .075%	\$1,000 + .10%	
178	Fire Dept	Spray Booth	Per System	\$250.00	\$250.00	
179	Fire Dept	Standpipes	Per System	\$40.00	\$100.00	
180	Municipal Court	Administrative	Warrant cancellation fee - per warrant	\$0.00	\$0.00	
181	Parks Dept	Donation Item	Park/Trail Bench- Concrete	\$500.00	\$600.00	
182	Parks Dept	Donation Item	Street Bench- Slatted	\$400.00	\$475.00	
183	Parks Dept	Donation Item	Trees(vary according to size and variety)	\$250 to \$900	\$250 to \$900	

184	Parks Dept	Rental Facility Fees	Berthusen Kitchen Rental- 1/2 day--weekday	\$75.00	\$80.00	
185	Parks Dept	Rental Facility Fees	Berthusen Kitchen Rental- 1/2 day--weekend	\$95.00	\$100.00	
186	Parks Dept	Rental Facility Fees	Berthusen Kitchen Rental- Full Day-- weekday	\$115.00	\$120.00	
187	Parks Dept	Rental Facility Fees	Berthusen Kitchen Rental- Full Day-- weekend/holidays	\$140.00	\$150.00	
188	Parks Dept	Rental Facility Fees	Berthusen Playfield Reservation	\$20.00	\$25.00	
189	Parks Dept	Rental Facility Fees	Berthusen Open Shelter Rental- 1/2 Day-- weekday	\$50.00	\$55.00	
190	Parks Dept	Rental Facility Fees	Berthusen Open Shelter Rental- Full Day-- weekday	\$65.00	\$75.00	
191	Parks Dept	Rental Facility Fees	Berthusen Open Shelter Rental- 1/2 Day-- weekend	\$60.00	\$65.00	
192	Parks Dept	Rental Facility Fees	Berthusen Open Shelter Rental- Full Day-- weekend/holidays	\$85.00	\$90.00	
193	Parks Dept	Rental Facility Fees	Berthusen Additional Setup Fees- changes to tables, barricades, etc.	\$50.00	\$60.00	
194	Parks Dept	Rental Facility Fees	Berthusen Large Group Fees-over 100 people	\$10.00	\$20.00	
195	Parks Dept	Rental Facility Fees	Berthusen Overnight Camping(May-Sept.) Tents only- non-profit educational youth programs Ma.	\$3/person per night	\$5/person per night	
196	Parks Dept	Rental Facility Fees	City Park Kitchen Rental- 1/2 day-- weekday	\$75.00	\$80.00	
197	Parks Dept	Rental Facility Fees	City Park Kitchen Rental- 1/2 day-- weekends	\$95.00	\$100.00	
198	Parks Dept	Rental Facility Fees	City Park Kitchen Rental- Full Day-- weekday	\$115.00	\$120.00	
199	Parks Dept	Rental Facility Fees	City Park Kitchen Rental- Full Day-- weekends/holidays	\$140.00	\$150.00	
200	Parks Dept	Rental Facility Fees	City Park Open Shelter Rental- 1/2 Day--weekday	\$50.00	\$55.00	
201	Parks Dept	Rental Facility Fees	City Park Open Shelter Rental- 1/2 Day--weekends	\$60.00	\$65.00	
202	Parks Dept	Rental Facility Fees	City Park Open Shelter Rental- Full Day- weekday	\$65.00	\$75.00	
203	Parks Dept	Rental Facility Fees	City Park Open Shelter Rental- Full Day- weekend/holidays	\$85.00	\$90.00	
204	Parks Dept	Rental Facility Fees	City Park Large Group Fees- over 100 people	\$10.00	\$20.00	
205	Parks Dept	Rental Facility Fees	City Park Tennis Court Reservations--per court	\$5 per court/3 hour max.	10 per court/3 hour max	
206	Parks Dept	Rental Facility Fees	Bender Fields Kitchen Rental- 1/2 Day-- weekday	\$75.00	\$80.00	
207	Parks Dept	Rental Facility Fees	Bender Fields Kitchen Rental- 1/2 Day-- weekends	\$95.00	\$100.00	
208	Parks Dept	Rental Facility Fees	Bender Fields Kitchen Rental- Full Day-- weekday	\$115.00	\$120.00	
209	Parks Dept	Rental Facility Fees	Bender Fields Kitchen Rental- Full Day-- weekends/holidays	\$140.00	\$150.00	
210	Parks Dept	Rental Facility Fees	Bender Fields Open Shelter Rental- 1/2 day--weekday	\$60.00	\$60.00	
211	Parks Dept	Rental Facility Fees	Bender Fields Open Shelter Rental- 1/2 day--weekend	\$60.00	\$65.00	
212	Parks Dept	Rental Facility Fees	Bender Fields Open Shelter Rental- Full Day-- weekday	\$85.00	\$85.00	
213	Parks Dept	Rental Facility Fees	Bender Fields Open Shelter Rental- Full Day-- weekends/holidays	\$85.00	\$90.00	
214	Parks Dept	Rental Storage Fees	Storage Unit- per month	\$75.00	\$80.00	
215	Parks Dept	Rental Storage Fees	Storage Unit- per year	\$750.00	\$800.00	
216	Parks Dept	Vendor Fees	Additional Vendor/Concessionaire Fee	\$25/day	\$30/day	
217	Police Dept	Administrative	Fingerprinting - per card	\$0.00	\$0.00	
218	Police Dept	Administrative	CPL lost/replacement license	\$10.00	\$10.00	
219	Police Dept	Administrative	Dog License (spayed or neutered)	\$15.00	\$15.00	
220	Police Dept	Administrative	Dog license (non spayed/neutered)	\$30.00	\$30.00	
221	Police Dept	Administrative	Records/Reports (B&W copies)	.15/page	.15/ page	
222	Police Dept	Administrative	Records/Reports (scanned copies)	.10/page	.10/page	
223	Police Dept	Administrative	Records/Reports (Mailing fee)	Actual cost of postage and shipping material	Actual cost	
224	Police Dept	Administrative	BWC Footage	.48 per minute of footage	.48 per minute of footage	
225	Public Works	Use of Public Space	Downtown Residential Parking Permit	\$240.00 annually	\$300 annually	25% increase
	Public Works	Use of Public Space	Public Sidewalk/Outdoor Dining Application	\$10.00 + \$2.00 per square foot of sidewalk used	\$12.50 + \$2.50 per square foot of sidewalk used	25% increase
226						
227	PW - Airport	User Fee	Residential Access Adjacent Parcels : Month/Year	\$47.25/mo or \$472.50/year	\$50.56/mo or \$505.58/year	7% increase
228	PW - Airport	User Fee	Off Premises Access : Month/Year	\$308.70 (8 or more planes)/\$3,087.00	\$330.31 (8 or more planes)/\$3,303.1	7% increase
229	PW - Airport	User Fee	362 Piper Street (adjacent and in Airport Overlay Zone)	\$47.25/mo or \$472.50/year	\$50.56/mo or \$505.58/year	7% increase
230	PW - Airport	User Fee	366 Piper Street (adjacent and in Airport Overlay Zone)	\$101.85/mo or \$1,018.50/year	\$108.98/mo or \$1,089.80/year	7% increase
231	PW - Airport	User Fee	Vehicle Parking: Daily/Monthly/Yearly	\$7.00/\$35.18/\$347.29 (+ tax)	\$7.49/\$37.64/\$371.60 + tax	7% increase
232	PW - Airport	User Fee	Tie-Down Fees: First night/Each additional/Per Month	\$13.00/\$7.00/\$52.50 (+ tax)	\$13.91/\$7.49/\$56.18 + tax	7% increase
233	PW - Airport	User Fee	Late Payment per month on past due balance (less than \$200/\$200 or greater)	\$11.00/5% of outstanding balance	\$20.00/5% of outstanding balance	\$9 increase
234	PW - Development	Engineering Services	Residential Engineering Review Deposit	\$400/lot ; \$4,000 min.	\$400/lot ; \$4,000 min.	no change
235	PW - Development	Engineering Services	Non Residential Engineering Review Deposit	2% of Civil Const. cost est.; \$6,000 min.	2% of Civil Const. cost est.; \$6,000	no change



236	PW - Development	Engineering Services	Residential Engineering Inspection Deposit	\$500.00/lot; \$10,000 min.	\$500.00/lot; \$10,000 min.	no change
237	PW - Development	Engineering Services	Non Residential Engineering Inspection Deposit	2% of Civil Const cost est. ; \$10,000 min.	2% of Civil Const cost est. ; \$10,000 min.	no change
238	PW - Street	Permit	Fill & Grade Permit	\$100	\$100	no change
239	PW - Street	Permit	Obstruction Permit	\$35	\$35	no change
240	PW - Street	Permit	Vending Permit - fixed place	\$75	\$75	no change
241	PW - Street	Permit	Vending Permit - non fixed place	\$25	\$25	no change
242	PW - Street	Permit	Downtown Residential Parking Permit	\$240.00 annually	\$288 annually	20% fee increase of 2020 rates
	PW - Street	Permit	Public Sidewalk/Outdoor Dining Permit	\$10.00 + \$2.00 per square foot of sidewalk used	\$11.00 + \$2.50 per square foot of sidewalk used	20% fee increase of 2020 rates
243						
244	PW - Utility	Compost	Any Customer < 100 cubic yards per year	\$14/cubic yard	\$15.00/cubic yard	7% increase
245	PW - Utility	Compost	Any Customer 50 - 100 cubic yards per year	\$11/cubic yard		remove fee - capturing this in the next qt
246	PW - Utility	Compost	Any Customer 100+ cubic yards per year	\$8/cubic yard	\$8.50/cubic yard	7% increase
247	PW - Utility	Compost	Double Screened	additional 20% / yard	additional 20% / yard	no change
248	PW - Utility	Compost	Fall Clearance	20% discount / yard	20% discount / yard	no change
	PW - Utility	Utility Services	Sewer/Water Line Inspection	\$35	\$50	\$15 over 2011
249						
250	PW - Utility	Utility Services	Water Disconnect/Reconnect	\$35	\$50	\$15 over 2011
251	PW - Utility	Utility Services	Water Disconnect/Reconnect after hours	\$70	\$100	\$30 over 2011
252	PW - Utility	Utility Services	Water Meter Remove/Reinstall - permitted demo only	new in 2024	meter install fee + FCI differential*	at time of reinstall*
253	PW - Utility	Utility Services	BOD/TSS Field Sample Collection	new in 2024	\$150.00/hr	
254	PW - Utility	Utility Services	City Equipment Operator Labor	\$50/hour	Current Teamsters Contract Rate	Street/Systems Maint. Worker Step C +
255	PW - Utility	Utility Services	City Equipment Rates	Current FEMA Rates	Current FEMA Rates	no change
256	PW - Utility	Utility Services	Outside City Limits Multiplier	x1.5	x1.5	no change

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	2024-2025 Contract Renewal for City Attorney Services	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	2024-2025 Service Agreement	
<b>Summary Statement:</b>	<p>The contract with Carmichael Clark PS is typically reviewed and renewed on a two-year cycle. The current agreement is expiring, and the proposed agreement is included in this packet. The only changes in this agreement are an adjustment to the rates and the list responsible attorneys servicing the agreement.</p>	
<b>Recommended Action:</b>	<p>Make a motion to the approve the new service agreement with Carmichael Clark PS and authorize the mayor to sign and execute the agreement.</p>	



**AGREEMENT FOR LEGAL SERVICES**

**THIS AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Lynden (“City”), a municipal corporation incorporated under the laws of the State of Washington, and Carmichael Clark, P.S. (“CC”), a professional service corporation incorporated under the laws of the State of Washington.

**WHEREAS**, the City has a regular and ongoing need for a variety of legal services as described herein; and

**WHEREAS**, CC provides the kind and nature of legal services as the City needs on a regular basis; and

**WHEREAS**, the parties believe that a contractual relationship for said legal services will be mutually beneficial;

**NOW, THEREFORE, BE IT AGREED** as followed:

- 1. **Scope of Work.** CC shall provide legal services to the City as described in Exhibit A to this Agreement.
- 2. **Designation of City Attorney.** Robert Carmichael, a shareholder of CC, is hereby designated as the City Attorney. As City Attorney, Mr. Carmichael shall be responsible for providing and/or overseeing the provision of legal services described in Exhibit A. Mr. Carmichael shall be consulted prior to any decision by the City to retain or use legal counsel other than CC; provided that, the City shall retain full and final authority to retain and select additional legal services from attorneys or law firms other than CC when the City determines it is in its best interest to do so.
- 3. **Payment.** Upon entry of this Agreement, CC shall provide legal services to the City based on the date ranges and hourly rates set forth in Exhibit B.
- 4. **Duration.** Unless otherwise terminated as set forth in Section 5, this Agreement shall remain in effect for a term of two (2) years. If the City continues to utilize CC for legal services after the term of this Agreement expires, the provision of said services shall be governed by the terms of this Agreement until such time as the relationship is terminated or until a new Agreement is entered.

**Termination. (A) With cause.** This Agreement may be terminated at any time for “just cause,” by either party by providing written notice of said termination to the other party at least ten (10) days prior to the effective date of termination. **(B) Without cause.** This Agreement may be terminated at any time by either party without cause by providing written notice of said termination to the other party at least ninety (90) days prior to the effective date of termination.

5. **Billing.** CC shall submit monthly invoices to the City for actual time spent in furtherance of providing the services described in Exhibit A since the date of the last billing. Time spent will be accounted for in increments of 1/10th of an hour. If the City objects to any portion of the invoice, it shall so notify CC within fifteen (15) days from the date of receipt of the invoice, give reasons for the objection, and pay that portion of the invoice not in dispute. The City shall pay an additional charge of one percent (1%) of the amount of the invoice per month for any payment received by CC more than sixty (60) days from receipt of the invoice; except that, the City shall not be obligated to pay any such additional charge on billings or portions of billings that are being disputed or that are not agreed upon by both parties.
6. **Out-of-pocket expenses.** Costs and expenses associated with in-house photocopies, faxes, local telephone charges, or in-county mileage charges, will be absorbed within the hourly rate and will not be billed to the City. However, other out-of-pocket expenses reasonably incurred in the course of providing legal services hereunder shall be charged to the City and will be itemized on monthly invoices, including without limitation: messenger services, overnight delivery charges, outside photocopying and printing costs, filing fees, deposition and transcript costs, witness fees, charges made by experts and consultants, long distance telephone charges, out-of-county mileage charges, and other like expenses. In all instances, CC shall notify the City prior to incurring any expected significant out-of-pocket expenses.
7. **Relationship of the parties.** The parties intend that an independent contractual relationship will be created by this Agreement. No shareholder, agent, employee, servant or representative of CC shall be deemed to be an employee or servant of the City.
8. **Assignment/subcontracting.** CC shall not assign or subcontract any portion of the work described in Exhibit A without the prior written consent of the City. A change in the firm name only shall not be considered an assignment or affect this Agreement.
9. **Malpractice Insurance.** CC shall furnish to the City and file with the City Clerk and at all times during the existence of this Agreement, maintain in full force and effect, at its own cost and expense, a professional malpractice insurance policy, with a minimum liability of \$1,000,000 per occurrence/ \$2,000,000 aggregate. Failure to maintain coverage with the limits provided herein shall be a material breach of this Agreement and cause for termination at any time. A policy naming the individual CC members, among others named in the policy, shall be considered in compliance with this provision. A Certificate of Insurance containing the aforementioned minimum limits shall be provided to the City prior to the signing of this Agreement. Written notice of cancellation or reduction in coverage shall be delivered to the City thirty (30) days in advance of the effective date thereof. Any company from which said professional malpractice insurance policy is obtained shall be approved by the state insurance commissioner pursuant to Title 48

RCW, and shall have at least an A or an A+ Best Rating.

- 10. **Professional Responsibility.** CC represents that the services provided hereunder shall be performed in a manner consistent with that level of care and skill ordinarily exercised by attorneys in similar endeavors under similar circumstances. No other representations to the City, express or implied, and no warranty or guarantee is included or intended in this Agreement.
- 11. **Governing Law.** This Agreement shall be governed by the laws of the State of Washington.
- 12. **Complete Agreement.** This Agreement constitutes the entire agreement between the City and CC. This Agreement may be modified in writing only, upon mutual agreement of the parties.

**CITY OF LYNDEN**

**CARMICHAEL CLARK, PS**

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Scott Korthius, Mayor

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Robert Carmichael, President

State of Washington )  
                                  ) §  
County of Whatcom )

I certify that I know or have satisfactory evidence that SCOTT KORTHIUS is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Lynden to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the state of Washington.  
My appointment expires: \_\_\_\_\_

State of Washington )  
                                  ) §  
County of Whatcom )

I certify that I know or have satisfactory evidence that ROBERT CARMICHAEL is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as President of Carmichael Clark, P.S. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for the state of Washington.  
My appointment expires: \_\_\_\_\_

**EXHIBIT A**

**SCOPE OF LEGAL SERVICES**

Subject to the proviso in Section 2 of the Agreement, CC shall provide the City with all services necessary to meet its needs for legal counsel and representation. Said services shall include without limitation, providing legal advice to the City Council, Mayor, City Administrator, Planning Commission, and other City officers and employees, representing the City in civil and administrative litigation, representing the City in negotiations with outside entities, reviewing and drafting contracts and ordinances as requested, and prosecution of criminal and traffic offenses.

Robert Carmichael shall act as City Attorney and shall perform the functions and duties generally associated with the position of City Attorney for the City. It is understood that Mr. Carmichael's designation as City Attorney is a material part of this Agreement and that this designation includes ultimate responsibility for carrying out the functions of the City Attorney. Mr. Carmichael will also have primary responsibility for personal attendance at all regular City Council meetings and those special City Council meetings, and other meetings of City officers and employees as requested, but may delegate responsibility for specific tasks, or attendance at specific meetings as appropriate, to other attorneys at CC.

The parties anticipate that CC will continue to utilize a team approach in providing legal services to the City and that other attorneys, in lieu of or in addition to Mr. Carmichael, will also provide such services. In particular, it is expected that Catherine Moore and/or Luke Phifer will be frequently relied upon. Colin Morrow, Bridget Bryck, and others may also assist. CC will seek to provide the City with timely access to CC attorneys with expertise suited to the particular legal matter at hand. The parties anticipate that CC will assign responsibility for the City's municipal criminal and traffic prosecution to Greg Greenan or similarly qualified attorney. In the event that the necessary legal expertise is not available at CC for a particular matter, CC shall so advise the City and shall assist the City in locating outside legal counsel. Under all circumstances, the City shall retain full and final decision-making authority in selecting and retaining outside legal counsel.

**EXHIBIT B**

**HOURLY RATE SCHEDULE - LYNDEN**

**COMMENCING FEBRUARY 16, 2024**

	<u>Time Frame / Rate</u>		
	Current	Feb. 16, 2024 – Feb. 15, 2025	Feb. 16, 2025 - Contract End Date
<b>For partner attorneys work on civil matters:</b>			
Bob Carmichael			
Bryan Page	\$210.00	\$225.00	\$235.00
Greg Greenan			
Others			
Bob Carmichael (or other attorney) <i>(For regular City Council meetings only)</i>	\$175.00	\$185.00	\$195.00
<b>For municipal court prosecution:</b>			
Greg Greenan	\$165.00	\$175.00	\$185.00
Others			
<b>For senior associate attorney work on civil matters:</b>			
Catherine Moore	\$200.00		
Luke Phifer	\$190.00	\$215.00	\$225.00
Colin Morrow	\$190.00		
<b>Other associate attorney work:</b>			
Bridget Bryck, Bryce Vanderyacht and other associates	\$190.00	\$205.00	\$215.00
<b>For paralegal work:</b>	\$90.00	\$100.00	\$100.00

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Res 24-1088 - Update to the Building Valuation Data (BVD) used to Calculate Building Permit Fees	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Community Development	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Draft Res 24-1088		
<b>Summary Statement:</b>		
<p>As the City Council considers fee increases reflected in a comprehensive fee schedule, staff has also drafted an update to the Building Valuation Data (BVD) which is used in a formula to calculate building permit fees.</p> <p>National BVD is updated by the International Code Council (ICC) every 6 months to represent average valuations for various occupancy types including business, residential, educational, etc. The average costs include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical and interior finish material. The City of Lynden then uses these valuations to calculate building permit fees. The valuation table that is currently used by the City reflects 2016 ICC guidance as adopted in 2018. Staff is now proposing an increase to the 2021 guidance to close the gap between the city's adopted valuation data and the current market rate.</p> <p>Res 24-1088 does not propose an increase to the fee formula but only to the minimum value assigned per construction type. If accurate construction costs have been submitted to the city the result will be little to no increase in that portion of permit fees.</p>		
<b>Recommended Action:</b>		
Motion to approve Res 24-1088 updating the minimum building valuation data used to calculate building permit fees and to authorize the Mayor's signature on the resolution.		

RESOLUTION 24-1088

**A RESOLUTION AMENDING RESOLUTION 991 BY AMENDING THE ADOPTED BUILDING VALUE TABLE USED TO CALCULATE BUILDING PERMIT FEES FOR THE CITY OF LYNDEN**

WHEREAS, the City Council of the City of Lynden has determined that it is in the best interest of the city to update building fees to be consistent with current practice and to recoup some of the costs associated with the Building Division services; and

WHEREAS, building value data is used to determine permit fees and serve as a minimum assigned value as determined by building occupancy and construction type; and

WHEREAS, the International Code Council (ICC) provides regular guidance on the average construction costs per square foot; and

WHEREAS, the City of Lynden last updated construction costs in 2018 to reflect the 2016 ICC guidance; and

WHEREAS, construction costs have increased significantly since that time.

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Lynden, that the following Building Valuation Data be amended as follows:

**Section 1: Building Valuation**

Plan Review and Permit Fees are based on the determined valuation of a project, rather than the cost, to ensure permit fees are consistent. Valuation means the estimated total cost of building construction. It is not meant to determine market value of a structure.

The Square Foot Construction Costs in the following table are from the updated August 2021 Building Valuation Data Table provided by the International Code Council (ICC) and represent average valuations for various occupancy types. The average costs include foundation work, structural and nonstructural building components, electrical, plumbing, mechanical and interior finish material.

The charges to Plan Check Fees outlines in the city’s adopted unified fee schedule shall be based on this table unless project valuation submitted by the applicant is higher than the calculated valuation using this table, in which case the City will use the submitted valuation. Construction Type VB shown in this table represents approximately 95% of all building projects in our area; however, the Building Official will refer to the complete ICC 2021 table *for other valuation types* if the project is not Construction Type VB.



**Square Foot Construction Costs** <sup>a, b, c, d</sup>

<b>Group (International Building Code)</b>	<b>Sq Ft Value Assigned (2021 ICC guidance) Construction type: VB* (Unprotected Wood Frame)</b>
A-1 Assembly, theaters, with stage	226.84
A-1 Assembly, theaters, without stage	201.80
A-2 Assembly, nightclubs	174.48
A-2 Assembly, restaurants, bars, banquet halls	173.48
A-3 Assembly, churches	205.57
A-3 Assembly, general, community halls, libraries, museums	159.91
A-4 Assembly, arenas	200.80
B Business	163.65
E Educational	180.09
F-1 Factory and industrial, moderate hazard	85.44
F-2 Factory and industrial, low hazard	84.44
H-1 High Hazard, explosives	NP
H234 High Hazard	76.26
H-5 HPM	163.65
I-1 Institutional, supervised environment	172.87
I-2 Institutional, hospitals	NP
I-2 Institutional, nursing homes	NP
I-3 Institutional, restrained	196.29
I-4 Institutional, day care facilities	172.87
M Mercantile	115.94
R-1 Residential, hotels	175.00
R-2 Residential, multiple family	136.73
R-3 Residential, one- and two- family	148.33
R-4 Residential, care/assisted living facilities	172.87
S-1 Storage, moderate hazard	75.26
S-2 Storage, low hazard	74.26
U Utility, miscellaneous (i.e. Garage, Accessory Bldg >120sf)	59.88

\* refer to complete ICC August 2021 Valuation Table for construction types other than VB

- a. Private Garages use Utility, miscellaneous.
- b. Unfinished basements (all use group) = \$23.20 per sq. ft.
- c. For shell only buildings deduct 20 percent
- d. NP = Occupancy group not permitted under type VB Construction – refer to complete ICC August 2021 Valuation Table

Improvements to Existing Structures

Remodels/Additions/Alterations  
(Residential re-roofing & re-siding – no permit required)

Fee Based on

Owners Construction Cost

<u>Porches/Decks/Patios</u>	<u>Assigned Construction Cost per Sq. Ft.</u>
Covered porch, deck, patio	\$18.00
Open porch, deck, patio, gazebo	\$12.00

Residential Garages and Sheds

These will now be found under "U" in the Table above.

<u>Foundations only</u>	<u>Valuation - per Sq. Ft. or Minimum Fee</u>
Residential Foundation	\$2.40 per sq. ft. or Minimum \$50.00
Industrial and Commercial Foundation	\$3.60 per sq. ft. or Minimum \$100.00
Plan Check Fee	65% of calculated Permit Fee

**Section 2: Plan Check Fees and Fees not based on Building Valuation**

Originally included in Res 991, these fees have now been shifted to the Unified Fee Schedule.

**Section 3:**

The Building Permit Fee Schedule is established as follows:

The following are fees which shall be due based on the building valuation data set forth in Section 1. This Building Permit Fee Schedule of charges shall be used in determining building permit costs and are in addition to any other fees or charges established herein.

<b>TOTAL VALUATION</b>	<b>FEE</b>
\$1.00 to \$500.00	<b>\$23.50</b>
\$501.00 to \$2,000.00	<b>\$23.50</b> for the first \$500.00 plus <b>\$3.05</b> for each additional \$ 100.00 or fraction thereof to and including \$2,000.00
\$2,001.00 to \$25,000.00	<b>\$69.25</b> for the first \$2,000.00 plus <b>\$14.00</b> for each additional \$1,000.00, or fraction thereof to and including \$25,000.00
\$25,001.00 to \$50,000.00	<b>\$391.25</b> for the first \$25,000.00 plus <b>\$10.10</b> for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	<b>\$643.75</b> for the first \$50,000.00 plus <b>\$7.00</b> for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	<b>\$993.75</b> for the first \$100,000.00 plus <b>\$5.60</b> for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$ 1,000,000.00	<b>\$3,233.75</b> for the first \$500,000.00 plus <b>\$4.75</b> for each additional \$ 1,000.00 or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	<b>\$5,608.75</b> for the first \$ 1,000,000.00 plus <b>\$3.65</b> for each additional \$ 1,000.00 or fraction thereof

**Section 4: Other Inspections and Fees**

Originally included in Res. 991, these fees have now been shifted to the City of Lynden Unified Fee Schedule.

**Section 5: Exhibit 1 Mechanical Fees and Plumbing Permit Fees**

Originally included in Res. 991, these fees have now been shifted to the City of Lynden Unified Fee Schedule.

**Section 6: BE IT FURTHER RESOLVED** that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

**Section 7:** If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this resolution and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional, and if, for any reason this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

**Section 8:** This Resolution shall be in full force and effect on February 1, 2024

PASSED by the Lynden City Council by an affirmative vote of \_\_\_\_\_ in favor, and \_\_\_\_\_ in opposition and signed by the mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

APPROVED: \_\_\_\_\_  
Mayor Scott Korthuis

ATTEST: \_\_\_\_\_  
City Clerk Pamela D. Brown

APPROVED AS TO FORM: \_\_\_\_\_  
Bob Carmichael, City Attorney

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Res-24-1090 -Resolution of Intent to Annex – Weg Property, 8634 Double Ditch Rd.	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Community Development	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Res-24-1090 - Resolution of Intent to Annex the Weg Property, Application and Petition to Annex, PC Reso 23-06, TRC Report		
<b>Summary Statement:</b>		
<p>The City Council is being asked to take public comment and make a decision concerning Annexation Application 23-01 representing approximately 45 acres on the northwest edge of the city known as the Weg Property. This area is part of the City’s Urban Growth Area and is slated to be added to the city as a residentially zoned property within the Pepin Creek Subarea. The review of annexations is meant to consider the following:</p> <ol style="list-style-type: none"> <li>1. Whether the City shall accept, reject, or geographically modify the proposed annexation area; and</li> <li>2. Whether the City shall require simultaneous adoption of a proposed zoning regulation consistent with the City Comprehensive Plan and applicable sub-area plan; and</li> <li>3. If such a proposal has been prepared and filed in the area to be annexed as provided for in RCW 35A.14; and</li> <li>4. Whether it shall require the assumption of indebtedness by the area to be annexed.</li> </ol> <p>The Planning Commission held a hearing to consider this item on November 9<sup>th</sup> and recommended approval of the parcel as proposed. The staff of the Technical Review Committee has reviewed this request and developed a corresponding report and recommendation which is attached for the Council’s review. If recommended for annexation the application will be sent for legal review and to the Boundary Review Board for comment prior to a final ordinance of the City Council which would formally annex the property.</p>		
<b>Recommended Action:</b>		
Motion to approve Res-24-1090, a Resolution of Intent to Annex for Annexation Application 23-01 concerning the 45-acre Weg property located at 8634 Double Ditch Road and to authorize the Mayor’s signature on the document.		

CITY OF LYNDEN  
CITY COUNCIL RESOLUTION 24-1090

**A resolution of the Council of the City of Lynden, Washington,  
to approve the Weg Annexation 23-01**

BACKGROUND

WHEREAS, Richard and Carol Weg hereinafter called the “Proponent,” submitted a complete application to the City of Lynden, hereinafter called the “City,” for the annexation of approximately 45.11 acres into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as “the Property”; and

WHEREAS, the Property is legally described as:

*The Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 18, Township 40 North, Range 3 East of W.M.; except the East 75 feet thereof; together with the East 30 feet of the Northeast Quarter of the Southwest Quarter of said Section 18; and*

WHEREAS, the Property’s historical and primary use is agricultural; and

WHEREAS, the Property falls within the Pepin Creek Subarea and per the adopted subarea plan has been slated for future residential development within the zoning category of Residential Mixed Density (RMD); and

WHEREAS, the application was endorsed by more than 60% of the assessed valuation in the proposed annexation area; and

PROCESS

WHEREAS, Northwest Surveying and GPS, Inc, is the agent representing Richard and Carol Weg, submitted an Annexation application (Annex 23-01) which was determined to be complete on October 4, 2023, and the legal notice of application and public hearing was published by the Lynden Tribune on October 18, 2023; and

WHEREAS, the Proponent has provided the City with an affidavit for the posting of the notice of application and public hearing in three locations near the subject property and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, the City’s Technical Review Committee has reviewed the request for the annexation of property and has provided the following findings and recommendations in a report dated November 3, 2023; and

WHEREAS, the Lynden Planning Commission held a public hearing on November 9, 2023, at the Lynden City Hall Annex, 205 4<sup>th</sup> Street, Lynden, Washington, to accept public testimony on the proposed annexation, and that meeting was duly recorded; and

WHEREAS, the Lynden Planning Commission reviewed the proposed application for the annexation of 45.11 acres into the City of Lynden and has provided recommendation to the Lynden City Council in Planning Commission Resolution 23-06; and

WHEREAS, the public interest will be served by this annexation to allow for the accommodation of future growth in an area planned for residential use; and

WHEREAS, the development within the annexed area will be required to make appropriate provisions for public health, safety and general welfare; and

WHEREAS, development within the annexed area must provide appropriate provisions for public open spaces, roads, streets, sidewalks and alleys as described in the City of Lynden Comprehensive Plan, the Pepin Creek Subarea Plan, the Transportation Element, and the Lynden Municipal Code; and

WHEREAS, development within the annexed area must make appropriate provisions for public drainage ways, potable water supplies, and sanitary waste and development here will be required to provide extensions of public utilities; and

WHEREAS, development within the annexed area must make appropriate provisions for parks, recreation playgrounds, schools and school grounds; and

WHEREAS, the proposed annexation will not have an adverse effect on the finances, debt structure, or contractual obligations and rights of other governmental units, except for the associated reduction in the Whatcom County tax base; and

WHEREAS, the proposed annexation shall be taxed or assessed to pay its share of any indebtedness of the City of Lynden, Washington, contracted prior to or existing at the date of this annexation, and

WHEREAS, the proposed annexation is logically served by the City of Lynden and will therefore preserve logical service areas; and

WHEREAS, the proposed annexation will concentrate urban development within the city limits and thereby reduce sprawl, consistent with objectives of the Growth Management Act; and

WHEREAS, adequate governmental services and controls in the proposed annexation area can be most efficiently provided by the City of Lynden.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1.01 Application. Northwest Surveying and GPS, Inc, (“Applicant”) filed an annexation application which was accepted by the City as complete on October 4, 2023.

1.02 Location. The Property is located at 8634 Double Ditch Road in Lynden, Whatcom Co., Washington as described above.

1.03 Ownership. Richard and Carol Weg.

1.04 Reason for Request. The request is for the annexation of property for future residential development and to help facilitate the future construction of the relocated Pepin Creek channel.

1.05 Critical Area Review. Critical area review will be done at time of development

1.06 SEPA Determination. A formal notice of the SEPA Determination will be made at the time of a property development application.

1.07 Findings from Annex 23-01 Incorporated Herein. All Findings of Fact from Annex 23-01 are incorporated herein by this reference. If there is a conflict between any of the Findings of Fact in Annex 23-01, the Findings of Fact outlined in this document shall apply.

1. The subject property is located within the City of Lynden’s Urban Growth Area (UGA) and has been determined by the City to be an appropriate location for future multi-family residential development. Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan.
3. The area of annexation falls within the Pepin Creek Sub-area. Future development is subject to the Pepin Creek Sub-area plan as well as applicable development standards and associated impact fees.
4. The RMD zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. Current development regulations dictate a minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.
5. Critical area setbacks related to the existing and proposed Double Ditch / Pepin Creek channel will be applied as described in the City’s critical area ordinance.
6. The area is within the City’s water and sewer comprehensive plans. All water and sewer extensions shall be made in accordance with these adopted plans. Future development will be required to contribute toward the costs of any required pump stations which are needed to ensure adequate service to the area of annexation.

- 7. Stormwater: This area is within the City’s Stormwater Comprehensive Plan. A stormwater management plan prepared by a professional engineer will be required for new development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary. All plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
- 8. This area is within the City’s Transportation Plan. Future development will be required to develop roadway networks consistent with this plan.
- 9. Future development will be subject to assessed fees in order to mitigate the impact on the City’s Park, Fire, and Transportation Systems. Some of these fees are due at the time of plat while others are assessed at the time of building permit. This property is also located within the Pepin Creek Service Area which has an additional Transportation Impact Fee due to infrastructure needs in this section of the City.

CONCLUSIONS OF LAW

2.01 Appropriate Provisions Made for Open Spaces, Roads, Streets, Sidewalks, and Alleys. Future development applications will make appropriate provisions for public open spaces, roads, streets, sidewalks, and alleys consistent with the City’s Comprehensive Plan, the Pepin Creek Sub-area Plan, and the Transportation Element.

2.02 Potable Water Supplies, Sanitary Wastes and Drainage Ways. Future development applications will make provisions for public drainage ways, potable water supplies, and sanitary wastes.

2.03 Public Interest. The application is consistent with the City’s comprehensive plan and the Growth Management Act as it will provide opportunities for future residential inventory accommodating expected population growth.

2.04 Appropriate Provisions for Promoting Public Health, Safety and Welfare. Future development applications will make appropriate provisions for promoting Public Health, Safety and Welfare.

2.06 Conclusions from Annex 23-01 Incorporated Herein. All Conclusions and Conclusions of Law from Annex 23-01 are incorporated herein by this reference to the extent not inconsistent with the above Conclusions of Law. If there is a conflict between any of the above Conclusions of Law and the Conclusions of Law or Conclusions in Annex 23-01, the above Conclusions of Law shall control.



Any of the foregoing Finding of Fact which should rather have been designated Conclusions of Law, and Conclusions of Law which should rather have been designated Findings of Fact, shall be validated as such and so conformed.

The foregoing recitals are a material part of this Decision.

**NOW THEREFORE, BE IT RESOLVED** by the Lynden City Council to approve Annex 23-01 concerning the Weg Annexation under the conditions set forth herein. The final determination and associated findings and conditions of this Intent to Approve are fully incorporated herein by this reference.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF \_\_\_\_\_ IN FAVOR, \_\_\_\_\_ AGAINST, SIGNED THIS \_\_\_\_\_ DAY OF JANUARY 2024.

MAYOR

\_\_\_\_\_  
Scott Korthuis, Mayor

ATTEST:

\_\_\_\_\_  
Pam Brown, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Bob Carmichael, City Attorney

# CITY OF LYNDEN

## ANNEXATION APPLICATION



*City of Lynden use only:*  
 Annexation # 23-01      Staff Initials: KJ

### Property Information

Application is hereby made for annexation to the City of Lynden of the property described as follows. Please provide a complete legal description, parcel numbers for all parcels involved as well as a common description of the property to be annexed (attach a separate sheet if necessary).

400318 365/228 0000  
 8634 Double Ditch Road

Property dimensions 1935 x 1340 = 45.11 <sup>- 5 acres = 2</sup>  square feet  acres

Current Zoning Designation (County): UGA

City Zoning Designation (Once Annexed): RM-PC

### Application Information

Applicant Name: Richard & Carol Weg

Address: 8634 Double Ditch Road

Telephone Number: 360-483-8232 E-mail Address: wegwaydairy@aol.com

\*\*\*\*\*

By signing this application, I certify that all the information submitted is true and correct.

Applicant's Signature: Carol E. Weg Date: 01-13-2023



**PETITION FOR ANNEXATION TO THE CITY OF LYNDEN**

To the Honorable City Council of Lynden, Washington:

We, the undersigned, being the owners of the lands described below, and being the registered voters residing in the area for which the annexation is petitioned, which property is contiguous and adjacent to the incorporated City of Lynden, Washington, do hereby request that the Lynden City Council incorporate the real estate described below into the City of Lynden and annex the same thereto as part of the City of Lynden.

Legal Description: Parcel contains approximately 45.11 acres.

The Northwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of the Northeast quarter of Section 18, Township 40 North, Range 3 East of W.M., except the East 75-feet thereof; less roads. Situate in Whatcom County, Washington.

Commonly Known As: 8634 Double Ditch Road, Lynden

The request to circulate this Petition for Annexation was presented to the Lynden City Council at their regularly scheduled meeting held on February 21, 2023 and the request was favorably granted;

Consistent with the City of Lynden Comprehensive Plan we petition that the property be annexed into the City with an RMD (Residential Mixed Density) designation and that the property to be annexed be required to assume the existing city indebtedness

We, the undersigned, have subscribed our names hereto and request that the Lynden City Council annex the above described property to the City of Lynden, Whatcom County, Washington.

**Warning**

Every person who signs this petition with other than his or her true name, or who knowingly signs more than one of these petitions seeking an election when he or she is not a legal voter, or signs when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

Tax Parcel ID 400318-365228

8634 Double Ditch Road

Richard Weg  
Signature                      7/29/23  
Date

Richard Weg  
Printed Name

Carol E. Weg 7-29-23  
Signature                      Date

Carol Weg  
Printed Name



REQUEST TO CIRCULATE  
PETITION OF ANNEXATION TO THE CITY OF LYNDEN

To: The Honorable City Council of Lynden, Washington

We, the undersigned being the owners of more than 10 percent (10%) in value according to the assessed valuation for general taxation of the property hereinafter described, and which property is contiguous and adjacent to the incorporated City of Lynden, Washington, do by these presents, request that the Lynden City Council allow us to circulate a petition of annexation to incorporate said real estate in to the city limits of the City of Lynden and annex the same thereto as part of the City of Lynden.

The legal description of the property which we request the ability to circulate the petition of annexation is as follows:

The Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 18, Township 40 North, Range 3 east of W.M., except the East 75 feet thereof; less roads.

We have subscribed our names hereto and request that the Lynden City Council allow us to circulate a Petition of Annexation to the City of Lynden, Whatcom County, Washington, that is consistent with the request made herein.

Dated this 26<sup>th</sup> day of January, 2023.

By: Carol Weg 400318 365/228 0000  
Print Name Parcel Number

Carol Weg  
Signature

Richard Weg

Rick Weg

# Whatcom County Assessor & Treasurer

## Property Search Results > 180174 RICHARD D & CAROL E WEG for Year 2022 - 2023

### Property

#### Account

Property ID:	180174	Abbreviated Legal Description:	NW SE-SE SW NE-EXC E 75 FT THEREOF-LESS RD
Parcel # / Geo ID:	4003183652280000	Agent Code:	
Type:	Real		
Tax Area:	4031 - 504 R L F21 C10 LPR	Land Use Code	83
Open Space:	Y	DFL	N
Historic Property:	N	Remodel Property:	N
Multi-Family Redevelopment:	N		
Township:	T40N	Section:	18
Range:	R03E	Legal Acres:	45.1100

#### Location

Address:	8634 DOUBLE DITCH RD LYNDEN, WA	Mapsc0:	
Neighborhood:	2240011000 SFR-AC	Map ID:	2JMS_L-518
Neighborhood CD:	2240011000		

#### Owner

Name:	RICHARD D & CAROL E WEG	Owner ID:	498345
Mailing Address:	8634 DOUBLE DITCH RD LYNDEN, WA 98264-9794	% Ownership:	100.0000000000%
		Exemptions:	

### Pay Tax Due

#### Taxes and Assessment Details

#### Values

(+) Improvement Homesite Value:	+	\$0	
(+) Improvement Non-Homesite Value:	+	\$509,506	
(+) Land Homesite Value:	+	\$0	
(+) Land Non-Homesite Value:	+	\$32,504	
(+) Curr Use (HS):	+	\$0	\$0
(+) Curr Use (NHS):	+	\$1,347,122	\$76,251
<hr/>			
(=) Market Value:	=	\$1,889,132	
(-) Productivity Loss:	-	\$1,270,871	
<hr/>			
(=) Subtotal:	=	\$618,261	
(+) Senior Appraised Value:	+	\$0	
(+) Non-Senior Appraised Value:	+	\$618,261	
<hr/>			
(=) Total Appraised Value:	=	\$618,261	
(-) Senior Exemption Loss:	-	\$0	
(-) Exemption Loss:	-	\$0	
<hr/>			
(=) Taxable Value:	=	\$618,261	

#### Map List

#### Taxing Jurisdiction

#### Improvement / Building

#### Sketch

#### Property Image

#### Land

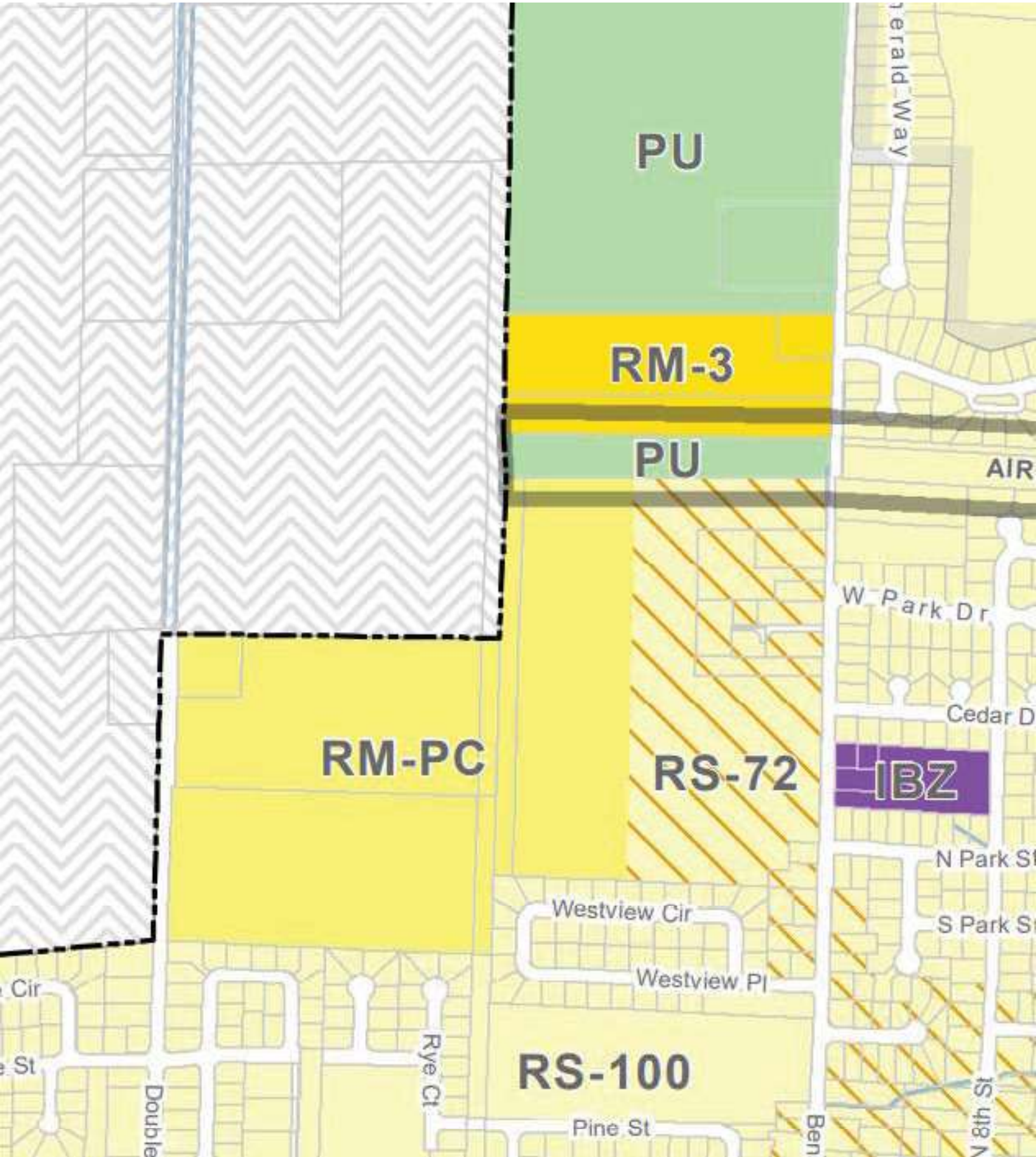
#### Roll Value History

#### Deed and Sales History

#### Payout Agreement

[Assessor Home](#)

[Treasurer Home](#)

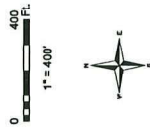




TOWNSHIP: 40  
RANGE: 03  
SECTION: 18  
MAP NO.: 01

KEY MAP:

12	07	08
13	18	17
24	19	20



Legend:

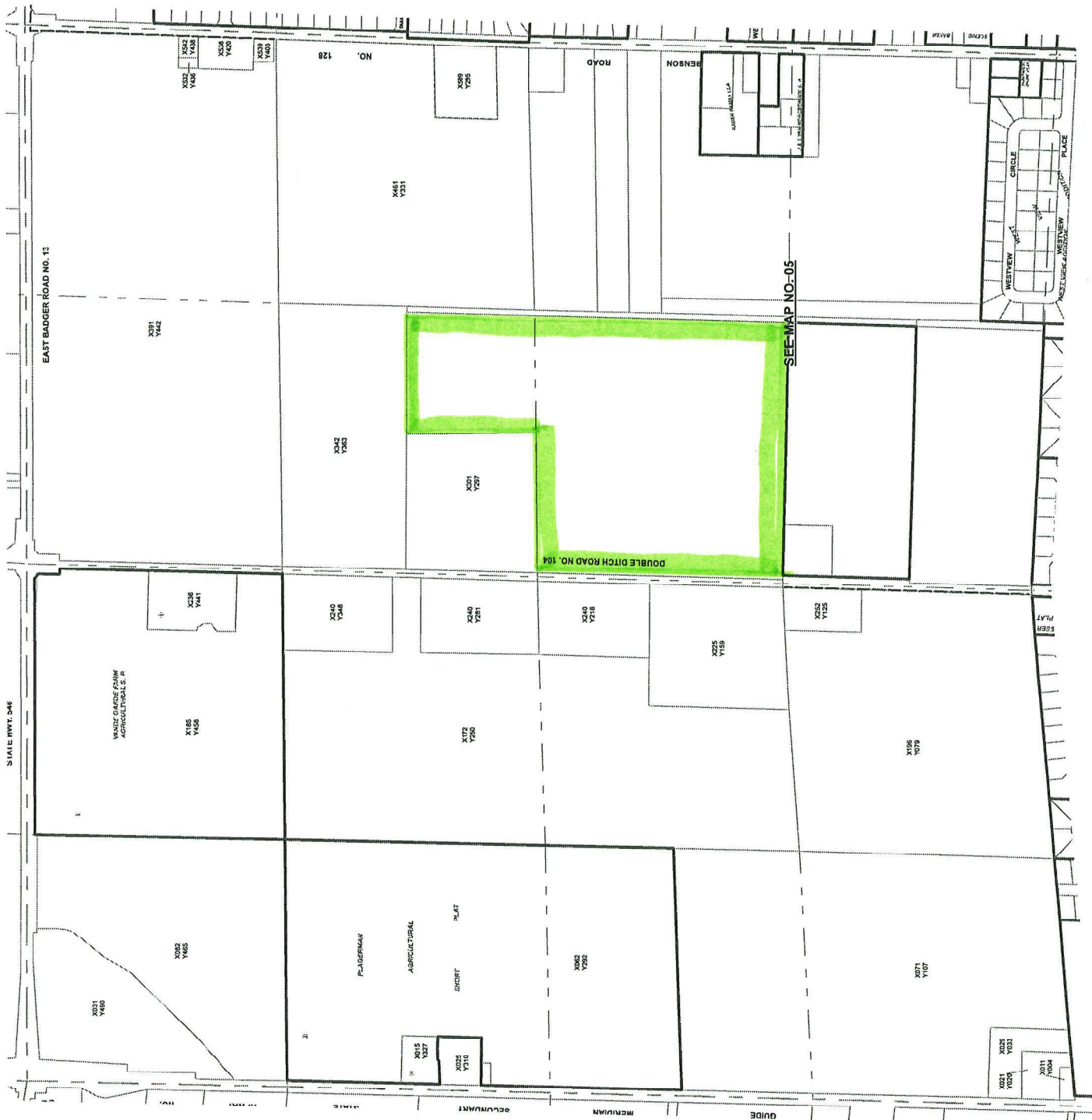
- Tax Parcels
- Plats
- Lots
- Section Lines
- Qt. Section Lines
- City Limits
- Annexations
- Railroads
- Pipelines
- Waterlines
- Waterbodies\*

Whatcom County Assessor's Office  
Jan. 03, 2023

This map is for assistance in property location and not guaranteed for accurate measurements.

Geographic Parcel Numbers (GPN) are a 7-digit number derived from a combination of the township, range, section, and lot or block number of the parcel. The first two digits plus four trailing zeros. The trailing zeros are used to identify the parcel within the same location as the primary parcel, such as a condo unit or a mobile home.

\*Waterbodies provided for reference only; has not been verified by Assessor.









# National Flood Hazard Layer FIRMette



122°28'45"W 48°57'30"N

**Legend**  
SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

**SPECIAL FLOOD HAZARD AREAS**

- Without Base Flood Elevation (BFE) Zone A, V, A99
- With BFE or Depth Zone AE, AO, AH, VE, AP
- Regulatory Floodway

**OTHER AREAS OF FLOOD HAZARD**

- 0.2% Annual Chance Flood Hazard, Area of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile (Zone X)
- Future Conditions 1% Annual Chance Flood Hazard (Zone X)
- Area with Reduced Flood Risk due to Levee. See Notes. (Zone X)
- Area with Flood Risk due to Levee (Zone D)

**OTHER AREAS**

- NO SCREEN
- Area of Minimal Flood Hazard (Zone X)
- Effective LOMRS
- Area of Undetermined Flood Hazard (Zone X)

**GENERAL STRUCTURES**

- Channel, Culvert, or Storm Sewer
- Levee, Dike, or Floodwall

**OTHER FEATURES**

- Cross Sections with 1% Annual Chance Water Surface Elevation
- Coastal Transect
- Base Flood Elevation Line (BFE)
- Limit of Study
- Jurisdiction Boundary
- Coastal Transect Baseline
- Profile Baseline
- Hydrographic Feature

**MAP PANELS**

- Digital Data Available
- No Digital Data Available
- Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **1/27/2023 at 2:11 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

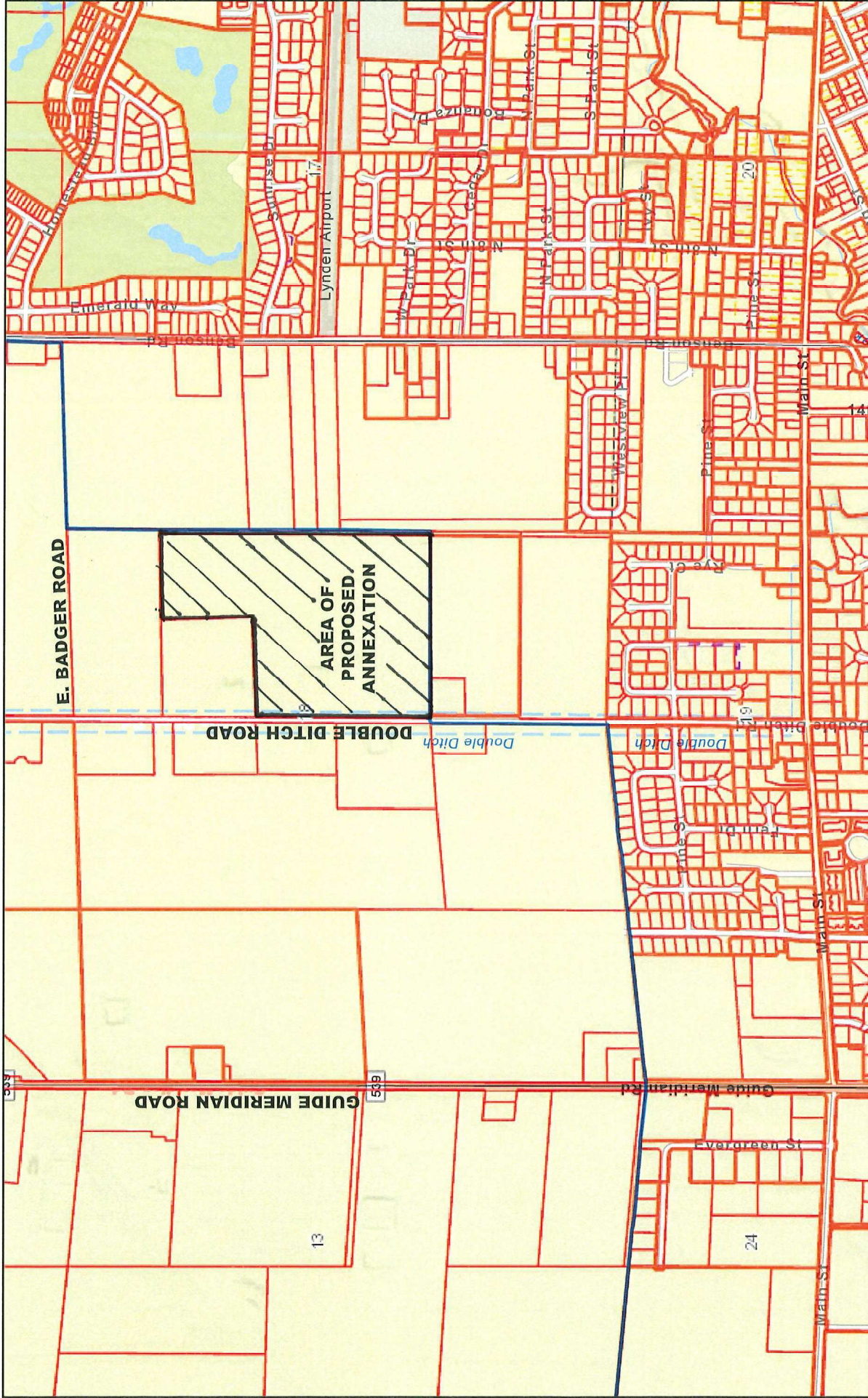
This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifier, FIRM panel number, and FIRM effective date. Map imagery unmapped and unmodernized areas cannot be used for regulatory purposes.









122°28'8"W 48°57'6"N



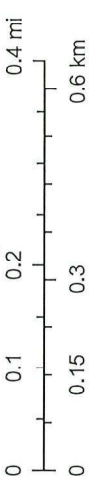
# EXHIBIT A



1/23/2023, 11:17:07 AM

-  Subdivisions
-  Lots
-  Encumbrances
-  Tax Parcels
-  Sections
-  City Boundaries

1:18,056



Whatcom, Esri, NASA, NGA, USGS, FEMA, Esri Community Maps Contributors, Whatcom County, WA State Parks GIS, Esri, HERE, Garmin,

Esri, NASA, NGA, USGS, FEMA | Esri Community Maps Contributors, Whatcom County, WA State Parks GIS, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc, MET/NASA, USGS, Bureau of Land Management, EPA, NPS, US

## Chapter 19.17 RM MULTIFAMILY BUILDING ZONES

### Sections:

- 19.17.010 Purpose and Zones Established
- 19.17.020 Primary Permitted Uses
- 19.17.030 Accessory Permitted Uses
- 19.17.040 Secondary Permitted Uses
- 19.17.050 Conditional Property Uses
- 19.17.060 Height, Area, Setback, and Bulk Requirements
- 19.17.070 (Reserved)
- 19.17.080 (Reserved)
- 19.17.090 (Reserved)
- 19.17.100 Design Review Board

### 19.17.010 Purpose and zones established.

The goal is to allow flexibility in site and design standards while promoting infill projects compatible with existing multi-family developments.

Five multi-family zones are established:

RM-1, Residential Multi-Family 1 zone; (up to 2 units/building)

RM-2, Residential Multi-Family 2 zone; (up to 4 units/building)

RM-3, Residential Multi-Family 3 zone; (up to 12 units/building)

RM-4, Residential Multi-Family 4 zone; (up to 30 units/building)

RM-PC, Residential Multi-Family Pepin Creek zone; (up to 4 units/building and sometimes up to 8 units/building)

- A. Use of Low Impact Development Techniques. When an application for multi-family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:
  - 1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
  - 2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
  - 3. The proposed development integrates with the character of the neighborhood;





**WHATCOM COUNTY ASSESSOR  
CERTIFICATE OF SUFFICIENCY**

**RCW 35A.01.040**

I, *Rebecca Xczar*, Whatcom County Assessor, pursuant to RCW 35A.01.040 (9), do hereby certify that I have received the Weg Annexation Petition by Notice of Intent filed with the City of Lynden and received on August 30, 2023. I further certify that said petition contains valid signatures of property owners of not less than sixty percent (60%) in value according to the assessed valuation for general taxation of the property for which annexation is petitioned as required by RCW 35A.14.120.

Terminal Date: November 14, 2023

  
\_\_\_\_\_  
Rebecca Xczar  
Whatcom County Assessor

11/14/23  
Date

CITY OF LYNDEN  
PLANNING COMMISSION RESOLUTION #23-06

**A resolution of recommendation to the Lynden City Council for approval of the  
Weg Annexation #23-01**

WHEREAS, Richard and Carol Weg hereinafter called the “Proponent,” submitted a complete application to the City of Lynden, hereinafter called the “City,” for the annexation of approximately 45.11 acres into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as “the Property”; and

WHEREAS, the Property is legally described as:

*The Northwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 18, Township 40 North, Range 3 East of W.M.; except the East 75 feet thereof; together with the East 30 feet of the Northeast Quarter of the Southwest Quarter of said Section 18; and*

WHEREAS, the Property is within the City’s Urban Growth Boundary, identified in the Lynden Comprehensive Plan, and may be annexed under RCW 35A.14.110; and

WHEREAS, the Property falls within the Pepin Creek Subarea and per the adopted subarea plan has been slated for future residential development within the zoning category of Residential Mixed Density (RMD); and

WHEREAS, the application was endorsed by more than 60% of the assessed valuation in the proposed annexation area; and

WHEREAS, the City notified the Proponent of the application’s completeness on October 4, 2023, and the legal notice of application and public hearing was published by the Lynden Tribune on October 18, 2023; and

WHEREAS, the Proponent has provided the City with an affidavit for the posting of the notice of application and public hearing in three locations near the subject property and the receipts for the certified mailing of said notice to all property owners within three hundred feet of the subject property; and

WHEREAS, upon annexation, the property will be zoned Residential Mixed Density (RMD); and

WHEREAS, the public interest will be served by this annexation to allow for the accommodation of future growth in an area planned for residential use; and

WHEREAS, the development within the annexed area will be required to make appropriate provisions for public health, safety and general welfare; and

WHEREAS, development within the annexed area must provide appropriate provisions for public open spaces, roads, streets, sidewalks and alleys as described in



the City of Lynden Comprehensive Plan, the Pepin Creek Subarea Plan, the Transportation Element, and the Lynden Municipal Code; and

WHEREAS, development within the annexed area must make appropriate provisions for public drainage ways, potable water supplies, and sanitary waste and development here will be required to provide extensions of public utilities; and

WHEREAS, development within the annexed area must make appropriate provisions for parks, recreation playgrounds, schools and school grounds; and

WHEREAS, the proposed annexation will not have an adverse effect on the finances, debt structure, or contractual obligations and rights of other governmental units, except for a small reduction in the Whatcom County tax base; and

WHEREAS, the proposed annexation shall be taxed or assessed to pay its share of any indebtedness of the City of Lynden, Washington, contracted prior to or existing at the date of this annexation, and

WHEREAS, the proposed annexation is logically served by the City of Lynden and will therefore preserve logical service areas; and

WHEREAS, the proposed annexation will concentrate urban development within the city limits and thereby reduce sprawl, consistent with objectives of the Growth Management Act; and

WHEREAS, adequate governmental services and controls in the proposed annexation area can be most efficiently be provided by the City of Lynden; and

WHEREAS, the City’s Technical Review Committee has reviewed the request for the annexation of property and has provided the following findings and recommendations to the Planning Commission in a report dated November 3, 2023:

1. The subject property is located within the City of Lynden’s Urban Growth Area (UGA) and has been determined by the City to be an appropriate location for future multi-family residential development. Upon annexation, the property will be zoned as RMD. There are no other land use issues identified at this time.
2. This application does not include a development proposal therefore, it is important to note that any future development of the properties will require a new application and review process. Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan.
3. The RMD zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. It will allow flexible use of density as it permits both single-family and duplex housing types on a range of lot sizes with attached (zero lot line) units on lots as small as 4,000 square feet. The minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.

4. The area of annexation falls within the Pepin Creek Sub-area. Future development is subject to the Pepin Creek Sub-area plan as well as applicable development standards and associated impact fees.
5. Critical area setbacks related to the existing and proposed Pepin Creek channel will be applied as outlined in the City's critical area ordinance.
6. The area is within the City's water and sewer comprehensive plans. All water and sewer extensions shall be made in accordance with these adopted plans. Future development will be required to contribute toward the costs of the proposed pump station 18, which is needed to ensure adequate service to the area of annexation.
7. Stormwater: This area is within the City's Stormwater Comprehensive Plan. Be advised, a stormwater management plan prepared by a professional engineer will be required for new development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary. All plans must be designed and constructed in compliance with the Department of Ecology's Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
8. This area is within the City's Transportation Plan. Future development will be required to develop roadway networks consistent with this plan.
9. Future development will be subject to assessed fees in order to mitigate the impact on the City's Park, Fire, and Transportation Systems. Some of these fees are due at the time of plat while others are assessed at the time of building permit. Also, this property is located within the Pepin Creek Service Area which has an additional Transportation Impact Fee due to infrastructure needs in this section of the City.

WHEREAS, the Lynden Planning Commission held a public hearing on November 9, 2023, at the Lynden City Hall Annex, 205 4<sup>th</sup> Street, Lynden, Washington, to accept public testimony on the proposed annexation, and that meeting was duly recorded;

WHEREAS, the Lynden Planning Commission reviewed the criteria listed in LMC 17.09.040(C) and found that the application meets the requirements relevant to the proposal.

NOW THEREFORE, the Planning Commission having reviewed the recommendations of the Technical Review Committee makes the following findings of fact:

1. The requested annexation is located within the City of Lynden's Urban Growth Area and is therefore eligible for annexation; and
2. The zoning identified for the annexation is consistent with the area and the Comprehensive Plan.



BE IT RESOLVED by the Lynden Planning Commission to recommend approval of the *Weg Annexation #23-01*, to the City Council as requested, by a vote of 6-0, and further subject to the Technical Review Committee Report dated November 3, 2023.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their regular meeting held the 9th day of November 2023.

  
\_\_\_\_\_  
Tim Faber, Chair  
Lynden Planning Commission

  
\_\_\_\_\_  
Heidi Gudde, Director  
Community Development Department



# CITY OF LYNDEN



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT  
Heidi Gudde, Director  
360-354-5532

## PLANNING COMMISSION MEETING MINUTES

7:00 PM November 9, 2023  
City Hall Annex

### 1. CALL TO ORDER

### 2. ROLL CALL

Present: Khush Brar, Tim Faber, Darren Johnson, Jim Kaemingk, Hollie Lyons and Blair Scott

Absent: None

Staff Present: Gudde, Planning Director and Samec, Planner

### 3. APPROVAL OF MINUTES

A. October 26, 2023 Scott / Faber / 2<sup>nd</sup> 4-0

### 4. DECLARATION OF CONFLICT

None of the Commissioners reported any ex-parte contact or conflict of interest.

### 5. PUBLIC HEARING

A. Weg Annexation – Annx #23-01, 8634 Double Ditch Road

Gudde addressed the Commission and gave a brief overview of the application and annexation process.

Gudde stated that the item before the Commission this evening is concerning the annexation of approximately 45.11 acres at the northwest edge of the city. This area is part of the City's Urban Growth Area and is slated to be added to the city as residentially zoned property.

The TRC report highlights the following:

Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan. This zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. It will allow flexible use of density as it permits both single-family and duplex housing types on a range of lot sizes with attached (zero lot line) units on lots as small as 4,000 square feet. The minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.

Across the city there are, or are slated to be, approximately 263 single family residential lots available and approximately 477 multi-family units, which include the recent projects of Lions Gate PRD, Kamm Creek PRD, Kode Kamp Vista, Cascade Flats, Towns Edge Apartments, City Gate Mixed Use and Riverwalk.

There are a number of small subdivisions representing infill projects throughout the city that will also supply additional single family home lots. Together these numbers represent about four years' worth of residential construction as the city has seen an average of 77 single-family units and an average of 80 attached multi-family units annually.

It should be noted that there is often a significant delay between the annexation of property and the provision of services and development of property. Additionally, due to the complexity of design and development within the Pepin Creek Sub-Area, time will be needed to address stormwater challenges and accommodate significant infrastructure improvements.

This annexation does not include a development proposal and any future development of the site will require a new application and review process.

Policy 2E of the Comprehensive Plan reads as follows: "The City of Lynden will maintain a lot inventory, or land supply, sufficient for five years of growth, at the densities designated through the Comprehensive Plan. The City will also focus on the Boundary Review Board criteria for the recommendation of future annexations as well the issues of capital improvements and financing. Where the establishment of a logical boundary may cause the City to exceed the necessary acreage for the adopted land supply, the City will phase the zoning for development in order to maintain the five year supply of land zoned appropriately for development.

It is also important that the Commission's review of the annexation considers the following:

1. Whether the City shall accept, reject or geographically modify the proposed annexation area; and
2. Whether the City shall require simultaneous adoption of a proposed zoning regulation consistent with the City Comprehensive Plan and applicable sub-area plan; and
3. If such a proposal has been prepared and filed in the area to be annexed as provided for in RCW 35A.14.330 and RCW 35A.14.340; and
4. Whether it shall require the assumption of indebtedness by the area to be annexed.

Heather Mussard, Northwest Surveying and GPS, Project Applicant

Mussard stated that they are representing Richard and Carol Weg. The Weg's have 45-acres in the UGA that abut the city limits. To date, the Weg's have no plans to develop the property. Mussard stated that the applicants are in agreement with the TRC Report.

The Commission asked about the Pepin Creek Sub-Area Plan specifically regarding the scope, the proposed increase in traffic once development takes place, the increase in population in that area and what the ditches will look like. Gudde stated that currently the City is working on getting federal grants for the design. Due to the complexity of design and development within the Pepin Creek Sub-Area, time will be needed to address stormwater challenges and accommodate significant infrastructure improvements before development occurs. As a reminder, the Planning Commission and City Council will see development plans and applications as they come forward which will provide a better understanding of the plans and required improvements.

There was brief discussion regarding that Double Ditch will look like once the creek is relocated to the east. That portion of Double Ditch will no longer be fish bearing and will become stormwater pipes which can be overlaid and improved to sidewalks and bike lanes.

There was also brief discussion regarding the increase in population that will come from this area being developed vs. having enough room in the schools. Gudde stated that the school district is always aware of growth plans within the UGA and City and calculates student generation rates. The school district has its own planning committee that decides how to approach growth and other important plans.

Faber stated that nothing happens overnight. A lot of time and planning goes into development, and it is good to see the residential construction numbers as outlined in the TRC Report. Gudde stated, as noted in Policy 2E of the Comprehensive Plan, "The City of Lynden will maintain a lot inventory, or land supply, sufficient for five years of growth, at the densities designated through the Comprehensive Plan. The City is also required to meet mandates to help with the housing crisis.

**Johnson motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 6-0.**

The Commission reviewed the analysis for annexation:

1. Whether the City shall accept, reject or geographically modify the proposed annexation area?
2. Whether the City shall require simultaneous adoption of a proposed zoning regulation consistent with the City Comprehensive Plan and applicable sub-area plan?
3. If such a proposal has been prepared and filed in the area to be annexed as provided for in RCW 35A.14.330 and RCW 35A.14.340?

4. Whether it shall require the assumption of indebtedness by the area to be annexed?

The Commission also reviewed the 6 criteria listed under 17.09.040 (C).

1. The development is consistent with the comprehensive plan and meets the applicable requirements and intent of this code. **Yes, this area is included in the UGA for future growth.**

2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds. **N/A**

3. The development adequately mitigates impacts identified under Titles 16 through 19. **Yes.**

4. The development is beneficial to the public health, safety and welfare and is in the public interest. **Yes.**

5. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the comprehensive plan, and fully complies with Chapter 17.15 of the city code. **N/A.**

6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development. **N/A.**

No further comments from the Commission.

**Kaemingk motioned to recommend to the City Council the annexation of the Weg Property as represented in Annexation Application #23-01, subject to the Technical Review Committee Report dated November 3, 2023. Seconded by Scott, and the motion passed 6-0.**

No December meeting.

## **6. ADJOURNMENT**

**Motion to adjourn by Johnson / Second by Kaemingk. Meeting adjourned at 8:30 PM**

# CITY OF LYNDEN



## TECHNICAL REVIEW COMMITTEE Development Project Report

Date Issued:	October 30, 2023, Revised Nov. 3, 2023
Project Name:	Weg Annexation (23-01)
Applicant:	Northwest Surveying & GPS, Inc.
Property Owners:	Richard and Carol Weg
Site Address:	8634 Double Ditch Road
Parcel Number:	400318-365228
Zoning Designation:	RMD upon annexation
Application Type:	Annexation
Parcel Size:	45.11 acres
Hearing Type:	Legislative
Hearing Objective:	To determine whether the timing is appropriate for the inclusion of said parcel within the city's corporate limits.
Date application determined complete:	October 4, 2023
Date of Publication:	October 18, 2023
SEPA Determination:	N/A
Project Description:	The annexation of property for future residential development and to help facilitate the future construction of the relocated Pepin Creek channel.

The subject property is located within Lynden's urban growth area (UGA). The site has been determined by the City to be appropriate for future residential development and for the future construction of Pepin Creek.

Annexation Analysis. The City of Lynden considers the following at the time of annexation.

- 1. Whether the City shall accept, reject or geographically modify the proposed annexation area;***

TRC Review:

The Technical Review Committee is recommending acceptance of the annexation area as proposed which represents a single parcel that is contiguous with city boundaries on both the south and east sides.

**2. Whether the City shall require simultaneous adoption of a proposed zoning regulation consistent with the City Comprehensive Plan and applicable sub-area plan;**

TRC Review:

The Technical Review Committee is recommending simultaneous adoption of zoning regulation as outlined in the Pepin Creek Sub-Area Plan.

**3. If such a proposal has been prepared and filed in the area to be annexed as provided for in RCW 35A.14.330 and RCW 35A.14.340;**

TRC Review:

RCW 35A.14.330 recognizes that the City of Lynden, upon annexation, has the authority to assign development standards to the subject piece of property with the expectations that “all such regulations and restrictions are designed to encourage the most appropriate use of land throughout the area to annexed. to lessen traffic congestion and accidents; to secure safety from fire; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to promote a coordinated development of the unbuilt areas; to encourage the formation of neighborhood or community units; to secure an appropriate allotment of land area in new developments for all the requirements of community life; to conserve and restore natural beauty and other natural resources; to facilitate the adequate provision of transportation, water, sewerage and other public uses and requirements.”

RCW 35A.14.340 requires cities to follow appropriate notice and hearing procedure. The notice in this case includes a notice of application as well as a notice of hearing. These have been completed as required by State and City code.

**4. Whether it shall require the assumption of indebtedness by the area to be annexed.**

TRC Review:

The subject property does not include indebtedness such as an assessment associated with major infrastructure projects however it will require the City of Lynden to assume responsibility for the entire portion of Double Ditch Road and the associated drainage systems within the right-of-way for the length fronting the subject property. Additionally, the annexation of the property will shift Police and Fire jurisdiction from Whatcom County services to City of Lynden Services.

Policy regarding these responsibilities and growth, in light of the Comprehensive Plan Policy 2E discussed below.

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Policy 2E of the Comprehensive Plan reads as follows: ***“The City of Lynden will maintain a lot inventory, or land supply, sufficient for five years of growth, at the densities designated through the Comprehensive Plan. The City will also focus on the Boundary Review Board criteria for the recommendation of future annexations as well the issues of capital improvements and financing. Where the establishment of a logical boundary may cause the City to exceed the necessary acreage for the adopted land supply, the City will phase the zoning for development in order to maintain the five year supply of land zoned appropriately for development.”***

The Community Development Department can report that across the city there are, or are slated to be, approximately 263 single family residential lots available and approximately 477 multi-family units, which include the recent projects of Lions Gate PRD, Kamm Creek PRD, Kode Kamp Vista, Cascade Flats, Towns Edge Apartments, City Gate Mixed Use and Riverwalk. There are a number of small subdivisions representing infill projects throughout the city that will also supply additional single family home lots.

Together these numbers represent about four years’ worth of residential construction as the city has seen an average of 77 single-family units and an average of 80 attached multi-family units annually.

It should be noted that there is often a significant delay between the annexation of property and the provision of services and development of property. Additionally, due to the complexity of design and development within the Pepin Creek Sub-Area, time will be needed to address stormwater challenges and accommodate significant infrastructure improvements.

Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan. This zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. It will allow flexible use of density as it permits both single-family and duplex housing types on a range of lot sizes with attached (zero lot line) units on lots as small as 4,000 square feet. The minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.

This application does not include a development proposal and any future development of the site will require a new application and review process. The following are issues to consider while drafting future development plans.



1. The area of annexation falls within the Pepin Creek Sub-area. Future development is subject to the Pepin Creek Sub-area plan as well as applicable development standards and associated impact fees.
2. Critical area setbacks related to the existing and proposed Pepin Creek channel will be applied as outlined in the City's critical area ordinance.
3. The area is within the City's water and sewer comprehensive plans. All water and sewer extensions shall be made in accordance with these adopted plans. Future development will be required to contribute toward the costs of the proposed pump station 18, which is needed to ensure adequate service to the area of annexation.
4. Stormwater: This area is within the City's Stormwater Comprehensive Plan. Be advised, a stormwater management plan prepared by a professional engineer will be required for new development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary.
  - a. All plans must be designed and constructed in compliance with the Department of Ecology's Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
5. This area is within the City's Transportation Plan. Future development will be required to develop roadway networks consistent with this plan.
6. Future development will be subject to assessed fees in order to mitigate the impact it has on the City's Park, Fire, and Transportation Systems. Some of these fees are due at the time of plat while others are assessed at the time of building permit. Also, this property is located within the Pepin Creek Service Area which has an additional Transportation Impact Fee due to the infrastructure needed in this section of the City.

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### Planning Commission Review

The Planning Commission is asked to review each land use application against the criteria listed in LMC 17.09.040(C). As these criteria are applied to every application some of the criteria are not always relevant to the proposal. Staff has reviewed the application against these criteria and provided analysis to each as applicable.

1. ***The development is consistent with the comprehensive plan and meets the applicable requirement of the intent of this code.***

TRC Review:

Development is not proposed at this time. This annexation is consistent with the comprehensive plan and the Pepin Creek Sub-Area plan. The property is



anticipated to join the city with a residential zoning. Additionally, the city is now working with consultants to develop more detailed transportation and utility plans which include this property. Future development will be reviewed for consistency.

- 2. ***The development makes adequate provisions for open space, drainageways, streets and other public ways, transit stops, water supply, sanitary wastes, parks and recreation facilities, playgrounds, sites for schools and school grounds.***

TRC Review

Development is not currently proposed. Future development will be required to be consistent with the Pepin Creek Sub-Area and to make provisions for the items listed here.

- 3. **The development adequately mitigates impacts identified under Titles 16-19 (Environmental Policy, Land Development, Subdivisions, and Zoning)**

TRC Review

Titles 16 – 19 will be addressed at the time of development. Annexation in this area is consistent with the Comprehensive Plan. The Pepin Sub-Area plan has assigned a zoning designation of Residential Mixed Density (RMD). Applicable RMD development standards will be applied at the time of development.

- 4. **The development is beneficial to public health, safety and welfare and is in the public interest.**

TRC Review

The annexation itself does not positively or negatively affect public health, safety and welfare. In the long-term, the project serves the public interest in that it represents additional housing capacity that is adjacent to existing city services. Infrastructure improvements associated with development in this area will include some regional benefits to the public interest such as roadway improvements and contributions to the Fire Protection and Park Services via impact fees.

- 5. **The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established with the comprehensive plan, and fully complies with Chapter 17.15 of the city code.**

TRC Review

The annexation itself does not affect service level. The additional future residential growth, represented by this annexation, may impact services, will not be permitted to lower the level of service (LOS) below those standards established in the city’s comprehensive plan. Impacts to service levels must be mitigated by improvements or the payment of impact fees. Analysis of impacts

will occur through SEPA or similar environmental review at the time of development.

- 6. The area, location and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development and are proportional to the impacts created by the development.**

TRC Review

The Technical Review Committee is not recommending specific dedications in association with the annexation request. Dedications for infrastructure will correlate with proposed development.

# CITY OF LYNDEN



## EXECUTIVE SUMMARY

<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Ord 23-1680 Amending Civil Penalties Code	
<b>Section of Agenda:</b>	Unfinished Business	
<b>Department:</b>	City Administration	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Draft Ord 23-1680 with Exhibit A - Redline of proposed changes.		
<b>Summary Statement:</b>		
<p>Over the last 12 months City Administration, staff, and legal counsel, Luke Phifer, have been drafting an update to the City’s civil penalties code. The revised code defines general penalties, civil infractions, misdemeanors, and gross misdemeanors. It assigns penalties to infractions which would be classified as C-1 through C-9 depending on the severity of the violation. The amended code also establishes a uniform process for citing and correcting violations, a critical tool for staff seeking to provide fair and consistent enforcement of the city’s code provisions. The bulk of the civil penalties code will be in Chapter 1 of the Lynden Municipal Code, but many other chapters would also be amended to classify infractions and identify corrective processes.</p> <p>On January 2 the City Council held a public hearing on this item and some specific questions were raised. In response the following items have been revised as reflected in the attached:</p> <ul style="list-style-type: none"> <li>-Removed the “non-deferrable, non-suspendable” language from LMC 1.24.040;</li> <li>-Reworked the “Declaration of Public Nuisance” provision in LMC 1.34.035;</li> <li>-Reworked the “Right of Entry” provision in LMC 1.34.040(E);</li> <li>-Clarified when “days” refers to “calendar days” throughout;</li> <li>-Removed references to the “City Engineer” in LMC 12.16.065, 13.08.010; and 18.20.050 (note: I left the reference in 17.13.010);</li> <li>-Modified the provision related to designees of Enforcement officials in LMC 1.34.030(B)(5);</li> <li>-Added a sentence to LMC 1.34.070(E) to clarify that settlement may include reducing or waiving monetary penalties; and</li> <li>-Added a sentence to 1.34.090(F) to clarify that the Hearing Examiner can reduce or waive monetary penalties.</li> </ul>		
<b>Recommended Action:</b>		
Motion to approve Ord 23-1680 regarding an amendment to the city’s Civil Penalties and to authorize the mayor’s signature on the ordinance.		

**ORDINANCE NO. 23-1680**

**AN ORDINANCE OF THE CITY OF LYNDEN AMENDING THE GENERAL PENALTY PROVISIONS of LYNDEN MUNICIPAL CODE 1.24, ADOPTING A NEW CHAPTER 1.34 TO THE LYNDEN MUNICIPAL CODE ADDRESSING CODE ENFORCEMENT, AND AMENDING NUMEROUS PROVISIONS OF THE LYNDEN MUNICIPAL CODE FOR THE PURPOSE OF INCORPORATING THE REVISED PENALTIES AND CODE ENFORCEMENT SYSTEM.**

**WHEREAS**, the City of Lynden is a noncharter code city operating under the mayor-council plan of government as set forth in RCW Chapter 35A.12; and

**WHEREAS**, RCW 35A.11.020 authorizes the legislative bodies of code cities to impose penalties for violations of local ordinances; and

**WHEREAS**, RCW 35A.11.020 further provides that such penalties may constitute a misdemeanor, a gross misdemeanor, or a civil violation; and

**WHEREAS**, RCW 7.80.010 confirms that a city may establish by ordinance its own system for hearing and determining civil infractions; and

**WHEREAS**, the Lynden Municipal Code currently contains a range of different penalty provisions; and

**WHEREAS**, the City desires to establish set penalty amounts that may be adopted by reference in other provisions of the municipal code; and

**WHEREAS**, the City also desires to establish a uniform process for enforcing violations of certain titles of the municipal code; and

**WHEREAS**, to implement the new penalty and enforcement process, it is necessary to amend numerous existing penalty provisions throughout the Lynden Municipal Code; and

**WHEREAS**, the attached **Exhibit A**, which is hereby fully incorporated by reference, shows the proposed revisions to the municipal code in redline; and

**WHEREAS**, the foregoing recitals are material findings and declarations of the City Council of Lynden.

**NOW, THEREFORE**, LET IT BE ORDAINED BY THE CITY COUNCIL OF LYNDEN AS FOLLOWS:

**SECTION 1:** Lynden Municipal Code Chapter 1.24 titled “General Penalty and Enforcement” is hereby repealed in its entirety and a new Chapter 1.24 titled “General Penalty” is hereby adopted, which shall read as follows:

**1.24.010 – Classification of Penalties.**

Penalties are classified as follows:

- A. *General Penalty.* Whenever the performance of any act is specifically prohibited or required by any law or section within this code and no penalty for violating such law or section is imposed, the penalty for performance of such required act or omission shall be a civil infraction.

B. *Civil Infraction*. Unless otherwise provided by law or this code, a person found guilty of committing a civil infraction under this code shall be subject to a monetary fine of not more than \$500.00. Statutory assessments shall be imposed in addition to any monetary fine for a civil infraction. A civil infraction may also be referred to within this code as a “civil violation.”

C. *Misdemeanor*. Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000 or by both such imprisonment and fine. (RCW 9.92.030). Statutory assessments shall be imposed in addition to any monetary fine for a misdemeanor offense.

D. *Gross Misdemeanor*. Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to 364 days, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine (RCW 9.92.020). Statutory assessments shall be imposed in addition to any monetary fine for a gross misdemeanor offense.

**1.24.020 - Continuing Offenses.**

Each day during any portion of which a violation of any provision of this code is committed or is permitted is deemed to be the commission of a separate offense.

**1.24.030 – Principles of Liability.**

The following statutes of the state of Washington are adopted by reference, as presently constituted or hereafter amended, and made a part of this code:

- A. RCW 9A.08.010, General requirements of culpability
- B. RCW 9A.08.020, Liability of conduct of another, complicity
- C. RCW 9A.08.030, Criminal liability of corporations and persons acting under a duty to act on their behalf.

**1.24.040 – Penalties for Civil Infractions – Designated.**

Specific civil penalties are adopted by reference in other sections of this code with a specific civil penalty to be imposed for each category of civil infraction as follows:

Category	Penalty
C-1	\$25
C-2	\$50
C-3	\$75

C-4	\$100
C-5	\$250
C-6	\$300
C-7	\$350
C-8	\$500
C-9	\$1,000

**SECTION 2:** A new Lynden Municipal Code Chapter 1.34 titled “Compliance and Enforcement” is hereby adopted, which shall read as follows:

**1.34.010 – Title.**

This chapter shall be called “Compliance and Enforcement.”

**1.34.020 – Applicability & Purpose.**

A. This chapter sets forth the procedures for enforcing violations of the following provisions of the Lynden Municipal Code as now in effect or hereafter amended:

- Title 8 (Health and Safety), Except for Chapter 8.16 (Litter);
- Title 12 (Streets, Sidewalks and Public Places);
- The following provisions within Title 13 (Public Utilities): 13.24.050; 13.24.130; 13.24.140; 13.24.150; 13.24.160(A), (B), (C), (E), and (F).
- Title 15 (Building and Construction);
- Title 16 (Environmental Policy);
- Title 17 (Land Development);
- Title 18 (Subdivisions);
- Title 19 (Zoning); and
- Such other code provisions, ordinances, resolutions, or public rules that adopt this chapter by reference.

C. The provisions of this chapter are in addition to any other provisions of this code and may be enforced separately from such other provisions or in combination therewith. The City shall have any and all remedies available to it in law and equity.

D. It is the express and specific purpose and intent of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefitted by the terms of this chapter.

E. Nothing contained in this chapter is intended or shall be construed to create or form the basis of any liability on the part of the City, its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees, or agents.

**1.34.030 – Definitions.**

All definitions contained in LMC 17.01.030 apply to this chapter. In addition, the following words and phrases used in this chapter shall have the following meanings:

- A. “Abate” means to repair, replace, remove, destroy, demolish, board-up, or otherwise remedy a condition which constituted a civil infraction by such means, in such a manner, and to such extent as the Enforcement Official determines is necessary in the interest of the general health, safety, and welfare of the community.
- B. “Enforcement Official” means the City official designated by code with enforcement authority of a particular title, chapter, section, or provision thereof and may include any of the following:
  - (1) The Chief of Police
  - (2) The City Administrator
  - (3) The Director of the department generally responsible for enforcement of the Lynden Municipal Code provision which is the subject of a violation including, but not limited to:
    - i. The Public Works Director (for violations of Titles 12-13)
    - ii. The Community Development Director (for violations of Titles 15-19)
    - iii. The Parks Director (for violations of Chapter 12.24)
  - (4) A Code Enforcement Officer, serving under the direction of the Community Development Director or Building Official;
  - (5) Any employee of the City of Lynden designated to act as an enforcement official by any of the officials identified in subsections B (1)-(3) above. Any such designation shall be made in writing. The written record of all such designations shall be maintained by the designating Enforcement Official.

Any of the officials identified in subsections B (1) – (5) above may act as an Enforcement Official pursuant to violations of Lynden Municipal Code Title 8.

- C. “Determination of Compliance” means a written statement from the City that the violation(s) identified in a Voluntary Correction Agreement, Civil Regulatory Order, or other notice has been sufficiently abated, remediated, or otherwise resolved.
- D. “Emergency” means a situation or civil violation which, in the opinion of an Enforcement Official, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.

- E. "Hearing Examiner" means the Lynden Hearing Examiner and the office thereof established pursuant to Lynden Municipal Code Chapter 2.09.
- F. "Person Responsible for the Violation" means the person or persons, firm, corporation, partnership, joint venture, limited liability company, or other legal entity who caused, or is reasonably believed by an Enforcement Official to have caused, the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy the property and/or premises where a civil violation occurs.
- G. "Remediate" means to restore a site to a condition that complies with critical area or other regulatory requirements as they existed before the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the general public health, safety, or welfare.
- H. "Violation" means:
  - (1) An act or omission contrary to any regulation or provision of the Lynden Municipal Code; and
  - (2) An act or omission contrary to the conditions of any permit, notice, order, or stop work order issued pursuant to any such regulation or provision.

**1.34.035 – Declaration of Public Nuisance.**

A. *Public Nuisance.* All violations of the following are determined to be detrimental to the public health, safety, and environment, and are declared to be public nuisances:

- 1. The following provisions within Title 8 (Health and Safety): 8.04.025; 8.04.040; 8.08.010; 8.12.010; 8.12.020; 8.16.020; 8.16.030; 8.20.060.
- 2. Any act or omission declared to be a nuisance under the following provisions of Title 8 (Health and Safety): 8.16.060; 8.20.010; 8.20.020; 8.24.010; 8.24.015; 8.24.016.
- 3. The following provisions within Title 12 (Streets, Sidewalks and Public Places): 12.05.030(G) and (H); 12.08.010(B) and (D); 12.16.010; 12.16.020; 12.16.025; 12.16.060; 12.16.065; 12.20.010; 12.24.040; 12.24.050; 12.24.060(E); 12.24.120; 12.24.165(H), (I), (J), (L), and (P); 12.28.010; 12.28.040; 12.40.040; 12.40.050.
- 4. The following provisions within Title 13 (Public Utilities): 13.12.045(C), (E), and (F); 13.12.060; 13.12.070; 13.12.080; 13.12.090; 13.12.100; 13.12.110; 13.12.120; 13.12.130; 13.12.140; 13.12.150(E); 13.12.160; 13.12.170; 13.12.180; 13.12.280; 13.12.290; 13.12.300(C) and (D); 13.12.310; 13.12.460;



13.12.510; 13.12.540; 13.24.050; 13.24.130; 13.24.140; 13.24.150;  
13.24.160(A),(E) and (F).

- 5. LMC 13.24.160(B)&(C), if the Director determines the discharge is causing pollution, or likely to cause pollution, of surface or groundwater.
- 6. The following provisions within Title 15 (Building and Construction): 15.02.040; 15.03.040.
- 7. The following provisions within Title 16 (Environmental Policy): 16.12.040; 16.12.120; 16.12.130; 16.12.135; 16.12.140; 16.16.060; 16.16.140(C); 16.16.370(A); and
- 8. The following provisions within Title 19 (Zoning): 19.31.020; 19.33.080; 19.39.040; 19.63.050; 19.63.060(A) and (C); 19.66.020.

*B. List Not Exhaustive.* The list of public nuisances contained in Section A above is not exhaustive. Nothing in this section shall be construed to limit or restrict the City’s ability to (1) declare nuisances, or (2) impair any enforcement authority the City would otherwise have to address a nuisance, or other violation of the Lynden Municipal Code, including abatement thereof.

**1.34.040 – Enforcement, Authority, and Administration.**

A. In order to discourage public nuisances and otherwise promote compliance with applicable code provisions, an Enforcement Official may, in response to field observations, investigations, or reliable complaints, determine that violations of the provisions listed in LMC 1.34.020, or any other provision which adopts the compliance and enforcement scheme established in Chapter 1.34, have occurred or are occurring, and may:

- (1) Enter into a Voluntary Correction Agreement with a person responsible for the violation(s);
- (2) Issue Civil Regulatory Orders, assess civil penalties, and/or recover costs as authorized by this chapter and/or other applicable code sections;
- (3) Require abatement by the Person Responsible for the Violation or undertake summary abatement and charge the reasonable costs of such work as authorized by this chapter;
- (4) Order work stopped at a site by means of a stop work order, and if such order is not complied with, assess civil penalties as authorized by this chapter and/or other applicable code sections;
- (5) Suspend, revoke, or modify any permit previously issued by the City or deny a permit application as authorized by this chapter and/or other applicable code sections when other efforts to achieve compliance have failed;
- (6) Forward a written statement providing all relevant information relating to the violation to the office of the City Attorney with a recommendation to prosecute violations; and

(7) Require any other remedy available by law through the Hearing Examiner and/or court of applicable jurisdiction in Whatcom County.

B. The City has established its own Civil Infraction system for the enforcement of civil violations and nuisances pursuant to the authority of RCW 35A.11.020 and RCW 7.80.010(5), as presently enacted or hereafter amended.

C. The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the City from remedying or abating violations of the titles listed in LMC 1.34.020 in any other manner authorized by law.

D. *Obligation of Person Responsible for Violation.* The Person Responsible for the Violation shall achieve full code compliance. Payment of civil penalties, applications for permits, acknowledgement of stop work orders, and compliance with other remedies does not substitute for performing corrective work and/or performance of actions required for code compliance and/or having the property brought into compliance to the extent reasonably practicable under the circumstances, as determined by the Enforcement Official.

E. *Right of Entry.*

(1) Nonemergency Permissive Entry. The Enforcement Official may, (1) with the consent of the property owner or other responsible person, (2) pursuant to a lawfully issued administrative or criminal warrant, or (3) as otherwise authorized by law, enter such property to determine whether a civil violation has occurred or is occurring, and/or to enforce any provision of the Lynden Municipal Code.

(2) Refusal of Entry. If entry is refused or cannot be obtained, the Enforcement Official may apply to a court of competent jurisdiction to obtain entry, and/or shall have recourse to every remedy provided by law to secure entry.

(3) Emergency Entry. In the event of an Emergency, the Enforcement Official may enter onto property without obtaining consent or a warrant but shall advise the owner or responsible person of such entry as soon as practicable thereafter.

(4) Other Authority Not Restricted. Nothing in this section shall be construed to limit or restrict a right vested, by other legal authority, in officers or agents of the City to enter upon private or public property for any lawful purpose.

**1.34.050 – Voluntary Correction Agreement.**

A. *Applicability.* This section applies whenever the Enforcement Official determines that a violation has occurred or is occurring.

B. *General.* The Enforcement Official shall have the discretion to secure voluntary correction by contacting the Person Responsible for the Violation, explaining the violation, and requesting correction.

C. *Issuance of Voluntary Correction Agreement.* A Voluntary Correction Agreement may be entered into between the Person Responsible for the Violation and the City, acting through the

Enforcement Official. The Mayor is authorized to sign a Voluntary Correction agreement on behalf of the City.

D. *Content.* The Voluntary Correction Agreement is a contract between the City and the Person Responsible for the Violation under which such person agrees to correct the violation within a specified time and according to specific conditions. The Voluntary Correction Agreement shall include, at a minimum, the following:

- (1) The name and address of the Person Responsible for the Violation;
- (2) The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring;
- (3) A description of the violation(s) and a reference to the provision(s) of the City code which has been violated;
- (4) The necessary corrective action to be taken, and the date by which the correction must be completed;
- (5) An agreement by the Person Responsible for the Violation that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction Agreement;
- (6) The amount of the minimum civil penalty that will be imposed if the terms of the Voluntary Correction agreement are not complied with; and
- (7) A statement that if the City determines that the terms of the Voluntary Correction Agreement are not complied with, the City may impose any remedy authorized by this chapter, including:
  - I. Assessment of the civil penalties identified in the Voluntary Correction Agreement;
  - II. Abatement of the violation at expense of Person Responsible for Violation;
  - III. Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and
  - IV. Suspension, revocation, or limitation of any related permit(s).
- (8) A statement that the Person Responsible for the Violation knowingly waives the right to a hearing.

E. *Right to a Hearing Waived.* In consideration of the City’s agreement to enter into a Voluntary Correction Agreement, the Person Responsible for the Violation shall have no right to an administrative or judicial hearing, under this chapter or otherwise, regarding the matter of the violation or the required corrective action.

F. *Administrative Review of Compliance.* After the Person Responsible for the Violation has given written notice to the City of completion of the corrective action required under the Voluntary Correction Agreement, the Enforcement Official shall, within five business days, determine if the corrective action is complete. If the Enforcement Official determines that the corrective action is not complete, the Enforcement Official shall notify the Person Responsible for the Violation in writing. The Person Responsible for the Violation shall have seven business days from the date of mailing of said notice in which to file an appeal with the Enforcement Official for review of such determination by the Hearing Examiner. Said review shall be completed and a decision issued by the Hearing Examiner within thirty calendar days of receipt of a timely appeal. The only issue subject to review during an appeal at this stage shall be whether there has been complete compliance with the terms of the Voluntary Correction Agreement.

G. *Extension and Modification.* An extension of the time limit to complete the corrective action or a modification of the required corrective action may be granted by the Enforcement Official, in writing, if in the judgment of the Enforcement Official the Person Responsible for the Violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction required under the original agreement impossible or impractical.

H. *Abatement by the City.* The City may abate the violation in accordance with Section 1.34.100 if the terms of the Voluntary Correction Agreement are not complied with.

I. *Monetary Penalty.*

(a) The Enforcement Officer may reduce or waive any related monetary penalties if the violation(s) are corrected or mitigated according to the terms and schedule of a Voluntary Correction Agreement.

(b) If the terms of the Voluntary Correction Agreement are not met, the Person Responsible for the Violation may be assessed a monetary penalty not to exceed \$1,000 for each violation. Each separate day, event, action, or occurrence shall constitute a separate violation. In addition, such person shall be liable for all costs and expenses of abatement, as set forth in Section 1.34.100(C). Penalties will begin to accrue from the date the Voluntary Correction Agreement was issued. The date the City completes the abatement shall be the last day a monetary penalty may be imposed.

**1.34.060 – Civil Regulatory Order.**

When the Enforcement Official determines that a violation has occurred or is occurring and does not secure voluntary correction pursuant to Section 1.34.050, the Enforcement Official may issue a Civil Regulatory Order to the Person Responsible for the Violation.

**1.34.061 – Civil Regulatory Order – Issuance & Service.**

A. *Issuance.* When the Enforcement Official determines that a violation has occurred or is occurring, the Enforcement Official may issue a Notice of Civil Regulatory Order to any Person Responsible for the Violation.

B. *Person Receiving Notice – Identification and Detention.* A person who is to receive a Notice of Civil Regulatory Order is required to identify themselves to the Enforcement Official by giving their name, address, and date of birth. Upon the request of the Enforcement Official, the person shall produce reasonable identification.

A Person Responsible for the Violation who is unable or unwilling to reasonably identify themselves to the Enforcement Official may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing the Notice of Civil Regulatory Order.

C. *Contents.* The Notice of Civil Regulatory Order shall include, at a minimum, the following:

1. The name and address of the Person Responsible for the Violation;
2. The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring;
3. A statement that the Notice of Civil Regulatory Order represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;
4. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
5. A statement of the specific violation for which the notice was issued;
6. A statement of the monetary penalty established for the civil infraction, including any portion of said penalty that may be suspended, conditioned on timely correction, abatement, or remediation;
7. A statement that the recipient must respond to the notice as provided in this chapter within fifteen calendar days by (1) providing evidence that the violation has been sufficiently corrected, abated, or remediated, (2) filing a notice of appeal with the Enforcement Official to be heard by the Hearing Examiner, or (3) requesting a mitigation hearing with the Enforcement Official to explain mitigating circumstances surrounding the violation.
8. A statement that at any hearing to contest the determination, the rules for Hearing Examiner Proceedings established pursuant to LMC Chapter 2.09 will apply; and
9. A statement that failure to respond to a Notice of Civil Regulatory Order within fifteen calendar days or to appear at a requested hearing is a misdemeanor and may be punished by a fine, imprisonment, or by both such fine and imprisonment; and

- 10. A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for purposes of explaining mitigating circumstances will result in a default judgment against the Person Responsible for the Violation in the amount of the penalty. In addition, the failure to appear may be referred to the prosecuting attorney for criminal prosecution for failure to respond and/or appear.

The Notice of Civil Regulatory Order may also include the following, as applicable:

- 11. A statement of the steps required to correct, abate, or remediate the violation;
- 12. The date by which the required corrective action, abatement, or remediation must be completed by; and/or
- 13. An order to stop work, but only if in the judgment of the Enforcement Official the subject continuing violation of this code will materially impair the Enforcement Official's ability to secure compliance with the code, when the continuing violation threatens the health or safety of the public, or when the continuing violation is likely causing ongoing environmental damage. Said stop work order shall specify the violation and may prohibit any or all work or other activity at the site until the required correction, abatement, or remediation is completed and a Determination of Compliance is issued by the Enforcement Official.

D. *Service.* Service of the Notice of Civil Regulatory Order shall be made by one or more of the following methods:

- A. By personal service on the Person Responsible for the Violation;
- B. If the violation involves a business, by personal service on any employee of the business of a suitable age and discretion;
- C. By mailing a copy of the notice by regular first-class mail to the last known address of the Person Responsible for the Violation; or
- D. For violations involving real property, by placing the notice in a conspicuous place on the property where the violation is occurring.

Service shall be deemed effective upon personal service, or one business day following the posting of the notice upon the property, or three business days following placement of the notice in the U.S. mail, postage prepaid.

E. *Determination Final Unless Contested.* A Notice of Civil Regulatory Order represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in LMC 1.34.062.

**1.34.062 – Civil Regulatory Order – Response.**

A. A person who receives a Notice of Civil Regulatory Order shall respond to the notice within fifteen calendar days of the date the notice was served by either (1) providing evidence that the

violation has been sufficiently corrected, abated, or remediated, and paying any penalty prescribed in the order, (2) filing a notice of appeal with the Enforcement Official to be heard by the Hearing Examiner, or (3) requesting a mitigation hearing with the Enforcement Official to explain mitigating circumstances surrounding the violation.

*B. Declaration of Compliance.* If the Person Responsible for Violation provides evidence the violation has been corrected and/or pays any prescribed penalty, an Enforcement Official will undertake further investigation to determine whether compliance has been achieved. If compliance has been achieved, the Enforcement Officer will issue a Determination of Compliance within five business days to the person(s) named in the order. If the Enforcement Official determines that compliance has not been achieved, they may elect to issue a new Civil Regulatory Order or pursue any other action available in law or equity.

*C. Hearing Examiner Appeal.* A Civil Regulatory Order may be appealed to the Hearing Examiner within 15 calendar days of the effective service of the order by filing a statement of appeal with the Enforcement Official. A statement of appeal shall include the following:

1. The name of the appellant,
2. The date of the Civil Regulatory Order, and
3. An explanation of the grounds for appeal, including citation to applicable sections of the Lynden Municipal Code or other legal authority.

If an appeal is not timely filed with the Enforcement Official, the Civil Regulatory order becomes a final order. The final order, including the collection of penalties and required correction, abatement, or remediation, may be enforced by the City Attorney in Whatcom County Superior Court.

*D. Explanation of Mitigating Circumstances.* Within 15 calendar days of the effective service of a Civil Regulatory Order, the Person Responsible for the Violation may request a hearing with the Enforcement Official for the purpose of explaining any mitigating circumstances surrounding the violation. The hearing shall be an informal proceeding. The Person Responsible for the Violation may not subpoena witnesses. The determination that a violation has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances. Within 10 calendar days of the hearing, the Enforcement Official will provide the Person Responsible for the Violation a written notice of the decision and any revisions to the Civil Regulatory Order.

E. Any person who fails to comply with a Notice of Civil Regulatory Order is guilty of a misdemeanor regardless of the disposition of the Notice of Civil Regulatory Order.

F. A person who willfully fails to pay a monetary penalty under this chapter may, unless indigent, be found in contempt of a court as provided in Chapter 7.21 RCW.

**1.34.070 – Penalties.**

A. *Monetary Penalty.* If corrective action is not completed by the date specified in a Notice of Civil Regulatory Order, a daily C-4 penalty (see LMC 1.24.040) shall commence. The daily monetary penalty shall increase to a C-5 penalty (see LMC 1.24.040) if corrective action is not completed by the second deadline established in the initial or any subsequent Notice of Civil Regulatory Order. The daily monetary penalty shall increase to a C-8 penalty (see LMC 1.24.040) per day if the corrective action is not completed by the third deadline established in the initial or any subsequent Notice of Civil Regulatory Order. This penalty shall be in addition to any penalty imposed in the Civil Regulatory Order for the underlying violation(s) and any penalty pursuant to a Voluntary Correction Order entered into prior to issuance of the Civil Regulatory Order. Civil fines shall be paid into the City’s general fund.

B. *Restitution.* The Hearing Examiner or a reviewing court may also order a person found to have committed a violation to make restitution and perform abatement or remediation.

C. *Collection of Monetary Penalty.* Civil penalties imposed under this section shall be due immediately and payable upon issuance and receipt of a Notice of Civil Regulatory Order. The City may, but is not required to, send the Person Responsible for the Violation periodic statements of the total monetary penalty currently due. If a penalty remains unpaid 30 calendar days after it becomes due and payable, the City Attorney is authorized to take all actions available to collect the full amount owed. The City Attorney is authorized to take all actions available to collect the monetary penalty.

D. *Continued Duty to Correct.* Payment of a monetary penalty pursuant to this section does not relieve the Person Responsible for the Violation of the duty to correct, abate, or remediate the violation as called for in the Civil Regulatory Order.

E. *Compromise, Settlement, and Disposition of Disputes.* The Enforcement Official or the City Attorney may negotiate a settlement or compromise, or otherwise dispose of a dispute enforced under this chapter when to do so would be in the best interests of the City. A settlement may include reducing or waiving any monetary penalties.

**1.34.090 – Civil Regulatory Order – Appeal.**

A. *How to Appeal.* The person to whom a Notice of Civil Regulatory Order is issued pursuant to this chapter may appeal to the Hearing Examiner by sending a written notice of appeal to the Enforcement Official along with the applicable appeal fee established by resolution of the City Council, if any, within 15 calendar days from the date of effective service of the Notice of Civil Regulatory Order. The written notice of appeal shall contain, at a minimum, the following information:

1. A brief statement identifying the decision being appealed;
2. The name and address of the appellant;
3. A brief statement identifying the relief sought and the reasons why the Enforcement Official’s determination should be reversed, modified, or set aside; and



4. Identification of any witness testimony, photographs, or documentary evidence to be presented.

B. *Effect of Appeal.* The monetary penalty for a continuing violation does not continue to accrue during the pendency of the appeal. However, the Hearing Examiner may impose a daily monetary penalty from the effective date of service of the Notice of Civil Regulatory Order if the Hearing Examiner finds that the appeal is frivolous or intended solely to delay compliance. All other provisions of the Civil Regulatory Order remain in effect during the pendency of the appeal.

C. *Date of Hearing.* Within 10 calendar days of the Enforcement Official's receipt of a timely written notice of appeal, the Hearing Examiner shall set a public hearing for a date within 45 calendar days, unless a longer period is agreed to by both parties.

D. *Conduct of Hearing.* The Hearing Examiner shall conduct the hearing according to the Hearing Examiner Procedural Rules established pursuant to LMC 2.09.

E. *Preponderance of the Evidence Standard.* For each violation appealed, the Hearing Examiner shall determine whether the City has established by a preponderance of the evidence that (1) a violation has occurred, and (2) that the required corrective action is reasonable.

F. *Decision.* The Hearing Examiner shall affirm, vacate, or modify the City's decision regarding each alleged violation appealed and the related required corrective action, with or without written conditions. The Hearing Examiner may reduce or waive any related monetary penalties.

G. *Notice of Decision.* The Hearing Examiner's decision shall be mailed to the Appellant, Enforcement Official, and City Attorney within 14 calendar days of the hearing. The decision shall contain, at a minimum, the following:

- 1. The decision regarding the alleged violation, including findings of fact and conclusions of law based thereon; and
- 2. A statement that noncompliance with the Hearing Examiner's decision is punishable as a misdemeanor under LMC 1.34.90(l).

I. *Effect of Decision.* The decision of the Hearing Examiner shall constitute the final decision of the City. If a notice of appeal is not timely filed, the failure to comply with the decision of the Hearing Examiner shall constitute a misdemeanor. In addition to criminal punishment pursuant to this subsection, the City may pursue abatement as provided for in this chapter.

**1.34.100 – Abatement by the City.**

A. *Summary Abatement.* Whenever a condition constitutes an immediate threat to the public health, public safety, public welfare, or to the environment, the City may summarily and without prior notice abate the condition. Written notice of such abatement, including the reason(s) for it, shall be given to the Person Responsible for the Violation as soon as reasonably practicable after the abatement.

B. *Judicial Abatement.* Alternatively, the City may at any time seek a judicial abatement order from Whatcom County Superior Court to abate a condition which continues to be a violation of this code when other methods of remedial action have failed to produce compliance.

C. *Cost of Summary Abatement.* In addition to any other penalty imposed under this chapter, the City may levy a special assessment on the property or premises where a nuisance is situated to reimburse the City for the expense of the abatement of said nuisance, in accordance with the requirements of RCW 35A.21.405, as presently enacted or as hereafter amended.

D. *Other Methods Not Excluded.* Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with another ordinance or the laws of the state of Washington.

**1.34.130 – Interference with Code Enforcement Unlawful.**

Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a Civil Regulatory Order, stop work order, emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation being processed under this chapter shall be guilty of a gross misdemeanor.

**1.34.140 – Conflicts.**

In the event of a conflict between this chapter and any other provision of the Lynden Municipal Code or City ordinance, this chapter shall control.

**1.34.150 – Severability.**

If any section, subsection, clause, paragraph, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity of any other section, subsection, clause, paragraph, phrase, or word of this chapter.

**SECTION 3:** The following provisions of the Lynden Municipal Code are hereby amended to read as follows:

**2.09.040 - Jurisdiction-duties—powers.**

A. The hearing examiner shall have the power to receive and examine available information, conduct public hearings, prepare a record thereof, and enter decisions as provided by ordinance.

B. The hearing examiner shall have the exclusive jurisdiction to hold an open record hearing and make a decision on the following matters:

1. Appeals of the determinations of the fees and dedications made under Chapters 3.28, 3.40, 3.44, and 19.67 LMC;

- 2. Appeals of dangerous dog declarations under Chapter 6.09 LMC;
- 3. Appeals of determinations of eligibility for relocation assistance under Chapter 12.36 LMC;
- 4. Appeals of the city's determination to suspend services, impose penalties, recover costs, establish compliance schedules, or terminate a user's wastewater and/or collection services, under Chapter 13.12 LMC;
- 5. Appeals of the city's computation or application of the stormwater management utility service charge or FCI charges or imposition of sanctions or fines under Chapter 13.24 LMC;
- 6. Challenges of the written interpretations and/or decisions of the public works director made under Chapter 13.28 LMC;
- 7. Petitions for exemptions from payment of the utility fee or for conversion to exempt status, and appeals of the city's computation of the applicable fees assessed, under Chapter 13.32 LMC;
- 8. Appeals of the determination of the Community Development Director regarding moving buildings under Chapter 15.05 LMC;
- 9. Appeals of the determination of the building code official as described in Chapter 15.14 LMC;
- 10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under Chapter 16.05 LMC, including related procedural and substantive issues;
- 11. Appeal of director's final critical area determinations;
- 12. All applications for shoreline permits or revisions to shoreline permits under Chapter 16.08 LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;
- 13. Under Chapter 16.12 LMC, Floodplain Management, all appeals of determinations of the director, and variance requests where not consolidated with an underlying project application being decided upon by a different hearing body;
- 14. Appeals of the imposition of penalties or of the Community Development Director's decision on mitigation or revision under Chapter 16.16 LMC;
- 15. Appeals of the administrative approvals described in LMC Sections 17.09.010 and 17.09.020;
- 16. Appeals of administrative interpretations and approvals under LMC Section 17.11.010;
- 17. Appeals of civil regulatory orders and civil fines issued under Chapter 1.34 LMC;

18. Appeals of the results of concurrency tests, denials of proposed mitigation for transportation facilities, and any other determinations of capacity or calculations or assessments of any fees made under Chapter 17.15 LMC;

19. Amortization periods for nonconforming signs;

20. All variances from the requirements of Title 19, except variances from the requirements of Chapter 19.33 LMC and LMC Sections 19.22.030, 19.22.040, and 19.22.050, and except where the variance is part of a project application being decided upon by a different hearing body;

21. Appeals of determinations of building official as described in LMC Section 19.42.040;

22. Appeals of administrative interpretations made under Chapter 19.59 LMC; and

23. Appeals of a determination of incomplete abatement under a voluntary correction order made under LMC Section 1.34.050(F) and

24. Other actions as required by this code.

C. In order to avoid the city holding two hearings on one project, the hearing examiner shall only hear variance applications and shoreline permit applications or revisions that are not filed as part of an underlying project for which another hearing body will conduct a hearing. For example, if an applicant submits a long plat application along with a variance application to use an alternative cul-de-sac design, the hearing on the variance on the cul-de-sac shall be consolidated with the hearing on the long plat, and the consolidated hearing shall be before the hearing body holding the hearing on the long plat.

D. The hearing examiner is empowered to act in lieu of the board of adjustment, the board of appeals, the city council, the planning commission and such other officials, boards, or commissions as may be assigned for those matters listed in subsection (B) of this section. Wherever existing ordinances, codes or policies authorize or direct the board of adjustment, the board of appeals, the city council, the planning commission or other officials, boards, or commissions to undertake certain activities which the hearing examiner has been assigned under said subsection (B), such ordinances, codes or policies shall be construed to refer to the hearing examiner.

E. The hearing examiner may include in a decision any conditions of approval that are necessary to ensure that the proposal complies with all applicable code criteria and comprehensive plan policies.

F. The hearing examiner has such other powers as are necessary to carry out the purpose and intent of this chapter, including without limitation to conduct pre-hearing conferences; to require the submittal of information; to schedule and continue hearings; to administer oaths and affirmations; to issue subpoenas; to regulate the course of pre-hearing discovery; to preside over hearings and the conduct of parties; to question parties and witnesses at a hearing; to rule on all evidentiary, procedural and other matters, including all motions; to maintain order; to establish post-hearing procedures; to issue findings of fact and conclusions of law; to enter final decisions and orders; and to adopt procedures consistent with Section 2.09.050.

G. With the exception of shoreline permit applications, and revisions heard by the hearing examiner, and decisions on appeals of Civil Regulatory Orders, the hearing examiner's decision on these the matters identified in subsection (B) shall be final unless timely appealed to the city council following the procedures in Chapter 17.11 LMC. The city council shall hear appeals of these matters as closed record appeals. The hearing examiner shall make the final decision of the city on the shoreline permit issues he or she hears and on appeals of Civil Regulatory Orders. The determination of the hearing examiner on shoreline permit applications and revisions shall be subject to appeal to the shoreline hearings board.

**2.10.070 - Violation—Penalty.**

It shall be a misdemeanor, for any person during a disaster:

- A. To willfully obstruct, hinder or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;
- B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent, hinder or delay the defense or protection thereof;
- C. To wear, carry or display, without authority, any means of identification specified by the department of emergency management of the state.

**3.28.180 - Noncompliance—Penalty.**

A violation of any provision of this chapter including, but not limited to:

- A. Failing or refusing to apply for a utility occupation license,
- B. Failing or refusing to make tax returns or to pay the tax and/or any applicable penalty when due, or
- C. Making a false statement or representation in connection with any such application

is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040). Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted will be considered a separate offence. Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted will be considered a separate offence.

**3.12.070 - Penalties.**

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor.

**3.36.060 - Penalty.**

A violation of any provision of this chapter or any lawful rule or regulation adopted pursuant hereto is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040). Each day of violation will be considered a separate offense.

**5.02.110 - Violation—Penalty.**

A violation of any of the provisions of this chapter or any lawful rule or regulation adopted by the city clerk pursuant thereto is a civil infraction and shall subject the violator to a C-5 penalty (see LMC 1.24.040).

**5.04.040 - Violation—Penalty.**

Violation of any provision of this chapter is a misdemeanor.

**5.12.080 - Violation—Penalty.**

A violation of any of the provisions of this chapter is a misdemeanor.

**8.04.090 - Violation—Penalty.**

A violation of any of the provisions of this chapter is a civil infraction and shall subject the person responsible for the violation to a C-3 penalty (see LMC 1.24.040).

**8.16.080 - Penalties.**

- A. It is a civil infraction for a person to litter in an amount less than or equal to one cubic foot. Such civil violation shall subject the violator to a C-2 penalty (see LMC 1.24.040).
- B. It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard.
- C. Is it a gross misdemeanor for a person to litter in an amount of one cubic yard or more.

**8.24.050 - Penalty for noncompliance.**

The failure or refusal to comply with any of the provisions of any sections of this Chapter 8.24 is a civil infraction and shall subject the violator to a C-2 penalty (see LMC 1.24.040).

**9.04.090 - Promise of court appearance, non-appearance penalty, fail to pay.**

Any person arrested for violation of this title, or Title 10, who is eligible for release on personal recognizance shall give his or her written promise to appear in municipal court at an agreed time in order to secure release pending said appearance.

A. Any person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

B. Any person who willfully fails to pay a monetary penalty or to perform community service as required by the Municipal Court under this title or Title 10 may be found in contempt of court as provided in RCW Chapter 7.21.

C. Any person who willfully fails to respond to five or more notices of parking infraction issued pursuant to Lynden Municipal Code Title 10 shall be guilty of a misdemeanor regardless of the disposition of the notices of infraction.

D. Violating a written promise to appear or failure to respond to a criminal citation or summons, as directed by the citation or summons, shall be punishable as a misdemeanor. The penalty for failure to respond to a civil or traffic infraction shall be a C-1 penalty (see LMC 1.24.040). The penalty for failure to respond to five or more parking infractions shall be a C-1 penalty (see LMC 1.24.040) per infraction.

**9.22.110 - Order of abatement—Procedures authorized—Penalties designated.**

A. If the existence of a nuisance is admitted or established in an action as provided for in Section 9.22.120, or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance and not already released under authority of the court as provided for in Sections 9.22.070 and 9.22.080 and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution. Lewd matter shall be destroyed and not sold.

B. Such judgment shall impose a C-5 penalty (see LMC 1.24.040) for the maintenance of such nuisance, which penalty shall be imposed against the person or persons found to have maintained the nuisance, and, in case any owner or agent of the building found to have had actual or constructive notice of the maintenance of such nuisance, which penalty shall be collected by execution as a civil action, and when collected, shall be paid into the current expense fund of the city.

C. The owner of any place closed and not released under bond may then appear and obtain such release in the manner and upon fulfilling the requirements provided in Section 9.22.080.

D. Owners of unsold personal property and contents so seized must appear and claim the same within ten calendar days after such order of abatement is made, and prove innocence to the satisfaction of the court of any knowledge of such use thereof, and that with reasonable care and diligence they could not have known thereof. If such innocence is established, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as provided in this section. For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

E. Contempt under the provisions of this section shall be a misdemeanor.

**9.24.070 - Sitting or lying on public sidewalks prohibited.**

A. Prohibition. No person shall sit or lie down upon a public sidewalk or upon a blanket, chair, stool, planter, fountain, railing, or any other object placed upon a public sidewalk, during the hours between seven a.m. and nine p.m. in the following zones:

1. Central Business District ("CBD"). The Central Business District, for the purposes of this Section, is the area bounded by the streets hereafter named, including said streets and their abutting sidewalks:

- a. The south side of the west half of Front Street between Second and Third Streets;
- b. Front Street between Third Street and Seventh Street;
- c. Third, Fourth, Fifth and Sixth Streets between Front Street and Grover Street;
- d. Seventh Street between Front Street and Grover Street, except the north half of the west side thereof;
- e. The north side of Grover Street between Fourth Street and Sixth Street;
- f. All city owned parking lots including the library parking lot, but excluding the Lynden Community Center parking lot and the public parking lot located at the northeast corner of Fourth and Grover Streets;
- g. The south half of the west side of Fourth Street between Grover Street and Liberty Street;
- h. The south half of Fifth Street between Grover Street and Liberty Street;
- i. The north side of Front Street between Seventh Street and Eighth Street;
- j. The east side of Seventh Street between Front Street and Judson Alley.

B. Exceptions. The prohibitions in subsection A shall not apply to any person:

- 1. Sitting or lying down on a sidewalk due to a medical emergency.



- 2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.
- 3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
- 4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
- 5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by LMC Section 9.24.005 (RCW 9A.84.030 B Disorderly Conduct) or LMC Section 9.24.040 (Pedestrian Interference).

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

D. A violation of this section is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040), plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty.

**9.24.120 - Public disturbance noise.**

A. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise. The following sounds are determined to be public disturbance noises:

- 1. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.
- 2. Frequent, repetitive, or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residentially zoned area, so as to unreasonably disturb or interfere with the peace, comfort and repose of others.
- 3. Frequent, repetitive, or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably interfere with the peace, comfort, and repose of a person or persons on public or private property, other than the property from which the sound emanates, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings.

4. Sound from motor vehicle audio sound systems including, without limitation, tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the vehicle itself.

5. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source and outside the property of the operator.

6. Construction and industrial noises, including but not limited to, motorized construction and equipment operation, hammering, blasting, drilling and sawing in residentially zoned areas, between the hours of ten p.m. and seven a.m., which unreasonably disturb or interfere with the peace, comfort and repose of others; provided that this subsection shall not apply to noises caused by projects required in an emergency to repair public facilities or utilities or to prevent immediate damage or harm to persons or property; and further provided that this subsection shall not apply if the city council grants a variance from the provisions of this subsection for the construction or repair of a public facility or utility upon a finding that it is either necessary or in the public interest for all or a portion of the work to be performed between the hours of ten p.m. and seven a.m. The council may impose such conditions as it deems appropriate upon the granting of a variance.

7. Subsections 3 and 5 shall not apply to regularly scheduled events at parks or the Northwest Washington Fairgrounds, such as public address systems for games and activities or park concerts. Provided, that the foregoing enumeration of acts and noises are not to be construed as excluding other acts and noises which offend the public peace.

**B. Penalties.**

1. Any person violating this section shall, upon commission of the first such offense, be guilty of having committed a civil infraction and shall be subject to a C-5 penalty (see LMC 1.24.040).

2. Any person violating this section shall, upon conviction for a second or subsequent offense, be guilty of having committed a misdemeanor and shall be as set forth in LMC 9.04.050.

**9.24.130 - Public disturbance/barking dogs.**

A. No person shall cause or permit or allow any dog or dogs owned, harbored, controlled or kept by them in the city to remain outside of the dwelling of such a person while such animal is causing excessive or frequent noise, such as habitual howling, yelping or barking, which noise disturbs or is likely to disturb the comfort or repose of any person in the neighborhood. A violation of this section is declared a public nuisance and adverse to the public welfare and is punishable as follows:

**B. Penalties.**

- 1. Any person violating this section shall, upon commission of the first such offense, be guilty of having committed a civil infraction, and shall be subject to a C-4 penalty (see LMC 1.24.040).
- 2. Any person violating this section shall, upon conviction for a second or subsequent offense, be guilty of having committed a misdemeanor and shall be punished as set forth in LMC 9.04.050.

**9.56.080 - Driving, riding or walking on runways—Prohibited—Penalties.**

A. It shall be illegal for any person to drive a motor vehicle, ride a bicycle or walk on the runways of the Lynden municipal airport. Runways are those areas designated for the take-off and landing of aircraft and shall not include the those areas designated for the parking or storage of aircraft.

B. This section does not apply to emergency personal responding to an emergency.

C. A violation of this section is a civil infraction and shall subject the violator to the following penalties:

First Violation:	C-5 Penalty (see LMC 1.24.040)
Each Subsequent Violation Within a Twelve (12) Month Period:	Misdemeanor punishable as provided by LMC 9.04.050

**9.60.140 - Handbills and posters—Violation—Penalty.**

Any person violating any provision of this chapter shall be guilty of a misdemeanor.

**10.04.060 - Violation—Penalty.**

Unless another penalty is expressly provided by law in the MTO or in the statutes that are adopted by reference in Section 10.04.010, any person who is convicted of violating or failing to comply with any of the provisions of the ordinance codified in this chapter shall be guilty of a civil infraction and subject to a C-4 penalty (see LMC 1.24.040).

**10.08.090 - Parking restrictions between nine a.m. and five-thirty p.m. on certain streets—Violation and penalty schedule.**

A. When corresponding time limit signs are posted, it is unlawful for any person to park any motor vehicle on the following streets between nine a.m. and five-thirty p.m. for a period of time exceeding three hours except on Saturdays and Sundays or days designated as state holidays:

- 1. The south side of the west half of Front Street between Second and Third Streets;

- 2. Front Street between Third Street and Seventh Street;
- 3. Other areas signed or appropriately marked as a three-hour parking limit.

B. It is unlawful for any person to park any motor vehicle for a period of time longer than fifteen minutes in any parking space signed or appropriately marked as a fifteen-minute parking limit.

C. A violation of any provision of this section is a civil infraction and shall subject the violator to the following penalties:

- 1. First offense within any twelve months: a written warning;
- 2. Second offense within twelve months: a second written warning. The second warning shall notify the defendant that subsequent violations within twelve months of the first violation will be punishable subject the violator to the monetary penalties set forth in subsection 3 below.
- 3. Third and subsequent offense within twelve months:

Third violation within twelve months:	C-1 Penalty
Fourth violation within twelve months:	C-2 Penalty
Fifth violation within twelve months:	C-3 Penalty
Sixth violation and all subsequent violations within twelve months:	C-4 Penalty

**10.08.100 - Parking prohibited on certain streets.**

A. It is unlawful for any person to park any motor vehicle on any portion of Bradley Road within the city limits of Lynden.

B. A violation of this provision is a civil infraction and shall subject the violator to a C-2 penalty (see LMC 1.24.040).

**10.16.030 - Penalties.**

A. A violation of this chapter is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040). Each time a vehicle is used contrary to this chapter such occasion shall constitute a separate offense within the meaning of this chapter.

B. The city of Lynden shall have a lien against the vehicle used contrary to this chapter in the amount of the penalty imposed and shall foreclose on such lien according to law, including costs and attorney's fees, if the penalty is not paid as required.

C. In his discretion, the officer may issue a notice of civil infraction and release the driver upon his signature, or he may require the driver or owner to deposit with the municipal court clerk a

sum equal to a C-4 penalty (see LMC 1.24.040) prior to release of the vehicle as a guaranty of appearance in court.

**10.18.030 - Violation—Penalty.**

A violation of any provision of this chapter is a civil infraction and shall subject the violator to a C-3 penalty (see LMC 1.24.040). Furthermore, the device ridden at the time of the violation shall be subject to impound by the city for a period of ten days.

**12.16.065 - Vehicle weight limited when—Exceptions—Penalty.**

A. Whenever in the opinion of the Public Works Director it becomes necessary to place weight limits on streets in the city to avoid unnecessary damage to such streets caused by freezing and thawing, there shall be imposed a maximum weight limit of five tons gross vehicle weight on all streets in the city except the following:

- 1. Front Street from the west city limits to First Street;
- 2. Main Street from the west city limits to Third Street;
- 3. Third Street from Front Street to the north city limits.

B. Special exceptions may be made by the Public Works Director in the case of extraordinary need. Such weight restrictions shall be effective upon posting of notice of such weight restrictions on such streets.

C. A violation of this Section is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040).

**12.24.190 - Violations—Penalty.**

Any violation of any provision of this chapter shall constitute a civil infraction and shall subject the violator to a C-3 penalty (see LMC 1.24.040). Each and every calendar day during any portion of which any violation of this chapter is committed, continued or permitted by any such person shall constitute a separate offense.

**12.28.060 - Penalty.**

A violation of any of the provisions of this chapter is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040).

**13.08.010 – General standards – Developer requirements.**

All work shall comply with the latest edition of the city of Lynden Engineering and Development Design Standards Project Manual:

- A. Mains shall be laid only in dedicated streets or in easements which have been granted to the city. A street is normally not considered dedicated until the plat which created it has been filed with the Whatcom County Auditor.
- B. The developer shall obtain all necessary easements without cost to the *city*. Whenever a main is to be laid other than in a public street, a permanent easement of not less than ten feet on each side of the centerline shall be provided. The developer shall supply the Public Works Director with the supporting data necessary to verify the location of the easement. If legal services are required by the *city* in connection with the easement, other than formal review, the cost of such services shall be reimbursed by the developer to the *city* on demand and before acceptance of the extension.
- C. The developer shall pay for permits as may be required for the work, and shall pay for all surveys, easements, rights-of-way, and franchises required for the work. The developer shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work.

**13.24.080 – Unpaid Stormwater Utility Charge – Termination of Water Service.**

In the event a property owner shall fail to pay the stormwater management utility charge, the city shall have the authority to terminate domestic water service to said property owner. Termination of such water service shall not limit other remedies available to the city under state law. For property owners without water service, a lien may be placed on the property, in accordance with Section 13.24.100.

**13.24.090 – Appeals of Stormwater Management Utility Service Charge; burden of proof.**

A. Appeal to Hearing Examiner. Any property owner who believes that the stormwater management utility service charge for their property has been incorrectly computed or applied and/or that FCI charges have not been properly assessed may appeal to the hearing examiner within fourteen calendar days of the director’s determination of said charges by filing a written statement of appeal with the director. The appeal to the hearing examiner shall be an open record appeal and shall be conducted according to the procedures in Chapters 2.09, 17.09, and 17.11 LMC. During the hearing, the hearing examiner shall consider the recommendation of the director. The hearing examiner shall issue a written decision, notice of which shall be provided to the parties. Any adjustments authorized by the appeal process shall only be effective against billings subsequent to the date the appeal is filed and shall not be retroactively applied.

B. Burden of Proof. The burden of proof in any petition or appeal filed under this chapter shall be on the property owner.

**13.24.095 - Sanctions.**

In addition to any other remedy or sanction available, a property owner who fails to comply with any provision of this chapter, with a final order issued by the city pursuant to this chapter, or who fails to conform to the terms of an issued approval, shall be subject to a C-7 penalty (see LMC 1.24.040), due and payable not later than ten calendar days after issuance of final decision.

Late Payment Fees. A late payment fee shall be added to each property owner’s account if payment is not received by the due date. Said late fees shall be in an amount established by resolution of the city council.

**13.24.130 - Damage to system prohibited.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the city stormwater management facilities. If any person violates this section they shall be subject to a C-7 penalty (see LMC 1.24.040) for each offense. This penalty shall be in addition to any other civil or criminal sanction provided in this chapter or by other law or in equity.

**13.24.145 - Enforcement.**

Enforcement of the following provisions in Chapter 13.24 shall be in accordance with Chapters 1.24 & 1.34 LMC: 13.24.050; 13.13.24.130; 13.24.140; 13.24.150; 13.24.160(A), (B), (C), (E), and (F).

**15.02.030 - Conditional certificate of occupancy—Penalty for failure to complete.**

In the event the work to be completed pursuant to a conditional certificate of occupancy is not completed within the time allotted by the Planning & Community Development Department, the building permit holder shall be subject to a C-5 penalty (see LMC 1.24.040).

**15.03.030 - Conditional certificate of occupancy—Penalty for failure to complete.**

In the event the work to be completed pursuant to a conditional certificate of occupancy is not completed within the time allotted by the Planning and Community Development Department, the building permit holder shall be subject to a C-5 penalty (see LMC 1.24.040). For every additional day the work remains uncompleted, the building permit holder shall be subject to an additional C-1 penalty (see LMC 1.24.040).

**16.12.040 - Penalties for noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of permit or approval conditions and safeguards established in connection with such conditions) shall constitute a civil infraction and shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040. In addition, the person responsible for the violation shall pay all costs and expenses involved in the case. Nothing in this chapter contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

**16.16.140 - Offense and penalty.**

A violation of, or failure to comply with, any provision of this chapter is a civil infraction and shall subject the violator to a C-8 penalty (see LMC 1.24.040).

A failure to comply with a provision of this chapter occurs when a party:

- (1) Develops within or disturbs a critical area or its buffer without fully complying the requirements of this chapter; or
- (2) Fails to comply with mitigation requirements imposed pursuant to this chapter.

**17.13.010 - Enforcing official—Authority.**

The director shall be responsible for enforcing Titles 15 through 19 of this code, and may adopt administrative rules to meet that responsibility. The director may delegate enforcement responsibility to the city engineer, director of public works, building official, fire chief or chief of police as appropriate.

**17.13.020 - General penalty.**

Compliance with the requirements of Titles 15 through 19 of this code, shall be mandatory. The general penalties established at Chapter 1.24 of this code and the provisions for enforcing and obtaining compliance established in Chapter 1.34 of this code shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

**17.13.050 - Civil fines for violation of Development Code.**

A. *Failure to obtain necessary permit.* The failure to obtain any necessary permit required under the Development Code is a civil infraction and shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).



B. *Other violation of the Development Code.* A violation of any provision of the Development Code for which a penalty is not specified shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).

**18.20.050 – Permanent control monuments – Within streets – Requirements.**

Permanent control monuments within the streets shall be set after the streets are graded. In the event a final plat is approved before streets are graded, the surety deposited to secure grading shall be sufficient to pay the costs estimated by the Public Works Director of settling such monuments.

**19.49.060 - Content—Violations.**

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter. Any such violation is a civil infraction and shall subject the person responsible for the violation to a C-9 penalty (see LMC 1.24.040) and/or revocation of the conditional use permit.

**19.57.160 - Violations.**

A. If the Community Development Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Community Development Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated.

Appeal of the Community Development Director’s administrative decision to suspend or revoke a home occupation use permit or business license may be appealed according to the procedures set forth in LMC 17.11.

**19.59.240 - Violation—Penalty.**

A. A violation of any term or provision of this chapter or of any permit hereunder, or failure to comply with a lawful order of the city planner Community Development Director as provided in this chapter is a civil infraction and shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).

B. Each calendar day of any continuing violation shall be deemed a separate and distinct violation.

**SECTION 4:** The following provisions of the Lynden Municipal Code are hereby repealed in their entirety:

**9.04.085 – Person receiving civil infraction notice—Identification and detention.**

A person who is to receive a notice of infraction under the Lynden Municipal Code is required to identify himself or herself to the enforcement officer by giving his or her name, address and date of birth. Upon request of the officer, the person shall produce reasonable identification, including a driver's license or identicaid.

The officer may detain the person for a reasonable period of time necessary to confirm the identity of the person, to check for outstanding warrants and to complete and issue the notice of civil infraction.

**17.13.040 – Civil regulatory order.**

A. Authority. A civil regulatory order may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the development code.

B. Notice. A civil regulatory order shall be deemed served and shall be effective when posted at the location of the violation and/or delivered to any suitable person at the location and/or delivered by registered mail or otherwise to the owner or other person having responsibility for the location.

C. Content. A civil regulatory order shall set forth:

1. The name and address of the person to whom it is directed;
2. The location and specific description of the violation;
3. A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;
4. An order that the violation immediately cease, or that the potential violation be avoided;
5. An order that the person stop work until correction and/or remediation of the violation as specified in the order;
6. A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions;
7. A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.

D. Remedial Action. The director may require any action reasonably calculated to correct or avoid the violation, including, but not limited to, replacement, repair, supplementation, revegetation or restoration.

~~E. Appeal. A civil regulatory order may be appealed in an open record appeal to the hearing examiner in accordance with Chapter 17.11 of this code.~~

**SECTION 5:** If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

**SECTION 6:** Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 7:** This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

AFFIRMATIVE VOTE \_\_\_\_\_ IN FAVOR, AND \_\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.

\_\_\_\_\_  
Scott Korthuis, Mayor

ATTEST:

\_\_\_\_\_  
Pamela Brown, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Robert Carmichael, City Attorney

EXHIBIT A

ORDINANCE NO.23-1680

Showing amendments to the Lynden Municipal Code. Underlines indicate additions and strikethroughs indicate deletions.

Chapter 1.24 – GENERAL PENALTY ~~AND ENFORCEMENT~~

1.24.010 – Classification of Penalties.

Penalties are classified as follows:

A. *General Penalty.* Whenever the performance of any act is specifically prohibited or required by any law or section within this code and no penalty for violating such law or section is imposed, the penalty for performance of such required act or omission shall be a civil infraction.

B. *Civil Infraction.* Unless otherwise provided by law or this code, a person found guilty of committing a civil infraction under this code shall be subject to a monetary fine of not more than \$500.00. Statutory assessments shall be imposed in addition to any monetary fine for a civil infraction. A civil infraction may also be referred to within this code as a “civil violation.”

C. *Misdemeanor.* Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000 or by both such imprisonment and fine. (RCW 9.92.030). Statutory assessments shall be imposed in addition to any monetary fine for a misdemeanor offense.

D. *Gross Misdemeanor.* Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to 364 days, or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine (RCW 9.92.020). Statutory assessments shall be imposed in addition to any monetary fine for a gross misdemeanor offense.

~~1.24.015 – General penalty.~~

~~A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of any ordinance contained in Title 9, 15, 16, 17, 18, or 19 of the Lynden Municipal Code is guilty of a misdemeanor. Any person violating any of the other provisions or failing to comply with any of the other mandatory requirements of the other titles of this code shall be guilty of a civil infraction. Except in cases where a different punishment is prescribed by any ordinance of the city, any person convicted of a misdemeanor under the ordinances of the city shall be punished by a fine not to exceed one thousand dollars. Except in cases where a fixed monetary fine is prescribed by an ordinance, any~~

person found to have committed a civil infraction shall pay a civil penalty of not more than five hundred dollars.

B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the city is committed, continued or permitted by any such person, and he or she is punishable accordingly.

**1.24.020 - ~~Violator's written promise to appear in court—Approval required.~~**  
**Continuing Offenses.**

Any person arrested or charged with violation or violations of any portion of the city ordinances including sections and/or portions enacted hereinafter may, with approval of the presiding judge or person or persons acting on behalf of the presiding judge, give his or her written promise to appear in proper court, be it the municipal court of the city of Lynden or the Whatcom County District Court at any agreed time.

Each day during any portion of which a violation of any provision of this code is committed or is permitted is deemed to be the commission of a separate offense.

**1.24.030 – Principles of Liability.**

The following statutes of the state of Washington are adopted by reference, as presently constituted or hereafter amended, and made a part of this code:

- A. RCW 9A.08.010, General requirements of culpability
- B. RCW 9A.08.020, Liability of conduct of another, complicity
- C. RCW 9A.08.030, Criminal liability of corporations and persons acting under a duty to act on their behalf.

**1.24.040 – Penalties for Civil Infractions – Designated.**

Specific, ~~non-deferrable, non-suspendable~~ civil penalties are adopted by ~~category~~ reference in other sections of this code with a specific civil penalty to be imposed for each category of civil infraction as follows:

<u>Category</u>	<u>Penalty</u>
<u>C-1</u>	<u>\$25</u>
<u>C-2</u>	<u>\$50</u>
<u>C-3</u>	<u>\$75</u>
<u>C-4</u>	<u>\$100</u>
<u>C-5</u>	<u>\$250</u>
<u>C-6</u>	<u>\$300</u>

<u>C-7</u>	<u>\$350</u>
<u>C-8</u>	<u>\$500</u>
<u>C-9</u>	<u>\$1,000</u>

**Chapter 1.34 – COMPLIANCE AND ENFORCEMENT**

**1.34.010 – Title.**

This chapter shall be called “Compliance and Enforcement.”

**1.34.020 – Applicability & Purpose.**

A. This chapter sets forth the procedures for enforcing violations of the following provisions of the Lynden Municipal Code as now in effect or hereafter amended:

-Title 8 (Health and Safety), Except for Chapter 8.16 (Litter);

-Title 12 (Streets, Sidewalks and Public Places);

-The following provisions within Title 13 (Public Utilities): 13.24.050; 13.24.130; 13.24.140; 13.24.150; 13.24.160(A),(B),(C), (E) and (F).

-Title 15 (Building and Construction);

Title 16 (Environmental Policy);

-Title 17 (Land Development);

-Title 18 (Subdivisions);

-Title 19 (Zoning); and

-Such other code provisions, ordinances, resolutions, or public rules that adopt this chapter by reference.

C. The provisions of this chapter are in addition to any other provisions of this code and may be enforced separately from such other provisions or in combination therewith. The City shall have any and all remedies available to it in law and equity.

D. It is the express and specific purpose and intent of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be specially protected or benefitted by the terms of this chapter.

E. Nothing contained in this chapter is intended or shall be construed to create or form the basis of any liability on the part of the City, its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees, or agents.

**1.34.030 – Definitions.**

All definitions contained in LMC 17.01.030 apply to this chapter. In addition, the following words and phrases used in this chapter shall have the following meanings:

- A. “Abate” means to repair, replace, remove, destroy, demolish, board-up, or otherwise remedy a condition which constituted a civil infraction by such means, in such a manner, and to such extent as the Enforcement Official determines is necessary in the interest of the general health, safety, and welfare of the community.
- B. “Enforcement Official” means the City official designated by code with enforcement authority of a particular title, chapter, section, or provision thereof and may include any of the following:
  - (1) The Chief of Police
  - (2) The City Administrator
  - (3) The Director of the department generally responsible for enforcement of the Lynden Municipal Code provision which is the subject of a violation including, but not limited to:
    - i. The Public Works Director (for violations of Titles 12-13)
    - ii. The Community Development Director (for violations of Titles 15-19)
    - iii. The Parks Director (for violations of Chapter 12.24)
  - (4) A Code Enforcement Officer, serving under the direction of the Community Development Director or Building Official;
  - (5) Any ~~designee duly appointed~~ employee of the City of Lynden designated to act as an Enforcement Official by any of the officials identified in subsections B (1)-(3) ~~above to act as an Enforcement Official.~~ Any such designation shall be made in writing. The written record of all such designations shall be maintained by the designating Enforcement Official.

Any of the officials identified in subsections B (1) – (5) above may act as an Enforcement Official pursuant to violations of Lynden Municipal Code Title 8.

- C. “Determination of Compliance” means a written statement from the City that the violation(s) identified in a Voluntary Correction Agreement, Civil Regulatory Order, or other notice has been sufficiently abated, remediated, or otherwise resolved.

- D. “Emergency” means a situation or civil violation which, in the opinion of an Enforcement Official, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.
- E. “Hearing Examiner” means the Lynden Hearing Examiner and the office thereof established pursuant to Lynden Municipal Code Chapter 2.09.
- F. “Person Responsible for the Violation” means the person or persons, firm, corporation, partnership, joint venture, limited liability company, or other legal entity who caused, or is reasonably believed by an Enforcement Official to have caused, the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy the property and/or premises where a civil violation occurs.
- G. “Remediate” means to restore a site to a condition that complies with critical area or other regulatory requirements as they existed before the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the general public health, safety, or welfare.
- H. “Violation” means:
  - (1) An act or omission contrary to any regulation or provision of the Lynden Municipal Code; and
  - (2) An act or omission contrary to the conditions of any permit, notice, order, or stop work order issued pursuant to any such regulation or provision.

**1.34.035 – Declaration of Public Nuisance.**

A. Public Nuisance. All violations of the following are determined to be detrimental to the public health, safety, and environment, and are declared to be public nuisances:

- 1. The following provisions within Title 8 (Health and Safety): 8.04.025; 8.04.040; 8.08.010; 8.12.010; 8.12.020; 8.16.020; 8.16.030; 8.20.060.
- 2. Any act or omission declared to be a nuisance under the following provisions of Title 8 (Health and Safety): 8.16.060; 8.20.010; 8.20.020; 8.24.010; 8.24.015; 8.24.016.
- 3. The following provisions within Title 12 (Streets, Sidewalks and Public Places): 12.05.030(G) and (H); 12.08.010(B) and (D); 12.16.010; 12.16.020; 12.16.025; 12.16.060; 12.16.065; 12.20.010; 12.24.040; 12.24.050; 12.24.060(E); 12.24.120; 12.24.165(H), (I), (J), (L), and (P); 12.28.010; 12.28.040; 12.40.040; 12.40.050.
- 4. The following provisions within Title 13 (Public Utilities): 13.12.045(C),(E), and (F); 13.12.060; 13.12.070; 13.12.080; 13.12.090; 13.12.100; 13.12.110; 13.12.120;



13.12.130; 13.12.140; 13.12.150(E); 13.12.160; 13.12.170; 13.12.180; 13.12.280; 13.12.290; 13.12.300(C) and (D); 13.12.310; 13.12.460; 13.12.510; 13.12.540; 13.24.050; 13.24.130; 13.24.140; 13.24.150; 13.24.160(A),(E) and (F).

- 5. LMC 13.24.160(B)&(C), if the Director determines the discharge is causing pollution, or likely to cause pollution, of surface or groundwater.
- 6. The following provisions within Title 15 (Building and Construction): 15.02.040; 15.03.040.
- 7. The following provisions within Title 16 (Environmental Policy): 16.12.040; 16.12.120; 16.12.130; 16.12.135; 16.12.140; 16.16.060; 16.16.140(C); 16.16.370(A); and
- 8. LMC Title 17 (Land Development);
- 9. Title 18 (Subdivisions); and
- 10. The following provisions within Title 19 (Zoning): 19.31.020; 19.33.080; 19.39.040; 19.63.050; 19.63.060(A) and (C); 19.66.020.

B. List Not Exhaustive. The list of public nuisances contained in Section A above is not exhaustive. Nothing in this section shall be construed to limit or restrict the City’s ability to (1) declare nuisances, or (2) impair any enforcement authority the City would otherwise have to address a nuisance, or other violation of the Lynden Municipal Code, including abatement thereof.

**1.34.040 – Enforcement, Authority, and Administration.**

A. In order to discourage public nuisances and otherwise promote compliance with applicable code provisions, an Enforcement Official may, in response to field observations, investigations, or reliable complaints, determine that violations of the provisions listed in LMC 1.34.020, or any other provision which adopts the compliance and enforcement scheme established in Chapter 1.34, have occurred or are occurring, and may:

- (1) Enter into a Voluntary Correction Agreement with a person responsible for the violation(s);
- (2) Issue Civil Regulatory Orders, assess civil penalties, and/or recover costs as authorized by this chapter and/or other applicable code sections;
- (3) Require abatement by the Person Responsible for the Violation or undertake summary abatement and charge the reasonable costs of such work as authorized by this chapter;
- (4) Order work stopped at a site by means of a stop work order, and if such order is not complied with, assess civil penalties as authorized by this chapter and/or other applicable code sections;
- (5) Suspend, revoke, or modify any permit previously issued by the City or deny a permit application as authorized by this chapter and/or other applicable code sections when other efforts to achieve compliance have failed;

(6) Forward a written statement providing all relevant information relating to the violation to the office of the City Attorney with a recommendation to prosecute violations; and

(7) Require any other remedy available by law through the Hearing Examiner and/or court of applicable jurisdiction in Whatcom County.

B. The City has established its own Civil Infraction system for the enforcement of civil violations and nuisances pursuant to the authority of RCW 35A.11.020 and RCW 7.80.010(5), as presently enacted or hereafter amended.

C. The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner limit or restrict the City from remedying or abating violations of the titles listed in LMC 1.34.020 in any other manner authorized by law.

D. *Obligation of Person Responsible for Violation.* The Person Responsible for the Violation shall achieve full code compliance. Payment of civil penalties, applications for permits, acknowledgement of stop work orders, and compliance with other remedies does not substitute for performing corrective work and/or performance of actions required for code compliance and/or having the property brought into compliance to the extent reasonably practicable under the circumstances, as determined by the Enforcement Official.

E. *Right of Entry.* The Enforcement Official is authorized to enter upon property or premises at any reasonable time to determine whether a civil violation has occurred or is occurring, or to enforce any provision of the Lynden Municipal Code. The Enforcement Official may make examinations, surveys, and studies as may be necessary in the performance of their duties. If the premises is occupied, the Enforcement Official shall present credentials and request entry. If an owner, occupant, or agent refuses the Enforcement Official entry, the City may seek an administrative or criminal search warrant.

(1) *Nonemergency Permissive Entry.* The Enforcement Official may, (1) with the consent of the property owner or other responsible person, (2) pursuant to a lawfully issued administrative or criminal warrant, or (3) as otherwise authorized by law, enter such property to determine whether a civil violation has occurred or is occurring, and/or to enforce any provision of the Lynden Municipal Code.

(2) *Refusal of Entry.* If entry is refused or cannot be obtained, the Enforcement Official may apply to a court of competent jurisdiction to obtain entry, and/or shall have recourse to every remedy provided by law to secure entry.

(3) *Emergency Entry.* In the event of an Emergency, the Enforcement Official may enter onto property without obtaining consent or a warrant but shall advise the owner or responsible person of such entry as soon as practicable thereafter.

(4) Other Authority Not Restricted. Nothing in this section shall be construed to limit or restrict a right vested, by other legal authority, in officers or agents of the City to enter upon private or public property for any lawful purpose.

**1.34.050 – Voluntary Correction Agreement.**

A. Applicability. This section applies whenever the Enforcement Official determines that a violation has occurred or is occurring.

B. General. The Enforcement Official shall have the discretion to secure voluntary correction by contacting the Person Responsible for the Violation, explaining the violation, and requesting correction.

C. Issuance of Voluntary Correction Agreement. A Voluntary Correction Agreement may be entered into between the Person Responsible for the Violation and the City, acting through the Enforcement Official. The Mayor is authorized to sign a Voluntary Correction agreement on behalf of the City.

D. Content. The Voluntary Correction Agreement is a contract between the City and the Person Responsible for the Violation under which such person agrees to correct the violation within a specified time and according to specific conditions. The Voluntary Correction Agreement shall include, at a minimum, the following:

- (1) The name and address of the Person Responsible for the Violation;
- (2) The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring;
- (3) A description of the violation(s) and a reference to the provision(s) of the City code which has been violated;
- (4) The necessary corrective action to be taken, and the date by which the correction must be completed;
- (5) An agreement by the Person Responsible for the Violation that the City may inspect the premises as may be necessary to determine compliance with the Voluntary Correction Agreement;
- (6) The amount of the minimum civil penalty that will be imposed if the terms of the Voluntary Correction agreement are not complied with; and
- (7) A statement that if the City determines that the terms of the Voluntary Correction Agreement are not complied with, the City may impose any remedy authorized by this chapter, including:
  - I. Assessment of the civil penalties identified in the Voluntary Correction Agreement;
  - II. Abatement of the violation at expense of Person Responsible for Violation;

- III. Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and
- IV. Suspension, revocation, or limitation of any related permit(s).

(8) A statement that the Person Responsible for the Violation knowingly waives the right to a hearing.

E. Right to a Hearing Waived. In consideration of the City’s agreement to enter into a Voluntary Correction Agreement, the Person Responsible for the Violation shall have no right to an administrative or judicial hearing, under this chapter or otherwise, regarding the matter of the violation or the required corrective action.

F. Administrative Review of Compliance. After the Person Responsible for the Violation has given written notice to the City of completion of the corrective action required under the Voluntary Correction Agreement, the Enforcement Official shall, within five workingbusiness days, determine if the corrective action is complete. If the Enforcement Official determines that the corrective action is not complete, the Enforcement Official shall so notify the Person Responsible for the Violation in writing. The Person Responsible for the Violation shall have seven business days from the date of mailing of said notice in which to file an appeal with the Enforcement Official for review of such determination by the Hearing Examiner. Said review shall be completed and a decision issued by the Hearing Examiner within thirty calendar days of receipt of a timely appeal. The only issue subject to review during an appeal at this stage shall be whether there has been complete compliance with the terms of the Voluntary Correction Agreement.

G. Extension and Modification. An extension of the time limit to complete the corrective action or a modification of the required corrective action may be granted by the Enforcement Official, in writing, if in the judgment of the Enforcement Official the Person Responsible for the Violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction required under the original agreement impossible or impractical.

H. Abatement by the City. The City may abate the violation in accordance with Section 1.34.100 if the terms of the Voluntary Correction Agreement are not complied with.

I. Monetary Penalty.

(a)The Enforcement Officer may reduce or waive any related monetary penalties if the violation(s) are corrected or mitigated according to the terms and schedule of a Voluntary Correction Agreement.

(b) If the terms of the Voluntary Correction Agreement are not met, the Person Responsible for the Violation may be assessed a monetary penalty not to exceed \$1,000 for each violation. Each separate day, event, action, or occurrence shall constitute a separate violation. In addition, such person shall be liable for all costs and expenses of abatement, as set forth in Section 1.34.100(C). Penalties will begin to accrue from the date the Voluntary Correction Agreement was issued. The

date the City completes the abatement shall be the last day a monetary penalty may be imposed.

**1.34.060 – Civil Regulatory Order.**

When the Enforcement Official determines that a violation has occurred or is occurring and does not secure voluntary correction pursuant to Section 1.34.050, the Enforcement Official may issue a Civil Regulatory Order to the Person Responsible for the Violation.

**1.34.061 – Civil Regulatory Order – Issuance & Service.**

A. Issuance. When the Enforcement Official determines that a violation has occurred or is occurring, the Enforcement Official may issue a Notice of Civil Regulatory Order to any Person Responsible for the Violation.

B. Person Receiving Notice – Identification and Detention. A person who is to receive a Notice of Civil Regulatory Order is required to identify themselves to the Enforcement Official by giving their name, address, and date of birth. Upon the request of the Enforcement Official, the person shall produce reasonable identification.

A Person Responsible for the Violation who is unable or unwilling to reasonably identify themselves to the Enforcement Official may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing the Notice of Civil Regulatory Order.

C. Contents. The Notice of Civil Regulatory Order shall include, at a minimum, the following:

1. The name and address of the Person Responsible for the Violation;
2. The street address or a description sufficient for identification of the building, structure, premises, or land upon which or within which the violation has occurred or is occurring;
3. A statement that the Notice of Civil Regulatory Order represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;
4. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
5. A statement of the specific violation for which the notice was issued;
6. A statement of the monetary penalty established for the civil infraction, including any portion of said penalty that may be suspended, conditioned on timely correction, abatement, or remediation;

- 7. A statement that the recipient must respond to the notice as provided in this chapter within fifteen calendar days by (1) providing evidence that the violation has been sufficiently corrected, abated, or remediated, (2) filing a notice of appeal with the Enforcement Official to be heard by the Hearing Examiner, or (3) requesting a mitigation hearing with the Enforcement Official to explain mitigating circumstances surrounding the violation.
- 8. A statement that at any hearing to contest the determination, the rules for Hearing Examiner Proceedings established pursuant to LMC Chapter 2.09 will apply; and
- 9. A statement that failure to respond to a Notice of Civil Regulatory Order within fifteen calendar days or to appear at a requested hearing is a misdemeanor and may be punished by a fine, imprisonment, or by both such fine and imprisonment; and
- 10. A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for purposes of explaining mitigating circumstances will result in a default judgment against the Person Responsible for the Violation in the amount of the penalty. In addition, the failure to appear may be referred to the prosecuting attorney for criminal prosecution for failure to respond and/or appear.

The Notice of Civil Regulatory Order may also include the following, as applicable:

- 11. A statement of the steps required to correct, abate, or remediate the violation;
- 12. The date by which the required corrective action, abatement, or remediation must be completed by; and/or
- 13. An order to stop work, but only if in the judgment of the Enforcement Official the subject continuing violation of this code will materially impair the Enforcement Official's ability to secure compliance with the code, when the continuing violation threatens the health or safety of the public, or when the continuing violation is likely causing ongoing environmental damage. Said stop work order shall specify the violation and may prohibit any or all work or other activity at the site until the required correction, abatement, or remediation is completed and a Determination of Compliance is issued by the Enforcement Official.

D. Service. Service of the Notice of Civil Regulatory Order shall be made by one or more of the following methods:

- A. By personal service on the Person Responsible for the Violation;
- B. If the violation involves a business, by personal service on any employee of the business of a suitable age and discretion;
- C. By mailing a copy of the notice by regular first-class mail to the last known address of the Person Responsible for the Violation; or

D. For violations involving real property, by placing the notice in a conspicuous place on the property where the violation is occurring.

Service shall be deemed effective upon personal service, or one business day following the posting of the notice upon the property, or three business days following placement of the notice in the U.S. mail, postage prepaid.

E. *Determination Final Unless Contested.* A Notice of Civil Regulatory Order represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in LMC 1.34.062.

**1.34.062 – Civil Regulatory Order – Response.**

A. A person who receives a Notice of Civil Regulatory Order shall respond to the notice within fifteen calendar days of the date the notice was served by either (1) providing evidence that the violation has been sufficiently corrected, abated, or remediated, and paying any penalty prescribed in the order, (2) filing a notice of appeal with the Enforcement Official to be heard by the Hearing Examiner, or (3) requesting a mitigation hearing with the Enforcement Official to explain mitigating circumstances surrounding the violation.

B. *Declaration of Compliance.* If the Person Responsible for Violation provides evidence the violation has been corrected and/or pays any prescribed penalty, an Enforcement Official will undertake further investigation to determine whether compliance has been achieved. If compliance has been achieved, the Enforcement Officer will issue a Determination of Compliance within five business days to the person(s) named in the order. If the Enforcement Official determines that compliance has not been achieved, they may elect to issue a new Civil Regulatory Order or pursue any other action available in law or equity.

C. *Hearing Examiner Appeal.* A Civil Regulatory Order may be appealed to the Hearing Examiner within 15 calendar days of the effective service of the order by filing a statement of appeal with the Enforcement Official. A statement of appeal shall include the following:

- 1. The name of the appellant,
- 2. The date of the Civil Regulatory Order, and
- 3. An explanation of the grounds for appeal, including citation to applicable sections of the Lynden Municipal Code or other legal authority.

If an appeal is not timely filed with the Enforcement Official, the Civil Regulatory order becomes a final order. The final order, including the collection of penalties and required correction, abatement, or remediation, may be enforced by the City Attorney in Whatcom County Superior Court.

D. *Explanation of Mitigating Circumstances.* Within 15 calendar days of the effective service of a Civil Regulatory Order, the Person Responsible for the Violation may request a hearing with the Enforcement Official for the purpose of explaining any mitigating circumstances surrounding the violation. The hearing

shall be an informal proceeding. The Person Responsible for the Violation may not subpoena witnesses. The determination that a violation has been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances. Within 10 calendar days of the hearing, the Enforcement Official will provide the Person Responsible for the Violation a written notice of the decision and any revisions to the Civil Regulatory Order.

E. Any person who fails to comply with a Notice of Civil Regulatory Order is guilty of a misdemeanor regardless of the disposition of the Notice of Civil Regulatory Order.

F. A person who willfully fails to pay a monetary penalty under this chapter may, unless indigent, be found in contempt of a court as provided in Chapter 7.21 RCW.

**1.34.070 – Penalties.**

A. Monetary Penalty. If corrective action is not completed by the date specified in a Notice of Civil Regulatory Order, a daily C-4 penalty (see LMC 1.24.040) shall commence. The daily monetary penalty shall increase to a C-5 penalty (see LMC 1.24.040) if corrective action is not completed by the second deadline established in the initial or any subsequent Notice of Civil Regulatory Order. The daily monetary penalty shall increase to a C-8 penalty (see LMC 1.24.040) per day if the corrective action is not completed by the third deadline established in the initial or any subsequent Notice of Civil Regulatory Order. This penalty shall be in addition to any penalty imposed in the Civil Regulatory Order for the underlying violation(s) and any penalty pursuant to a Voluntary Correction Order entered into prior to issuance of the Civil Regulatory Order. Civil fines shall be paid into the City’s general fund.

B. Restitution. The Hearing Examiner or a reviewing court may also order a person found to have committed a violation to make restitution and perform abatement or remediation.

C. Collection of Monetary Penalty. Civil penalties imposed under this section shall be due immediately and payable upon issuance and receipt of a Notice of Civil Regulatory Order. The City may, but is not required to, send the Person Responsible for the Violation periodic statements of the total monetary penalty currently due. If a penalty remains unpaid thirty 30 calendar days after it becomes due and payable, the City Attorney is authorized to take all actions available to collect the full amount owed. The City Attorney is authorized to take all actions available to collect the monetary penalty.

D. Continued Duty to Correct. Payment of a monetary penalty pursuant to this section does not relieve the Person Responsible for the Violation of the duty to correct, abate, or remediate the violation as called for in the Civil Regulatory Order.

E. Compromise, Settlement, and Disposition of Disputes. The Enforcement Official or the City Attorney may negotiate a settlement or compromise, or otherwise dispose of a dispute enforced under this chapter when to do so would be in the best interests of the City. A settlement may include reducing or waiving any monetary penalties.



### **1.34.090 – Civil Regulatory Order – Appeal.**

A. How to Appeal. The person to whom a Notice of Civil Regulatory Order is issued pursuant to this chapter may appeal to the Hearing Examiner by sending a written notice of appeal to the Enforcement Official along with the applicable appeal fee established by resolution of the City Council, if any, within 15 calendar days from the date of effective service of the Notice of Civil Regulatory Order. The written notice of appeal shall contain, at a minimum, the following information:

1. A brief statement identifying the decision being appealed;
2. The name and address of the appellant;
3. A brief statement identifying the relief sought and the reasons why the Enforcement Official's determination should be reversed, modified, or set aside; and
4. Identification of any witness testimony, photographs, or documentary evidence to be presented.

B. Effect of Appeal. The monetary penalty for a continuing violation does not continue to accrue during the pendency of the appeal. However, the Hearing Examiner may impose a daily monetary penalty from the effective date of service of the Notice of Civil Regulatory Order if the Hearing Examiner finds that the appeal is frivolous or intended solely to delay compliance. All other provisions of the Civil Regulatory Order remain in effect during the pendency of the appeal.

C. Date of Hearing. Within 10 calendar days of the Enforcement Official's receipt of a timely written notice of appeal, the Hearing Examiner shall set a public hearing for a date within 45 calendar days, unless a longer period is agreed to by both parties.

D. Conduct of Hearing. The Hearing Examiner shall conduct the hearing according to the Hearing Examiner Procedural Rules established pursuant to LMC 2.09.

E. Preponderance of the Evidence Standard. For each violation appealed, the Hearing Examiner shall determine whether the City has established by a preponderance of the evidence that (1) a violation has occurred, and (2) that the required corrective action is reasonable.

F. Decision. The Hearing Examiner shall affirm, vacate, or modify the City's decision regarding each alleged violation appealed and the related required corrective action, with or without written conditions. The Hearing Examiner may reduce or waive any related monetary penalties.

G. Notice of Decision. The Hearing Examiner's decision shall be mailed to the Appellant, Enforcement Official, and City Attorney within 14 calendar days of the hearing. The decision shall contain, at a minimum, the following:

1. The decision regarding the alleged violation, including findings of fact and conclusions of law based thereon; and

2. A statement that noncompliance with the Hearing Examiner’s decision is punishable as a misdemeanor under LMC 1.34.90(I).

I. Effect of Decision. The decision of the Hearing Examiner shall constitute the final decision of the City. If a notice of appeal is not timely filed, the failure to comply with the decision of the Hearing Examiner shall constitute a misdemeanor. In addition to criminal punishment pursuant to this subsection, the City may pursue abatement as provided for in this chapter.

**1.34.100 – Abatement by the City.**

A. Summary Abatement. Whenever a condition constitutes an immediate threat to the public health, public safety, public welfare, or to the environment, the City may summarily and without prior notice abate the condition. Written notice of such abatement, including the reason(s) for it, shall be given to the Person Responsible for the Violation as soon as reasonably practicable after the abatement.

B. Judicial Abatement. Alternatively, the City may at any time seek a judicial abatement order from Whatcom County Superior Court to abate a condition which continues to be a violation of this code when other methods of remedial action have failed to produce compliance.

C. Cost of Summary Abatement. In addition to any other penalty imposed under this chapter, the City may levy a special assessment on the property or premises where a nuisance is situated to reimburse the City for the expense of the abatement of said nuisance, in accordance with the requirements of RCW 35A.21.405, as presently enacted or as hereafter amended.

D. Other Methods Not Excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with another ordinance or the laws of the state of Washington.

**1.34.130 – Interference with Code Enforcement Unlawful.**

Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a Civil Regulatory Order, stop work order, emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation being processed under this chapter shall be guilty of a gross misdemeanor.

**1.34.140 – Conflicts.**

In the event of a conflict between this chapter and any other provision of the Lynden Municipal Code or City ordinance, this chapter shall control.

**1.34.150 – Severability.**

If any section, subsection, clause, paragraph, phrase, or word of this chapter should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity of any other section, subsection, clause, paragraph, phrase, or word of this chapter.

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**2.09.040 - Jurisdiction-duties—powers.**

A. The hearing examiner shall have the power to receive and examine available information, conduct public hearings, prepare a record thereof, and enter decisions as provided by ordinance.

B. The hearing examiner shall have the exclusive jurisdiction to hold an open record hearing and make a decision on the following matters:

1. Appeals of the determinations of the fees and dedications made under Chapters [3.28](#), [3.40](#), [3.44](#), and [19.67](#) LMC;
2. Appeals of dangerous dog declarations under [Chapter 6.09](#) LMC;
3. Appeals of determinations of eligibility for relocation assistance under [Chapter 12.36](#) LMC;
4. Appeals of the city's determination to suspend services, impose penalties, recover costs, establish compliance schedules, or terminate a user's wastewater and/or collection services, under [Chapter 13.12](#) LMC;
5. Appeals of the city's computation or application of the stormwater management utility service charge or FCI charges or imposition of sanctions or fines under [Chapter 13.24](#) LMC;
6. Challenges of the written interpretations and/or decisions of the public works director made under [Chapter 13.28](#) LMC;
7. Petitions for exemptions from payment of the utility fee or for conversion to exempt status, and appeals of the city's computation of the applicable fees assessed, under [Chapter 13.32](#) LMC;
8. Appeals of the determination of the ~~planning director~~ [Community Development Director](#) regarding moving buildings under [Chapter 15.05](#) LMC;
9. Appeals of the determination of the building code official as described in [Chapter 15.14](#) LMC;
10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under [Chapter 16.05](#) LMC, including related procedural and substantive issues;
11. Appeal of director's final critical area determinations;

- 12. All applications for shoreline permits or revisions to shoreline permits under [Chapter 16.08](#) LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;
- 13. Under [Chapter 16.12](#) LMC, Floodplain Management, all appeals of determinations of the director, and variance requests where not consolidated with an underlying project application being decided upon by a different hearing body;
- 14. Appeals of the imposition of penalties or of the ~~planning director's~~ [Community Development Director's](#) decision on mitigation or revision under [Chapter 16.16](#) LMC;
- 15. Appeals of the administrative approvals described in LMC Sections [17.09.010](#) and [17.09.020](#);
- 16. Appeals of administrative interpretations and approvals under LMC [Section 17.11.010](#);
- 17. Appeals of civil regulatory orders and civil fines issued under ~~Chapter 17.13~~ [Chapter 1.34](#) LMC;
- 18. Appeals of the results of concurrency tests, denials of proposed mitigation for transportation facilities, and any other determinations of capacity or calculations or assessments of any fees made under [Chapter 17.15](#) LMC;
- 19. Amortization periods for nonconforming signs;
- 20. All variances from the requirements of [Title 19](#), except variances from the requirements of [Chapter 19.33](#) LMC and LMC Sections [19.22.030](#), [19.22.040](#), and [19.22.050](#), and except where the variance is part of a project application being decided upon by a different hearing body;
- 21. Appeals of determinations of building official as described in LMC [Section 19.42.040](#);
- 22. Appeals of administrative interpretations made under Chapter 19.59 LMC; ~~and~~
- 23. ~~Other actions as required by this code.~~ [Appeals of a determination of incomplete abatement under a voluntary correction order made under LMC Section 1.34.050\(F\) and](#)
- 24. [Other actions as required by this code.](#)

C. In order to avoid the city holding two hearings on one project, the hearing examiner shall only hear variance applications and shoreline permit applications or revisions that are not filed as part of an underlying project for which another hearing body will conduct a hearing. For example, if an applicant submits a long plat application along with a variance application to use an alternative cul-de-sac design, the hearing on the variance on the cul-de-sac shall be consolidated with the hearing on the long plat, and the consolidated hearing shall be before the hearing body holding the hearing on the long plat.

D. The hearing examiner is empowered to act in lieu of the board of adjustment, the board of appeals, the city council, the planning commission and such other officials, boards, or commissions as may be assigned for those matters listed in subsection (B) of this section. Wherever existing ordinances, codes or policies authorize or direct the board of adjustment, the board of appeals, the city council, the planning commission or other officials, boards, or commissions to undertake certain activities which the hearing

examiner has been assigned under said subsection (B), such ordinances, codes or policies shall be construed to refer to the hearing examiner.

E. The hearing examiner may include in a decision any conditions of approval that are necessary to ensure that the proposal complies with all applicable code criteria and comprehensive plan policies.

F. The hearing examiner has such other powers as are necessary to carry out the purpose and intent of this chapter, including without limitation to conduct pre-hearing conferences; to require the submittal of information; to schedule and continue hearings; to administer oaths and affirmations; to issue subpoenas; to regulate the course of pre-hearing discovery; to preside over hearings and the conduct of parties; to question parties and witnesses at a hearing; to rule on all evidentiary, procedural and other matters, including all motions; to maintain order; to establish post-hearing procedures; to issue findings of fact and conclusions of law; to enter final decisions and orders; and to adopt procedures consistent with [Section 2.09.050](#).

G. With the exception of shoreline permit applications, ~~and~~ revisions heard by the hearing examiner, and decisions on appeals of Civil Regulatory Orders, the hearing examiner's decision on ~~these the~~ matters identified in subsection (B) shall be final unless timely appealed to the city council following the procedures in [Chapter 17.11](#) LMC. The city council shall hear appeals of these matters as closed record appeals. The hearing examiner shall make the final decision of the city on the shoreline permit issues he or she hears and on appeals of Civil Regulatory Orders. The determination of the hearing examiner on shoreline permit applications and revisions shall be subject to appeal to the shoreline hearings board.

**2.10.070 - Violation—Penalty.**

It shall be a misdemeanor, ~~punishable by a fine of not to exceed five hundred dollars, or by imprisonment for not to exceed three months, or both~~, for any person during a disaster:

A. To willfully obstruct, hinder or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter, or in the performance of any duty imposed upon him by virtue of this chapter;

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of a nature as to give, or be likely to give, assistance to the enemy, or to imperil the lives or property of inhabitants of the city, or to prevent, hinder or delay the defense or protection thereof;

C. To wear, carry or display, without authority, any means of identification specified by the department of emergency management of the state.

**3.28.180 - Noncompliance—Penalty.**

A violation of any provision of this chapter including, but not limited to:

A. Failing or refusing to apply for a utility occupation license,

- B. Failing or refusing to make tax returns or to pay the tax and/or any applicable penalty when due, or
- C. Making a false statement or representation in connection with any such application

~~is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040). Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted will be considered a separate offence. Any person subject to this chapter, who fails or refuses to apply for a utility occupation license or to make tax returns or to pay the tax or penalties when due, or who makes any false statement or representation in or in connection with any such application, or who otherwise violates or refuses to comply with the provisions of this chapter, shall be deemed guilty of a misdemeanor, and each such person is guilty of a separate offence for e~~Each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted will be considered a separate offence.~~, and upon any conviction of any such violation, such person shall be punished by a fine not to exceed one thousand dollars for each day or portion thereof which such person is found guilty of noncompliance with the provisions of this chapter.~~

**3.12.070 - Penalties.**

Any seller who fails or refuses to collect the tax as required with the intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any buyer who refuses to pay any tax due under this chapter shall be guilty of a misdemeanor, ~~and upon conviction thereof shall be fined no more than five hundred dollars or imprisoned for not more than six months, or by both such fine and imprisonment.~~

**3.36.060 - Penalty.**

~~A violation of any provision of this chapter That any person, firm or corporation violating or failing to comply with the provisions of this chapter or any lawful rule or regulation adopted pursuant hereto is a civil infraction and shall upon conviction be punished by a fine in a sum not to exceed five hundred dollars subject the violator to a C-4 penalty (see LMC 1.24.040).~~ Each day of violation will be considered a separate offense.

**5.02.110 - Violation—Penalty.**

~~Any person violating or failing to comply A violation of with any of the provisions of this chapter or any lawful rule or regulation adopted by the city clerk pursuant thereto is a civil infraction and, upon conviction thereof, shall subject the violator to a C-5 penalty (see LMC 1.24.040).be punished by a fine in any sum not to exceed three hundred dollars.~~

**5.04.040 - Violation—Penalty.**

Violation of any provision of this chapter is a misdemeanor, ~~and punishable by a fine of five hundred dollars and/or six months in the county jail.~~

**5.12.080 - Violation—Penalty.**

~~Each person convicted of a violation of the provisions of the ordinance codified in this chapter shall upon conviction thereof be subject to a fine of two hundred fifty dollars or imprisonment in the county jail for not to exceed ninety days. A violation of any of the provisions of this chapter is a misdemeanor.~~

**8.04.090 - Violation—Penalty.**

~~Any person, firm or corporation violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor. A violation of any of the provisions of this chapter is a civil infraction and shall subject the person responsible for the violation to a C-3 penalty (see LMC 1.24.040).~~

**8.16.080 - ~~Violation deemed misdemeanor—Penalty~~Penalties.**

~~Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and shall be subject upon conviction to a fine of not less than twenty five dollars nor more than one hundred dollars or by imprisonment for not less than ten days nor more than thirty days or by both such fine and imprisonment.~~

~~A. It is a civil infraction for a person to litter in an amount less than or equal to one cubic foot. Such civil violation shall subject the violator to a C-2 penalty (see LMC 1.24.040).~~

~~B. It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard.~~

~~C. Is it a gross misdemeanor for a person to litter in an amount of one cubic yard or more.~~

**8.24.050 - Penalty for noncompliance.**

The failure or refusal to comply with any of the provisions of any sections of this [Chapter 8.24](#) ~~is a civil infraction and~~ shall subject the ~~offender violator~~ to a C-2 penalty (see LMC 1.24.040). ~~fine in the amount of three hundred dollars.~~



~~9.04.085—Person receiving civil infraction notice—Identification and detention.~~

~~A person who is to receive a notice of infraction under the Lynden Municipal Code is required to identify himself or herself to the enforcement officer by giving his or her name, address and date of birth. Upon request of the officer, the person shall produce reasonable identification, including a driver's license or identicaid.~~

~~The officer may detain the person for a reasonable period of time necessary to confirm the identity of the person, to check for outstanding warrants and to complete and issue the notice of civil infraction.~~

**9.04.090 - Promise of court appearance, non-appearance penalty, fail to pay.**

Any person arrested for violation of this title, or Title [9-10](#), who is eligible for release on personal recognizance shall give his or her written promise to appear in municipal court at an agreed time in order to secure release pending said appearance.

A. Any person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

B. Any person who willfully fails to pay a monetary penalty or to perform community service as required by the Municipal Court under this title or [Title 10](#) may be found in contempt of court as provided in RCW Chapter 7.21.

C. Any person who willfully fails to respond ~~as provided in this title or Lynden Municipal Coded Title 9~~ to five or more notices of parking infraction issued pursuant to Lynden Municipal Code Title [9-10](#) shall be guilty of a misdemeanor regardless of the disposition of the notices of infraction.

D. Violating a written promise to appear or failure to respond to a criminal citation or summons, as directed by the citation or summons, shall be punishable as a misdemeanor. The penalty for failure to respond to a civil or traffic infraction shall be a ~~fine of twenty five dollars C-1 penalty (see LMC 1.24.040)~~. The penalty for failure to respond to five or more parking infractions shall be a ~~fine of twenty five dollars C-1 penalty (see LMC 1.24.040)~~ per infraction.

**9.22.110 - Order of abatement—Procedures authorized—Penalties designated.**

A. If the existence of a nuisance is admitted or established in an action as provided for in [Section 9.22.120](#), or in a criminal proceeding, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the place of all personal property and contents used in conducting the nuisance and not already released under authority of the court as provided for in Sections [9.22.070](#) and [9.22.080](#) and shall direct the sale of such thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution. Lewd matter shall be destroyed and not sold.

B. Such judgment shall impose a ~~C-5~~ penalty (~~see LMC 1.24.040~~) ~~of two hundred fifty dollars~~ for the maintenance of such nuisance, which penalty shall be imposed against the person or persons found to have maintained the nuisance, and, in case any owner or agent of the building found to have had actual or constructive notice of the maintenance of such nuisance, which penalty shall be collected by execution as a civil action, and when collected, shall be paid into the current expense fund of the city.

C. The owner of any place closed and not released under bond may then appear and obtain such release in the manner and upon fulfilling the requirements provided in [Section 9.22.080](#).

D. Owners of unsold personal property and contents so seized must appear and claim the same within ten [calendar](#) days after such order of abatement is made, and prove innocence to the satisfaction of the court of any knowledge of such use thereof, and that with reasonable care and diligence they could not have known thereof. If such innocence is established, such unsold personal property and contents shall be delivered to the owner, otherwise it shall be sold as provided in this section. For removing and selling the personal property and contents, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution; and for closing the place and keeping it closed, a reasonable sum shall be allowed by the court.

E. ~~A party found guilty of contempt~~ Contempt under the provisions of this section shall be ~~punished by a fine of not less than two hundred dollars or more than one thousand dollars, or by imprisonment in the county jail not less than three nor more than six months, or by both fine and imprisonment a~~ misdemeanor.

**9.24.070 - Sitting or lying on public sidewalks prohibited.**

A. Prohibition. No person shall sit or lie down upon a public sidewalk or upon a blanket, chair, stool, planter, fountain, railing, or any other object placed upon a public sidewalk, during the hours between seven a.m. and nine p.m. in the following zones:

1. Central Business District ("CBD"). The Central Business District, for the purposes of this Section, is the area bounded by the streets hereafter named, including said streets and their abutting sidewalks:

- a. The south side of the west half of Front Street between Second and Third Streets;
- b. Front Street between Third Street and Seventh Street;
- c. Third, Fourth, Fifth and Sixth Streets between Front Street and Grover Street;
- d. Seventh Street between Front Street and Grover Street, except the north half of the west side thereof;
- e. The north side of Grover Street between Fourth Street and Sixth Street;

- f. All city owned parking lots including the library parking lot, but excluding the Lynden Community Center parking lot and the public parking lot located at the northeast corner of Fourth and Grover Streets;
- g. The south half of the west side of Fourth Street between Grover Street and Liberty Street;
- h. The south half of Fifth Street between Grover Street and Liberty Street;
- i. The north side of Front Street between Seventh Street and Eighth Street;
- j. The east side of Seventh Street between Front Street and Judson Alley.

B. Exceptions. The prohibitions in subsection A shall not apply to any person:

1. Sitting or lying down on a sidewalk due to a medical emergency.
2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.
3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by LMC Section 9.24.005 (RCW 9A.84.030 B Disorderly Conduct) or LMC [Section 9.24.040](#) (Pedestrian Interference).

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section.

D. A violation of this section ~~shall be~~ is a civil infraction and shall subject the violator to a ~~fine of up to two hundred fifty dollars~~ C-4 penalty (see LMC 1.24.040), plus statutory assessment. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty. ~~The default amount shall be one hundred dollars.~~

**9.24.120 - Public disturbance noise.**

A. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance noise. The following sounds are determined to be public disturbance noises:

1. The frequent, repetitive, or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law.
2. Frequent, repetitive, or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within a residentially zoned area, so as to unreasonably disturb or interfere with the peace, comfort and repose of others.
3. Frequent, repetitive, or continuous sounds which emanate from any building, structure, apartment, or condominium, which unreasonably interfere with the peace, comfort, and repose of a person or persons on public or private property, other than the property from which the sound emanates, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings.
4. Sound from motor vehicle audio sound systems including, without limitation, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the vehicle itself.
5. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source and outside the property of the operator.
6. Construction and industrial noises, including but not limited to, motorized construction and equipment operation, hammering, blasting, drilling and sawing in residentially zoned areas, between the hours of ten p.m. and seven a.m., which unreasonably disturb or interfere with the peace, comfort and repose of others; provided that this subsection shall not apply to noises caused by projects required in an emergency to repair public facilities or utilities or to prevent immediate damage or harm to persons or property; and further provided that this subsection shall not apply if the city council grants a variance from the provisions of this subsection for the construction or repair of a public facility or utility upon a finding that it is either necessary or in the public interest for all or a portion of the work to be performed between the hours of ten p.m. and seven a.m. The council may impose such conditions as it deems appropriate upon the granting of a variance.
7. Subsections 3 and 5 shall not apply to regularly scheduled events at parks or the Northwest Washington Fairgrounds, such as public address systems for games and activities or park concerts. Provided, that the foregoing enumeration of acts and noises are not to be construed as excluding other acts and noises which offend the public peace.

B. Penalties.

1. Any person violating this section shall, upon commission of the first such offense, be guilty of having committed a civil infraction and shall ~~be punished by a fine not to exceed two hundred fifty dollars~~ be subject to a C-5 penalty (see LMC 1.24.040).

2. Any person violating this section shall, upon conviction for a second or subsequent offense, be guilty of having committed a ~~criminal~~ misdemeanor and shall be punished ~~by a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days or by both such fine and imprisonment~~ as set forth in LMC 9.04.050.

**9.24.130 - Public disturbance/barking dogs.**

A. No person shall cause or permit or allow any dog or dogs owned, harbored, controlled or kept by them in the city to remain outside of the dwelling of such a person while such animal is causing excessive or frequent noise, such as habitual howling, yelping or barking, which noise disturbs or is likely to disturb the comfort or repose of any person in the neighborhood. A violation of this section is declared a public nuisance and adverse to the public welfare and is punishable as follows:

B. Penalties.

1. Any person violating this section shall, upon commission of the first such offense, be guilty of having committed a civil infraction, and shall be ~~punished by a fine not to exceed two hundred fifty dollars~~ subject to a C-4 penalty (see LMC 1.24.040).

2. Any person violating this section shall, upon conviction for a second or subsequent offense, be guilty of having committed a ~~criminal~~ misdemeanor and shall be punished ~~by a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days, or by both such fine and imprisonment~~ as set forth in LMC 9.04.050.

**9.56.080 - Driving, riding or walking on runways—Prohibited—Penalties.**

A. It shall be illegal for any person to drive a motor vehicle, ride a bicycle or walk on the runways of the Lynden municipal airport. Runways are those areas designated for the take-off and landing of aircraft and shall not include the those areas designated for the parking or storage of aircraft.

B. This section does not apply to emergency personal responding to an emergency.

C. A ~~persons first~~ violation of this section ~~shall be an~~ is a civil infraction ~~punishable by a fine of two hundred fifty dollars. Second an subsequent violations shall be misdemeanors and punishable as provided by LMC 9.04.050. and shall subject the violator to the following penalties:~~

- First Violation: C-5 Penalty (see LMC 1.24.040)
- Each Subsequent Violation Within a Twelve (12) Month Period: Misdemeanor punishable as provided by LMC 9.04.050

**9.60.140 - Handbills and posters—Violation—Penalty.**

Any person violating any provision of this chapter shall be guilty of a misdemeanor, ~~punishable upon conviction thereof by fine of not more than two hundred fifty dollars or by imprisonment in the county jail for a period of not more than five days, or by both such fine and imprisonment in the discretion of the Lynden municipal court judge.~~

**10.04.060 - Violation—Penalty.**

Unless another penalty is expressly provided by law in the MTO or in the statutes that are adopted by reference in [Section 10.04.010](#), any person who is convicted of violating or failing to comply with any of the provisions of the ordinance codified in this chapter shall be ~~punished by a fine of not more than two hundred fifty dollars or by imprisonment not to exceed ninety days guilty of a civil infraction and subject to a C-4 penalty (see LMC 1.24.040).~~

**10.08.090 - Parking restrictions between nine a.m. and five-thirty p.m. on certain streets—Violation and penalty schedule.**

A. ~~When corresponding time limit signs are posted, it is~~ unlawful for any person to park any motor vehicle on the following streets between nine a.m. and five-thirty p.m. for a period of time exceeding three hours except on Saturdays and Sundays or days designated as state holidays:

- 1. The south side of the west half of Front Street between Second and Third Streets;
- 2. Front Street between Third Street and Seventh Street;
- 3. Other areas signed or appropriately marked as a three hour parking limit.

B. It is unlawful for any person to park any motor vehicle for a period of time longer than fifteen minutes in any parking space signed or appropriately marked as a fifteen-minute parking limit.

C. ~~Any person violating any provision of this section shall be deemed guilty of an infraction and shall be punished as follows for each violation. A violation of any provision of this section is a civil infraction and shall subject the violator to the following penalties:~~

- 1. First offense within any twelve months: a written warning;
- 2. Second offense within twelve months: a second written warning. The second warning shall notify the defendant that subsequent violations within twelve months of the first violation will ~~be punishable subject the violator to the monetary penalties set forth in subsection 3 below. by a fine of not less than twenty-five dollars which The penalty fine shall increase to fifty dollars for the fourth violation within twelve months, seventy-five dollars for the fifth violation within~~

~~twelve months and one hundred dollars for the sixth and all subsequent violations within twelve months.~~

3. Third and subsequent offense within twelve months: ~~a fine of twenty-five dollars which fine shall increase to fifty dollars for the fourth violation within twelve months, seventy-five dollars for the fifth violation within twelve months and one hundred dollars for the sixth and all subsequent violations within twelve months.~~

Third violation within twelve months: C-1 Penalty

Fourth violation within twelve months: C-2 Penalty

Fifth violation within twelve months: C-3 Penalty

Sixth violation and all subsequent violations within twelve months: C-4 Penalty

**10.08.100 - Parking prohibited on certain streets.**

A. It is unlawful for any person to park any motor vehicle on any portion of Bradley Road within the city limits of Lynden.

~~B. It is unlawful for any person to park on any portion of Evergreen Street within the city limits of Lynden.~~

~~C. It is unlawful for any person to park on any portion of Agronomy Way within the city limits of Lynden.~~

~~DB. Any person violating A violation of this provision is a civil infraction and shall be deemed guilty of an infraction and shall be fined not less than five dollars and not more than two hundred fifty dollars subject the violator to a C-2 penalty (see LMC 1.24.040).~~

**10.16.030 - Penalties.**

A. ~~Any person violating A violation of this chapter shall be guilty of is a civil infraction and ~~upon conviction thereof shall be fined not more than five hundred dollars~~ shall subject the violator to a C-4 penalty (see LMC 1.24.040). Each time a vehicle is used contrary to this chapter such occasion shall constitute a separate offense within the meaning of this chapter.~~

B. The city of Lynden shall have a lien against the vehicle used contrary to this chapter in the amount of the fine penalty imposed and shall foreclose on such lien according to law, including costs and attorney's fees, if the fine penalty is not paid as required.

C. In his discretion, the officer may issue a notice of civil infraction and release the driver upon his signature, or he may require the driver or owner to deposit with the municipal court clerk a sum equal to a C-4 penalty (see LMC 1.24.040) not to exceed five hundred dollars prior to release of the vehicle as a guaranty of appearance in court.



### 10.18.030 - Violation—Penalty.

~~Any person violating~~ A violation of any provision of this chapter ~~shall be guilty of an~~ is a civil infraction and shall ~~be punished by the imposition of a monetary penalty of not more than two hundred fifty dollars, subject the violator to a C-3 penalty (see LMC 1.24.040).~~ further, Furthermore, the device ridden at the time of the violation shall be subject to impound by the city for a period of ten days.

### 12.16.065 - Vehicle weight limited when—Exceptions—Penalty.

A. Whenever in the opinion of the ~~city engineer~~ Public Works Director it becomes necessary to place weight limits on streets in the city to avoid unnecessary damage to such streets caused by freezing and thawing, there shall be imposed a maximum weight limit of five tons gross vehicle weight on all streets in the city except the following:

1. Front Street from the west city limits to First Street;
2. Main Street from the west city limits to Third Street;
3. Third Street from Front Street to the north city limits.

B. Special exceptions may be made by the ~~city engineer~~ Public Works Director in the case of extraordinary need. Such weight restrictions shall be effective upon posting of notice of such weight restrictions on such streets.

~~C. Violation~~ A violation of this Section ~~shall be a misdemeanor punishable by a fine of not more than five hundred dollars is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040).~~

### 12.24.190 - Violations—Penalty.

Any violation of any provision of this chapter shall constitute a civil infraction and shall subject the violator to a ~~monetary penalty as provided in the Lynden Municipal Code~~ C-3 penalty (see LMC 1.24.040). Each and every calendar day during any portion of which any violation of this chapter is committed, continued or permitted by any such person shall constitute a separate offense.

### 12.28.060 - Penalty.

~~The penalty per violation of this chapter shall be at the rates set forth in the adopted annual budget. A violation of any of the provisions of this chapter is a civil infraction and shall subject the violator to a C-4 penalty (see LMC 1.24.040).~~

### 13.08.010 – General standards – Developer requirements.

All work shall comply with the latest edition of the city of Lynden Engineering and Development Design Standards Project Manual:

- A. Mains shall be laid only in dedicated streets or in easements which have been granted to the city. A street is normally not considered dedicated until the plat which created it has been filed with the Whatcom County Auditor.
- B. The developer shall obtain all necessary easements without cost to the city. Whenever a main is to be laid other than in a public street, a permanent easement of not less than ten feet on each side of the centerline shall be provided. The developer shall supply the ~~city engineer~~[Public Works Director](#) with the supporting data necessary to verify the location of the easement. If legal services are required by the city in connection with the easement, other than formal review, the cost of such services shall be reimbursed by the developer to the city on demand and before acceptance of the extension.
- C. The developer shall pay for permits as may be required for the work, and shall pay for all surveys, easements, rights-of-way, and franchises required for the work. The developer shall give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work.

**13.24.080 – ~~Remedies~~Unpaid Stormwater Utility Charge – Termination of Water Service.**

In the event a property owner shall fail to pay the stormwater management utility charge, the city shall have the authority to terminate domestic water service to said property owner. Termination of such water service shall not limit other remedies available to the city under state law. For property owners without water service, a lien may be placed on the property, in accordance with Section 13.24.100.

**13.24.090 – Appeals of Stormwater Management Utility Service Charge; burden of proof.**

A. Appeal to Hearing Examiner. Any property owner who believes that the stormwater management utility service charge for their property has been incorrectly computed or applied and/or that FCI charges have not been properly assessed may appeal to the hearing examiner within fourteen [calendar](#) days of the director’s determination of said charges by filing a written statement of appeal with the director. The appeal to the hearing examiner shall be an open record appeal and shall be conducted according to the procedures in Chapters [2.09](#), [17.09](#), and [17.11](#) LMC. During the hearing, the hearing examiner shall consider the recommendation of the director. The hearing examiner shall issue a written decision, notice of which shall be provided to the parties. Any adjustments authorized by the appeal process shall only be effective against billings subsequent to the date the appeal is filed and shall not be retroactively applied.

B. Burden of Proof. The burden of proof in any petition or appeal filed under this chapter shall be on the property owner.

**13.24.095 - Sanctions.**

In addition to any other remedy or sanction available, a property owner who fails to comply with any provision of this chapter, with a final order issued by the city pursuant to this chapter, or who fails to conform to the terms of an issued approval, ~~may~~ shall be subject to a ~~civil C-7~~ penalty (see LMC 1.24.040), in accordance with Chapter 1.24 of this code, due and payable not later than ten ~~calendar~~ days after issuance of final decision.

- A. Late Payment Fees. A late payment fee shall be added to each property owner’s account if payment is not received by the due date. Said late fees shall be in an amount established by resolution of the city council.
- ~~B. Penalties shall be per Section 1.24.015 of this code.~~
- ~~C. Aiding or Abetting. Any person who, through an act of commission or omission, aids or abets in the violation shall be considered to have committed a violation for the purposes of the civil penalty.~~
- ~~D. Notice of Penalty. The notice shall be in writing, which shall be served either by certified mail with return receipt requested or by personal service, to the person incurring the same. The notice shall describe the violation, the date(s) of violation, and shall order the acts constituting the violation to cease and desist, and, in appropriate cases, require necessary corrective action within a specific time.~~
- ~~E. ECollection. Civil penalties shall be due and payable not later than ten days following issuance of notice of penalty. If remission or appeal of the fine is sought, the fine shall be due and payable not later than ten days following issuance of a final decision. If a fine remains unpaid thirty days after issuance, the director may take actions necessary to recover the fine. Penalties shall be paid into the appropriate city fund.~~
- ~~F. Application for Remission. Any person incurring a civil penalty may, within ten days of issuance of the notice of penalty, apply in writing to the director for remission of the fine. The director shall issue a decision on the application for remission within ten days.~~
- ~~G. Issuance of Decisions. For purposes of this chapter, any written decisions of the director shall be deemed issued upon the date said written decision is deposited in the U.S. mail to the last known address of the person subject to the decision or is hand delivered to said person.~~

**13.24.130 - Damage to system prohibited.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the city stormwater management facilities. If any person violates this section they shall be ~~subject to liable for~~ a C-7 penalty (see LMC

1.24.040) for each offense ~~in accordance with Chapter 1.24 of this code~~. This penalty shall be in addition to any other civil or criminal sanction provided in this chapter or by other law or in equity.

**13.24.145 - Enforcement.**

Enforcement of the following provisions in Chapter 13.24 shall be in accordance with Chapters 1.24 & 1.34 LMC; LMC and Chapter 17.13 LMC, whichever is more restrictive 13.24.050; 13.13.24.130; 13.24.140; 13.24.150; 13.24.160(A),(B),(C),(E) and (F).

**15.02.030 - Conditional certificate of occupancy—Penalty for failure to complete.**

In the event the work to be completed pursuant to a conditional certificate of occupancy is not completed within the time allotted by the ~~public works department~~ Planning & Community Development Department, the building permit holder shall be ~~fined the sum of two hundred fifty dollars plus twenty five dollars per day for each day the work remains uncompleted~~ subject to a C-5 penalty (see LMC 1.24.040). For every additional day the work remains uncompleted, the building permit holder shall be subject to an additional C-1 penalty (see LMC 1.24.040).

**15.03.030 - Conditional certificate of occupancy—Penalty for failure to complete.**

In the event the work to be completed pursuant to a conditional certificate of occupancy is not completed within the time allotted by the ~~public works department~~ Planning and Community Development Department, the building permit holder shall be ~~fined the sum of two hundred fifty dollars plus twenty five dollars per day for each day the work remains uncompleted.~~ subject to a C-5 penalty (see LMC 1.24.040). For every additional day the work remains uncompleted, the building permit holder shall be subject to an additional C-1 penalty (see LMC 1.24.040).

**16.12.040 - Penalties for noncompliance.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of permit or approval conditions and safeguards established in connection with such conditions) shall constitute a ~~misdemeanor civil infraction and shall subject the person responsible for the violation to a C-8 penalty~~ (see LMC 1.24.040. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars or imprisoned for not more

~~than one hundred eighty days, or both, for each violation, and in~~ In addition, the person responsible for the violation shall pay all costs and expenses involved in the case. Nothing in this chapter contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

**16.16.140 - Offense and penalty.**

~~A. Any person, firm, partnership, limited liability company, corporation, or other legal entity that fails to comply or causes the failure to comply with any provision of this chapter shall be guilty of a misdemeanor. Each day or portion of a day during which such a violation is found to have occurred shall constitute a separate offense.~~

~~B. The city may levy civil penalties against any person, firm, partnership, limited liability company, corporation, or other legal entity for failure to comply or causing a failure to comply with of any of the provisions of this chapter. The civil penalty shall be assessed as a one-time penalty of five hundred dollars and/or a maximum rate of five hundred dollars per day per violation.~~

A violation of, or failure to comply with, any provision of this chapter is a civil infraction and shall subject the violator to a C-8 penalty (see LMC 1.24.040).

~~C.~~ A failure to comply with a provision of this chapter occurs when a party:

- (1) Develops within or disturbs a critical area or its buffer without fully complying the requirements of this chapter; or
- (2) Fails to comply with mitigation requirements imposed pursuant to this chapter.

~~D. The penalty provided in subsection (B) above shall be imposed by serving the responsible party with a notice in writing, either by certified mail with return receipt requested, or by personal service. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity in ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.~~

~~E. Within thirty days after the notice is received, the party incurring the penalty may apply in writing to the planning director for remission or mitigation of such penalty. Upon receipt of the application, the planning director may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper. The planning director's final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal of said decision with the planning director within fourteen days of its issuance.~~

**17.13.010 - Enforcing official—Authority.**

The director shall be responsible for enforcing Titles ~~16~~ 15 through 19 of this code, and may adopt administrative rules to meet that responsibility. The director may delegate enforcement responsibility to the city engineer, director of public works, building official, fire chief or chief of police as appropriate.

**17.13.020 - General penalty.**

Compliance with the requirements of Titles ~~16~~ 15 through 19 of this code, shall be mandatory. The ~~general penalties and remedies established at Chapter 1.24 of this code, for such violations and the provisions for enforcing and obtaining compliance established in Chapter 1.34~~ shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

~~**17.13.040 – Civil regulatory order.**~~

~~A. Authority. A civil regulatory order may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the development code.~~

~~B. Notice. A civil regulatory order shall be deemed served and shall be effective when posted at the location of the violation and/or delivered to any suitable person at the location and/or delivered by registered mail or otherwise to the owner or other person having responsibility for the location.~~

~~C. Content. A civil regulatory order shall set forth:~~

- ~~1. The name and address of the person to whom it is directed;~~
- ~~2. The location and specific description of the violation;~~
- ~~3. A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;~~
- ~~4. An order that the violation immediately cease, or that the potential violation be avoided;~~
- ~~5. An order that the person stop work until correction and/or remediation of the violation as specified in the order;~~
- ~~6. A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions;~~
- ~~7. A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.~~

~~D. Remedial Action. The director may require any action reasonably calculated to correct or avoid the violation, including, but not limited to, replacement, repair, supplementation, revegetation or restoration.~~

~~E. Appeal. A civil regulatory order may be appealed in an open record appeal to the hearing examiner in accordance with Chapter 17.11 of this code.~~

**17.13.050 - Civil fines for Violation of Development Code.**

~~A. Authority. A person who violates any provision of the development code, or who fails to obtain any necessary permit or who fails to comply with a civil regulatory order shall be subject to a civil fine.~~

~~A. Failure to obtain necessary permit. The failure to obtain any necessary permit required under the Development Code is a civil infraction and shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).~~

~~B. Amount. The civil fine assessed shall not exceed one thousand dollars for each violation. Each separate day, event, action or occurrence shall constitute a separate violation.~~

~~B. Other violation of the Development Code. A violation of any provision of the Development Code for which a penalty is not specified shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).~~

~~C. Notice. A civil fine shall be imposed by a written notice and shall be effective when served or posted as set forth in Section 17.13.030(B). The notice shall describe the date, nature, location, and act(s) comprising the violation, the amount of the fine, and the authority under which the fine has been issued.~~

~~D. Collection. Civil fines shall be immediately due and payable upon issuance and receipt of the notice. The director may issue a regulatory order stopping work until such fine is paid. If remission or appeal of the fine is sought, the fine shall be due and payable upon issuance of a final decision. If a fine remains unpaid thirty days after it becomes due and payable, the director may take actions necessary to recover the fine. Civil fines shall be paid into the city's general fund.~~

~~E. Application for Remission. Any person incurring a civil fine may, within ten days of receipt of the notice, apply in writing to the director for remission of the fine. The director shall issue a decision on the application within ten days. A fine may be remitted only upon a demonstration of extraordinary circumstances.~~

~~F. Appeal. Following the director's final determination on a timely application for remission, the civil fine imposed may be appealed to the hearing examiner in an open record hearing as set forth in Chapter 17.11 of this code.~~

**18.20.050 – Permanent control monuments – Within streets – Requirements.**

Permanent control monuments within the streets shall be set after the streets are graded. In the event a final plat is approved before streets are graded, the surety deposited to secure grading shall be sufficient to pay the costs estimated by the ~~city engineer~~Public Works Director of settling such monuments.



**19.49.060 - Content—Violations.**

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the ~~planner~~ director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter. ~~Remedies of the city may include criminal enforcement~~ Any such violation is a civil infraction and shall subject the person responsible for the violation to a C-9 penalty (see LMC 1.24.040) and/or revocation of the conditional use permit.

**19.57.160 - Violations.**

A. If the ~~planning director~~ Community Development Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the ~~planning director~~ Community Development Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated.

~~B. The permit holder or licensee may request a hearing within fourteen days of receipt of the notice. Should no hearing be requested, the planning director's decision shall be the final decision of the city of Lynden. If a hearing is requested, the planning commission shall issue its recommendation to the city council on the planning director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code Section 17.07.030 and the city council shall make the final decision for the city of Lynden. Appeal of the Community Development Director's administrative decision to suspend or revoke a home occupation use permit or business license may be appealed according to the procedures set forth in LMC 17.11.~~

**19.59.240 - Violation—Penalty.**

A. ~~Any person who violates~~ A violation of any term or provision of this chapter or of any permit hereunder, or ~~has failed~~ failure to comply with a lawful order of the city planner Community Development Director as provided in this chapter, ~~shall be guilty of a misdemeanor, is a civil infraction and shall be punishable as set forth in Section 9.04.050 of this code~~ subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040).

B. Each calendar day of any continuing violation shall be deemed a separate and distinct violation.

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Notification Plan for Fluoride Public Hearing	
<b>Section of Agenda:</b>	Unfinished Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft packet containing Notice of Public Hearing, Office Drinking Water notification list, media notification list, utility billing dates, bid for production and mailing of notice, and list of utility accounts.	
<b>Summary Statement:</b>	<p>At the September 18, 2023, City Council meeting, a motion was passed to “direct City staff to: Develop a schedule, public notice strategy, and date for public hearing before the City Council, consistent with state law, on the question of whether the city should consider discontinuing fluoridization of the City’s municipal water supply.”</p> <p>At that meeting, the topic was tabled until the January 6, 2024 council meeting. At that meeting a motion was made to place the topic on the agenda and bring the schedule, public notice strategy and public hearing date to the January 16, 2024, meeting.</p> <p>The attached packet contains the information necessary to meet the requirements of HB 1251 that went into law July of 2023 requiring a minimum of 90-days’ notice for a public hearing.</p>	
<b>Recommended Action:</b>	If City Council approves the notices and schedule, there should then be a motion to set a public hearing on the question of whether the city should consider discontinuing fluoridization of the City’s municipal water supply for May 6, 2024 meeting with a possible continuance to the May 20, 2024 should additional time be needed.	

**Proposed Timeline for Notice and Public Hearing on Fluoride**

Notice:

The Notice of Public Hearing will be mailed to all 5941 utility account holders as required by law. The notice will be distributed by a third-party vendor who will also provide an Affidavit of Mailing to the City.

A copy of the notice will also be mailed to the Department of Health, Office of Drinking Water as required.

A copy of the notice will also be sent to the standard media sources used by the City (radio, newspaper, and other electronic media including the city webpage).

Notice will also be included in the comment box of the utility bills sent out for at least two billings prior to the public hearing.

Date of Hearing:

If approved at the January 16, 2024, council meeting the vendor would be able to produce and mail the notices by early February. It would be assumed that most account holders would receive the notice within a week of mailing.

Based on the above information and after consulting with the City Attorney, the recommendation would be to set the public hearing for Monday, May 6, 2024 and possibly continued to May 20, 2024, to be sure the city provides the required minimum notice of 90 days.

**DEPARTMENT OF HEALTH NOTIFICATION LIST:**

[Derek Pell](#), Regional Manager  
Northwest Regional Office

[Laura McLaughlin, P.E.](#), Whatcom County

Mailing Address:  
Northwest Regional Office  
PO Box 47800  
MS K17-12  
Olympia WA 98504

Umair A. Shah, MD, MPH  
Secretary of Health

Holly Myers  
Director of the Office of Drinking Water

PO Box 47822  
Olympia, WA 98504

## **NOTICE OF PUBLIC HEARING**

The City of Lynden will be conducting a public hearing to consider discontinuing the addition of fluoride in the municipal water system.

This notice is being provided to city water system customers and the Washington State Department of Health, as required by law. The public hearing will be conducted during the Lynden City Council meeting on May 6, 2024; should additional time be required to receive testimony, the Public Hearing may be continued to an additional date at that meeting.

Location:

Lynden City Hall Annex

205 4<sup>th</sup> Street

Lynden, WA 98264



PRINT & LABEL SPECIALISTS

AMS - P.O. Box 2425 - Blaine, WA 98231-2425

Phone: (360) 332-2500 Fax: (360) 332-9771

<b>Estimate</b>
Estimate # 71330
Est Date: 9/22/2023
CustCode: LYN

CUSTOMER INFO	JOB INFO	Estimate # 71330
Attn: Heather City of Lynden 300 4th Street Lynden WA 98264 Phone: (360) 354-2829      Cell: Email:	Account Rep: N. Jordan Freeman Email: jordan@amsdirectnw.com Job Name: City-Wide Mailing Self Mailer Terms: Data Due:                      Pstg \$ Due: Material Due:                  Drop Date:	

Qty	Description	Unit Price	Discount	Ext Price	
<b>Data Processing</b>					
7,500	Data Processing	0.03000		\$225.00	
1	NCOA Conversion	75.00000		\$75.00	
<b>SubTotal:</b>				<b>\$300.00</b>	
<b>Lettershop</b>					
1	Address Setup	25.00000		\$25.00	
7,500	Folding	0.02500		\$187.50	
7,500	Digital Addressing	0.02500		\$187.50	
7,500	Sort & Send	0.01500		\$112.50	
<b>SubTotal:</b>				<b>\$512.50</b>	
<b>Print</b>					
7,500	Print Services	0.12500		\$937.50	
<b>SubTotal:</b>				<b>\$937.50</b>	
<b>Postage</b>					
	Std Reg Auto Mixed AADC Ltr	7,500	1 oz.	0.400	\$3,000.00
<b>Postage Sub Total:</b>				<b>\$3,000.00</b>	

\*Postage must be received 24 hours in advance of mail date  
 \*This estimate is valid for 30 days and is subject to change based on review of 'live' data and material

<b>Sub Total:</b>	<b>\$1,750.00</b>
<b>Tax:</b>	<b>\$154.00</b>
<b>Total Services:</b>	<b>\$1,904.00</b>
<b>Postage:</b>	<b>\$3,000.00</b>
<b>Total Incl. Postage:</b>	<b>\$4,904.00</b>

**CUSTOMER INFO**

**JOB INFO**

Estimate # 71330

Attn: Heather City of Lynden 300 4th Street Lynden WA 98264		<b>Account Rep:</b> N. Jordan Freeman	
<b>Phone:</b> (360) 354-2829 <b>Cell:</b>		<b>Email:</b> jordan@amsdirectnw.com	
<b>Email:</b>		<b>Job Name:</b> City-Wide Mailing Self Mailer	
		<b>Terms:</b>	
		<b>Data Due:</b>	<b>Pstg \$ Due:</b>
		<b>Material Due:</b>	<b>Drop Date:</b>

Qty	Description	Unit Price	Discount	Ext Price
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**Comments**

\*If paying by credit card, a 3.5% fee will apply (5.5% for Canadian transactions).

Data: 7,500

\*Presort and Send @ STD Rates

Print Specs:

- 8.5" x 11" Letter, 4/0 on 60# Uncoated Text

**Please Sign:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**AMS Fax #:** (360) 332-9771



**From:** [Christy Fowler](#)  
**To:** [John Williams](#)  
**Subject:** Utility Billing Dates  
**Date:** Wednesday, January 10, 2024 11:23:37 AM

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The following is a list of dates available for publication

- February 1, 2024
- March 1
- April 1
- May 1
- June 3
- July 1
- August 1
- September 3
- October 1
- November 1
- December 2

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	January 16, 2024	
<b>Name of Agenda Item:</b>	Ordinance 24-1683: Update LMC 2.05.010 Position Titles	
<b>Section of Agenda:</b>	New Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Ordinance 24-1683	
<b>Summary Statement:</b>	<p>This is an update to LMC 2.05.010 on Appointed Position titles to reflect title changes that have occurred. City Clerk has been updated to include the word “city” into the title, and “Planning Director” has been changed to “Community Development Director” to reflect organizational changes in the department and the more commonly used title.</p>	
<b>Recommended Action:</b>	To make a motion to adopt ORD-24-1683 and authorize the mayors signature on the document.	

**ORD-24-1683**

An Ordinance of the City of Lynden Amending  
Lynden Municipal Code Title 2.05.010: City Officers

WHEREAS, Chapter 2 on the Lynden Municipal Code contains the titles of appointed officers for the City of Lynden; and

WHEREAS, changes have occurred within the city organization, duties and responsibilities, and areas of oversight; and

WHEREAS, it has become necessary to modify the titles of departments and appointed directors to be more reflective of the area of responsibility.

NOW, THEREFORE, BE IT ORDAINED by the City of Lynden as follows:

**2.05.010 - City officers.**

A. The city of Lynden will have the following appointed officers:

1. City Clerk;
2. Finance Director;
3. Public Works Director;
4. City Administrator;
5. Chief of Police;
6. Fire Chief;
7. Parks Director;
8. Community Development Director.

B. Such officers shall be appointed by the mayor, subject to confirmation by the city council.

C. Any two of the first four positions may be combined, provided, however, that the compensation for the combined office shall not be the same as the total compensation fixed for each office individually.

D. Effective Date. This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, otherwise as provided by law, five days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_\_ IN FAVOR,  
\_\_\_\_\_ AGAINST AND SIGNED BY THE MAYOR THIS 16TH DAY OF JANUARY 2024.

\_\_\_\_\_  
SCOTT KORTHUIS, MAYOR

ATTEST:

\_\_\_\_\_  
PAM BROWN, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT CARMICHAEL, CITY ATTORNEY