CITY COUNCIL



City Council - Regular Meeting Annex - 205 Fourth Street January 2, 2024

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

1. 2024 Council Members Oath of Office

Summary Reports and Presentations

Approval of Minutes

2. Council Meeting Draft Minutes

Citizen Comment

Consent Agenda

- 3. Approval of Payroll and Claims
- 4. Set Public Hearing-RES-24-1088-Update to the Building Valuation Data (BVD) used to Calculate Building Permit Fees
- 5. Contract with Brightly Software, Inc re City-wide Permitting Software
- 6. Appoint Mayor Korthuis to the 2024 Whatcom Transportation Authority (WTA) Board of Directors.
- 7. Re-Appointment to the Planning Commission Blair Scott
- 8. Re-Appointment to the Design Review Board David Vos
- 9. Addendum to Public Defender Contract-Indigent Criminal Defense Services

Public Hearing

- 10. Public Hearing -Unified Fee Schedule (UFS)
- 11. Public Hearing ORD-23-1680- Amending Civil Penalties Code

Unfinished Business

New Business

12. Select Mayor Pro Tem for 2024

Reports

- <u>13.</u> Appoint Mayor Korthuis to the 2024 Board of the Whatcom Council of Governments and appoint Mayor Pro Tem to act as alternate.
- 14. Selection of Council Committee Members for Year 2024 and 2025
- 15. Draft Public Works Committee Meeting Minutes December 6, 2023

Executive Session

Adjournment

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|--|----------------------|-------------------------------------|--|
| Name of Agenda Item: | 2024 Council Members | 2024 Council Members Oath of Office | |
| Section of Agenda: | Oath of Office | | |
| Department: | Administrative | | |
| Council Committee Revie | <u>w:</u> | Legal Review: | |
| Community Development | Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | No - Not Reviewed | |
| □ Parks | ⊠ Other: N/A | ☑ Review Not Required | |
| Attachments: | | | |
| N/A | | | |
| Summary Statement: | | | |
| Before transacting business at the January 2, 2024 council meeting the following council members will take an Oath of Office: | | | |
| Council Position #1- Gary Bode, (term 1-1-2024 through 12-31-2027) Council Position #2- Lee Beld, (term 1-1-2024 through 12-31-2027) Council Position #3- Gary Vis, (term 1-1-2024 through 12-31-2027) Council Position #4- Brent Lenssen, (term 1-1-2024 through 12-31-2027) | | | |

Recommended Action:

Mayor will administer Oath of Office to re-elected and newly elected council members which include Councilor Gary Bode (re-elected), Councilor Lee Beld (newly elected), Councilor Gary Vis (newly elected), and Councilor Brent Lenssen (re-elected).

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | | |
|------------------------------|-------------------------------|-----------------------|--|--|
| Name of Agenda Item: | Council Meeting Draft Minutes | | | |
| Section of Agenda: | Approval of Minutes | | | |
| Department: | Administration | | | |
| Council Committee Review | <u>w:</u> | Legal Review: | | |
| Community Development | t 🛛 🗆 Public Safety | Yes - Reviewed | | |
| Finance | Public Works | No - Not Reviewed | | |
| □ Parks | 🛛 Other: None | 🛛 Review Not Required | | |
| Attachments: | | | | |
| Draft council minutes for De | cember 4, 2023. | | | |
| | | | | |
| Summary Statement: | | | | |
| N/A | | | | |
| | | | | |
| Recommended Action: | | | | |
| Review and approval of dra | ft council minutes. | | | |
| | | | | |



CITY COUNCIL MINUTES OF REGULAR MEETING



December 4, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the December 4, 2023 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

Members present: Councilors Gary Bode, Ron De Valois, Gerald Kuiken, 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.

OATH OF OFFICE – None

Mayor Korthuis recognized retiring council members Gerald "Jerry" Kuiken and Ronald "Ron" De Valois each with a proclamation and an award of appreciation.

SUMMARY REPORTS AND PRESENTATIONS

Joel Rubin, CFM Advocates presented the 2024 draft Federal Legislative Agenda which has been made part of this official council file.

APPROVAL OF MINUTES

Councilor Wohlrab moved, and Councilor DeValois seconded, to approve the November 20, 2023, regular council meeting minutes with a correction to the motion concerning the transfer of the Wanco Metro Matrix message sign trailer. Councilor Lenssen abstained, and the motion was passed on a 4-0 vote.

Motion approved on 7-0 vote.

CITY COUNCIL MINUTES OF REGULAR MEETING



6

CITIZEN COMMENT

<u>Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden</u> She spoke to the following topics:

- Pearl Harbor Day.
- Lynden Christmas parade.
- Israel and Hanaka

Mikhail Nichols. Andress Lane, Lynden

Mr. Nichols continued to read the letter he wrote to Council concerning past interactions with the Lynden police department and their refusal to help him.

Harlan Kredit, Birch Street, Lynden

Mr. Kredit thanked everyone that has been involved in the planning and purchase of the property that is now named Schoolyard Park. He looks forward to the amazing things to come.

2. CONSENT AGENDA Approval of Claims – December 5, 2023

| Manual Warrants No. | = | through | <u>-</u> | | \$0.00 |
|----------------------|-------|---------|----------|--------------------|-----------------------|
| EFT Payment Pre-Pays | | | | | \$0.00 |
| | | | | Sub Total Pre-Pays | \$0.00 |
| Voucher Warrants No. | 28909 | through | 28967 | | \$142,783.56 |
| EFT Payments | | | | | <u>\$1,216,493.03</u> |
| | | | | Sub Total | \$1,359,276.59 |
| | | | | Total Accounts | |
| | | | | Payable | \$1,359,276.59 |

Approval of Claims – December 19, 2023

| Manual Warrants No. | <u> </u> | through | <u>-</u> | | \$0.00 |
|----------------------|----------|---------|----------|--------------------|---------------------|
| EFT Payment Pre-Pays | | | | | \$0.00 |
| | | | | Sub Total Pre-Pays | \$0.00 |
| Voucher Warrants No. | 28982 | through | 29091 | | \$1,659,365.14 |
| EFT Payments | | | | | <u>\$243,341.52</u> |
| | | | | Sub Total | \$1,902,706.66 |
| | | | | Total Accounts | |
| | | | | Payable | \$1,902,706.66 |

CITY COUNCIL MINUTES OF REGULAR MEETING



| Payroll Liability to November 5 through November 18, 2023 | |
|--|------------------------|
| EFT & Other Liabilities | |
| Non-L&I Liabilities | |
| Monthly EFT | \$416,944.41 |
| Check Liability | \$0.00 |
| Total Non-L&I Liabilities | \$416,944.41 |
| Quarterly Liabilities | \$13,266,82 |
| Total EFT & Other Liabilities | \$430,211.23 |
| | |
| Payroll Liability to November 19 through December 2, 2023 | |
| EFT & Other Liabilities | |
| EFT & Other Liabilities Non-L&I Liabilities Monthly EFT | \$473,955.80 |
| EFT & Other Liabilities Non-L&I Liabilities Monthly EFT | \$473,955.80 \$0.00 |
| EFT & Other Liabilities Non-L&I Liabilities Monthly EFT Check Liability | \$0.00 |
| EFT & Other Liabilities Non-L&I Liabilities Monthly EFT | \$0.00 \$573,955.80 |

<u>Set Public Hearing Date – Unified Fee Schedule (UFS)</u> <u>Set Public Hearing Date – Annexation Application 23-01, Weg Property</u>

Motion made by Councilor Bode, seconded by Councilor Kuiken to approve the Consent Agenda. Motion approved 7-0.

3. PUBLIC HEARING

Final Public Hearing – Year 2024 Budget

As published, 7:00PM on December 4, 2023 is the time and date set for the Final Public Hearing on the 2024 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 16th City Council meeting.

Mayor opened the public hearing at 7:30 pm. There were no comments. Mayor closed the public hearing at 7:30 pm.

Proposed Nooksack Valley Disposal Rate Increase

Nooksack Valley Disposal (NVD) is requesting a rate increase for their solid waste services due to their increasing disposal fees. NVD currently has a 20-year franchise agreement with

CITY COUNCIL MINUTES OF REGULAR MEETING



the City of Lynden (through 2036) for curbside garbage pickup and recycling program services. The Public Works Committee reviewed the proposed increase at their November 1st meeting and concurred to recommend approval to City Council.

The public has been invited to comment on the proposed rate increases. If approved these new rates would become part of the existing Franchise Agreement and take effect 45 days after the Public Hearing (January 18, 2024).

Mayor opened the public hearing at 7:35 pm. There were no comments. Mayor closed the public hearing at 7:35 pm.

Motion made by Councilor Bode, seconded by Councilor Kuiken to approve, and authorize the Mayor's signature on the Franchise Agreement Rate Adjustment Addendum. Motion approved 7-0.

<u>RES-23-1085, Adopting 2024 Revisions to Engineering Design and Development</u> <u>Standards Project Manual</u>

The Engineering Design and Development Standards Project Manual was originally adopted by City Council on April 5, 2004. The Standards are updated annually, the last update was effective on January 1, 2023. These standards are required for City compliance with the state Growth Management Act. They include street, water, sewer, and storm drainage standards to be used for all new and replacement construction within the City.

In response to changes in technology and feedback from customers, additions, deletions and/or clarifications have been incorporated into the 2024 Project Manual. The manual also addresses access issues, permitting processes and procedures, and includes various forms necessary in the development process. Staff presents RES-23-1085 which lists all of the revisions for Council review.

The Public Works Committee reviewed the proposed changes made by staff at their November 1, 2023, meeting and recommended that they be forwarded to City Council for consideration.

Mayor opened the public hearing at 7.38 pm. There were no comments. Mayor closed the public hearing at 7:38 pm.

CITY COUNCIL MINUTES OF REGULAR MEETING



Motion made by Councilor Bode, seconded by Councilor De Valois to approve, and authorize the Mayor's signature on RES-23-1085, adopting the 2024 Engineering Design and Development Standards Project Manual. Motion approved 7-0.

4. UNFINISHED BUSINESS

ORD-23-1681, Adoption of the Year 2024 Budget

The Preliminary 2024 Budget was presented to the City Council by Mayor Korthuis at the October 16, 2023 City Council meeting. The first public hearing for the 2024 Budget was held on November 6, 2023. The final RCW required budget hearing was held earlier this evening December 4, 2023. Ordinance No. ORD-23-1681 represents the results of the budget process. Passage of this ordinance will finalize and adopt the 2024 budget; and is in compliance with RCW deadlines. The Finance Committee has been presented with this information throughout the budget process, as has Council.

Motion made by Councilor Strengholt, seconded by Councilor Laninga to approve ORD-23-1681 and authorize the Mayor's signature adopting the 2024 Budget. Motion approved 7-0.

5. NEW BUSINESS

2024 Federal Legislative Agenda

The draft 2024 Federal Legislative Agenda was included in the December 4, 2023, council packet.

Motion made by Councilor De Valois, seconded by Councilor Laninga, to adopt the 2024 Federal Legislative Agenda. Motion approved 7-0.

6. REPORTS

Councilor Strengholt, Finance Committee, reported discussion of the following:

- Payroll and Claims reviewed and approved.
- Review of overtime and sales tax. Overtime hours were lower than usual, and sales tax remained strong.
- The monthly report for October 2023 was reviewed.
- Review of the General Fund amounts.

CITY COUNCIL MINUTES OF REGULAR MEETING



Gary Vis, Chamber of Commerce reported the following:

- Thanked councilors De Valois and Kuiken for their service.
- The weather was perfect for the Lighted Christmas Parade.
- The reports of parents and others exhibiting a lack of respect for the barricade volunteers, mostly around the care and safety of the children that were attending the parade. Because of this, there will not be walkers and candy will not be distributed in the parade next year.
- Gary Vis also thanked his wife for cooking the chili that served approximately 512 bowls of chili to the volunteers before the parade.

7. EXECUTIVE SESSION

Council recessed into executive session at 7:45 to discuss with legal counsel representing the city matters relating to potential litigation, under RCW 42.30.110(1)(i). Council expects to be in executive session until 8:00 p.m. with no expectation of a decision.

Council reconvened at 8:00 p.m.

Mayor Korthuis announced that the December 18, 2023 regularly scheduled council meeting was cancelled, and that council would meet again on January 2, 2024.

8. ADJOURNMENT

November 20, 2023, regular session of the Lynden city council adjourned at 8:00 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|--------------------------------|--------------------------------|--------------------------------|--|
| Name of Agenda Item: | Approval of Payroll and Claims | Approval of Payroll and Claims | |
| Section of Agenda: | Consent | | |
| Department: | Finance | | |
| Council Committee Revi | ew: | Legal Review: | |
| Community Developme | ent 🛛 Public Safety | □ Yes - Reviewed | |
| ⊠ Finance | Public Works | □ No - Not Reviewed | |
| Parks | □ Other: | Review Not Required | |
| Attachments: | | | |
| None | | | |
| Summary Statement: | | | |
| Approval of Payroll and Cl | laims | | |
| | | | |
| Recommended Action: | | | |
| Approval of Payroll and Claims | | | |
| | | | |

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|------------------------|------------------------------------|--|--|
| Name of Agenda Item: | Set the Public Hearing to Consider | Res 24-1088 - Update to the Building Valuation | |
| | Data (BVD) used to Calculate Build | ling Permit Fees | |
| Section of Agenda: | Consent | | |
| Department: | Community Development | | |
| Council Committee Revi | ew: | Legal Review: | |
| Community Developme | ent 🛛 Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | 🖾 No - Not Reviewed | |
| Parks | Other: Review Not Required | | |
| Attachments: | | | |
| | | | |

Draft Res 24-1088 with proposed values shown in blue.

Summary Statement:

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. The last update to the City's BVD table was done in 2018 via Resolution 991.

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. Fees are collected to recoup some of the costs associated with the services provided by the building division. The valuation table that is currently used by the City reflects 2016 ICC guidance. 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. Staff recommends that budget approvals for the 2025 and 2026 years consider bringing the building valuation closer to the market-rate standard and then remain current with the ICC guidance.

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. An example fee list for a single-family residence is included to demonstrate the fee increases per the updated fee schedule and the updated BVD table. Council is asked to review this proposal ahead of a public hearing. The item will also be discussed at the January 10 Community Development Committee meeting.

Recommended Action:

Motion to set the public hearing for **January 16, 2024**, to consider a resolution which would update the building valuation data used to calculate building permit fees.

RESOLUTION 24-1088

A RESOLUTION AMENDING RESOLUTION 991 BY UPDATING THE ADOPTED CONSTRUCTION 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, the construction values are used to determine permit fees; 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 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.

| Group (International Building Code) | Current Sq Ft Value Assigned (2016 ICC guidance) Construction type: VB (Unprotected Wood Frame) | Proposed Sq Ft Value Assigned (2021 ICC guidance) Construction type: VB (Unprotected Wood Frame) |
|---|--|--|
| A-1 Assembly, theaters, with stage | 169.73 | 226.84 |
| A-1 Assembly, theaters, without stage | 150.92 | 201.80 |
| A-2 Assembly, nightclubs | 132.99 | 174.48 |
| A-2 Assembly, restaurants, bars, banquet halls | 131.99 | 173.48 |
| A-3 Assembly, churches | 153.09 | 205.57 |
| A-3 Assembly, general, community halls, libraries, museums | 118.27 | 159.91 |
| A-4 Assembly, arenas | 149.92 | 200.80 |
| B Business | 122.72 | 163.65 |
| E Educational | 136.18 | 180.09 |
| F-1 Factory and industrial, moderate hazard | 65.44 | 85.44 |
| F-2 Factory and industrial, low hazard | 64.44 | 84.44 |
| H-1 High Hazard, explosives | NP | NP |
| H234 High Hazard | 58.67 | 76.26 |
| H-5 HPM | 122.72 | 163.65 |
| I-1 Institutional, supervised environment | 129.43 | 172.87 |
| I-2 Institutional, hospitals | NP | NP |
| I-2 Institutional, nursing homes | NP | NP |
| I-3 Institutional, restrained | 147.16 | 196.29 |
| I-4 Institutional, day care facilities | 129.43 | 172.87 |
| M Mercantile | 88.36 | 115.94 |
| R-1 Residential, hotels | 131.23 | 175.00 |
| R-2 Residential, multiple family | 102.41 | 136.73 |
| R-3 Residential, one- and two- family | 112.65 | 148.33 |
| R-4 Residential, care/assisted living facilities | 129.43 | 172.87 |
| S-1 Storage, moderate hazard | 57.67 | 75.26 |
| S-2 Storage, low hazard | 56.67 | 74.26 |
| U Utility, miscellaneous (i.e. Garage, Accessory Bldg >120sf) | 44.63 | 59.88 |

Square Foot Construction Costs a, b, c, d

a. Private Garages use Utility, miscellaneous.

b. Unfinished basements (all use group) = \$15.00 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

Fee Based on

Owners Construction Cost

(Residential re-roofing & re-siding - no permit required)

| Porches/Decks/Patios | A |
|---------------------------------|---|
| Covered porch, deck, patio | |
| Open porch, deck, patio, gazebo | |

Assigned Construction Cost per Sq. Ft. \$15.00 18.00 \$10.00 12.00

<u>Residential Garages and Sheds</u> These will now be found under "U" in the Table above.

| Foundations only Residential Foundation | <u>Valuation - per Sq. Ft. or Minimum Fee</u> \$ 2.00 2.40 per sq. ft. or Minimum \$50.00 |
|--|---|
| Industrial and Commercial Foundation | \$ 3.00 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.

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

<u>Section 6</u>: **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

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City of Lynden Proposed Buidling Permit Fee Increases

Example Permit: 2000 sf Single-Family Home Building Permit - Fee Comparison

Notes:

Fees shown here do not include utility related fees such as water, sewer, and stormwater connections and as-built fees. Increases appear in two ways.

1. Proposed flat fees, such as fixture fees, include a 25% increase per City Fee Schedule.

2. Building Valuation Data (BVD) table is proposed to be updated from the 2016 to the 2021 International Code Council (ICC) national average in Res 24-1088.

| i cinic i ypc. Single i dinny Residentia | Permit Typ | : Single Fami | ly Residential |
|--|------------|---------------|----------------|
|--|------------|---------------|----------------|

Description of Work: 2000 sqft, 3 bedroom, 2 bath Single Family Residence

| Current Minimum Assigned Value per BVD table | <u>\$225,300</u> | Minimum Assigned Value per Proposed BVD | <u>\$229,660</u> | Value Increase: 1.935% |
|--|------------------|---|------------------|------------------------|
| using 2016 ICC values per Res 991: | <u></u> | table using 2021 ICC values: | <u>+/</u> | |
| | | | | |

| | | | | 2024 | 2024 | |
|--|---------------------|---------|-------------------|--------------|--------------------|----------|
| Description | Current Fee | Qty | Current Subtotals | Proposed Fee | Proposed Subtotals | Increase |
| Building Council Fee Residential | 6.50 | 1 | 6.50 | 6.50 | 6.50 | 0.00 |
| Fire Impact Fee | 517.00 | 1 | 517.00 | 517.00 | 517.00 | 0.00 |
| Mechanical Base Fee | 30.00 | 1 | 30.00 | 37.50 | 37.50 | 7.50 |
| Mechanical Clthes Dryer | 15.00 | 1 | 15.00 | 18.75 | 18.75 | 3.75 |
| Mechanical Furnace <100,000 | 15.00 | 1 | 15.00 | 18.75 | 18.75 | 3.75 |
| Mechanical Range Hood / Exhaust | 11.00 | 1 | 11.00 | 13.75 | 13.75 | 2.75 |
| Mechanical Ventilation Fan | 8.00 | 2 | 16.00 | 10.00 | 20.00 | 4.00 |
| Park Impact Fee | 2,925.00 | 1 | 2,925.00 | 2,925.00 | 2,925.00 | 0.00 |
| Permit Fee (based on construction value) | 1,699.35 | 1 | 1,699.35 | 2,096.95 | 2,096.95 | 397.60 |
| Plan Check Fee (based on construction value) | 1,104.58 | 1 | 1,104.58 | 1,363.02 | 1,363.02 | 258.44 |
| Plumbing Base Fee | 30.00 | 1 | 30.00 | 37.50 | 37.50 | 7.50 |
| Plumbing Bath Sinks | 7.00 | 2 | 14.00 | 8.75 | 17.50 | 3.50 |
| Plumbing Bathtubs | 7.00 | 2 | 14.00 | 8.75 | 17.50 | 3.50 |
| Pluming Clothes Washer | 7.00 | 1 | 7.00 | 8.75 | 8.75 | 1.75 |
| Pluming Dishwasher | 7.00 | 1 | 7.00 | 8.75 | 8.75 | 1.75 |
| Plumbing Kitchen Sink | 7.00 | 1 | 7.00 | 8.75 | 8.75 | 1.75 |
| Plumbing Showers | 7.00 | 2 | 14.00 | 8.75 | 17.50 | 3.50 |
| Plumbing Toilets | 7.00 | 2 | 14.00 | 8.75 | 17.50 | 3.50 |
| Plumbing Water Heater Electric | 7.00 | 1 | 7.00 | 8.75 | 8.75 | 1.75 |
| Transportation Impact Fee | 2,146.00 | 1 | 2,146.00 | 2,146.00 | 2,146.00 | 0.00 |
| Building P | ermit Fees and Impa | ct Fees | \$ 8,599.43 | | \$ 9,305.72 | |

Represented Increase in Fees as of 2/1/24: \$

706.29

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | |
|---------------------------|-------------------------------------|------------------------------------|
| Name of Agenda Item: | Contract with Brightly Software, In | c re City-wide Permitting Software |
| Section of Agenda: | Consent | |
| Department: | Community Development | |
| Council Committee Revi | iew: | Legal Review: |
| Community Developme | ent 🛛 Public Safety | 🖾 Yes - Reviewed |
| Finance | Public Works | No - Not Reviewed |
| Parks | ⊠ Other:Mayor | Review Not Required |
| Attachments: | | |
| Contract with Brightly So | oftware Inc | |

Summary Statement:

Staff from Community Development, Public Works, IT, and the Fire Department have been researching options for implementing software which would allow for electronic permit submittal and review. After considering multiple companies the group selected SmartGov as their preferred option, a system offered by Brightly Software Inc. and used in many Washington State jurisdictions including the City of Ferndale. It is anticipated that the Building Division will represent 40% of use, Planning Division 15% or use, Code Compliance 10%, Public Works 20%, Fire 10%, and City Administration and Police about 5% when combined. The selected software does not limit the number of users or charge additional fees per user. It includes a strong public portal component.

On December 4, 2023, the City Council approved the 2024 Budget which included funds to cover the acquisition and implementation of permitting software. The budget included a line item of \$130,000 from the general fund for this project. The attached Brightly order form details an initial outlay of \$55,221.17. Initial costs include Cloud Services for \$15,050.89 and Professional Services (configuration and migration) for \$40,170.28. These numbers include savings of over \$7,400 for signing before the end of 2023.

Additional costs beyond this initial outlay will include larger computer screens for plan reviewers, bridging software for financial reporting and implanting single sign-on and potentially additional training services. Ongoing costs for the software will include subscription costs of approximately \$24,000 to \$26,000 annually.

Recommended Action:

Motion to approve, and support the Mayor's signature on the December 19, 2023, order form with Brightly Software, Inc.



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PREPARED FOR

City Of Lynden ("Subscriber") 323 Front Street Lynden, WA 98264

PREPARED BY

Brightly Software Inc ("Company") 11000 Regency Parkway, Suite 300 Cary, NC 27518

Dude Solutions is now Brightly. Same world-class software, new look and feel.

Meet Brightly at brightlysoftware.com

PUBLISHED ON

December 19, 2023

Q-384326

This SOW has been defined to leverage Brightly's experience, while optimizing the use of resources, thereby maximizing cost efficiencies on behalf of Client.

Based on our current understanding of the complexity and scope of this effort and the expected involvement of the Brightly team resources, the current estimated Fixed Price for this engagement is shown in the Investment table. This estimated cost breakdown is as follows:

Sourcewell/NJPA purchasing contract

- <u>https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents (https://www.sourcewell-mn.gov/cooperative-purchasing/090320-sdi#tab-contract-documents)</u>.
- Contract #090320-SDI

Please note, the 4-month concession, \$7,433.30 savings is only valid if signed by 12/30/23. This is an end of the year discount.

| Cloud Services | | | | |
|-------------------------------------|------------|------------|-------------------------|---------------|
| ltem | Start Date | End Date | Pricing Based On | Investment |
| - SmartGov Permitting | 1/1/2024 | 12/31/2024 | | Included |
| - SmartGov Code Enforcement | 1/1/2024 | 12/31/2024 | | Included |
| - SmartGov Business License | 1/1/2024 | 12/31/2024 | | Included |
| SmartGov - Enterprise | 1/1/2024 | 12/31/2024 | 11,951.00 Population | 18,395.15 USD |
| SmartGov Connector BlueBeam | 1/1/2024 | 12/31/2024 | | 1,022.26 USD |
| SmartGov Connector Contractor | 1/1/2024 | 12/31/2024 | | 1,022.26 USD |

Subscription Term: 60 months (01/01/2024 - 12/31/2028)

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Cloud Services

| ltem | Start Date | End Date | Pricing Based On | Investment |
|------------------------------------|-----------------------------|---------------|---------------------|--------------|
| SmartGov Connector Merchant | 1/1/2024 | 12/31/2024 | | 1,022.26 USD |
| SmartGov Connector Financial | 1/1/2024 | 12/31/2024 | | 1,022.26 USD |
| 4.0 Month(s) inclu | term 01/01/ - 04/30/2024 | -7,433.30 USD | | |

Subtotal: 15,050.89 USD

Professional Services

| ltem | Pricing Based On | Investment |
|--|----------------------|-------------------------|
| SmartGov Training - Basic | One-Time | 2,752.15 USD |
| General Config | 11,950.00 Population | 2,375.00 USD |
| Workflow template customization | 11,950.00 Population | 8,401.80 USD |
| Fees Configuration (Pages) | 1.00 | 504.45 USD |
| BlueBeam Connector Configuration | 11,950.00 Population | 1,425.00 USD |
| Contractor Connector Configuration | 11,950.00 Population | 1,187.50 USD |
| Existing Merchant Connector Configuration | 11,950.00 Population | 1,425.00 USD |
| Portal Configuration | 11,950.00 Population | 1,187.50 USD |
| × × | χ | Subtotal: 40,170.28 USD |

| ltem | Pricing Based On | Investment |
|--|----------------------|-------------------------------|
| Parcel Connector Configuration | 11,950.00 Population | 2,968.75 US |
| Map Connector Configuration | 11,950.00 Population | 1,187.50 US |
| Financial Export Connector Configuration | 11,950.00 Population | 2,375.00 US |
| Standardized Data Migration - Code Enforcement | 11,950.00 Population | 2,968.75 US |
| Base Standardized Migration Cost | 11,950.00 Population | 1,781.25 US |
| Standardized Data Migration - Permits | 11,950.00 Population | 4,750.00 US |
| Project Management | One-Time | 4,880.63 US |
| SmartGov Advanced Implementation | One-Time | 0.00 US |
| | | Subtotal: 40,170.28 US |

The above level of effort and associated pricing is based on the SMARTGOV package selected by City Of Lynden and is subject to change based on defined client requirements that may be discovered during project delivery. Any identified project scope or requirements changes will be addressed via the Company's Change Control Authorization ("CCA") process.

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Cloud Services Subscription

| ltem | Investment Year 2 Start Date: 01/01/ 2025 | Investment Year 3 Start Date: 01/01/ 2026 | Investment Year 4 Start Date: 01/01/ 2027 | Investment Year 5 Start Date: 01/01/ 2028 |
|-------------------------------------|--|--|--|--|
| - SmartGov Permitting | Included | Included | Included | Included |
| - SmartGov Code Enforcement | Included | Included | Included | Included |
| - SmartGov Business License | Included | Included | Included | Included |
| SmartGov - Enterprise | 18,947.00 USD | 19,515.41 USD | 20,100.88 USD | 20,703.90 USD |
| SmartGov Connector BlueBeam | 1,052.93 USD | 1,084.52 USD | 1,117.05 USD | 1,150.56 USD |
| SmartGov Connector Contractor | 1,052.93 USD | 1,084.52 USD | 1,117.05 USD | 1,150.56 USD |
| SmartGov Connector Merchant | 1,052.93 USD | 1,084 <u>.</u> 52 USD | 1,117.05 USD | 1,150.56 USD |
| SmartGov Connector Financial | 1,052.93 USD | 1,084.52 USD | 1,117.05 USD | 1,150.56 USD |
| Total: | 23,158.72 USD | 23,853.49 USD | 24,569.08 USD | 25,306.14 USD |

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SmartGov Statement of Work

Summary:

Company will provide specified professional consulting services to Subscriber to implement SmartGov, an online management solution for permitting, planning, inspections, code enforcement, and business licensing. The professional services and associated milestones outlined in this SOW include user and security set up; system configuration for the back office and citizen portal; data migration (if applicable); connector set up; user training; and post go-live support. The implementation process is collaborative, requiring stakeholder input to ensure the set-up and configuration of the system meets the Subscriber's business processes and operational needs.

In Scope:

The items below will be considered in scope of this SOW:

- Project Management
- General Configuration
- Fee Configuration
- Workflow Template Configuration
- Parcel Connector Configuration
- Map Connector Configuration
- Financial Export Connector
- Digital Markup Tool (Bluebeam) Connector
- Existing Merchant Connector Configuration
- Contractor Connector Configuration
- Base Standardized Data Migration
- Training (Basic, Premium, Elite)

Deliverables:

The following are the services and deliverables purchased by Subscriber:

Project Management: Company Project Manager will act as an extension of the Subscriber's team and manage the implementation from start to finish. The Subscriber will have access to a personalized timeline which will be reviewed on a regular cadence. The Project Manager will partner with the Subscriber to coordinate all services, management of the project timeline, and help identify risks and/or issues.

Project Management Services include:

- Project planning and kickoff meetings.
- Project schedule developed and maintained according to the SOW tasks, deliverables, dependencies, and resource assignments.
- Status reporting and coordination of status meetings, bi-weekly, or as required.
- · Schedule monitoring and scope management.
- Risk Management planning to identify, analyze, and mitigate risks.
- · Action Item and decision tracking, as well as resolving and escalating issues.
- Change control management and issue tracking.
- · Company project resource management.
- Verify product and deliverable acceptance with Subscriber.
- Facilitating transition to Support.
- Company's Project Manager will serve as the single point of contact for the project related to this SOW.

General Configuration: As part of the General Configuration, Company will:

- Create Subscriber database with best practice defaults.
- Provide Validation environment access to Subscriber.
- Load Subscriber users with Company standard permissions (according to Configuration Workbook).
- · Configure system values (locality, time zone, header and footer detail, standard report settings).
- · Load Client Code References/Violation types (according to Configuration Workbook).
- Load Subscriber logo.
- Provide access to over 100 reports and output document templates.

Fee Configuration: Based on Subscriber fee schedule, defined in the Order Form, Company will:

- Setup Subscriber fee code calculations.
- Load Subscriber FMS (Financial Management System) / GL (General Ledger Code) (according to Configuration Workbook).
- Load Subscriber Valuation table (according to Configuration Workbook or ICC (International Chamber of Commerce) table).
- Setup Subscriber fixture costs (according to Configuration Workbook).
- Load other Subscriber custom attributes / details as required for Subscriber fee calculations (according to Configuration Workbook).

Workflow Template Configuration: Company will configure process templates as defined in the Business Process Analysis phase for each department in scope: Building/Permits, Code Enforcement, Licensing and/or Recurring Inspections. Company will:

- Load Subscriber Code References/Violation types (according to Configuration Workbook).
- Load custom attributes/details within the limited fields available (not associated with fees, according to Configuration Workbook).
- · Configure workflow to meet business requirements defined in Configuration Workbook.

Parcel Connector Configuration: Company will configure EITHER a Delimited Parcel Job OR ARCGIS Parcel Job on behalf of the Subscriber.

- Configure Subscribers parcel fields into SmartGov.
- Troubleshooting the incoming data and providing recommendations for Subscriber to resolve data gaps.
- Train Subscriber on how to maintain the service in SmartGov.

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Map Connector Configuration:

- Configure subscribers ESRI GIS layers into SmartGov
- Troubleshooting the incoming data
- Train client on how to maintain the service in SmartGov.

Financial Export Connector Configuration:

- Configure financial export according to subscribers FMS (financial management system) as provided by Subscriber.
- Train Subscriber on how to export and set scheduler.

Digital Markup Tool/Electronic Plan Review (Bluebeam) Connector Configuration:

- Assist Subscriber in configuring Bluebeam connection.
- Testing connection with Subscriber.
- · Training provided on SmartGov check-out and check-in process only.

Merchant Connector Configuration:

- Configure merchant connection.
- Test and troubleshoot connection during test process

Contractor Connector Configuration:

- SODA (Simple Oracle Document Access) WA and AZ Subscribers only
 - Completed configuration of field mapping and credential link
- .csv data load (one-time data load)
 - Provide Subscriber a .csv file to be completed by Subscriber.
 - Configure to Subscribers provided fields.
 - Troubleshoot errors and provide Subscriber guidance on resolutions that Subscriber will need to resolve within the file.

Standard Data Migration: Company will import data from a single client database source, approved by Company as standard source data. Multiple databases or unapproved source data will be subject to a change order for a custom data migration. Base Data Migration includes non-module data such as contacts and is included in all standard data migration packages with one or more module data migrations:

- Data Migration Permits
- Data Migration Licensing
- Data Migration Code Enforcement
- Data Migration Recurring Inspections

Training: Company will train Subscriber users in a "train-the-trainer" format where Subscriber's key users and administrators will learn to use and maintain the software and enabled to upskill other users and community citizens.

Acceptance Process:

When each deliverable is completed, the Project Manager will confirm with the Subscriber and document acceptance in the Project Community Portal.

- General Configuration
 - Subscriber receives credentials for environment with initial configuration items under General Configuration deliverable completed.

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- Fee Configuration
 - Subscriber Fees configured based on provided Fee schedule and according to Configuration Workbook.
- Workflow Template Configuration
 - Consultant-led end-to-end walkthrough and demonstration of UAT/Validation process to Subscriber to confirm functionality meets configuration requirements.
- Connectors: Parcel, Map, Financial, Active Directory, Digital Markup Tool, Laserfiche, Merchant, Contractor, and/or Custom
 - Connectors in scope will be configured and tested by Company to confirm successful connection.
- Standard Data Migration
 - Available data is loaded in SmartGov to meet documented data requirements (see Standard Data Migration appendix).
- Training
 - · Administrator and Subscriber Trainer users have received training according to their role.

Assumptions :

Project Assumptions:

The success of the implementation is dependent on the completion and full engagement of key stakeholders.

- Detailed assumptions for each of the connectors or services is included in the Appendices section of this SOW.
- The Subscriber will engage in the SmartGov implementation to build Subscriber's SmartGov account for it to be used for its intended purposes of permitting, licensing, code enforcement, and inspections.
- For Custom Form Letters or Statistical Reports, the Subscriber will provide original documentation in a Word or Excel format.
- The Subscriber shall be primarily responsible for providing access and training on SmartGov to endusers.
- Training "no-shows" or cancellations, made less than 24 hours in advance, are subject to losing that session and will require a change order for additional training hours or alternative learning arrangements.
- The Subscriber will have access to an implementation specialist and our Legendary Support Team for questions, concerns, or technical issues they may need help resolving throughout their active subscription period.

Subscriber Assumptions:

- There will be a single point of contact/project manager for the duration of the project.
- IT department is responsible for ensuring access to mobile devices, internet connections, email access, and web link access to the software such as white listing IP addresses.
- The appropriate resources will be available for all scheduled activities. Canceling or rescheduling consulting activities within two (2) weeks of the scheduled activity may result in a rescheduling fee being assessed.
- If applicable, Subscriber is responsible for validating migrated data accuracy, format, and completeness

in the validation environment

- For onsite activities, Subscriber will provide a dedicated space with adequate technology, including but not limited to monitor/projector, computers, mobile devices, quality phone and internet connections.
- Will provide relevant data to be loaded in a timely manner and in the format documented in the Data Services SOW.
- Subscriber has up to five (5) business days to confirm deliverable acceptance. No response will be interpreted as acceptance.

Company Assumptions:

- Company will not access any 3rd party systems for the purpose of exporting data.
- No third-party systems or software are included in this implementation.
- No third-party systems or software configuration is included in this implementation.
- No third-party systems or software training is included in this implementation
- No API integration or development services are included in this implementation
- Once End User Training has been completed and the Production environment is live, 30-day Go-Live Support period begins, consisting of up to four (4), one-hour check-ins with the Company Consultant. If client does not attend a scheduled check-in, it will be assumed no assistance was needed.
- For on-site activities, Company will bill Subscriber for actual travel and associated expenses incurred.
- Any services not explicitly included in this SOW are assumed to be out of scope.

Change Controls

Parties may agree to modify the services through the written change request process specifically referencing this applicable SOW to Company project manager. The change request will initiate an update to the applicable SOW and pricing when executed by both Parties, and the services described therein will become part of the services.

Project Schedule:

Professional Services expire after the maximum implementation timeline of 12 months. If implementation is not kicked off within 6 months after purchase, services will be returned. If Subscriber project is placed on hold after kickoff, services expire after six (6) months.

Sample project timeline:

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| Taneline Events | Days | Weeks1-2 | Weeks 3-4 | Weeks 5-6 | Weeks 7-8 | Weeks 9-10 | Wests 11-12 | Weeks 13-14 | Weeks B-16 | Wanks 0-18 | Weeks 19-20 | Weeks 25-22 | Weeks 23-34 |
|--|-----------|----------------|-----------|-----------|---------------------|----------------|---------------|-------------|------------|------------|-------------|-------------|-------------|
| Project Kick Off Call | States 11 | | | | | | | | | | | | |
| Project Review & G&A | | 1122 | | | | | | | | | | | |
| Configuration Requirements Gathering | | Contraction of | | | | | | | | | | | |
| Business Process Analysis & Discovery | | | 14 BRO 1 | 5.00 | | | | | | | | | |
| Configuration Review | | | | | | | | | | | | | |
| Data Migration Analysis (if in scope) | | | | | | | | | | | | | |
| Connector Configuration | | | 0.79 | Variable | length based | on scope | Sector States | ST. SOM | | | | | |
| Account Configuration | | | 1.0000 | | State of the second | ength based | | | | | | | |
| Account Access & Training | | | | | | | | | | | | | |
| Texting & Validation | | | | | Ver | ioble length I | ased on sco | 00 | Strate !! | | | | |
| Data Migration Mapping (if in scope) | | | | | | | | | | | | | |
| Date Migration Testing & Validation ()f in scope) | | | | | | | | | | 2250 | | | |
| Formal User Training | | | | | | | | | | | | | |
| Do-Live | | | | | | | | | | | | 13.44 | |
| Poet Oo-Live Support | | | | | | 1 | | | | | | 200 | 1.1.1 |
| Project Close | | | | | | | | | | | | | 1 |

Invoicing:

Milestones are completed and billed as delivered.

Invoicing for the SmartGov Standard Implementation service will be provided as delivery milestones are completed. Below is the schedule for the billing milestones and the related percentage.

- Project Management
 - · 30-day post go-live support concluded
 - Percentage: 100%
- General Configuration
 - · Completed upon Initial setup of subscriber environment
 - Percentage: 100%
- Fees
 - Completed upon configuration of fee schedule inside SmartGov according to Configuration Workbook
 - Percentage: 100%
- Workflow Customization Configuration Workbook
 - Completed upon configuration according to documentation in the Configuration Workbook
 - Percentage: 100%
- Parcel and Map Connectors
 - Completed upon connection and successful test by Company
 - Percentage: 100%
- Financial Connector
 - Completed upon Configuration according to Workbook
 - Percentage: 100%
- Digital Markup Tool

- Completed upon successful connection
 - Percentage: 100%
- Merchant Connector
 - Completed upon connection and successful test by Company
 - Percentage: 100%
- Contractor Connector
 - Completed upon successful connection
 - Percentage: 100%
- Data Migration
 - Milestone 1: Data Migration Analysis Includes restoration of legacy data source, data review and analysis, verification of usability
 - Percentage: 25%
 - Milestone 2: Data Migration Development Data preparation, Evaluation, Cleansing and Aggregation. Code Development
 - Percentage: 50%
 - Milestone 3: Data Migration by Subscriber and Company Corrections Transformation Mapping, Subscriber Validation and Data Fixes
 - Percentage: 15%
 - Milestone 4: Data Migration Completion/Final Load Final migration of data, Production Preparation and Data Model Validations
 - Percentage: 10%
- SmartGov Training
 - Milestone 1: Completed after pre-Validation training sessions conclude
 Percentage: 25%
 - Milestone 2: Completed after final scheduled training session concludes
 Percentage: 75%

Appendices

Appendix - Parcel Connector:

- Delimited File A delimited file may be uploaded to the job at runtime. The delimited file option supports a single address for each individual parcel. Subscriber must use the template provided by Company.
- Parcel Layer A parcel layer must be accessible by URL through an ESRI REST service. A secondary address-only layer may also be provided for parcels that have more than one address. The layer(s) must be publicly accessible and may be secured with a username and password.
- Subscriber is responsible for obtaining, cleaning, and maintaining all parcel data within the delimited file and/or ESRI Rest service.
- The configured parcel job will be available for Subscriber to run on-demand after go-live. The Parcel Layer Job can be set to run daily, weekly, monthly, or annually defined by how often Subscriber intends to update the Rest Service.



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Parcel source data (delimited file or parcel layer) must include the following fields, at a minimum:

- Parcel Number
- Primary Situs Address
- Primary Situs City
- Primary Situs State
- Primary Situs Zip Code
- Owner Name
- Owner Street Address
- Owner City populated for USA addresses only
- Owner State populated for USA addresses only
- Owner Zip Code populated for USA addresses only
- · International Indicator with a value of "Y" for any owner address outside of the USA
- International line including the full regional equivalent of the city, state and zip code for any owner address outside of the USA

Inclusion of the following additional fields is recommended:

- Parcel center point latitude in decimal degrees
- · Parcel center point longitude in decimal degrees

If using a secondary address layer with the ARCGIS Parcel job, the address layer must contain the following fields:

- Parcel Number
- Secondary Situs Address
- Secondary Situs City
- Secondary Situs Zip Code

Inclusion of the following additional fields is recommended for the secondary address layer:

- · Address point latitude in decimal degrees
- Address point longitude in decimal degrees

Appendix - MAP/GIS Connector:

- Company will connect to ESRI Map Service provided by Subscriber and secured by a publicly trusted certificate issued by a Certificate Authority.
- Subscriber is responsible for contracting separately with ESRI map service provider and ESRI configuration.

SmartGov Requirements for Map Connector Integration:

- ArcGIS for Server 10.4 or ArcGIS for server Enterprise Standard 10.7.1 (OR) ArcGIS Online.
- · Subscriber Map Service must be publicly accessible and require no user authentication of any kind.

- d field having parcel numbers that evactly
- The Map Service must include a parcel layer with a designated field having parcel numbers that exactly match those provided in the Parcel Connector source data (this layer may be the same as that provided for the Parcel Connector if no authentication is required for access).
- Support for Feature, Tiled, and Web Map Services is not included.
- Custom base maps are not supported. Base maps from the ESRI base map library will be available for use.

The following base maps are currently included (subject to change):

- Imagery
- Imagery Hybrid
- Streets
- Topographic
- Navigation
- Streets (Night)
- Terrain with Labels
- Light Gray Canvas
- Dark Gray Canvas
- Oceans
- National Geographic Style Map
- Open Street Map
- Charted Territory Map
- Community Map
- Navigation (Dark Mode)
- Newspaper Map
- Human Geography Map
- Human Geography Dark Map
- Modern Antique Map
- Mid-Century Map
- Nova Map
- Colored Pencil Map
- Firefly Imagery Hybrid
- USA Topo Maps

Appendix – Financial Connector:

Company will customize the configuration of the export to match Subscriber financial system input needs as documented. Available customizations include:

- Additional data fields
- · Altered order of column information
- · Alternate delimiter or fixed width formatting
- A header line is not part of the export.
- Financial Connector does not connect directly with any Financial Management System.
- If Subscriber provides a local (FTP) File Transfer Protocol, the Financial Connector can automatically upload to the defined FTP destination.



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By default, financial extract jobs are pre-configured and the included configuration of the Receipt Extract job will produce a comma-delimited file with the following data points:

- Receipt Number
- Receipt Date
- FMS/GL Code
- Fund
- GL Account
- Fee Amount Paid
- Fee Code Name
- Permit/License/Case Number
- Payer Name

The included configuration of the Receipt Extract – FMS/GL Summary job will produce a comma-delimited file with the following data points:

- FMS/GL Code
- Fund
- GL Account
- Fee Amount Paid

The file output of the financial extract may be written to the customer's FTP site, if desired, to facilitate automated external processing of the file. The customer may request the use of an alternate delimiter if a comma is not acceptable.

The financial extract job may be run on demand or scheduled to run on a consistent basis (e.g., daily, weekly, monthly, etc.). Companion reports designed for reconciliation and extract verification are also available.

Appendix – Digital Markup Tool Connector:

- The service and subscription for this connector does NOT include a subscription to Bluebeam or training on how to install or use the Bluebeam software.
- Subscriber is responsible for providing an active subscription to Bluebeam Studio Prime with REVU 21 to
 use the SmartGov Bluebeam Connector. Each user that will be checking permits out to Bluebeam from
 SmartGov or accessing the submittal documents from SmartGov for review in Bluebeam will need to be
 a member of the Studio Prime account.

Bluebeam Software is comprised of a document management component, known as Studio, and a client-side application, Revu. Each component has three (3) editions with various features.

Bluebeam Studio is the repository for Bluebeam Projects and Sessions. Only one license/subscription is required for each jurisdiction. It is available in the following editions:

- Bluebeam Studio Prime (Compatible with SmartGov) Cloud-based (allows third party integrations with the Bluebeam Studio API), additional Bluebeam cost
- Bluebeam Studio (Not Compatible with SmartGov) Cloud-based, included with the Bluebeam Revu user license at no additional Bluebeam cost
- · Bluebeam Studio Enterprise (Not Compatible with SmartGov) On-Premises

Bluebeam Revu is the client-side software that provides the tools necessary to review and mark up documents. This software must be installed on each client computer that will be used to perform review and mark up tasks. Revu is available in the following editions:

- Revu Standard (Compatible with SmartGov) Standard tool set
- Revu CAD (Compatible with SmartGov) Includes all of the standard tools, along with plugins for 2D and 3D PDF creation
- Revu eXtreme (Compatible with SmartGov) Includes all of the standard tools and CAD plugins, with additional features like Optical Character Recognition (OCR) and batch processes.

The Revu user license includes access to Bluebeam Studio, but Bluebeam Studio is not sufficient for integration with SmartGov. Each SmartGov user that will be checking projects in and out of Bluebeam or performing review and mark up tasks must also be a member of the Bluebeam Studio Prime account.

Appendix – Merchant Connector:

- Subscriber to provide the required linking information for Company to complete the setup. These will often include connection URLs, Login IDs, and Transaction Keys. Requirements vary slightly depending on the selected Merchant.
- SmartGov will not test in Production environments).

Appendix – Contractor Connector:

SmartGov requires a delimited file or a SODA query (Washington and Arizona clients only).

Delimited File Imports. The contractor data load is a one-time delimited file import. Future additions and changes to contractor information will be managed through manual updates in SmartGov.

SODA Imports. The states of Washington and Arizona have access to a SODA load which will be configured according to existing keys. This runs on a scheduled recurrence.

The Subscriber is responsible for any data cleansing and parsing. Required fields below:

- Contractor Display Name
- Contractor Address
- Contractor City
- Contractor State
- Contractor Zip
- Contractor License Number
- License Type
- License Exp. D

Appendix: Standard Data Migration

The Standard Data Migration includes the Base fields and one or more of the additional datasets per the Sales Order Form. The fields below are considered in-scope of a standard data migration. The final output has many factors, including the fields available from the source data.

Base CD-MIG-BASE

- Parcels
 - Parcels
 - Ownership
 - Addresses
- Contacts



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- Contacts
- Phone
- Address
- Email

Permitting

- Basic Permit Info
- Parcel
- Contacts (Contractors will be listed on Contacts)
- Inspections
- Fees as Notes
- Notes

Code Enforcement

- Case Request
- Basic Case Info
- Complainant
- Contacts
- Inspections
- Fees as Notes
- Notes

The data migration process assumptions:

- Subscriber will provide an initial data set from source database.
- Company will provide a mapping workbook to Subscriber where Subscriber is responsible for mapping data fields to the preconfigured database fields.
- Subscriber will have two (2) weeks ten (10) business days) to validate the initial data load and provide feedback. There is a maximum of two (2) rounds of feedback within that 10-day period.
- Thorough validation is necessary for any successful SmartGov data migration as there is no additional data cleansing possible after the final migration. No more system changes will be permitted after successful Validation.
- Subscriber to provide a final data set three (3) business days before Go-Live.
- Final data load will occur the day before Go-Live.

APPENDIX - Training

The training agenda will be agreed upon by the consultant and the Subscriber lead and is designed to provide the Subscriber team with an interactive experience in the software to facilitate an understanding of the utilized parts of the software.

Conditional content is shown or hidden based on the configured expression.

- Tier 1 Basic training will include:
 - Up to two (2) hours of User Acceptance Training to prepare primary users for Validation, focused on navigation and testing best practices.
 - Go-Live training will span a one (1) week period, provided in three (3) hour sessions to meet Subscriber needs, not to exceed four (4) sessions.

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- By accepting this Order, and notwithstanding anything to the contrary in any other purchasing agreement, Subscriber agrees to pay all relevant Subscription Fees for the full Subscription Term defined above.
- Payment terms: Net 30
- Billing frequency for Cloud Services will be Annual.
- The "Effective Date" of the Agreement between Subscriber and Company is the date Subscriber accepts this Order.
- This Order and its Offerings are governed by the terms of the Brightly Software, Inc. Master Subscription Agreement found at http://brightlysoftware.com/terms (http://brightlysoftware.com/terms) ("Agreement"), unless Subscriber has a separate written agreement executed by Brightly Software, Inc. ("Company") for the Offerings, in which case the separate written agreement will govern. Acceptance is expressly limited to the terms of the Agreement. No other terms and conditions will apply. The terms of any purchase order or similar Subscriber document are excluded and such terms will not apply to the Order and will not supplement or modify the Agreement irrespective of any language to the contrary in such document.
- To the extent professional services are included in the Professional Services section of this Order, the Professional Services Addendum found at <u>http://brightlysoftware.com/terms</u> (<u>http://brightlysoftware.com/terms</u>) is expressly incorporated into the Agreement by reference.
- During the Subscription Term, Company shall, as part of Subscriber's Subscription Fees, provide telephone and email support ("Support Services") during the hours of 8:00 AM and 6:00 PM EST, (8:00 am – 8:00 pm EST for Community Development Services) Monday through Friday ("Business Hours"), excluding Company Holidays.
- Company maintains the right to increase Subscription Fees within the Subscription Term by an amount not to exceed the greater of prices shown in the investment table or the applicable CPI and other applicable fees and charges every 12 months. Any additional or renewal Subscription Terms will be charged at the then-current rate.
- Acceptance of this Order on behalf of a company or legal entity represents that you have authority to bind such entity and its affiliates to the order, terms and conditions herein. If you do not have such authority, or you do not agree with the terms set forth herein, you must not accept this Order and may not use the Offerings.
- Proposal expires in sixty (60) days.
- Subscriber shall use reasonable efforts to obtain appropriation in the full amount required under this
 Order annually. If the Subscriber fails to appropriate funds sufficient to maintain the Offerings described
 in this Order, then the Subscriber may terminate the Offerings at no additional cost or penalty by giving
 prior written notice documenting such non-appropriation. Subscriber shall use reasonable efforts to
 provide at least thirty (30) days prior written notice of non-appropriation. Subscriber agrees nonappropriation is not a substitute for termination for convenience, and further agrees Offerings
 terminated for non-appropriation may not be replaced with functionally similar products or services
 prior to the expiration of the Services Term set forth in this Order. Subscriber will not be entitled
 to a refund or offset of previously paid, but unused Fees.

Additional information

€

- Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Subscriber. This is not an invoice. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Subscriber. Tax exemption certifications can be sent to accountsreceivable@brightlysoftware.com (mailto:accountsreceivable@brightlysoftware.com).
- Billing frequency other than annual is subject to additional processing fees.
- Please reference Q-384326 on any applicable purchase order and email to <u>Purchaseorders@Brightlysoftware.com (mailto:Purchaseorders@Brightlysoftware.com)</u>
- Brightly Software, Inc. can provide evidence of insurance upon request.



Illuminate: Bringing the best Ideas to Light

Brightly's Illuminate conference is a place for operations and asset management leaders to gather and share our collective wisdom, spotlighting the best new ideas and learning from one another to realize a brighter future. Take stock of where you've been and plan for where you're going while connecting with industry peers and experts as passionate to help their organizations thrive as you are.

Brightly's Illuminate conference is a gathering of the brightest minds in operations and asset management, where you can connect with leaders in their field, exchange expertise, and uncover new opportunities to realize a brighter future

Illuminate is March 11th-14th. Attendees are in for the best in-person conference yet, with more knowledge, training, and technology than ever before.

Enlighten Share your expertise and level up your knowledge with hands-on education and training you can bring back to your team.

Envision

Explore the brightest ideas and smartest solutions to elevate the work your organization is doing and realize your vision for the future.

Engage

Broaden your professional network by sharing wisdom with fellow operations and asset management leaders.

The Brightly Bundle includes meals, a 4-night hotel stay and tuition. Registration is open beginning October 1st, 2023 through March 8th, 2024.





Signature

Presented to:

Q-384326 December 19, 2023, 3:01:22 PM

Accepted by:

Printed Name

Korthuis att Signed Name

Mayor Title

12/20/2023 Date

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | | |
|--|-------------------------------------|---|--|--|
| Name of Agenda Item: | | Appoint Mayor Korthuis to the 2024 Whatcom Transportation | | |
| | Authority (WTA) Board of Directors. | | | |
| Section of Agenda: | Consent | | | |
| Department: | Administration | Administration | | |
| Council Committee Review: Legal Review: | | | | |
| □ Community Development | Public Safety | □ Yes - Reviewed | | |
| Finance | Public Works | No - Not Reviewed | | |
| Parks | □ Other: N/A | ☑ Review Not Required | | |
| Attachments: | | | | |
| N/A | | | | |
| Summary Statement: | | | | |
| Each year council appoints | someone to represent the | ne city's interests on the Whatcom | | |
| | | Currently Mayor Korthuis is the WTA | | |
| representative. | | | | |
| Recommended Action: | | | | |
| Re-appoint Mayor Scott Korthuis to serve as Lynden's representative on the WTA Board of Directors. | | | | |

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|-------------------------|---|---------------------|--|
| Name of Agenda Item: | Re-Appointment to the Planning Commission – Blair Scott | | |
| Section of Agenda: | Consent | | |
| Department: | Community Development | | |
| Council Committee Revie | ?W: | Legal Review: | |
| □ Community Development | Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | ☑ No - Not Reviewed | |
| □ Parks | 🛛 Other: Mayor | Review Not Required | |
| Attachments: | | | |
| Nono | | | |

None

Summary Statement:

Blair Scott has been an active member of the Lynden Planning Commission for over 20 years, serving since 2003. Blair has agreed to serve another 4-year term with the Commission. Staff appreciates the time and effort Blair has given to the community.

Appointments to the Planning Commission are made by the Mayor and confirmed by the City Council. It is the Mayor's recommendation that Blair Scott be reappointed to the Lynden Planning Commission for a 4-year term beginning January 2024, running through December 2027.

Recommended Action:

Motion to confirm the reappointment of Blair Scott to the Planning Commission for a term beginning immediately and expiring December 2027.

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|-------------------------|---|---------------------|--|
| Name of Agenda Item: | Re-Appointment to the Design Review Board – David Vos | | |
| Section of Agenda: | Consent | | |
| Department: | Community Developme | nt | |
| Council Committee Revie | ?W: | Legal Review: | |
| Community Development | Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | ☑ No - Not Reviewed | |
| □ Parks | 🛛 Other: Mayor | Review Not Required | |
| Attachments: | | | |
| NI | | | |

None

Summary Statement:

David Vos has agreed to serve his 3rd term with the City's Design Review Board. Staff appreciates David's time and willingness to serve the community.

Appointments to the Design Review Board are made by the Mayor and confirmed by the City Council. It is the Mayor's recommendation that David Vos be reappointed to the Design Review Board for a 4-year term beginning January 2024, running through December 2027.

Recommended Action:

Motion to confirm the reappointment of David Vos to the Lynden Design Review Board for a term beginning immediately and expiring December 2027.

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|---|---------------------------|--|--|
| | | Note a de a O sa tras et la dias est. Ories is el | |
| Name of Agenda Item: | | Defender Contract-Indigent Criminal | |
| | Defense Services | | |
| Section of Agenda: | Consent | | |
| Department: | Administration | | |
| Council Committee Review | <u>w:</u> | Legal Review: | |
| Community Development | Public Safety | Yes - Reviewed | |
| Finance | Public Works | No - Not Reviewed | |
| □ Parks | ⊠ Other: N/A | Review Not Required | |
| Attachments: | | | |
| Addendum | | | |
| Summary Statement: | | | |
| Services which took effect J | lanuary 1, 2022 (original | ler Contract for Indigent Criminal Defense I contract). The original contract agreed amends the contract as follows: | |
| January 2024-December 2024 \$4,500 per month. January 2025 and Beyond \$5,000 per month. | | | |
| Recommended Action: | | | |
| Consider and approve the Addendum to the Public Defender Contract – Indigent Criminal Defense Services and authorize the Mayor's signature. | | | |

ADDENDUM TO CITY OF LYNDEN PUBLIC DEFENDER CONTRACT FOR INDIGENT CRIMINAL DEFENSE SERVICES

This Addendum to that certain *City of Lynden Public Defender Contract for Indigent Criminal Defense Services*, which took effect January 1, 2022 ("Original Contract"), is made and entered into by and between the City of Lynden ("City"), and Jason Smith, North County Public Defense ("Contractor"). The City and the Contractor may be referred to herein individually as "Party" and collectively as "Parties."

WHEREAS, in Section II of the Original Contract, the City agreed to pay Contractor four-thousand dollars (\$4,000) a month for the provision of the services described in Section I of the Original Contract; and

WHEREAS, as the costs associated with the provision of the services Contractor is required to provide under the Original Contract have increased, the Parties have agreed to update the amount the City pays to Contractor monthly; and

WHEREAS, these recitals constitute a material part of this Addendum,

NOW, THEREFORE, in consideration of the mutual benefit derived by the Parties and other good and valuable consideration, the Parties mutually agree as follows:

1. Section II of the Original Contract is amended to read as follows:

Section II – Consideration

In consideration for the services described above, the City agrees to pay the Contractor the following amounts, paid monthly, for such services described in this Agreement:

| January, 2024 – December, 2024 | \$4,500 per month |
|--------------------------------|-------------------|
| January, 2025 & beyond | \$5,000 per month |

for each full month in which such services are provided. Compensation for services provided for a partial month shall be prorated. Contractor shall send an invoice for such payment each month. The City of Lynden, Finance Department, must receive invoices by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing in the current month's run. The Finance Department is required to seek City Council approval to pay invoices during the second City Council meeting of the month (third Monday) before payment can be rendered.

2. Except as expressly modified in this Addendum, the Original Agreement shall remain in full force and effect.

Executed this _____ day of January, 2024.

Jason Smith, North County Public Defense Attorney-at-Law

Scott Korthuis Mayor, City of Lynden STATE OF WASHINGTON)) ss COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Scott Korthuis 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 Mayor of <u>the City of Lynden</u> to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____, 2024.

NOTARY PUBLIC in and for the State of Washington Residing at ______ My commission expires ______

STATE OF WASHINGTON)) ss COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Jason Smith 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 for North County Public Defense to be the free and voluntary act of such party for the uses and purposes mentioned in this instrument.

Dated: _____, 2024.

NOTARY PUBLIC in and for the State of Washington Residing at ______ My commission expires ______

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | | |
|------------------------|-------------------------------------|-----------------------|--|--|
| Name of Agenda Item: | Public Hearing on the Unified Fee S | Schedule | | |
| Section of Agenda: | Public Hearing | | | |
| Department: | Finance | | | |
| Council Committee Revi | iew: | Legal Review: | | |
| Community Developme | ent 🛛 Public Safety | □ Yes - Reviewed | | |
| 🛛 Finance | Public Works | No - Not Reviewed | | |
| Parks | □ Other: | ☑ Review Not Required | | |
| Attachments: | Attachments: | | | |
| | | | | |

Unified Fee Schedule

Summary Statement:

In order to provide transparency of City fees, ease of use in finding the fees, and consistency in the fee structure, the Finance Department is developing a Unified Fee Schedule. The intent is to publish the fee schedule on the City's website for use by the citizenry.

It was set at the December 4, 2023 Council meeting that 7:00PM on January 2, 2024 be set as the time and date to consider all comments on the Unified Fee Schedule.

Recommended Action:

For the Mayor and the City Council to conduct the required public hearing to consider any public commentary on the proposed Unified Fee Schedule.

| | Desert | T N | | Comment Engl | D | NT - 4 - m |
|----------|--|--|---|---|-------------------------------------|---|
| | Department | Fee Name | Fee Description | Current Fee | Proposed Fee 2024 | Notes: |
| | | | | | | |
| 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 | × 1 |
| 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 |
| | Community Dev - Building | Building permit | State building code fee (BCF) on residential permits. | \$25.00 + \$2.00/additional unit if mixed | \$25.00 + \$2.00/additional unit if | Set by RCW 19.27.086 |
| 5 | Community Dev Dunding | Dunding permit | State Sunding code ree (Der) on residential permits. | occupancy | mixed occupancy | Set by Re (1 1).27.000 |
| U | Community Dev - Building | Building permit | Mobile home -single wide placement fee. Permit fees would also include those associated with | \$150.00 | \$188.00 | 25% fee increase of 2018 rates |
| 6 | | | any addition exterior structural construction. | + | | |
| | Community Dev - Building | Building permit | Mobile home -double wide placement fee. Permit fees would also include those associated with | \$200.00 | \$250.00 | 25% fee increase of 2018 rates |
| 7 | | 61 | any addition exterior structural construction. | | | |
| | Community Dev - Building | Building permit | Mobile home - triple wide placement fee. Permit fees would also include those associated with | \$250.00 | \$313.00 | 25% fee increase of 2018 rates |
| 8 | | | any addition exterior structural construction. | | | |
| | Community Dev - Building | Building permit | Solar Panel | \$120.00 + BCF | \$150.00 + BCF | 25% fee increase of 2018 rates |
| 9 | | | | 470.00 | A C A A | 65 0/ C 1 |
| 10 | Community Dev - Building | Building permit | Demolition | \$50.00 | \$63.00 | 25% fee increase of 2018 rates |
| 1.1 | Community Dev - Building | Building permit | Residential Re-roof | \$114.00 | deleted | City has not been requiring permits for |
| 11 | Community Day Duilding | Duilding generatie | Commercial Re-roof | Fee based on valuation | deleted | re-roofs. |
| 12 | Community Dev - Building | Building permit | Commercial Re-root | Fee based on valuation | deleted | City has not been requiring permits for |
| | Community Day Duilding | Duilding generatie | Fence Permit | \$25.00 | \$31.00 | re-roofs. Mechanical permit may be 25% fee increase of 2018 rates |
| 13 | Community Dev - Building Community Dev - Building | Building permit Building permit | | | | 25% lee 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 | |
| | Community Dev - Building | Building permit | Signs | Based on Construction Cost | Based on Construction Cost | |
| 15 | | | ŭ | | | |
| 16 | Community Dev - Building | Building permit | Short Term Rental Inspection or Community Residential Facility Inspection | \$25.00 | \$50 per bed/occupant | |
| 16 17 | Community Day Duilding | Incompation and Franc | Duilding also marian and Instruction Compises Described antion | Consultant cost +10% | Consultant cost +10% | |
| 17 | Community Dev - Building Community Dev - Building | Inspection and Fees Inspection and Fees | Building plan review and Inspection Services - Pass thru option Outside consultants and/or inspections | Admin+Overhead costs | Admin+Overhead costs | |
| 18 | Community Dev - Building | Inspection and Fees (Hourly Charge) | Outside of normal business hours (minmum 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 |
| 20 | Community Dev - Building | Inspection and Fees (Hourly Charge) | Inspection 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 |
| | Community Dev - Building | Inspection and Fees (Hourly Charge) | For use of outside consultants for plan checking and inspections* | Actual cost including administrative and | | |
| | | | Tor use of subside consultants for plan encoding and inspections | overhead costs. | administrative and overhead costs. | |
| 23 | | | | | | |
| 24 | Community Dev - Building | Inspection and Fees (Hourly Charge) | Improvments to exsisting 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 39 | 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 | \$2100, 04101 | 4210 0, 04101 | 20 /0 100 11010430 01 2010 1400 |
| 47 | Community Dev - Building | Mechanical Inspection/Permit Fees | Miscellaneous fixtures | \$15.00 | \$18.75 | 25% fee increase of 2018 rates |
| ., | Community Dev - Building | Plan Check Fees | Plan Check Fees | 65% of permit fee - in addt.to permit fees | | 20 /0 100 mercuse of 2010 fates |
| 48 | Community Dev Dunning | | | - all construction | | |
| | Community Dev - Building | Plan Check Fees | An estimated plan review fee paid at time of permit app. For construction valuations over \$5000, | | | |
| 49 | Community Dev Dunning | | 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 |
| | Community Dev - Building | Plan Check Fees | State Bulding Code Fee -BCF (RCW 19.27.085) | \$6.50 for each residential building permi | | 20 /0 100 mercuse of 2010 fates |
| | Community Dev Dunning | | Sade Balang Code For Ber (Reff 1912/1000) | plus \$2.00 for each additional residential | 0 | |
| | | | | unit, if mixed use occupancy | additional residential unit, if mixed | |
| 51 | | | | unit, it mixed use occupancy | use occupancy. | |
| 01 | Community Dev - Building | Plan Check Fees | State Bulding Code Fee -BCF (RCW 19.27.085) | \$25.00 for each commercial building | \$31.00 for each commercial | |
| | Community Dev - Dunding | Than Check Tees | State Building Code Fee Ber (Reff 17.27.003) | permit plus \$2.00 for each additional | building permit plus \$2.50 for each | |
| | | | | reidential until if mixed use occupancy. | additional residential unit, if mixed | |
| 52 | | | | reidential until li linxed use occupancy. | use occupancy. | |
| 53 | Community Dev - Building | Plumbing Inspection/Permit Fees | Base Fee | \$30 | \$37.50 | 25% fee increase of 2018 rates |
| 00 | Community Dev - Building | Plumbing Inspection/Permit Fees | Per Fixture: Bathtub, Bath sinks, Shower, Kitchen sink, Dishwasher, Clothes, Toliet, Urinal, | \$7 | \$8.75 | 25% fee increase of 2018 rates |
| | Community Dev Dunding | r funiting inspections r crime r ces | Drinking Fountain, Drain or Floor Drain, Hot tub, Laundry Sink, Bar/Service sink, Electric Water | | \$6.75 | 2370 fee mercuse of 2010 futes |
| 54 | | | Heater | | | |
| 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 | ¢12.00 | 23 /0 fee mercuse of 2010 futes |
| 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 |
| 52 | Community Det - Dunding | . manong inspectors i clinit i ces | · minoring sinter (But, Ser 1900) | Ψ· | φon θ | 2075 fee mercuse of 2010 fates |

| 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 |
| | Community Dev - Planning | Land Use Fee - Type 1 | Critical Area Review | \$100.00 + cost of City's consultant revie | w \$100.00 + cost of City's consultant | No increase proposed to the fee. |
| 93 | , | | | if required | review if required | |
| 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 |
| 100 | Community Dev - Planning | Land Use Fee - Type 2 | Subdivision Plat - Final | \$70 per lot | \$88 per lot | 25% fee increase of 2020 rates |
| 101 | Community Dev - Planning | Land Use Fee - Type 2 | General Binding Site Plan | 370 per lot 350 + 120 per lot | \$438.00 + \$150.00 per lot | 25% fee increase of 2020 rates |
| 102 | Community Dev - Planning | Land Use Fee - Type 2 | Specific Binding Site Plan | 300 + 3120 per lot | 3375 + 120 per lot | 25% fee increase of 2020 rates |
| 105 | Community Dev - Planning | Land Use Fee - Type 2 | Development Agreement | $$200 + \cot$ fits legal review fees | $$250 + \cot $ \$250 + cost of City's legal review | 25% fee increase of 2020 rates |
| 104 | Community Dev - Flamming | Land Use Pee - Type 2 | Development Agreement | \$200 + cost of City's legal review lees | fees | 25% ree 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 |
| 109 | Community Dev - Planning | Land Use Fee - Type 3 | Conditional Use Permit | \$400.00 | \$500.00 | 25% fee increase of 2020 rates |
| 110 | Community Dev - Flamming | Land Use Pee - Type 5 | Conditional Use Fernit | \$400.00 | \$300.00 | 25% ree 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 |
| | Community Dev - Planning | Land Use Fee - Type 3 | Amendment to a Planned Residential | \$400.00 | \$500.00 | 25% fee increase of 2020 rates |
| 118 | , | 51 | | | | |
| 110 | Community Dev - Planning | Land Use Fee - Type 3 | Development (PRD) or Master PRD | \$400.00 | \$500.00 | 25% fee increase of 2020 rates |
| 11) | Community Dev - Planning | Land Use Fee - Type 3 | CC&R modifications of PRD's | 100 + 100 | \$125 + cost of legal review | 25% fee increase of 2020 rates |
| 120 | Community Dev - Planning | Land Use Fee - Type 3 | Zoning Text Amendment | \$100 + legar ree \$400 + Base fee or FRC | $$125 + \cos \theta$ legal review $$500 + \cos \theta$ legal review | 25% fee increase of 2020 rates |
| 121 | Community Dev - Planning | Land Use Fee - Type 3 | Vacation of Right-of-Way or Easement | \$400 + Base lee of FRC \$300 | 375.00 | 25% fee increase of 2020 rates |
| 122 | , | | e , | \$300 | \$ 125.00 | 25% fee increase of 2020 rates |
| | Community Dev - Planning | Land Use Fee - Type 4 Land Use Fee - Type 4 | Home Occupation Annexation | | \$ 123.00 $$375 + \cos t$ of legal review | 25% fee increase of 2020 rates |
| 124 125 | Community Dev - Planning | Land Use Fee - Type 4 Land Use Fee - Type 4 | Appeal of Administrative Decision (SEPA) | \$300 + legal review \$500 | \$ 625.00 | 25% fee increase of 2020 rates |
| | Community Dev - Planning | | Cell Tower Revision or Addition | | | |
| 126 | Community Dev - Planning | Land Use Fee - Type 4 | | \$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 |
|-----|--------------------------|-------------------------------|--|---|--|--------------------------------------|
| | Community Dev - Planning | Land Use Fee - Type 4 | Small Cell Network Plan Review for installation of Equipment within City's ROW and Franchise | \$600 + cost of legal review | $750 + \cos \theta$ legal review | 25% fee increase of 2020 rates |
| 132 | | | Agreement | **** | ¢ | |
| 133 | Community Dev - Planning | Land Use Fee - Type 4 | Removal of ADU Covenant | \$100 | \$ 125.00 | |
| 134 | Community Dev - Planning | Land Use Fee - Type 4 | HBD Commercial Parking - Payment in lieu of on-site parking | \$2350.00 per required stall | \$8,900 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 | |
| 150 | * | Hazardous Materials | Fireworks Sales | \$25.00 | \$150.00 | |
| 151 | Fire Dept Fire Dept | Hazardous Materials | Fireworks Display | \$50.00 | \$200.00 | |
| | 1 | | 1 5 | | | |
| 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 | |
| 172 | Fire Dept | Plan Review Fee (Value Based) | \$50,001 - \$100,000 | \$225.00 | \$300.00 | |
| 173 | | | | | | |
| | Fire Dept | Plan Review Fee (Value Based) | \$100,001 - \$250,000 | \$300.00 | \$400.00 \$600.00 | |
| 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 dayweekday | \$75.00 | \$80.00 |
| 185 | Parks Dept | Rental Facility Fees | Berthusen Kitchen Rental- 1/2 dayweekend | \$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 M | av \$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 Dayweekday | \$50.00 | \$55.00 |
| 200 | Parks Dept | Rental Facility Fees | City Park Open Shelter Rental- 1/2 Dayweekends | \$60.00 | \$65.00 |
| 201 | Parks Dept | Rental Facility Fees | City Park Open Shelter Rental- Full Day-weekday | \$65.00 | \$75.00 |
| 202 | 1 | 5 | 5 1 5 5 | | |
| | 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 Reservationsper count | \$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 dayweekday | \$60.00 | \$60.00 |
| 211 | Parks Dept | Rental Facility Fees | Bender Fields Open Shelter Rental- 1/2 dayweekend | \$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 shiping materi | al 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 | \$12.50 + \$2.50 per square foot of 25% increase |
| 226 | | | | sidewalk used | sidewalk used |
| 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)/\$3,303.17% 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 |
| 230 | 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 |
| 231 | 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 |
| 232 | * | User Fee | e e | \$15.00/\$7.00/\$52.50 (+ tax) \$11.00/5% of outstanding balance | \$13.91/\$7.49/\$50.18 + tax 7% increase \$20.00/5% of outstanding balance \$9 increase |
| 233 | PW - Airport | 0301 FEE | Late Payment per month on past due balance (less than \$200/\$200 or greater) | 911.00/370 of outstalluling balance | \$4 mcrease |
| | | | | | |

| 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. ; \$10,00 | 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 | \$11.00 + \$2.50 per square foot of | 20% fee increase of 2020 rates |
| 243 | | | | sidewalk used | sidewalk used | |
| 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 qu |
| 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 |

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | |
|---------------------------|---|---------------------|
| Name of Agenda Item: | Ord 23-1680 Amending Civil Penalties Code | |
| Section of Agenda: | Public Hearing | |
| Department: | City Administration | |
| Council Committee Review: | | Legal Review: |
| 🛛 Community Developme | ent 🛛 Public Safety | 🛛 Yes - Reviewed |
| Finance | Public Works | No - Not Reviewed |
| Parks | □ Other: | Review Not Required |
| Attachments: | | |
| | | |

Draft Ord 23-1680 with Exhibit A - Redline of proposed changes.

Summary Statement:

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 City's current code needs this update as it includes many criminal misdemeanor penalties for offenses that would be more appropriately classified as civil infractions. Additionally, although the code recognizes the authority of the City to fine violators, it provides only broad guidance on what dollar amount could be used under this authority.

The revised code carefully 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.

To implement a revision of this nature it is necessary to amend numerous existing penalty provisions throughout the municipal code. 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. Title 13 has been amended to include stormwater provisions and for general consistency with the proposed changes. However, staff anticipates that additional revisions related to utilities will be addressed in the coming year.

After extensive work, staff and legal counsel are advocating for this revision as a significant improvement to the code and the guidance it provides to consistently address violations, and attain compliance, within the city.

Recommended Action:

Motion to approve Ord 23-1680 regarding an amendment to the city's Civil Penalties Code which updates multiple chapters of the Lynden Municipal Code 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 53A.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

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

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:

City of Lynden Ord 23-1680 Page **1** of **31** 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, 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:

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| 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

City of Lynden Ord 23-1680 Page **3** of **31** 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 by any of the officials identified in subsections B (1)-(3) above.

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.

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. Title 8 (Health and Safety);
- 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).
- 3. LMC 13.24.160(B)&(C), if the Director determines the discharge is causing pollution, or likely to cause pollution, of surface or groundwater.
- 4. Title 12 (Streets, Sidewalks and Public Places)
- 5. Title 15 (Building and Construction);

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- 6. Title 16 (Environmental Policy);
- 7. Title 17 (Land Development);
- 8. Title 18 (Subdivisions); and
- 9. Title 19 (Zoning).

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,

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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.

1.34.050 – 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;

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- (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 working 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 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.

City of Lynden Ord 23-1680 Page **8** of **31** (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;
- 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;

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- 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 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 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:

City of Lynden Ord 23-1680 Page **10** of **31** 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 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 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 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,

City of Lynden Ord 23-1680 Page **11** of **31** abatement, or remediation, may be enforced by the City Attorney in Whatcom County Superior Court.

D. *Explanation of Mitigating Circumstances*. Within 15 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 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 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.

City of Lynden Ord 23-1680 Page **12** of **31** 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.

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 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 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.

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

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

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.

City of Lynden Ord 23-1680 Page **14** of **31** 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.

<u>SECTION 3</u>: 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;

City of Lynden Ord 23-1680 Page **15** of **31** 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

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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.

City of Lynden Ord 23-1680 Page **17** of **31** 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.

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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) are 1.24.040) per infraction.

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

City of Lynden Ord 23-1680 Page **19** of **31** 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 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.

City of Lynden Ord 23-1680 Page **21** of **31** 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.

City of Lynden Ord 23-1680 Page **23** of **31** 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.

City of Lynden Ord 23-1680 Page **24** of **31** 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 city engineer 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 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).

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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).

13.24.080 – 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 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 <u>2.09</u>, <u>17.09</u>, and <u>17.11</u> LMC. During the hearing, the hearing examiner shall consider the recommendation of the director. The hearing examiner 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

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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 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

City of Lynden Ord 23-1680 Page **27** of **31** 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 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.

17.13.050 - Civil fines.

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).

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.

<u>SECTION 4</u>: 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 identicard.

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.

City of Lynden Ord 23-1680 Page **29** of **31** 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;

 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.

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

City of Lynden Ord 23-1680 Page **30** of **31** 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

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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 <u>Title 9, 15</u>, 16, <u>17, 18</u>, or <u>19</u> 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

City of Lynden Ord 23-1680 Page **1** of **35** 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. <u>Continuing Offenses.</u>

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. <u>RCW 9A.08.030</u>, 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:

| Category | Penalty |
|------------|--------------|
| <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> | \$300 |
| <u>C-7</u> | \$350 |

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

Chapter 1.34 – COMPLIANCE AND ENFORCEMENT

<u> 1.34.010 – Title.</u>

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);

<u>-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).</u>

-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.

<u>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:</u>

- A. <u>"Abate" means to repair, replace, remove, destroy, demolish, board-up, or otherwise</u> 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. <u>"Enforcement Official" means the City official designated by code with enforcement</u> <u>authority of a particular title, chapter, section, or provision thereof and may include any of</u> <u>the following:</u>
 - (1) <u>The Chief of Police</u>
 - (2) <u>The City Administrator</u>
 - (3) <u>The Director of the department generally responsible for enforcement of the</u> <u>Lynden Municipal Code provision which is the subject of a violation including, but</u> <u>not limited to:</u>
 - i. The Public Works Director (for violations of Titles 12-13)
 - ii. <u>The Community Development Director (for violations of Titles 15-19)</u>
 - iii. The Parks Director (for violations of Chapter 12.24)
 - (4) <u>A Code Enforcement Officer, serving under the direction of the Community</u> <u>Development Director or Building Official;</u>
 - (5) <u>Any designee duly appointed by any of the officials identified in subsections B</u> (1)-(3) above.

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

- C. <u>"Determination of Compliance" means a written statement from the City that the</u> violation(s) identified in a Voluntary Correction Agreement, Civil Regulatory Order, or other notice has been sufficiently abated, remediated, or otherwise resolved.
- D. <u>"Emergency" means a situation or civil violation which, in the opinion of an Enforcement</u> Official, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.
- E. <u>"Hearing Examiner" means the Lynden Hearing Examiner and the office thereof</u> established pursuant to Lynden Municipal Code Chapter 2.09.

- F. <u>"Person Responsible for the Violation" means the person or persons, firm, corporation,</u> 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. <u>"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.</u>
- H. "Violation" means:
 - (1) <u>An act or omission contrary to any regulation or provision of the Lynden</u> <u>Municipal Code; and</u>
 - (2) <u>An act or omission contrary to the conditions of any permit, notice, order, or stop</u> work order issued pursuant to any such regulation or provision.

1.34.035 – Declaration of 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. <u>Title 8 (Health and Safety);</u>
- 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).
- 3. <u>LMC 13.24.160(B)&(C), if the Director determines the discharge is causing</u> pollution, or likely to cause pollution, of surface or groundwater.
- 4. Title 12 (Streets, Sidewalks and Public Places)
- 5. <u>Title 15 (Building and Construction);</u>
- 6. <u>Title 16 (Environmental Policy);</u>
- 7. <u>Title 17 (Land Development);</u>
- 8. Title 18 (Subdivisions); and
- 9. Title 19 (Zoning).

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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.

City of Lynden Ord 23-1680 Page **6** of **35** 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.

1.34.050 – Voluntary Correction Agreement.

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

<u>B. General.</u> 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.

<u>C. Issuance of Voluntary Correction Agreement</u>. 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.</u>

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) <u>The street address or a description sufficient for identification of the building,</u> <u>structure, premises, or land upon which or within which the violation has occurred or</u> <u>is occurring;</u>
- (3) <u>A description of the violation(s) and a reference to the provision(s) of the City code</u> which has been violated;
- (4) <u>The necessary corrective action to be taken, and the date by which the correction</u> <u>must be completed;</u>
- (5) <u>An agreement by the Person Responsible for the Violation that the City may inspect</u> the premises as may be necessary to determine compliance with the Voluntary <u>Correction Agreement;</u>
- (6) <u>The amount of the minimum civil penalty that will be imposed if the terms of the</u> <u>Voluntary Correction agreement are not complied with; and</u>

- (7) <u>A statement that if the City determines that the terms of the Voluntary Correction</u> <u>Agreement are not complied with, the City may impose any remedy authorized by</u> <u>this chapter, including:</u>
 - I. <u>Assessment of the civil penalties identified in the Voluntary Correction</u> <u>Agreement:</u>
 - 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. <u>Suspension, revocation, or limitation of any related permit(s).</u>
- (8) <u>A statement that the Person Responsible for the Violation knowingly waives the right to a hearing.</u>

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 working 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 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.

<u>G. Extension and Modification.</u> 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.

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

<u>B. Person Receiving Notice – Identification and Detention.</u> 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.</u>

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. <u>The street address or a description sufficient for identification of the building,</u> <u>structure, premises, or land upon which or within which the violation has occurred or</u> <u>is occurring;</u>
- 3. <u>A statement that the Notice of Civil Regulatory Order represents a determination that</u> <u>a civil infraction has been committed by the person named in the notice and that the</u> <u>determination is final unless contested as provided in this chapter;</u>

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- 4. <u>A statement that a civil infraction is a noncriminal offense for which imprisonment</u> <u>may not be imposed as a sanction;</u>
- 5. <u>A statement of the specific violation for which the notice was issued;</u>
- 6. <u>A statement of the monetary penalty established for the civil infraction, including any</u> portion of said penalty that may be suspended, conditioned on timely correction, <u>abatement</u>, or remediation;
- 7. A statement that the recipient must respond to the notice as provided in this chapter within fifteen 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. <u>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</u>
- 9. <u>A statement that failure to respond to a Notice of Civil Regulatory Order within fifteen</u> 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. <u>The date by which the required corrective action, abatement, or remediation must be</u> <u>completed by; and/or</u>
- 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:

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A. By personal service on the Person Responsible for the Violation;

<u>B. If the violation involves a business, by personal service on any employee of the business of a suitable age and discretion;</u>

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 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 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.

<u>B. Declaration of Compliance. If the Person Responsible for Violation provides evidence the</u> 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.

<u>C. Hearing Examiner Appeal. A Civil Regulatory Order may be appealed to the Hearing</u> Examiner within 15 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 <u>Court.</u>

D. Explanation of Mitigating Circumstances. Within 15 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 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.

<u>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.</u>

<u>C. Collection of Monetary Penalty.</u> 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 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.

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

<u>4. Identification of any witness testimony, photographs, or documentary evidence to be presented.</u>

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.

<u>C. Date of Hearing.</u> Within 10 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 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.

<u>E. Preponderance of the Evidence Standard.</u> 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.

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

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

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.

<u>C. Cost of Summary Abatement</u>. 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.

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 <u>Chapter 12.36</u> 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 <u>Chapter 13.12</u> 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 <u>Chapter 13.24</u> LMC;

6. Challenges of the written interpretations and/or decisions of the public works director made under <u>Chapter 13.28</u> LMC;

City of Lynden Ord 23-1680 Page **15** of **35** 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 <u>Chapter 13.32</u> LMC;

8. Appeals of the determination of the <u>planning director Community Development</u> <u>Director</u> regarding moving buildings under <u>Chapter 15.05</u> LMC;

9. Appeals of the determination of the building code official as described in <u>Chapter</u> <u>15.14</u> LMC;

10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under <u>Chapter 16.05</u> 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 <u>Chapter</u> <u>16.08</u> LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;

13. Under <u>Chapter 16.12</u> 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 <u>Community</u> <u>Development Director's</u> decision on mitigation or revision under <u>Chapter 16.16</u> LMC;

15. Appeals of the administrative approvals described in LMC Sections <u>17.09.010</u> and <u>17.09.020</u>;

16. Appeals of administrative interpretations and approvals under LMC <u>Section</u> <u>17.11.010;</u>

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<u>Chapter 17.15</u> LMC;

19. Amortization periods for nonconforming signs;

20. All variances from the requirements of <u>Title 19</u>, except variances from the requirements of <u>Chapter 19.33</u> LMC and LMC Sections <u>19.22.030</u>, <u>19.22.040</u>, and <u>19.22.050</u>, 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 <u>Section 2.09.050</u>.

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 <u>Chapter 17.11</u> 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 <u>Orders</u>. 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.

City of Lynden Ord 23-1680 Page **17** of **35** 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. <u>Failing or refusing to make tax returns or to pay the tax and/or any applicable penalty</u> 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 offense for eEach 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

City of Lynden Ord 23-1680 Page **18** of **35** 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.

<u>A violation of any provision of this chapter</u> 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 <u>A violation of with</u> any of the provisions of this chapter or any lawful rule or regulation adopted by the city clerk pursuant thereto<u>is a civil infraction and</u>, upon conviction thereof, shall <u>subject the violator to a C-5 penalty (see LMC 1.24.040)</u>.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<u>and punishable by a fine of five</u> 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—PenaltyPenalties.

City of Lynden Ord 23-1680 Page **19** of **35** 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 <u>Chapter 8.24 is</u> <u>a civil infraction and</u> shall subject the <u>offender violator</u> to a <u>C-2 penalty (see LMC 1.24.040)</u>. 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 identicard.

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 <u>9-10</u>, 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 <u>Title 10</u> may be found in contempt of court as provided in RCW Chapter 7.21.

City of Lynden Ord 23-1680 Page **20** of **35** C. Any person who willfully fails to respond as provided in this title or Lynden Municipal Coded <u>Title 9</u>-to five or more notices of parking infraction issued pursuant to Lynden Municipal Code Title <u>9-10</u> 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 <u>C-1 penalty</u> (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 <u>C-1 penalty</u> (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 <u>Section 9.22.120</u>, 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 <u>9.22.070</u> and <u>9.22.080</u> 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 <u>C-5</u> penalty <u>(see LMC 1.24.040)</u> 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 <u>Section 9.22.080</u>.

D. Owners of unsold personal property and contents so seized must appear and claim the same within ten 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. <u>A party found guilty of contempt Contempt</u> 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

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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;

City of Lynden Ord 23-1680 Page **22** of **35** 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 <u>Section 9.24.040</u> (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 <u>including</u>, <u>without limitation</u>, <u>such as</u> 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 <u>punished by a fine not to</u> 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:

<u>C-5 Penalty (see LMC 1.24.040)</u>

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 <u>Section 10.04.010</u>, 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 <u>punished by</u> 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).

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

A. <u>When corresponding time limit signs are posted, it-It</u> 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 <u>A violation of any provision of this section is a civil infraction and shall subject the violator to the following penalties</u>:

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: | <u>C-1 Penalty</u> |
|--|--------------------|
| Fourth violation within twelve months: | <u>C-2 Penalty</u> |
| Fifth violation within twelve months: | <u>C-3 Penalty</u> |
| Sixth violation and all subsequent violations within twelve months: | <u>C-4 Penalty</u> |

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. <u>Any person violating A violation of this chapter shall be guilty of is a civil infraction and upon</u> conviction thereof shall be fined not more than five hundred dollars shall subject the violator to a <u>C-4 penalty (see LMC 1.24.040)</u>. 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 <u>fine penalty</u> imposed and shall foreclose on such lien according to law, including costs and attorney's fees, if the <u>fine penalty</u> is not paid as required.

C. In his discretion, the officer may issue a notice of <u>civil</u> 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<u>equal to a C-4 penalty (see LMC 1.24.040)</u> 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 <u>A violation of</u> any provision of this chapter <u>shall be guilty of an is a civil</u> 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, <u>Furthermore</u>, 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 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:

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- 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 in the case of extraordinary need. Such weight restrictions shall be effective upon posting of notice of such weight restrictions on such streets.

C. <u>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)</u>.

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).

13.24.080 – 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

City of Lynden Ord 23-1680 Page **28** of **35** within fourteen 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 <u>2.09</u>, <u>17.09</u>, and <u>17.11</u> 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, <u>mayshall</u> be subject to a <u>civil C-7</u> penalty (<u>see LMC 1.24.040</u>), in accordance with Chapter 1.24 of this code, due and payable not later than ten 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<u>Section 1.24.015</u> 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.

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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 <u>subject to liable for a C-7</u> 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 <u>following</u> provisions in Chapter 13.24 shall be in accordance with Chapters 1.24 <u>& 1.34 LMC</u>: <u>LMC and Chapter 17.13 LMC</u>, <u>whichever is more restrictive 13.24.050</u>; 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 <u>public works department</u> <u>Planning & Community</u> <u>Development Department</u>, the building permit holder shall be <u>fined the sum of two hundred fifty</u> dollars plus twenty five dollars per day for each day the work remains uncompleted <u>subject to a</u> 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 <u>public works department Planning and Community</u> <u>Development Department</u>, 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. <u>subject to a</u> <u>C-5 penalty (see LMC 1.24.040)</u>. 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 <u>permit or approval</u> conditions and safeguards established in connection with <u>such</u> 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

City of Lynden Ord 23-1680 Page **31** of **35** 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 <u>16 15</u> through <u>19</u> 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 <u>16 15</u> through <u>19</u> of this code, shall be mandatory. The general penalties and remedies established at <u>Chapter 1.24</u> of this code, for such violations provisions for enforcing and obtaining compliance established in <u>Chapter 1.34</u> 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;

City of Lynden Ord 23-1680 Page **32** of **35** 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 <u>Chapter 17.11</u> of this code.

17.13.050 - Civil fines.

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 <u>Section 17.13.030(B)</u>. 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.

City of Lynden Ord 23-1680 Page **33** of **35** 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 <u>Chapter 17.11</u> of this code.

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 <u>planner_director</u>. 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 <u>planning director Community Development Director</u> finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the <u>planning director</u> <u>Community Development Director</u> 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. <u>Any person who violates A violation of</u> any term or provision of this chapter or of any permit hereunder, or <u>has failed failure</u> to comply with a lawful order of the city planner <u>Community</u> <u>Development</u> Director as provided in this chapter, <u>shall be guilty of a misdemeanor</u>, <u>is a civil</u> <u>infraction</u> and shall be <u>punishable as set forth in <u>Section 9.04.050</u> of this code <u>subject the</u> <u>person responsible for the violation to a C-8 penalty (see LMC 1.24.040)</u>.</u>

City of Lynden Ord 23-1680 Page **34** of **35** B. Each calendar day of any continuing violation shall be deemed a separate and distinct violation.

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EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | |
|---|-------------------------------|---------------------|
| Name of Agenda Item: | Select Mayor Pro Tem for 2024 | |
| Section of Agenda: | New Business | |
| Department: | Administration | |
| Council Committee Revie | <u>w:</u> | Legal Review: |
| Community Development | Public Safety | □ Yes - Reviewed |
| Finance | Public Works | No - Not Reviewed |
| Parks | ⊠ Other: N/A | Review Not Required |
| Attachments: | | |
| N/A | | |
| Summary Statement: | | |
| Each year Council selects a Mayor Pro Tem to conduct the business of presiding over | | |
| council meetings and other regularly conducted business in the Mayor's absence. Currently | | |
| that position is held by Councilor Gary Bode. | | |
| | | |
| Recommended Action: | | |

Make a motion to select a Mayor Pro Tem for 2024.

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | | |
|--|--|---------------------|--|
| Name of Agenda Item: | Appoint Mayor Korthuis to the 2024 Board of the Whatcom | | |
| | Council of Governments and appoint Mayor Pro Tem to act as | | |
| | alternate. | | |
| Section of Agenda: | Reports | | |
| Department: | Administration | | |
| Council Committee Revie | w: Legal Review: | | |
| Community Development | Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | No - Not Reviewed | |
| □ Parks | ⊠ Other: N/A | Review Not Required | |
| Attachments: | Attachments: | | |
| N/A | N/A | | |
| Summary Statement: | | | |
| Mayor Korthuis acted as the city's representative to the Board of the WCOG and Mayor Pro | | | |
| Tem Bode acted as the alternate for 2023. Mayor Korthuis has agreed to accept this | | | |
| position for 2024. | | | |
| Recommended Action: | | | |

Re-appoint Mayor Scott Korthuis to the 2024 Board of the Whatcom Council of Governments and Mayor Pro Tem to act as alternate.

EXECUTIVE SUMMARY



| Meeting Date: | January 2, 2024 | |
|--|---|--------------------------|
| Name of Agenda Item: | Selection of Council Committee Members for Year 2024 and 2025 | |
| Section of Agenda: | Reports | |
| Department: | Administration | |
| Council Committee Review | Council Committee Review: Legal Review: | |
| Community Development | □ Public Safety | Yes - Reviewed |
| □ Finance | Public Works | No - Not Reviewed |
| □ Parks | 🛛 Other: None | Review Not Required |
| Attachments: | | |
| None | | |
| | | |
| Summary Statement: | | |
| Year 2024 & 2025 committe | e member assignments for the follo | wing council committees: |
| Finance | | |
| Community Developr | nent | |
| Parks | | |
| Public Safety | | |
| Public Works | | |
| Recommended Action: | | |
| Determine which council members will serve on which council committees for Year 2024 and | | |
| 2025. | | |
| | | |

EXECUTIVE SUMMARY



| Meeting Date: | January 3, 2024 | | |
|---|---|---------------------|--|
| Name of Agenda Item: | Public Works Committee Draft December 6, 2023 Meeting | | |
| | Minutes | | |
| Section of Agenda: | Reports | | |
| Department: | Reports | | |
| Council Committee Revie |) W: | Legal Review: | |
| □ Community Development | Public Safety | □ Yes - Reviewed | |
| Finance | Public Works | No - Not Reviewed | |
| □ Parks | □ Other: | Review Not Required | |
| Attachments: | Attachments: | | |
| Public Works Committee Draft December 6, 2023 Meeting Minutes | | | |
| Summary Statement: | | | |
| Public Works Committee Draft December 6, 2023 Meeting Minutes | | | |
| Recommended Action: | | | |
| None. | | | |
| | | | |

PUBLIC WORKS DEPARTMENT 360-354-3446



PUBLIC WORKS COMMITTEE MINUTES

4:00 PM December 06, 2023 City Hall 1st Floor Large Conference Room

CALL TO ORDER

Members Present: Councilors Gary Bode, Ron DeValois, and Jerry Kuiken

Staff Present: Mayor Scott Korthuis; City Administrator John Williams; Public Works Director Jon Hutchings; Finance Director Anthony Burrows; Programs Manager Mark Sandal; and Office Manager Heather Sytsma

Public Present: Gary Vis

ACTION ITEMS

1. Review Minutes from November 1, 2023

<u>Action</u>

The minutes from November 1, 2023, were recognized and accepted by the Committee.

2. Bradley Alternatives

Sandal presented the final plan for Bradley Road. He noted that there were originally eight alternatives, of which four were selected by staff and then narrowed down to a single design through discussions with administration. A multi-modal ten-foot sidewalk will be located on the south side of the project with crosswalks planned near Eastwood Way and Lupin Street. Bradley Road will have two, ten-foot travel lanes with a five-foot shoulder on the north side and two-foot shoulder on the south. Hutchings added that the principal considerations for this choice were cost and meeting the requirements of the project's state funding.

Bode asked where road runoff will go. Sandal explained that there is a drainage ditch on the north side of the road that will be utilized for an infiltration system.

Bode asked about the intersection of Bradley and Vinup Roads. Korthuis explained that there is insufficient federal funding for a round-about; however, the City will do a traffic study to determine a short-term solution.

The Bradley Road reconstruction will potentially start in late 2024 with completion in summer of 2025.

<u>Action</u>

The Committee voted their support for the proposed Bradley Road alternative.

INFORMATION ITEMS

3. Bid Results for Supplies - 2024

Chemical and Aggregate bid results for 2024 were presented.

4. Unified Fee Schedule

Burrows presented the City's draft Unified Fee Schedule, noting that this is being presented at each Committee meeting. The first Public Hearing is scheduled for January 2, 2024. He explained that many of the fees in the schedule have not been updated for years. Each department is responsible for coming up with the fees. Council should review whether the fee is still valid and that the current and proposed fee are listed and agreeable. Burrows added that departments will also compare with other cities' fees so nothing is out of line with comparable cities in the area.

Hutchings noted that the changes in Public Works' fees are modest, with the department taking the view that over the next few years there will be refinement to this fee schedule. Over time, the fees will catch up and reestablish the baseline for the fee. This year in Public Works a 7% rate increase was supported by the Committee; this same increase was applied to the Public Works fee schedule to offer consistency. Some development-related fees and charges are not changing. If there is no justification for a higher fee, the fee is left the same. Alternately, some of the utility service fees have been static since 2011. These have been substantially increased (ex. \$35 to \$50 fee). To support the required improvements to the WWTP, sewer charges will need to be raised in the coming years.

A new fee is proposed for water meter removal that clarifies the cost of reinstallation.

Burrows emphasized that these are not new fees or extra dollars in the budget. These are existing fees being compiled into a single document and are part of the accounted for revenue stream.

5. Projects Update

The Committee briefly reviewed current projects and received progress information.

Sandal announced that the City received TIB funds for the overlay of the 1st and Front Street intersection. The Committee briefly discussed Hannegan Road traffic and the desire for a north-bound left-hand turn lane on Hannegan onto Riverview Road. Hutchings stated that it's in floodplain, it is expensive, and it needs to be engineered.

Vis asked about the yellow striping between bulbs on Bender Road at the Hollander Development. Hutchings said staff will investigate.

NEW BUSINESS:

6. Final Public Works Committee Meeting for Councilors Jerry Kuiken and Ron De Valois

Everyone congratulated De Valois and Kuiken for their years of service to the City.

ADJOURNMENT: The meeting was adjourned at 5:06 pm.

NEXT MEETING: January 3, 2024