

CITY OF LYNDEN

CITY COUNCIL



City Council - Regular Meeting
Annex - 205 Fourth Street
July 1, 2024

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Summary Reports and Presentations

Approval of Minutes

- [1.](#) Draft Council Meeting Draft Minutes - June 17, 2024

Citizen Comment - Council will not be taking in-person comments under this section of the agenda. You may provide **written** comment prior to 12 noon the day of the council meeting.

Consent Agenda

- [2.](#) Set the Public Hearing Date to Consider Ordinance 24-1688, Amending LMC 17 & 19 Regarding the City's Sign Regulations
- [3.](#) Resolution 24-1098 Request to Cancel Check

Public Hearing

Unfinished Business

- [4.](#) Ordinance 24-1687 Annex of the Weg Property
- [5.](#) Ordinance 24-1689 Regarding Fluoridation of the City's Water Supply
- [6.](#) Resolution 24-1099 Regarding Fluoridation of the City's Water

New Business

Reports

- [7.](#) Approval of Payroll and Claims

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | Council Meeting Draft Minutes | |
| Section of Agenda: | Approval of Minutes | |
| Department: | Administration | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: None |
| | | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required |
| Attachments: | Draft council minutes. | |
| Summary Statement: | N/A | |
| Recommended Action: | Review and approval of draft council minutes. | |

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

June 17, 2024

1. CALL TO ORDER

Mayor Korthuis called to order the June 17, 2024 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

OATH OF OFFICE

ROLL CALL

Members present: Councilors Gary Bode, Gary Vis, Nick Laninga, Kyle Strengholt and Mark Wohrab.

Members absent: Councilors Beld and Lenssen.

Staff present: Public Works Director Jon Hutchings, City Clerk Pam Brown, and City Administrator John Williams.

SUMMARY REPORTS AND PRESENTATIONS – None.

APPROVAL OF MINUTES

Councilor Vis moved, and Councilor Strengholt seconded, to approve the June 3, 2024 regular council minutes. Motion approved on 5-0 vote.

CITIZEN COMMENT – None.

2. CONSENT AGENDA

Award Bid for New Maintenance Facility – 508 Riverview Road

Motion made by Councilor Bode seconded by Councilor Strengholt to approve the Consent Agenda. Motion approved 5-0.

3. PUBLIC HEARING – None.

4. UNFINISHED BUSINESS – None.

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



5. NEW BUSINESS- None.

6. REPORTS

Finance committee member Councilor Strengholt reported discussion of the following:

- Payroll
- Police and fire department OT hours have significantly increased
- Sales tax revenue for May was below project budgeted amounts
- Claims are now paid on a weekly basis
- Review of the monthly finance report

Public Safety committee member Councilor Wohrab reported discussion of the following:

- Jail interlocal
- Police department consideration of possible incentives and/or hiring bonuses.
- Possibility of transporting patients to Peace Health facility in Lynden
- Safer Grant
- Four part-time firefighters have been hired
- Spike in number of thefts in Lynden
- Hiring for the records specialist position is ongoing
- Some police officers are now equipped with body cameras while others are in training

Public Works committee member Councilor Bode reviewed the draft public works committee minutes that were included as a part of the council packet.

Parks committee member Gary Vis reported discussion of the following:

- Master planning for Benson Barn and Schoolyard Park
- Current construction occurring in Schoolyard Park
- Shop addition project at Bender Fields
- Tractor Club project at Berthusen Park and the possibility of the city supplying some labor
- 2025 Parks budget
- How to fund maintenance costs related to the park lands already in place in Lynden

7. EXECUTIVE SESSION

Council did not hold an executive session.

CITY OF LYNDEN

CITY COUNCIL
MINUTES OF REGULAR MEETING



8. ADJOURNMENT

June 17, 2024 regular session of the Lynden city council adjourned at 7:25 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

DRAFT

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | Ord 24-1688 Amending LMC 17 and 19 regarding the city's Sign Regulations | |
| Section of Agenda: | Consent | |
| Department: | Community Development | |
| Council Committee Review: | <input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | | Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required |
| Attachments: | Draft Ord 24-1688 Amending LMC 17 and 19 regarding the regulation of signs, PC Resolution 24-03, Planning Commission minutes of 5-9-24 | |
| Summary Statement: | <p>Aware that some sections of the City's sign code were inconsistent with recent case law, staff have been working closely with legal counsel, Luke Phifer, to develop the proposed amendments that are included in this package. Generally, the revision does not alter the character of signs – that is the size, shape and location of signs used in the city - but close attention was given to the following topics:</p> <ul style="list-style-type: none"> • Inclusion of a substitution clause. • Inclusion of an exclusionary clause. • Clear directions on temporary signs including political speech. • Revision to portions of the special exemptions section that are not legally defensible. • Clarify the difference between off-premise signs (billboards) and shared plaza signs. <p>The code amendment was also a good opportunity to create a more concise and practical document. Repetitive sections were consolidated, and the code was reorganized so that descriptions of the approval process and prohibited signs appear at the beginning of the chapter rather than the end. Shifting entire sections to a location appear as significant deletions and additions in the tracked changes version of the code although the substance of the code was not significantly altered. See staff notes on the attached copy for additional details. The draft amendment went to a public hearing before the Planning Commission on May 9th. The resulting recommendation was to approve as presented. As a revision to our development code, the amendment was subsequently sent to the Department of Commerce for review and no comments were received. Council is asked to set the public hearing to consider the amendment.</p> | |
| Recommended Action: | Motion to set a public hearing date of August 5, 2024, to hear and consider Ord. 24-1688 which would amend the City's sign regulations. | |

EXHIBIT A

ORDINANCE NO. _____

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

Chapter 17.01 – GENERAL PROVISIONS

17.01.030 – Definitions.

...

"Sign" means any any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or right-of-way open to the public.

Commented [HG1]: LMC 17 definitions updated to match LMC 19 definitions.

...

Chapter 19.33 – SIGNS

19.33.010 – Statement of Purpose.

Commented [HG2]: Expanded and clarified.

A. Purpose and Intent. The Ceity Ceouncil finds that it is necessary to regulate signs in the Ceity of Lynden to help assure that Lynden is a safe and attractive place in which to live and to do business. The intent of this chapter is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, and consistent sign standards and requirements, and to:

1. Promote the goals and policies of the comprehensive plan;
2. Promote the economic vitality of the City's business districts and corridors;
3. Ensure that signs are compatible with the desired character and identity of Lynden and its various districts, including the Historic Business District;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributed to, cluttered, distracting, and/or illegible signage;
5. Ensuring that signs do not obstruct rights-of-way or obstruct the vision of pedestrians and motorists traveling on rights-of-way;
6. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or made of flimsy materials;
7. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;

8. Promote sign design that is compatible with the architectural and historical qualities of Lynden;
9. Promote sign design that is appropriate to the site's existing and planned context, including the size and characteristics of the site, and the envisioned character of the applicable area per adopted plans;
10. Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the city;
11. Provide consistent design standards; and
12. Enable the fair and consistent enforcement of these sign regulations.

19.33.0230 – Definitions.

Commented [HG3]: Updated definitions.

In addition to the definitions found in LMC 17.01.030, for the purpose of this chapter, the following definitions shall apply:

1. "Abandoned Sign" means a sign that no longer correctly identifies, ~~exhorts~~ or advertises any ~~person~~, business, lessor, lessee owner, service, product or activity, or for which no legal owner can be found. ~~conducted or available on or off the premises on which such sign is located.~~
2. "Advertising" means any display of letters, numerals, characters, words, symbols, emblems, illustrations, objects or registered trademarks which serve to call the attention of the public to products, services, businesses, buildings, premises, events, candidates or ballot propositions.
23. "Awning" means a temporary or fixed ~~structure~~ shelter supported entirely from the exterior wall of a building, which (1) provides shade or protection from weather and (2) is in whole or in part self-supporting, without other means of support to the ground.
34. "Awning Sign" means the use of an Awning attached to a building for commercial, identification, informational, or promotional purposes. Only that portion of the Awning which bears graphics, symbols, and/or writing shall be construed as being a Sign. any sign erected on or against an awning.
45. "Banner, Decorative"; "~~Decorative banner~~" means an object made of ~~multicolored~~ cloth, fabric, or similar flexible material which displays abstract or representational forms, and which is completely devoid of letters, numbers, words, or advertising. Streamers shall not be considered ~~D~~ecorative ~~B~~anners.
56. "Banner Sign" means any Sign intended to be hung, with or without framing, and possessing characters, letters, symbols, emblems, trademarks, illustrations, or ornamentation applied to fabric or similar flexible material. Flags, ~~D~~ecorative ~~B~~anners, Canopy Signs, and Temporary Signs, treated elsewhere in this chapter, shall not be considered ~~B~~anner Signs.
67. "Bench Sign" means a Sign located on any part of the surface of a bench or seat placed on or visible from a public right-of-way or a public park.
78. "Billboard Sign" means any outdoor Sign which contains a message that is unrelated containing advertising which is not related to any use or activity on the premises on which the Sign is located, and which is supported by a substantial permanent Sign Structure. Billboard Signs are typically larger and/or

~~taller than would otherwise be permitted by this title, but not including directional signs as defined in this chapter.~~

~~9. "Building, primary" means a fully enclosed and roofed structure, or portion thereof in separate ownership, which houses the primary uses of at least one business, residence or other establishment. Accessory buildings or outbuildings are not included in this definition.~~

~~8. "Cabinet Sign" means an internally illuminated Sign in which a removable Sign Face (usually with translucent sign graphics) is enclosed on all edges by a metal cabinet.~~

~~910. "Canopy" means an overhead structure (1) attached to or a fixed shelter that may be supported from the exterior wall of a building and/or from the ground that (2) provides weather protection for pedestrians or some combination thereof.~~

~~1044. "Canopy Sign" means the use of a Canopy for advertising, identification, informational, or promotional purposes. Only that portion of the Canopy which bears graphics, symbols, and/or writing shall be construed as being a Sign. any sign erected upon or against a canopy.~~

~~11. "Commercial Sign" means a Sign containing a commercial message directing attention to a business, commodity, service, or entertainment.~~

~~12. "Commemorative Plaque" means a memorial plaque, sign, plate, or tablet which is (1) permanently affixed to or near the structure, object, or event it is intended to commemorate, and (2) which serves no commercial purpose displays no advertising.~~

~~13. "Community event sign" means a sign which announces an event that is listed in the official calendar of events adopted by resolution of the city council.~~

~~13. "Dangerous Dog Sign" means a Sign required pursuant to LMC 6.09.080(B)(4).~~

~~14. "Directional Sign" means a sign designed to guide or direct pedestrian and/or vehicular traffic from a public right-of-way, private road, or trail to a location, activity, or service on the site, which contains specific directional information and contains no advertising.~~

~~15. "Directory Sign" means a sign which displays exclusively the names, logos, and locations of occupants or uses of a building or complex; which includes, but may not be limited to, signs for (1) office buildings, (2) Houses of Worship, church directories and (3) signs for malls, arcades, and similar commercial buildings. No commercial message advertising other than the name, logo, and locations of occupants or uses is included.~~

~~16. "Electrical Sign" means a Sign or Sign Structure in which electrical wiring, connections, and/or fixtures are used.~~

~~17. "Electronic Reader Board Sign" means an electrically activated Sign whose message content, either in whole or in part, may be changed by means of electronic programming. Electronic Reader Board Signs include those displaying time, temperature, and messages of an informational or commercial nature.~~

~~18. "Feather Sign" means a vertical portable Sign that contains a harpoon-style pole or staff driven into the ground or supported by means of an individual stand. A Feather Sign may also be referred to as a "Sail Sign."~~

1946. "Flag" means a flat piece of cloth or similar flexible fabric, with distinctive colors, patterns, or symbols used to represent a country or group, having one end of the fabric attached to a vertical staff (either directly or by rope and pulley mechanism) and all other ends being unattached to another object and free flowing when subject to movement of the wind. the officially recognized symbol of a government jurisdiction displayed on cloth or similar flexible fabric.

2047. "Flashing Ssign" means a Ssign or a portion thereof which changes light intensity or switches on and off in a repetitive pattern or contains motion or the optical illusion of motion by use of or uses electrical energy to provide motion or the optical illusion of motion.

2148. "Freestanding Ssign" means a permanent Monument Sign, Pole Sign, or other Sign attached to the ground and sign which is supported by uprights or braces attached to a foundation and connected permanently to the ground and which is not connected to a building. Freestanding Signs include, but are not limited to, Monument Signs and Pole Signs. Directory Signs, including Multi-Business Complex Directory Signs, are not considered Freestanding Signs. (See "Pole sign.")

2249. "Grade" means the average elevation of the ground surface immediately below the Ssign after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the Ssign. In cases in which the grade cannot reasonably be determined, Ssign Hheight shall be based on the elevation of the nearest point of the crown of a public street or the grade of the land at the Mmain Entry to the principal building, whichever is lower.

20. "Grand opening" means the celebration or promotional period beginning on or shortly after the date when a new, permanent business or use is open for business in a permanent, fixed building. Grand opening events must be related to: opening of a new business; a change of business location; construction of a new business structure; major remodeling or expansion valued at fifty thousand dollars or more; change of ownership; or change of name.

23. "Halo Lighting" means a method of Sign Illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface.

2424. "Historic Bbusiness Ddistrict" has the same meaning as in LMC 19.23.010(1). The boundaries of the Historic Business District are depicted on the Zoning Map of the City of Lynden adopted pursuant to LMC 19.09.010. The Historic Business District may also be referred to as the "HBD," means that area within the city of Lynden, the boundaries of which are described as:

That area which abuts Front Street from Second Street to Eighth Street and extending from Judson Street Alley to the alley between Front Street and Grover Street.

25. "Home Occupation Sign" means a Sign stating the name, address, and/or phone number associated with a home occupation permitted pursuant to LMC 19.57.140.

2622. "Illuminated Ssign" means any Ssign illuminated in any manner by an artificial light source.

2723. "Incidental Ssign" means a small Sign, emblem, or decal which (1) does not exceed two square feet in size, and (2) informs the public of the nonilluminated information sign two square feet or less in area which pertains to goods, products, services, or facilities which are available on the premises where the Ssign is located occurs, and intended primarily for the convenience of the public while on such premises.

~~2824.~~ "Indirect Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign, a light source separated from the sign surface and illuminating the sign surface by means of spotlights or similar fixtures.

~~2925.~~ "Internal Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign.

~~3026.~~ "Main Entry" means the front or primary entrance to a building intended for use by residents, customers, clients, visitors, messengers, and/or the public. entrance from outdoors into a primary building through which most customers or other visitors pass or are expected to pass. Each primary building shall be considered to have no more than one Main Entry, excepting a Multi-Business Complex, in which case each physically separate business which has no internal passageway to any other business premises shall be considered to have one Main Entry.

~~3127.~~ "Marquee" means a permanent structure attached to and supported by the building and projecting over public or private property.

~~3228.~~ "Monument Sign" means a ground-related, Freestanding Sign which is attached to a permanent foundation or decorative base and is not attached to or dependent on support from any building, pole, posts, or similar uprights. the ground or to its base on grade by a solid sign structure and which structure extends from the ground or base to the sign face at the same or greater width as the sign face.

~~3329.~~ "Multiple-Business Complex" means either (1) a group of structures housing more than one business or agency that share a common lot, access, and/or parking facility; or (2) a single structure housing more than one business or agency (but not including residential apartment buildings). at least two separate businesses or agencies, or a single structure containing more than one business with separating walls and at least one outside access for each business which shares a common lot, access and/or parking facility. An example of a multi-business complex is the Fairway Center.

~~30.~~ "Multiple tenant building" means a single structure housing more than one business or agency which may or may not incorporate a separate outside access for each enterprise, but not including residential apartment buildings. An example of a multiple tenant building is Delft Square.

~~3421.~~ "Mural Sign" means a wall Sign which consists exclusively of paint applied to the wall of a building or alternate surface without application of any other material or framing.

~~3522.~~ "Neon Lighting" means lettering, numerals, symbols, logos, emblems, or illustrations which are directly visible and are constructed of and illuminated solely by glass tubes filled by neon gas or equivalent light-emitting gaseous elements.

~~36.~~ "Noncommercial Sign" means any Sign that is not a Commercial Sign.

~~3723.~~ "Nonconforming Sign" means any Sign in existence within the City on the date of adoption of the ordinance codified in this chapter, or located in an area annexed to the City thereafter, which does not conform with the provisions of this chapter, but which did conform to all applicable laws in effect on the date the Sign was originally erected.

~~3834.~~ "Off-Premises Sign" means a Sign relating, through its message and content, to an activity, business, use, product, or service which is not located on or otherwise directly associated with available on the premises on which the Sign is located/erected.

~~39.~~ "Permanent Sign" means a Sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of "Temporary Sign."

~~4035.~~ "Pole Sign" means any Freestanding Sign composed of a Sign Cabinet, backboard, frame, or base and the Sign Pole, or pylon by which it connects to the ground, that does not meet the definition of "Monument Sign" or "Portable Sign."

~~36.~~ "Political sign" means any sign which serves to influence, is intended to influence, or appears to be of the type which is commonly erected to influence an election or ballot proposition.

~~4137.~~ "Portable Sign" means any moveable Sign not permanently attached to the ground, building, or permanent structure, or a Sign designed to be transported. Portable Signs include, but are not limited to, Sandwich Board Signs, A-Frame Signs, and flags containing commercial messages, such as a sandwich board sign, which is capable of being moved easily and is not permanently affixed to the ground or a structure or building.

~~4238.~~ "Premises" means the real property on which the business or other entity advertised by the Sign or Signs mentioned in this chapter is situated.

~~43.~~ "Primary Building" means the primary or predominate building on a lot.

~~39.~~ "Primary sign" means the main sign for the business and may be either a freestanding sign or a wall sign.

~~44.~~ "Primary Street Frontage" means the lineal length of the Street Frontage on which the Main Entry is located; provided that, in the event the Main Entry is located on a corner of the building or on a side other than a side which abuts the most heavily traveled street, Primary Street Frontage shall be determined as if the Main Entry were on the side which abuts the most heavily traveled street.

~~4540.~~ "Projecting Sign" means a Sign which is attached to and projects more than six (6) inches from a building wall or other structure not specifically designed to support the Sign, from a structure, wall or building face further than six inches. For the purposes of this chapter, a projecting sign includes signs affixed under an awning, canopy or marquee.

~~4641.~~ "Reader Board Sign" means a Sign or part of a Sign that portion of a sign on which writing/eopy may be easily changed from time to time by manual/mechanical means or by lighting effects without reworking, repainting, or otherwise altering the physical composition of the Sign.

~~42.~~ "Real-estate sign" means a portable or freestanding sign erected by the owner, or his/her agent, advertising the real estate upon which the sign is located for rent, lease or sale, or one directing to such property.

~~4743.~~ "Revolving Sign" means a Sign which rotates or turns in motion in a circular pattern.

~~4844.~~ "Roof Sign" means a Sign erected upon or above a roof of a building or structure or attached to the wall of a building or structure and extending above the roofline.

~~4945.~~ "Sandwich Board Sign" ~~—~~ See "Portable Sign."

~~5046.~~ "Sign" means any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or ~~advertising and which is visible from any~~ right-of-way open to the public.

~~5147.~~ "Sign Area" means the entire area of a Sign on which the writing or symbols ~~copy~~ are to be placed, not including any supportive framework, bracing, architectural embellishments, or decorative features, of fences or wall which contain no writing, symbols, or other commercial messages and are clearly incidental to the display itself. For multi-faced Signs, if the writing or symbols on all sides of the Sign is identical, the total Sign Area shall be calculated by measuring only the entire area of the largest Sign Face, including only one side of a multi-faced sign, provided that the copy on all sides of the sign is identical. ~~Sign areas shall be calculated by measuring the area of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the advertising copy, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supportive framework, bracing, architectural embellishments or decorative features or fences or walls which contain no written copy or other advertising and when any such fences or walls otherwise meet the requirements of this title and are clearly incidental to the display itself.~~

~~5248.~~ "Sign Face" means any surface of a Sign upon which there is graphics, lights, symbols, and/or writing, lettering or other advertising.

~~5349.~~ "Sign Height" means the vertical distance from Grade to the highest point of a Sign or any projection thereof.

~~5450.~~ "Sign Structure" means any structure which supports or is capable of supporting any Sign as defined in this chapter. A Sign Structure may be a pole or poles, or may be an integral part of a building. Structures which perform a separate use, such as, but not limited to, a telephone booth, bus shelter, recycling or used goods container, etc., shall not be considered a Sign Structure.

~~5551.~~ "Streamer" means an attention-attracting device consisting of two or more pennants, banners, balloons, ribbons, reflectors, fringes, or similar objects strung together on a common line, pole, or Sign Structure, or attached to one or more products offered for sale.

~~52.~~ "Street" means a public or private way open to the general public including all classes of roadways excepting alleys and driveways and including major internal circulation corridors within parking lots.

~~5653.~~ "Street Frontage" means a side of a building which (1) contains an entrance open for public use, and (2) which ~~side also~~ faces an abutting street.

~~54.~~ "Street frontage, primary" means the lineal length of the street frontage on which the main entry is located; provided that, in the event the main entry is located on a corner of the building or on a side

~~other than a side which abuts a more heavily traveled street, primary street frontage shall be determined as if the main entry were on the side which abuts the more heavily traveled street.~~

~~55. "Symbol sign" means a projecting sign consisting exclusively of a symbol, picture or object which represents the specific products or services available on the premises, and which sign does not include any lettering, numerals or registered trademarks.~~

~~5756. "Temporary Sign" means any Sign that is intended and designed to be displayed for a limited period of time including, without limitation, a Sign that is not permanently mounted, painted, or otherwise affixed, excluding Portable Signs as defined by this chapter, including, but not limited to, any poster, banner, placard, stake Sign, or other Sign not placed in the ground with a means to provide permanent support and stability. Temporary Signs may only be constructed of nondurable materials including, but not limited to, paper, corrugated board, flexible plastics, foamcore board, vinyl canvas, and Sign painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered Permanent Signs and are subject to the permanent Sign regulations of this chapter. Exception: Feather Signs and Sail Signs are not considered Temporary Signs. or advertising display constructed of cloth, canvas, light fabric, paper, cardboard, or other light materials, without frames, which is displayed for a limited time only. Residential yard signs and signs painted or adhered on window surfaces which are readily removed by washing shall also be considered temporary signs.~~

~~5857. "Vehicle/Trailer Sign" means a Sign used to display a commercial message that is for advertising purposes mounted or painted on a vehicle (or trailer) where (1) the vehicle (or trailer) is normally licensed by the state of Washington State Department of licensing, and (2) the primary purpose of the vehicle (or trailer) is not to display said Sign as a trailer. Vehicle Signs include, but are not limited to, Signs on buses, taxis, and commercial vehicles.~~

~~5958. "Wall Sign" means a Sign which is attached, painted onto, or etched parallel to an extending not more than six (6) inches from the façade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the Sign parallel to the plane of said wall or façade, parallel to, and within six inches of, a wall; which is supported by and confined within the limits of such wall, and which displays only one sign surface.~~

~~6059. "Window Sign" means a Sign affixed to windows or a building or placed inside the window within three feet of the window, which faces the outside and which is intended to be seen primarily from the exterior. Merchandise displayed in a window that does not contain any writing (a) visible from a street, way, sidewalk, parking area, or right-of-way open to the public, or (b) which is not part of the displayed object itself; is not considered to be a Window Sign.~~

19.33.030 – Sign Permit Administration.

- A. Sign Permits Required. Except as exempted in subsection B of this section, no Sign shall be erected, re-erected, attached, replaced, revised, structurally altered, or relocated by any person, firm, or corporation without a Sign Permit issued by the city.
- B. Exemptions and Exceptions.

Commented [HG4]: The language related to the administration of this code and prohibited signs were moved closer to the front of this chapter.

1. Exemptions. The following types of Signs and activities are exempt from regulation under this chapter:

 - a. Regulatory, identification, or Directional Signs installed by, or at the direction of, a government entity;
 - b. Signs required by law;
 - c. Official public notices or official court notices;
 - d. Postal Signs;
 - e. Signs or displays not visible from streets, rights-of-way, sidewalks, trails, or parking areas open to the public;
 - f. The Flag of government or noncommercial institutions such as a school, provided that (1) such Flag does not exceed sixty (60) square feet in area, (2) such Flag shall not be flown from a pole the top of which exceeds forty (40) Feet in height, and (3) such Flag is flown in a manner that complies with all requirements of the United States Flag Code (4 U.S.C. 1);
 - g. Point-of-purchase advertising displays, such as product dispensers or vending machines;
 - h. “No trespassing,” “no dumping,” “no parking,” “private,” and other informational warning Signs which do not exceed six square feet in surface area;
 - i. Reasonable seasonal decorations within the appropriate public holiday season, or civic festival season, provided that such displays shall be removed promptly at the end of the season;
 - j. Historic site markers, interpretive markers, or Commemorative Plaques;
 - k. Barber poles;
 - l. Address numbers mounted flush on the wall of a building;
 - m. Lettering or symbols painted directly onto or flush-mounted magnetically onto a licensed and operable motor vehicle operating in the normal course of business; and
 - n. Repair, cleaning, repainting, or other normal maintenance activities, and other changes that do not alter the Sign Structure.

2. Exceptions – Signs Not Requiring Permits. The following types of Signs are not required to obtain a Sign Permit, but must be in conformance with all other requirements of this chapter and other applicable city ordinances:

 - a. Directional Signs not exceeding six square feet in Sign Area which direct vehicular and/or pedestrian traffic and which contain no commercial message;
 - b. Incidental Signs;

- c. Nonelectric Signs located in a residential zone not exceeding two square feet in Sign Area;
 - d. Portable Signs meeting the requirements of this chapter;
 - e. Sandwich Board Signs (except a permit is required for a Sandwich Board Sign placed within a public right-of-way);
 - f. Temporary Signs; and
 - g. Vehicle Signs.
- 3. Exemptions From Overall Permitted Sign Area Requirements. The following types of Signs shall not be included when calculating the total Sign Area of a site, pursuant to the maximum Sign Area limitations established by this chapter:
 - a. Directional Signs (Except for Off-Premises Directional Signs within the HBD – See LMC 19.33.090(A)(5));
 - b. Directory Signs associated with a Multi-Business Complex;
 - c. Incidental Signs;
 - d. Street numbering of buildings / Addressing;
 - e. Temporary Signs meeting the requirements of this chapter; and
 - f. Temporary Window Signs, so long as each letter used in said Temporary Window Sign is less than six inches in height (if said lettering is six inches in height or greater, the entire Temporary Window Sign will be included when calculating Sign Area); and
 - g. Vehicle Signs.
- C. Sign Permit Application. Applications for Sign Permits shall be made to the Planning Director upon the permit form provided by the city. Such application shall require:
 - 1. The name and title of the applicant;
 - 2. The address and/or tax parcel number of the premises where the Sign is to be located;
 - 3. The name and address of the Sign owner (if different than the record owner of the premises where the Sign will be located);
 - 4. The name and contact information of any contractors involved in the installation of the Sign;
 - 5. A complete list describing each existing Sign on the premises, including the Sign type, Sign Area, location on the premises, and installation date;
 - 6. A site plan showing the location of the premises, all buildings on the premises, and depicting both currently existing and proposed Signs;
 - 7. A scale drawing of each proposed Sign and/or Sign revision, including the location, size, height, copy, structural and footing details, material specifications, colors, method of

attachment, illumination, front and end views of any Canopy Sign, and any other information required to ensure compliance with applicable laws; and

- 8. If the applicant is not the owner of the premises where the Sign is to be erected, written consent of the owner of the premises is required.
- D. Design Review. All Permanent Signs subject to design review as provided in this chapter must obtain approval of the Design Review Board before a Sign Permit may be issued. This requirement applies to new Signs and replacement Signs.
- E. Sign Permit Fees. Permit fees shall be in accordance with the current fee schedule adopted by resolution of the City Council.
- F. Sign Permit Approval. Upon (1) approval of the proposed Sign Permit, and (2) payment of the required permit fee, the Community Development Director shall issue a Sign Permit. Sign Permits shall be numbered and shall disclose, at a minimum:

 - 1. The type and description of the Sign(s) as described in this chapter;
 - 2. The street address of the premises upon which the Sign will be installed;
 - 3. The amount of the fee paid for the permit;
 - 4. The date of issuance;
 - 5. The name of the person or company installing the Sign;
 - 6. The name of the Sign owner.
- G. Variance.

 - 1. The intent of this variance process is to provide design flexibility that may not be possible through strict application of the Sign standards. This process may not be used to allow a Sign that is otherwise prohibited under LMC 19.33.035. The Design Review Board shall have the authority to grant a variance from the requirements of this chapter in accordance with the following procedures and considerations:

 - a. The person seeking a variance, shall prepare and submit an application on forms provided by the Community Development Director accompanied by a fee in the amount adopted by resolution of the City Council.
 - b. Upon receipt of an application, the Community Development Director shall first review the application for completeness. If the application is incomplete, the Community Development Director shall return it to the applicant and indicate the additional information needed to make the application complete within three business days of submittal.
 - c. Within thirty (30) days of receipt of a complete application, the Design Review Board shall make a preliminary determination of whether to grant the application, grant the same under specified conditions, or to deny the variance. In making this determination, the Design Review Board may grant a variance only upon specific,

written Findings of Fact setting forth and showing that at least five of the following conditions exist. Of the required conditions, at least three of the conditions must be those within the first four conditions listed below:

- i. Literal interpretation and strict application of the provisions and requirements of this chapter would cause undue hardship on the applicant because of unique or unusual conditions pertaining to the subject property.
 - ii. The unique or unusual conditions do not result from actions of the applicant or owner of the subject property.
 - iii. Granting the variance would not confer a special privilege to the subject property that is denied to other similarly situated properties.
 - iv. Granting the variance would not be materially detrimental to the property owners in the vicinity or to the traveling public.
 - v. Granting the variance would not be contrary to the objects of this chapter relating to the placement of Signs and the reduction of clutter.
 - vi. Granting the variance would be in harmony with the purpose and intent of this chapter and would not diminish the effect of this chapter in furthering these purposes.
 - vii. Size and shape of the Sign must be in proportion to the bulk of the building.
 - viii. The Sign is similar to the size and shape of Signs in the surrounding area.
- d. Variance for franchise Sign. A variance for a franchise Sign must provide proof of the franchise requirement, in the form of the franchise agreement.
- e. In granting any variance, the Design Review Board may attach thereto such conditions regarding the location, character, and other features of the proposed Sign as they may deem necessary to carry out the spirit and purpose of this chapter in the public interest.
- f. Within five (5) days of the making of the preliminary determination, the applicant shall cause to be mailed, by certified mail, a notice of the determination to the record owner or reputed record owner of the properties within 300 feet of the subject property, or 500 feet if the property is located within the CSR, ID or IBZ zones, as shown by the property tax records of the Whatcom County Assessor, and by posting notice in a conspicuous place on the subject property and at the Lynden City Hall. The notice shall identify the applicant, the street address or legal description of the subject property, the variance requested, the Design Review Board's preliminary determination and where the application and findings may be inspected and shall indicate that written comments or objections will be received and considered by the Community Development Director for a period of ten (10) days following the date of mailing. Receipts, or copies of the receipts, for this

certified mailing must be delivered to the Community Development Director no later than the first day of the 10-day comment period.

- g. Within five (5) days of expiration of the comment period, the Chair of the Design Review Board shall consider any comments or objections made and render a final decision. The Community Development Director shall cause to be mailed notice of the final decision to the applicant and to each person from whom written comments or objections to the preliminary determination have been received. Such decision shall be final and binding unless appealed in writing to the City Council within fifteen (15) days of the date of mailing of the Community Development Director’s final decision. Any person may file such an appeal by letter addressed to the Community Development Director, accompanied by an appeal filing fee in the amount of \$100.
- h. In the event of an appeal, the City Council will review the reasons and information set forth in the letter of appeal; the findings, conclusions, and decision of Design Review Board, together with any written material submitted by the Community Development Director; and may take public comment. The City Council shall affirm the decision of the Design Review Board unless it finds the decision to be clearly erroneous, arbitrary and capricious, or contrary to law, in which case the Council may reverse or modify the decision or any conditions in connection therewith or may remand the same to the Design Review Board for further review as directed.
- i. The final decision of the City Council shall constitute the final decision of the City.

H. Administrative Guidelines. The Community Development Director is authorized to promulgate administrative guidelines and materials to illustrate the requirements of this chapter or to provide examples of Signs that are permitted or prohibited by this chapter. Such guidelines and materials may be revised periodically at the discretion of the Community Development Director.

19.33.035 – Prohibited Signs.

The following Signs are prohibited within the City:

- A. Abandoned Signs;
- B. Bench Signs on or within thirty (30) feet of a public right-of-way;
- C. New Billboard Signs. Existing Billboard Signs will be considered Nonconforming Signs and may not be reconstructed, replaced, or relocated;
- D. Commercial Off-Premises Signs (Except (1) within the HBD as authorized by 19.33.090(A)(5), and (2) Multi-Business Complex Directory Signs located on a lot within the Multi-Business Complex as authorized by 19.33.090(E)(1));
- E. Roof Signs, including roof-mounted Signs and any Signs painted directly on the roof surface;
- F. Signs or Sign Structures which by coloring, shape, design, or location resemble or conflict with traffic control signs or devices;

- G. Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Community Development Director in consultation with the Public Works Director;
- H. Signs with flashing, rotating, or blinking lights. This category includes Signs with a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of motion or animation;
- I. Signs attached to public property without the permission of the government agency owning the same, including, without limitation: trees, utility poles, and street lights;
- J. Signs within the public right of way, except permitted Canopy Signs, Marquees, and Projecting Signs;
- K. Off-Premises Signs within an RM or RS zone;
- L. Privately installed Signs that restrict or adversely impact the use or activity of any public right-of-way without permission from the City;
- M. Signs placed on vehicles (or trailers) which are parked or located for the primary purpose of displaying said Sign (however, this provision does not apply to vehicles (or trailers) which are advertising themselves for sale);
- N. Signs in City-designated buffer zones or greenbelt areas (however, this provision does not apply to park and/or trail information signs);
- O. Streamers or inflatable objects, except for special events provided that they (1) if associated with an event, are removed within twenty-four (24) hours of said event, (2) conform to the Temporary Sign requirements, and (3) are located outside the Historic Business District;
- P. Laser lights; and
- Q. Any Sign contrary to the provisions of this chapter.

19.33.040 – General Provisions.

The following provisions shall apply to all zoning districts and to all Signs regulated by this chapter, subject however to the specific regulations in each zoning district:

A. No Sign shall be erected, caused to be erected, or allowed to remain erected except in compliance with all the regulations established in this chapter. No owner or lessee of any real property located within the corporate limits of the City shall knowingly allow any sign to be erected on any such property in violation of the provisions of this chapter. No person shall take any action intending to, or having the effect of, circumventing the purpose and intent of this chapter.

~~B. All permanent signs subject to design review as provided in this chapter must obtain approval of the DRB before a sign permit may be issued. This includes all replacement signs.~~

B. Sign Owner Responsibility. By installing any Sign in the City of Lynden, whether or not a permit is required for said Sign, the owner of the Sign acknowledges and assumes responsibility for compliance

with this chapter, for the safety of the Sign, and for any and all damage to property or injury to person resulting from the Sign.

C. Maintenance. All Signs and components thereof must be maintained in good repair and in a safe, neat, clean, and attractive condition. The owner of the premises upon which a Sign is located shall be responsible for Sign maintenance.

D. Abandoned Signs – Hazardous Signs. Abandoned Signs shall be removed by the owner or lessee of the premises upon which the Sign is located within sixty (60) days of abandonment. Signs which constitute a safety hazard to the public as determined by the Building Official or Public Works Director shall be removed or made safe immediately.

EC. Design Elements. Design elements include the following: sandblasting, hand carving, graphic art, masonry materials, wood, border accents, dimensional graphics, glass, stained glass, ~~hardwood~~, wrought iron, steel brackets, outlining, lighting, Dutch character or graphics, lettering style, three or more colors, ~~murals~~, gold leaf, tile, frames, and shadowing, shadows, hand lettering, landscaping, character reflective of business. When reviewing Ssigns, the Design Review Board shall consider the relationship of the design elements to one another in the design of the Ssign.

FD. Safe and Secure Installation. Signs, Ssign Structures, and bracing systems shall be designed and constructed to meet all requirements of the Uniform Building Code and the Lynden Municipal Code. All Electrified Ssigns shall be designed, installed, and inspected in conformance with the National Electrical Code.

GE. Clearance and Sight Distance. Marquees, Ceanopy Ssigns and/or Projecting Ssigns which project over areas where motor trucks may be required to pass beneath them shall maintain a minimum vertical clearance of fifteen feet. No Marquee, Ceanopy Ssign, and/or Projecting Ssign may project closer than two feet from the curb line of the street. All Marquees, and Ceanopy Ssigns, and/or Projecting Ssigns must maintain a minimum of eight feet of vertical clearance over pedestrian ways. Freestanding Signs and Portable Ssigns may not be placed within the clear vision triangle at the intersection of any streets, alleys, or driveways. This clear vision triangle is defined in Title 17.

F. Light and Glare from Signs. The light source for signs which are illuminated by indirect lighting shall be no farther away from the sign than the height of the sign and shall be shielded so that direct rays from the light are visible only on the lot where the sign is located and in such a manner that hazardous glare to motorists or pedestrians will not occur.

H. Sign Illumination. Signs may be illuminated by indirect, internal, and/or exposed lighting methods, subject to the following requirements:

1. For Signs using indirect lighting, such lighting shall be directed and/or minimized to reduce glare to adjoining properties and/or the public right-of-way.
2. For Signs that are illuminated by an internal lighting source, it is encouraged that the Sign Face be opaque, with only the copy and/or logo(s) illuminated.
3. For Signs using an exposed lighting method, such method must be incorporated as part of the Sign or Sign Face. Signs constructed solely of exposed neon materials are not permitted.

Commented [HG5]: New regs related to sign illumination.

4. Historic Business District. Subdued, indirect lighting is encouraged for Freestanding Signs located within the HBD.

5. Residential Districts. Freestanding Signs located within a RM or RZ zone may only utilize indirect lighting for illumination. Exception: permitted Reader Board Signs located within a RM or RZ zone.

6. Illuminated Signs may not flash, rotate, or blink. See LMC 19.33.035(H).

I. Signs Placed Within the Public Right-of-Way or on City Property. For any Sign placed within the public right-of-way or property owned by the City, continuous proof of liability insurance naming the City of Lynden as an additional insured is required. The Clerk-Treasurer of the City is authorized to determine the policy provisions and coverage amounts required.

Commented [HG6]: New regulation intended to protect the city.

19.33.050 – Residential ~~D~~istricts (~~A~~ll MH, RS and RM zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in each residential zoning district (RS and RM zones):

A. Total Allowable Sign Area. The following maximum limits on Sign Area apply within all MH, RS and RM zones:

1. Four (4) square feet of Sign Area for each residential unit located on a lot, up to a maximum of twenty-four (24) square feet.

2. Exception: maximum Sign Area for residences within a Planned Residential Development will be determined by the Development Contract.

B. Maximum Sign Height. The maximum Sign Height for a Sign within an MH, RM or RS zone is five (5) feet.

19.33.060 – Historic ~~B~~usiness, ~~L~~ocal Commercial Services, ~~c~~ommercial business and ~~P~~ublic ~~U~~se ~~D~~istricts (HBD, ~~C~~SL, and PU zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in the historic business, local commercial services, ~~commercial services~~ and public use zoning districts (HBD, CSL, and PU zones):

A. Total allowable ~~S~~ign ~~A~~area. The following maximum limits on Sign Area apply within HBD, CSL, and PU zones: ~~is determined as follows:~~

1. One and one-half (1.5) square ~~feet~~ ~~feet~~ of ~~S~~ign ~~A~~area for each lineal foot of ~~P~~primary ~~S~~treet ~~F~~frontage of the ~~P~~primary ~~B~~uilding.

Commented [HG7]: The majority of sign regulations for these zoning districts were the same so these were combined to eliminate repetition in the code. Special regs for each district are spelled out later.

a. If a building is located on a corner lot, an additional three-quarter (0.75) square feet of Sign Area per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.

b. If a building has alley frontage, an additional one (1) square foot of Sign Area per lineal foot of alley frontage is added to the total allowable Sign Area. This additional allowable Sign Area must be used on the alley front of the building.

c. The total Sign Area of Signs attached to any one wall shall not exceed one-hundred and fifty (150) square feet.

24. Twenty (20) square feet for an outdoor business which operates without a building.

3. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.

~~5. Government buildings, schools and churches are allowed one identification sign not to exceed thirty six square feet and one permanent reader board sign not to exceed twenty four square feet for a total of sixty square feet. The reader board must be incorporated in the main sign structure. No product or company name, product symbol or product slogan may be included in the sign face of any freestanding sign.~~

Commented [HG8]: Exceptions for specific users were eliminated.

~~46. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.~~

B. Maximum Sign Height. A Sign within an HBD, CSL, or PU zone shall not extend higher than the surface of the nearest roof or building. In addition: is as follows:

1. A Freestanding Sign within the HBD shall not exceed seven (7) feet in height.
2. A Freestanding Sign within a CSL or PU zone shall not exceed seventeen (17) feet in height.
3. A Canopy Sign or Sign mounted to a Marquee (1) shall not extend higher than the highest roof surface of the Canopy or Marquee, and (2) shall not extend higher than the ~~nearby~~ nearest roof of the nearest building or cornice line.
4. A Monument Sign of a single-business or agency shall not exceed five (5) feet in height. A Monument Sign of a Multi-Business Complex shall not exceed five (5) feet plus one (1) additional foot for each separate business included on said sign, to a maximum of seven (7) feet in height in the HBD zone, or seventeen (17) feet in height in all other zones.

19.33.063 – ~~Regional Commercial Services Districts (CSR Zones) Commercial business districts (RCS and CS-3 zones).~~

In addition to the other applicable provisions of this chapter, the following regulations also apply in each ~~regional commercial services zoning district (CSR zones) commercial business and public use zoning district:~~

A. Total allowable ~~Sign Area~~ Sign Area. ~~The following limits on Sign Area apply within CSR zones: is determined as follows:~~

1. Two and one-half (2.5) square feet of Sign Area for each lineal foot of Primary Street Frontage.

a. In the event a building is located on a corner lot, an additional one and one quarter (1.25) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.

b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.

24. Twenty (20) square feet for an outdoor business which operates without a building.

3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within a CSR zone may not exceed twenty-five (25) feet in height, except that a Sign located at least one hundred (100) feet, but not more than three hundred (300) feet from the right-of-way of a state highway may not exceed thirty-five (35) feet in height. In addition: is as follows:

1. Canopy Signs or Signs mounted on a Marquee shall not extend higher than the highest roof surface of the Canopy or Marquee.

2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height. A Monument Directory Sign of a Multi-Business Complex shall not exceed five (5) feet in height plus one (1) additional foot for each separate business included on said Sign to a maximum of seventeen (17) feet.

19.33.065 – Industrial Districts (ID and IBZ zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in each industrial zoning district (ID and IBZ zones):-

A. Total allowable Sign Area. The following limits on Sign Area apply within all ID and IBZ zones-is determined as follows:

1. One and one-half (1.5) square foot of Sign Area for each lineal foot of Primary Street Frontage of the primary building.

a. In the event a building is located on a corner lot, an additional three-quarters (0.75) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.

b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.

2. Twenty (20) square feet for an outdoor business which operates without a building.

3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within an ID or IBZ zone shall not extend higher than the surface of the nearest roof of the building. In addition is as follows:

1. A Freestanding Sign shall not exceed seventeen (17) feet in height).

2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height). A Monument Directory Sign of a Multi-Business Complex shall not exceed in height five (5) feet plus one (1) additional for each separate business included on said Sign, up to a maximum of ten (10) feet.

19.33.070 – Exemptions.

The following types of signs are allowed in all areas without a sign permit. These exemptions shall not be construed as relieving the owner of any sign for the responsibility of its erection and maintenance, or for compliance with the provisions of this chapter, or any other law or ordinance regulating same.

A. Fund raising signs pertaining to a specific proposed public construction project or fund raising campaign for a nonprofit or religious organization; provided, that only one such sign may be erected by that organization at any one time, the sign area may not exceed thirty-two square feet and each organization is limited to six such signs per year. The sign may be displayed for up to seven days prior to the event and must be removed within twenty four hours after the conclusion of the event or campaign. Signs for long term fund raising campaigns may be approved by the city council;

B. Real estate signs limited to one sign of four and one half square feet maximum area per sign face on each parcel of property offered for sale in residential zones. In other zones, one sign is allowed up to sixteen square feet per sign face on each separate parcel of property offered for sale. Each real estate sign must be removed no later than five business days after closing of sale of the property advertised. Closing of sale shall be considered the date of recording with the Whatcom County auditor. Off premises real estate signs are not permitted.

Exception:

1. Off premises real estate signs are not allowed under any circumstances in the historic district.
2. Real estate signs are not permitted within any public right of way.
3. Real estate signs advertising an open house may be placed off premises if:
 - a. Placed on private property with owner's permission,
 - b. Signs are no larger than three square feet per sign face, and
 - c. Displayed for no longer than four consecutive days,
 - d. Two open house directional signs for each such open house may be placed in the unpaved portion of the street right-of-way, but only during daylight hours and only when

Commented [HG9]: Exemptions by user were addressed by sign type or eliminated.

~~seller or agent is in attendance of property for sale. No such sign shall be placed in such a way as to block the sidewalk;~~

~~C. On premises or on vehicle incidental signs not exceeding two square feet each. This does not apply to licensed vehicles used for daily service;~~

~~D. On premises directional signs not exceeding six square feet, the sole purpose of which is to provide for vehicular and pedestrian traffic direction and which display no advertising. (See Section 19.33.080.);~~

~~E. Political signs erected on private property up to four and one-half square feet per sign face in residential zones and sixteen square feet per sign face in other zones and must be removed within ten days after the final election involving the candidate or ballot proposition advertised by the sign;~~

~~F. Temporary construction signs limited to a total sign area of thirty two square feet per construction site, displayed no longer than one year and removed no later than ten days after completion or occupancy of the project;~~

~~G. Traffic, directional or informational signs lawfully installed, or required to be installed, by a government entity; provided that, in the event of any conflict between the provisions of this chapter and the provisions of any applicable state law, the provisions of this chapter shall govern unless expressly preempted by the laws of the state of Washington;~~

~~H. Signs not intended to be viewed from, and which are not readable from, a public right of way;~~

~~I. Window merchandise displays;~~

~~J. Flags of the United States, the state, the city, the county, foreign nations, and any other flag adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such a flag shall not exceed sixty square feet in sign area and shall not be flown from a pole the top of which is more than forty feet in height. Such flags must be flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes. Any flag not meeting any one or more of these conditions shall be considered a banner sign and be subject to regulation as such;~~

~~K. Decorative banners if no more than five per each premises, and provided they are consistent with theme, and displayed for a minimum of six months. This does not include decorative banners installed by the city of Lynden or the chamber of commerce;~~

~~L. Legal notices required by law;~~

~~M. Barber poles;~~

~~N. Grave markers;~~

~~O. Incidental, nonilluminated signs identifying small specialized community service structures, such as phone booths, public transit shelters, and collection containers for used goods or recyclable materials;~~

~~P. Incidental, nonilluminated signs limited to three per storefront;~~

~~Q. Nonilluminated informational signs pertaining to motor fuel which are affixed to the surface of fuel pumps. These may not exceed two square feet and may not be used for advertising purposes;~~

R. Temporary Signs. Each temporary sign is limited to a maximum of thirty days. No one business may have more than two temporary signs up at any one time. Temporary signs include banners, hanging signs and freestanding signs. Temporary window lettering intended for view from the right of way is also included in this category. Searchlights may be utilized as a temporary sign for up to twelve hours within a single twenty-four hour period. All searchlights must be shut off by midnight;

S. Lettering or symbols painted directly onto or mounted magnetically onto an operable motor vehicle operating in the normal course of business; provided no part of such signs shall project higher than the roof surface of any such vehicle other than vehicles for hire;

T. Signs attached to buses or taxis for hire;

U. One nonilluminated bulletin board not larger than twelve square feet in area for each public, charitable or religious institution when the same is erected on the premises of the institution;

V. Mural signs within the historic business district in existence on the effective date of the ordinance codified in this chapter;

W. Nonilluminated religious symbols mounted on church premises;

X. On premises, directional signs for churches, schools and government offices not to exceed eight square feet and provided that they may not be placed in the public right of way and that the signs are portable and of a sandwich board design.

1.33.075 – Special exemption – Grand opening/going out of business signs.

Commented [HG10]: See temporary signs.

A. During a grand opening or going out of business sale not to exceed ninety days, temporary signs may be displayed on the premises without a sign permit and regulations with respect to sign area, roof placement, sign height and type of signs are temporarily suspended.

B. All other regulations provided herein and not expressly suspended by this section shall apply to grand opening signs.

C. The provisions of this section may not be applied to more than one grand opening or going out of business event at any business location within any twelve month period; provided that each separate business location within a multiple business complex shall be entitled to a grand opening or going out of business event separate from a grand opening event for the complex as a whole.

19.33.090 – Standards for Specific Sign Types Special category signs.

Commented [HG11]: These standard usually repeated in each zoning category and are now included her by sign type.

In addition to the standards listed elsewhere in this chapter, the following standards shall apply in all zones. For Signs that meet the definition of more than one Sign type, the Community Development Director shall determine which standards apply based on the Sign's function, location, and orientation.

A. Directional Signs.

1. Directional Signs may be erected without a Sign Permit if restricted to posting regulations regarding the use of the lot and to identifying a parking lot with its owner, operator, or name of the business providing the lot.
 2. No advertising other than the name of the business may be included.
 3. Sign Area. The total Sign Area for Directional Signs shall not exceed six (6) square feet for each one thousand (1,000) square feet of parking lot area and each Sign Face shall not exceed six (6) square feet; provided that each lot shall be allowed at least one Directional Sign; and provided further that these restrictions may be exceeded to the extent required by any applicable laws of the State of Washington.
 4. Sign Height. Directional Signs shall not exceed a Sign Height of six (6) feet.
 5. Off-Premises Directional Signs within the Historical Business District. One Off-Premises Directional Sign may be permitted per business within the HBD. Off-Premises Directional Signs within the HBD are limited to a maximum Sign Area of sixteen square feet. Off-Premises Directional Signs in the HBD shall not be Freestanding Signs and must be mounted on a building within the HBD. Only one such Off-Premises Directional Sign may be mounted per building side.
- B. Freestanding Signs (Including, but not limited to, Monument Signs and Pole Signs).
1. Setback. Freestanding Signs must be setback at least five (5) feet inside property lines.
 2. Landscaped Base. All Freestanding Signs shall have a landscaped area at the base of the Sign at least twice the size of the Sign Area. All required landscaping must be contiguous to the Sign. However, it is not required that the Sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the Sign.
 3. Freestanding Signs within an RM or RS zone.
 - a. Only the following types of Permanent Freestanding Signs may be permitted within an RM or RS zone:
 - i. Monument Signs;
 - ii. Pole Signs mounted on two poles placed at the outermost side of the Sign Face.
 - b. A maximum of one Pole Sign per lot may be approved within an RM or RS zone.
 4. Freestanding Signs within the HBD zone.
 - a. Sign Area. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.
 - b. Pole Signs within the HBD must be mounted on two poles placed at the outermost edge of the Sign Face.

- c. The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan.
- 5. Freestanding Signs within a CSL or PU zone.
 - a. Each business or agency within a CSL or PU zone is allowed no more than one (1) Freestanding Sign.
 - b. Sign Area. Monument Signs within a CSL or PU zone shall not exceed eighty (80) square feet in Sign Area.
 - c. Additional Setback. Monument Signs within a CSL or PU zone that exceed five (5) feet in Sign Height must be setback from all property lines a distance of one (1) foot for each foot of Sign Height.
 - d. Exception: The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan and/or Planned unit development.
- 6. Freestanding Signs within a CSR zone.
 - a. Each business or agency within a CSR zone is allowed no more than one (1) Freestanding Sign per sixty (60) feet of Street Frontage. If more than one Freestanding Sign greater than five (5) feet in Sign Height is requested, the Signs must be located at least sixty (60) feet apart and each Sign must be of equal size and shape.
 - b. Sign Area. Freestanding Signs within a CSR zone shall not exceed one-hundred and fifty (150) square feet in Sign Area. If more than one Freestanding Sign is requested, the maximum Sign Area for each Freestanding Sign is reduced to one-hundred (100) square feet. The combined Sign Area of all Freestanding Signs must comply with the maximum allowable Sign Area allowed pursuant to LMC 19.33.063(A).
- 7. Freestanding Signs within an ID or IBZ zone.
 - a. Each business or agency within an ID or IBZ zone is allowed no more than one (1) Freestanding Sign. Monument Signs are encouraged.
 - b. Sign Area. Freestanding Signs within an ID or IBZ zone shall not exceed eighty (80) square feet in Sign Area.
- C. Fuel Signs. Any permitted business selling motor fuel to the public may have one permanently mounted Fuel Sign not to exceed eighteen (18) square feet per Sign Face. If such Fuel Sign is incorporated into a Monument Sign allowed pursuant to this Sign Code, the allowable height of such Monument Sign may be increased by four (4) feet.
- D. Home Occupation Signs. Home Occupation Permit signs must comply with the requirements of LMC 19.57.140(H).

E. Multi-Business Complex Directory Signs.

1. Each Multi-Business Complex is allowed one Directory Sign per Street Frontage, which may be located on any lot within the Multi-Business Complex.
2. Sign Area. The total Sign Area for each Multi-Business Complex Directory Sign shall not exceed thirty-two (32) square feet plus an additional six (6) square feet per business or agency located within the Multi-Business Complex, up to a maximum of eighty (80) square feet.
3. The width of any Sign Face of a Multi-Business Complex Directory Sign shall not exceed ten (10) feet.
4. The applicant must apportion some of the Sign Area on a Multi-Business Complex Directory Sign to each business or agency operating within the Multi-Business Complex, including businesses or agencies internal to the complex with no primary Street Frontage or access.

F. Mural Signs. Mural Signs are only permitted within the HBD. Mural Signs must be approved by the Design Review Board and are subject to the following standards:

1. A building permit must be obtained prior to the painting and/or installation of a Mural Sign.
2. Mural Signs shall not contain commercial messages.
3. No part of the Mural Sign shall extend beyond the building wall or freestanding wall on which it is painted, tiled, or otherwise affixed.
4. Mural Signs must be aesthetically compatible with respect to the community and must compliment the associated building or structure in terms of scale, color, and pattern.
5. Mural Signs must not have electrical or mechanical components.
6. Mural Signs must use materials, coatings, and/or other protective techniques that will resist vandalism and weathering.
7. Mural Signs must not pose a hazard to pedestrian and/or vehicular traffic.
8. An application to install a Mural Sign shall include a permanent plan for maintenance of the Mural Sign. The city may require the applicant to post a bond for costs associated with the maintenance and/or removal of the Mural Sign.
9. If a Mural Sign is removed, any materials used to affix the Mural Sign to the surface including, but not limited to, mounting hardware, brackets, adhesives, glues, caulking, and/or grout must be removed at the same time.

Commented [HG12]: Additional language added to help define a mural sign.

G. Projecting Signs.

1. Sign Area. Projecting Signs shall be no larger than thirty-two (32) square feet per side.
2. Projecting Signs shall not project more than six (6) feet from the building.

- 3. Projecting Signs that project into the right-of-way shall comply with the requirements of LMC 19.23.070.
 - 4. Projecting Signs shall have a minimum clearance of eight (8) feet above the sidewalk and six (6) inches from the vertical wall.
 - 5. Each Main Entry shall have no more than one (1) Projecting Sign.
- H. Reader Board Signs (Including Electronic Reader Board Signs).
- 1. Reader Board Signs are permitted within the CSL, CSR, and PU zones.
 - 2. New Reader Board Signs are prohibited within the HBD, RS, RM, and ID/IBZ zones.
Exception: Reader Board Signs located within the RS and RM zones may be allowed pursuant to a permitted Conditional Use Permit.
 - 3. Sign Area. A Reader Board Sign located within a RM or RS zone permitted through a conditional use permit shall not exceed sixteen (16) square feet in Sign Area. Exception: if the Reader Board Sign is incorporated into a larger Sign Structure, then the total Sign Area shall not exceed forty (40) square feet. A Reader Board Sign located within an HBD, CSL, or PU zone shall not exceed thirty (30) square feet in Sign Area. In the CSR zone, a Reader Board Sign shall not exceed thirty-six (36) square feet or seventy-five percent (75%) of a lot's total allowable Sign Area, whichever is less.
 - 4. New Portable Reader Board Signs. No new portable Reader Board Signs shall be installed after the adoption of this code provision.
 - 5. **Electronic Reader Board Signs.**
 - a. No more than one (1) Electronic Reader Board Sign shall be permitted on a site or development complex.
 - b. Static Image Display Minimum. Electronic Reader Board Signs with changing messages shall not blink, flash, or change their message more frequently than once every four seconds.
 - c. No Animation or Video. Electronic Reader Board Signs shall display one static image for no less than four (4) seconds before changing to another static image display.
 - d. Brightness. All Electronic Reader Board Signs shall be equipped with an automatic dimming photocell device which automatically adjusts the display's brightness to preset levels based on ambient lighting conditions. All Electronic Reader Board Signs shall operate at brightness levels of no more than 0.3 footcandles above ambient light levels. All Electronic Reader Board Signs shall also be preset to prevent luminance above 5,000 nits during daylight hours and above 300 nits during at night. An application to install an Electronic Reader Board Sign must include a certification by the developer that said Electronic Reader Board Sign will comply with these requirements.

Commented [HG13]: Additional details added to Electronic Reader Board Sign regulations to address light pollution / brightness.

- e. Advertising. Electronic Reader Board Signs shall only be used to (1) advertise products, activities, or services available on the property or development complex on which the Sign is located, and/or (2) present public service information.
 - f. Light Trespass Standard. A maximum of 0.1 footcandles measured at the property line of any park or residential property.
 - g. Malfunctioning Sign. In the event that an Electronic Reader Board Sign is malfunctioning, such Sign shall be turned off until the Sign is repaired and functioning in full compliance with the requirements of this section.
- i. Sandwich Board Signs. Sandwich Board Signs are not permitted within RS or RM zones. Within all other zones, Sandwich Board Signs may be placed upon a public or private sidewalk, subject to the following standards:
1. Sandwich Board Signs shall be aesthetically compatible with respect to the surrounding community.
 2. Sign Area. Sandwich Board Signs shall have a maximum Sign Area of eight (8) square feet per Sign Face.
 3. A Sandwich Board Sign shall have a maximum width of thirty (30) inches.
 4. Sign Height. A Sandwich Board Sign shall have a Sign Height of not less than thirty (30) inches and not more than four (4) feet.
 5. A business shall not use more than one (1) Sandwich Board Sign.
 6. A Sandwich Board Sign shall be within twenty-five (25) feet of the Main Entry of the premises or Multi-Business Complex it is associated with.
 7. Sandwich Board Signs shall use materials, coatings, and/or other protective techniques that will resist weathering.
 8. Each Sandwich Board Sign shall be of sound construction and designed to withstand high winds, to the satisfaction of the Building Official.
 9. Sandwich Board Signs shall not have electrical or mechanical components.
 10. Sandwich Board Signs shall not pose a hazard to pedestrian or vehicular traffic.
 11. Sandwich Board Signs shall not be placed closer than fifteen (15) feet from the intersection of the extension of the curb lines (the edge of the curbs on the vehicular traffic side) of each intersecting street.
 12. Sandwich Board Signs shall be placed no further than three (3) feet from the building line. Exception: Sandwich Board Signs may be placed within twenty-four (24) inches of the curb line wherever parking is prohibited in the adjacent street.
 13. Sandwich Board Signs shall not be placed close than twelve (12) inches from any tree grate or other planting.

Commented [HG14]: Revisions to Sandwich Board Sign provisions to allow them outside of the HBD and other small revisions related to placement.

- 14. Sandwich Board Signs shall not be placed within a crosswalk.
- 15. Sandwich Board Signs shall not be placed within fifteen (15) feet of another Sandwich Board Sign.
- J. Temporary Signs. See LMC 19.33.100.
- K. Window Signs. Window Signs located within the HBD zone shall not cover more than 30% of the windowpane. Window Signs located in all other zones shall not cover more than 50% of the windowpane.

Commented [HG15]: Additional provision added here to prevent full window coverage.

19.33.100 – Temporary Signs Permit – Required.

Commented [HG16]: Temporary sign provisions revised to meet case law standards.

In addition to any other applicable provisions of this chapter, the following standards apply to all Signs meeting the definition of Temporary Sign:

A. General Requirements for Temporary Signs.

- 1. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or other type of street furniture, or otherwise create a safety hazard.
- 2. Duration. If a Temporary Signs is promoting a specific event, the Temporary Sign shall be removed within ten (10) days following the conclusion of said event.
- 3. Maximum Number of Temporary Signs. No more than four Temporary Signs (or, for multifamily complexes containing more than four residential units, no more than one Temporary Sign per unit) visible from the public right-of-way per lot are allowed.
- 4. A Temporary Sign shall be removed if it is worn, dilapidated, in need of repair, or if it creates a public nuisance.

B. Temporary Signs in Public Right-of-Way.

- 1. Location. Temporary Signs are only allowed in non-hard surface areas of public rights-of-way. Temporary Signs shall not be located in a right-of-way adjacent to public property owned or under the control of a unit of federal, state, or local government, or a special purpose district, unless otherwise approved by the unit of government.
- 2. Safety. All Temporary Signs shall be placed in a manner that is safe for all users of the public right-of-way. Temporary Signs shall not block access to structures or parked cars and shall not block vehicular sight distance at corners or intersections.
- 3. Permission of Owner of Abutting Property. Temporary Signs may only be placed in the public right-of-way if the Sign owner has permission from the owner of the abutting property or the person in control of the abutting property (such as a tenant).

C. Temporary Signs on Private Property. Temporary Signs may only be placed on private property with the consent of the property owner or person in control of the property (such as a tenant). The property owner or person in control of the property may remove the Temporary Sign(s) without notice.

D. Maximum Sign Area. Temporary Signs are limited in size to four square feet.

E. Maximum Sign Height. Temporary Signs shall not exceed three feet in height.

F. Temporary Banner. Each tenant space shall have no more than one temporary banner. Temporary banners are limited to thirty-two (32) square feet in size. Temporary banners may be permitted for a maximum of thirty (30) days during any consecutive three-hundred-sixty-five-day (365) period.

G. Signs that exceed the height or size requirements herein are considered Permanent Signs and must meet the standards of the applicable Sign category in this chapter.

19.33.140 – Message Substitution ~~Vari~~ances.

Signs containing noncommercial speech are allowed anywhere that Signs regulated by this chapter are allowed, subject to the same regulations applicable to such Signs including, but not limited to, requirements to obtain a Sign permit where applicable. A substitution of a noncommercial message may be made without any additional approval, permitting, or notice to the City.

19.33.150 – Interpretations.

Where there is any dispute concerning the interpretation of this chapter, the decision of the Community Development Director~~city planner~~ shall prevail, subject to appeal to the Hearing Examiner~~city council~~ as provided in this title.

19.33.160 – Enforcing Official—Powers and ~~D~~uties.

The enforcing official of this chapter shall be the Community Development Director~~city planner~~ who is hereby authorized and directed to enforce all the provisions of this chapter. The Community Development Director may appoint a designee to assist with the enforcement of this chapter. Signs for which a permit is required may be inspected periodically by the Community Development Director~~city planner~~ for compliance with this chapter.

19.33.170 – Removal of ~~S~~igns.

A. Abandoned ~~S~~igns shall be removed by the owner or lessee of the premises upon which the ~~S~~ign is located within sixty (60) days after the business or service advertised by the ~~S~~ign is no longer conducted. This also applies to billboards advertising defunct businesses or events.

B. The ~~Community Development Director~~city planner may order the removal of any Ssign erected, installed, or allowed to remain in violation of this chapter. ~~The Community Development Director~~He or she shall give at least thirty (30) days' notice in writing, to the owner of such Ssign, or of the building, structure, or premises on which such Ssign is located, to remove the Ssign or to bring it into compliance with this chapter. The ~~Community Development Director~~city planner may order removal of the Ssign at the expense of the owner of the premises if compliance with the written order is not obtained. Notice to the owner shall be deemed to be given as of the date of deposit in the United States mail addressed to the address on record that date at the office of the Whatcom County assessor. If the Sign

Exception: In the case of Temporary Ssigns, Banner Ssigns, Portable Ssigns, or Streamers, only five (5) days' notice need be given.

C. The ~~Community Development Director~~city planner may cause any Ssign which is erected or displayed in violation of this chapter to be summarily removed without notice and at the expense of the owner of the Ssign and/or premises if:

1. The condition of placement of the Ssign presents, in the opinion of the Community Development Directorcity planner an immediate threat to the health and/or safety of the public;
~~or~~
2. The Ssign is placed, in violation of this chapter, in a public right-of-way, ~~or~~ upon Ceity property, or attached to a utility pole, tree, or traffic Ssign; or in violation of this chapter;
3. The Sign described in a notice issued pursuant to subsection (B) above is not removed or brought into compliance with this chapter by the expiration of the thirty (30) day period described in said notice.

19.33.180 – Nonconforming Ssigns.

A. Nonconforming Ssigns shall be removed or brought into compliance with this chapter upon the loss of nonconforming status as noted in this section.

B. Those revolving or blinking Ssigns or ~~E~~electronic ~~R~~eaders ~~B~~oard's Signs granted a Ssign permit prior to September 1, 1996 are considered permitted Ssigns under this chapter without restriction on scrolling or changing of the message. Any change or replacement of those Ssigns will require that the Ssigns be brought into compliance with this chapter or that a variance be applied for and granted.

C. Exception Pertaining to Portable Signs, Banner Signs and Streamers. All Portable Ssigns, Banner Ssigns and Streamers made nonconforming by this chapter shall be removed within ninety days of the effective date of the ordinance codified in this chapter.

D. Loss of Nonconforming Status.

1. A ~~N~~onconforming Ssign shall immediately lose its legal, nonconforming status if:
 - a. The Ssign is structurally altered in any way ~~(See Section 19.33.080(C))~~; or

- b. The Ssign is damaged in excess of fifty percent (50%) of the original cost of the Ssign; or
- c. The Ssign is relocated; or
- d. The Ssign is replaced.

2. On the occurrence of any of the events described in sub~~section~~~~division~~ (D)(1) of this ~~sub~~section, the Ssign shall be immediately brought into compliance with this chapter with a new permit secured therefor, or shall be removed; provided, however, that the Community Development Director~~city planner~~ may authorize specific alterations of such Nonconforming Ssigns if it is found that the total amount of aggregate noncompliance of the Ssign Area of the existing Ssigns on the premises is reduced at least fifty percent (50%) by the proposed alterations.

19.33.200 - Severability.

If any provision of this Chapter 19.33 is found to be invalid, the remaining provisions stand on their own and are still valid.

Commented [HG17]: A key provision to prevent invalidation of entire sign code if one section was found to be invalid.

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #24-03

A resolution of recommendation for approval of an amendment to LMC 19.33 regarding the sign code and LMC 17.01.030 regarding sign-related definitions

WHEREAS, the City's current sign code is contained in Lynden Municipal Code Chapter 19.33; and

WHEREAS, LMC Chapter 17.01.030 also contains sign-related definitions.

WHEREAS, the City's current sign code was adopted in 1997; and

WHEREAS, since that time, there have been many state and federal court decisions that have clarified how municipalities may regulate signs; and

WHEREAS, more specifically, as with any law implicating an important civil right like freedom of expression, municipalities cannot selectively enforce their regulations against only certain types of signs; and

WHEREAS, a sign code must avoid content based regulations, standards and discrimination and that there be no intent by government to censor based on subject matter or message; and

WHEREAS, in light of these developments in the case law, it is necessary to revise the current sign code contained in LMC Chapter 19.33; and

WHEREAS, to ensure consistency with the revised sign code, it is necessary to also revise the sign-related definitions contained in LMC 17.01.030; and

WHEREAS, the Lynden Planning Commission held a public hearing on May 9, 2024, to accept public testimony on the proposed Amendment to Lynden Municipal Code (LMC) 19.22 and 17.01.030, and that meeting was duly recorded;

WHEREAS, LMC 19.33 and LMC 17.01.030 have been updated to better clarify the proposed changes as shown in **Exhibit A**.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval of the amendment outlined in Exhibit A by a vote of 4-0, to the City Council concerning LMC 19.33 and LMC 17.01.030 regarding the sign code and sign related definitions.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 9th day of May 2024.



Tim Faber, Chair
Lynden Planning Commission



Heidi Gudde, Director
Community Development Department

CITY OF LYNDEN

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



PLANNING COMMISSION MEETING MINUTES

7:00 PM May 9, 2024
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present:, Tim Faber, Darren Johnson, Jim Kaemingk, and Blair Scott

Absent: Khush Brar and Hollie Lyons with notice

Staff Present: Gudde, Planning Director and Samec, Planner, Mark Sandal, Public Works

3. APPROVAL OF MINUTES

A. April 25, 2024 Scott motion / 2nd Kaemingk 4-0

4. PUBLIC HEARING

A. Amendment to LMC 19.33 – Sign Code

Gudde addressed the Commission and gave an overview of the proposed amendment to the Lynden Sign Code.

Some sections of the City’s sign code were inconsistent with recent case law, staff has been working closely with legal counsel, Luke Phifer, to develop the proposed amendment. Generally, the proposed amendment does not alter the character of signs – that is the size, shape and location of signs used in the city - but close attention was given to the following topics:

- Inclusion of a substitution clause.
- Inclusion of an exclusionary clause.
- Clear directions on temporary signs including political speech.
- Revision to portions of the special exemptions section that are not legally defensible.
- Clarify the difference between off-premise signs (billboards) and shared plaza signs.

In addition to the amendment to Title 19, the sign related definitions found in Title 17 were updated.

Staff is aiming to have the code in place by late summer – ahead of the sign activity that will be generated by the presidential and local elections this fall.

Staff also briefed the Commission on important reminders from MRSC:

Local governments have greater authority to regulate commercial speech than they have to regulate noncommercial speech.

Cities may not limit the displaying of political signs to only a certain window of time prior to an election. However, courts have held a requirement that political signs be removed within 10 days of the relevant election was permissible, so long as the requirement was reasonable and applied to all temporary signs.

That governments can still regulate noncommercial signs in a content-neutral approach, using such factors as location, size, height, use of materials, size, lighting, moving parts, type of structure (freestanding, banner, inflatable etc.) and portability.

If you have to differentiate the type of sign being regulated by reading the sign’s content or knowing the sign message’s author, then the regulation is probably unconstitutional.

Staff addressed the memo from Bob Carmichaels office dated May 8, 2024, regarding regulating temporary signs after Reed v. Town of Gilbert.

The memo mentions that in the 2015 Reed v. Town of Gilbert case, the United States Supreme Court held that content-based sign regulations –regulations that treat various categories of signs differently based on the information they convey – are presumptively unconstitutional. This is the case even if the motives for the regulation are benign and the regulation does not discriminate between different viewpoints. Such laws will only be upheld if they are narrowly tailored to serve a compelling government interest (strict scrutiny), which is a difficult standard to meet.

Lynden’s current sign code contains many such content-based regulations including, but not limited to, those addressing Grand Opening and Going Out of Business Signs (LMC 19.33.075), Political Signs (19.33.050(C)(3)(b)), and Real Estate Signs (19.33.070(B)). One of the objectives of the current revision of Lynden’s sign code is to ensure the City’s code complies with Reed and the cases that have followed it.

The redlines shown within the document include revisions and general reorganization of existing language. The update will help to make the document more user friendly.

Over the years, staff have seen very few complaints regarding the sign code. If a concern arose, it was typically regarding the size of a sign or the requirement to landscape the base of a freestanding sign.

Below is a brief overview of the proposed changes:

- The table of contents has been updated to reflect the new sections.
- Updated definitions under LMC 19.33.020 and in Title 17 where they overlap.

Staff asked for the Commission to look at the definition of Temporary Signs and determine what approach Lynden wants to adopt to define and regulate temporary signage. Either by listing specific materials to provide greater clarity (current drafted language) or simply by focusing on the types of construction, materials, placement or installation which is broader but more subjective.

- Moved the Sign Permit Administration and Process to the beginning (19.33.030) to better inform the applicant of the process from the very beginning. This section includes permitting, exemptions and exceptions, design review, fee, approval and variances.
- 19.33.035, outlines signs that are prohibited in the City.
- 19.33.040 spells out the general provisions including owner responsibility, maintenance, abandoned signs, design elements, safe installation, clearance and Sign illumination. Sign illumination (H) is new and includes regulations for illuminated signage.
- 19.33.050, 060, 063, 065, addresses regulations specific for each zoning district regarding allowable sign area, maximum sign height.
- 19.33.090 outlines standards for specific sign types that do not vary from zone to zone. These sign types include directional signage size and height, freestanding signs with regards to the number of signs permitted, setback and landscaping, fuel signs, HOP's. The current code has a lot of redundancies and uses the same language under each zoning category. Creating this section puts it all in one place.

Section 19.33.090 also provides new language for multi-business complex signs and mural signs, projecting signs, reader board signs and sandwich board signs See below.

- Multi-Business Complex Category: We blended the previous “Multiple-business complex” and “Multiple tenant building” categories into a new “Multi-Business Complex” category. In addition to blending the two categories, we created language allowing for Multi-Business Complex Directory Signs to be placed on any lot within same complex.

- (19.33.090(E)(1) and 19.33.035(D)). In the past staff has run into issues regarding signage being considered “off-premises”. This will allow a business complex to legally share a directory sign.
 - Mural Signs: Created standards for mural signage. This section outlines 9 required criteria. Mural signs are only permitted in the HBD zone and must be approved by the DRB.
 - Reader Board Signs (including electronic signs). This section was revised to allow such signs only in the CSL, CSR and PU zones, unless associated with a CUP (ie: schools and churches). Specific regulations were added to clearly outline use.
 - Sandwich Board Signs: This section was revised to include clear criteria. Sandwich Board signs are currently allowed in the HBD and with this draft has been expanded to the CSL, CSR and PU zones.
- 19.33.100 – Temporary Signs. This section created general requirements regarding the duration, number of temp signs permitted, repair, location, safety and permissions, private property, sign area, height and temp banners.

The rest of the revisions include legal items relating to: message substitution, interpretations, enforcing official, removal of signs, non-conforming signs and severability.

Speaking in Opposition: None

Johnson motioned to close the public hearing. Seconded by Kaemingk and the motion passed, 4-0.

Commissioner discussion:

The Commission discussed NITS (unit of brightness) levels of signage and the ability to reduce if necessary. The Commission wants to be respectful of residential neighborhoods when a non-commercial use is adjacent. For new uses, Staff has the ability to address lighting / glare while processing a SEPA and or Conditional Use Permit.

Discussed the definition of temporary signs. The Commission prefers listing specific materials in order to provide greater clarity, especially with the legal concerns regarding subjectivity.

Briefly discussed political signage. As with any law implicating an important civil right like freedom of expression, consistent and nondiscriminatory application of regulations, municipalities cannot selectively enforce their regulations against only certain types of

signs. If you allow political campaign signs you would need to allow other temp signs as well.

The Commission was in favor of the proposed changes and supports the definition of temporary signs as proposed in the draft. It is always a good idea to have a legal scrub and to make the document more user friendly.

No further comments from the Commission. Appreciates all of the work associated with the amendment.

Scott motioned to recommend to the Lynden City Council the approval of the amendment to LMC 19.33 and LMC 17.01.030 regarding the sign code. Seconded by Johnson, and the motion passed 4-0.

5. ADJOURNMENT

Johnson motioned to adjourn the meeting at 8:40. Seconded by Kaemingk and the motion passed, 4-0.

ORDINANCE NO. 24-1688

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING THE CITY’S SIGN CODE CONTAINED IN LYNDEN MUNICIPAL CODE CHAPTER 19.33, AND AMENDING SIGN-RELATED DEFINITIONS CONTAINED IN LYNDEN MUNICIPAL CODE 17.01.030.

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, the City’s current sign code is contained in Lynden Municipal Code Chapter 19.33; and

WHEREAS, LMC Chapter 17.01.030 also contains sign-related definitions; and

WHEREAS, the City’s current sign code was adopted in 1997; and

WHEREAS, since that time, there have been many state and federal court decisions which have clarified how municipalities may regulate signs; and

WHEREAS, in light of these developments in the case law, it is necessary to revise the current sign code contained in LMC Chapter 19.33; and

WHEREAS, to ensure consistency with the revised sign code, it is necessary to also revise the sign-related definitions contained in LMC 17.01.030; and

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

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

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

SECTION 1: The definition of “Sign” contained within Lynden Municipal Code 17.01.030 is hereby amended to read follows:

"Sign" means any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or right-of-way open to the public.

SECTION 2: The following definitions contained within Lynden Municipal Code 17.01.030 are hereby repealed in their entirety:

~~Sign, Advertising. “Advertising sign” means a sign which directs attention to a business, commodity, service or entertainment, or other services, materials or subject matter conducted, sold or offered elsewhere than upon the same zoning lot with such sign.~~

“Sign area” means the area of the smallest rectangle that can be drawn around all parts of the sign from the viewpoint exposing the largest surface area, excluding simple support structures. Sign supporting structures which are part of the sign display shall be included in the area of the rectangle.

Sign, Attached. “Attached sign” means a sign permanently attached to or mounted on a building.

Sign, Business. “Business sign” means a non-illuminated sign which directs attention to a business or profession conducted or related to products sold upon the same zoning lot on which, or in which, the sign is located. A “For Sale” sign, or “Sold” sign, or sign “To Let,” “To Lease” or “To Rent” shall be deemed to be business sign.

“Sign face” means any sign permanently attached to or mounted on a building.

Sign, Freestanding. “Freestanding sign” means any sign not attached to a building.

Sign, Illuminated. “Illuminated sign” means either a business sign or an advertising sign designed to give forth an artificial light, or designed to reflect such light deriving from any source which is intended to cause such light or reflection. A flashing sign, when in use, is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times.

Sign, Off-Site. “Off-site sign” means a permanent sign not located on the same lot as the business or use it is intended to serve.

Sign, Permanent. “Permanent sign” means a sign nailed, glued, screwed or similarly fastened to foundation systems capable of holding it in position under an imposed wind load of twenty-five pounds per square foot or the design requirements of Chapter 23 of the Building Code.

Sign, Temporary. “Temporary sign” means a sign or advertising display intended to be displayed for a limited period of time or for a fixed event and not permanently affixed to a structure or the ground.

SECTION 3: Lynden Municipal Code Chapter 19.33 (titled “SIGNS”) is hereby amended to read as follows:

19.33.010 – Statement of Purpose.

A. Purpose and Intent. The City Council finds that it is necessary to regulate signs in the City of Lynden to help assure that Lynden is a safe and attractive place in which to live and to do business. The intent of this chapter is to promote public health, safety, and welfare through a comprehensive system of reasonable, effective, and consistent sign standards and requirements, and to:

1. Promote the goals and policies of the comprehensive plan;
2. Promote the economic vitality of the City’s business districts and corridors;
3. Ensure that signs are compatible with the desired character and identity of Lynden and its various districts, including the Historic Business District;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributed to, cluttered, distracting, and/or illegible signage;

5. Ensuring that signs do not obstruct rights-of-way or obstruct the vision of pedestrians and motorists traveling on rights-of-way;
6. Prevent property damage, personal injury, and litter from signs which are improperly constructed, poorly maintained, or made of flimsy materials;
7. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
8. Promote sign design that is compatible with the architectural and historical qualities of Lynden;
9. Promote sign design that is appropriate to the site's existing and planned context, including the size and characteristics of the site, and the envisioned character of the applicable area per adopted plans;
10. Prevent visual clutter and provide an improved visual environment for the citizens of and visitors to the city;
11. Provide consistent design standards; and
12. Enable the fair and consistent enforcement of these sign regulations.

19.33.020 – Definitions.

In addition to the definitions found in LMC 17.01.030, for the purpose of this chapter, the following definitions shall apply:

1. "Abandoned Sign" means a sign that no longer correctly identifies or advertises any business, lessor, lessee owner, service, product or activity, or for which no legal owner can be found.
2. "Awning" means a temporary or fixed structure supported entirely from the exterior wall of a building, which (1) provides shade or protection from weather and (2) is in whole or in part self-supporting.
3. "Awning Sign" means the use of an Awning attached to a building for commercial, identification, informational, or promotional purposes. Only that portion of the Awning which bears graphics, symbols, and/or writing shall be construed as being a Sign.
4. "Banner, Decorative" means an object made of cloth, fabric, or similar flexible material which displays abstract or representational forms, and which is completely devoid of letters, numbers, words, or advertising. Streamers shall not be considered Decorative Banners.
5. "Banner Sign" means any Sign intended to be hung, with or without framing, and possessing characters, letters, symbols, emblems, trademarks, illustrations, or ornamentation applied to fabric or similar flexible material. Flags, Decorative Banners, Canopy Signs, and Temporary Signs, treated elsewhere in this chapter, shall not be considered Banner Signs.
6. "Bench Sign" means a Sign located on any part of the surface of a bench or seat placed on or visible from a public right-of-way or a public park.
7. "Billboard Sign" means an outdoor Sign which contains a message that is unrelated to any use or activity on the premises on which the Sign is located, and which is supported by a substantial permanent

Sign Structure. Billboard Signs are typically larger and/or taller than would otherwise be permitted by this title.

8. "Cabinet Sign" means an internally illuminated Sign in which a removable Sign Face (usually with translucent sign graphics) is enclosed on all edges by a metal cabinet.

9. "Canopy" means an overhead structure (1) attached to or supported from the exterior wall of a building and/or from the ground that (2) provides weather protection for pedestrians.

10. "Canopy Sign" means the use of a Canopy for advertising, identification, informational, or promotional purposes. Only that portion of the Canopy which bears graphics, symbols, and/or writing shall be construed as being a Sign.

11. "Commercial Sign" means a Sign containing a commercial message directing attention to a business, commodity, service, or entertainment.

12. "Commemorative Plaque" means a memorial plaque, Sign, plate, or tablet which is (1) permanently affixed to or near the structure, object, or event it is intended to commemorate, and (2) which serves no commercial purpose.

13. "Dangerous Dog Sign" means a Sign required pursuant to LMC 6.09.080(B)(4).

14. "Directional Sign" means a Sign designed to guide or direct pedestrian and/or vehicular traffic from the public right-of-way, private road, or trail to a location, activity, or service on the site.

15. "Directory Sign" means a Sign which displays exclusively the names, logos, and locations of occupants or uses of a building or complex; which includes, but may not be limited to, Signs for (1) office buildings, (2) Houses of Worship, and (3) Signs for malls, arcades, and similar commercial buildings. No commercial message other than the name, logo, and locations of occupants or uses is included.

16. "Electrical Sign" means a Sign or Sign Structure in which electrical wiring, connections, and/or fixtures are used.

17. "Electronic Reader Board Sign" means an electrically activated Sign whose message content, either in whole or in part, may be changed by means of electronic programming. Electronic Reader Board Signs include those displaying time, temperature, and messages of an informational or commercial nature.

18. "Feather Sign" means a vertical portable Sign that contains a harpoon-style pole or staff driven into the ground or supported by means of an individual stand. A Feather Sign may also be referred to as a "Sail Sign."

19. "Flag" means a flat piece of cloth or similar flexible fabric, with distinctive colors, patterns, or symbols used to represent a country or group, having one end of the fabric attached to a vertical staff (either directly or by rope and pulley mechanism) and all other ends being unattached to another object and free flowing when subject to movement of the wind.

20. "Flashing Sign" means a Sign or a portion thereof which changes light intensity or switches on and off in a repetitive pattern or contains motion or the optical illusion of motion by use of electrical energy to provide motion or the optical illusion of motion.

- 21. "Freestanding Sign" means a permanent Monument Sign, Pole Sign, or other Sign attached to the ground and supported by uprights or braces attached to a foundation not connected to a building. Freestanding Signs include, but are not limited to, Monument Signs and Pole Signs. Directory Signs, including Multi-Business Complex Directory Signs, are not considered Freestanding Signs.
- 22. "Grade" means the average elevation of the ground surface immediately below the Sign after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the Sign. In cases in which the grade cannot reasonably be determined, Sign Height shall be based on the elevation of the nearest point of the crown of a public street or the grade of the land at the Main Entry, whichever is lower.
- 23. "Halo Lighting" means a method of Sign Illumination that consists of opaque sign elements with light projected behind them illuminating the mounting surface.
- 24. "Historic Business District" has the same meaning as in LMC 19.23.010(1). The boundaries of the Historic Business District are depicted on the Zoning Map of the City of Lynden adopted pursuant to LMC 19.09.010. The Historic Business District may also be referred to as the "HBD."
- 25. "Home Occupation Sign" means a Sign stating the name, address, and/or phone number associated with a home occupation permitted pursuant to LMC 19.57.140.
- 26. "Illuminated Sign" means any Sign illuminated in any manner by an artificial light source.
- 27. "Incidental Sign" means a small Sign, emblem, or decal which (1) does not exceed two square feet in size, and (2) informs the public of the goods, products, services, or facilities which are available on the premises where the Sign is located.
- 28. "Indirect Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign.
- 29. "Internal Lighting" means an indirect, concealed light source which is recessed or contained within any element of a Sign.
- 30. "Main Entry" means the front or primary entrance to a building intended for use by residents, customers, clients, visitors, messengers, and/or the public. Each primary building shall be considered to have no more than one Main Entry, excepting a Multi-Business Complex, in which case each physically separate business which has no internal passageway to any other business premises shall be considered to have one Main Entry.
- 31. "Marquee" means a permanent structure attached to and supported by the building and projecting over public or private property.
- 32. "Monument Sign" means a Freestanding Sign which is attached to a permanent foundation or decorative base and is not attached to or dependent on support from any building, pole, posts, or similar uprights.
- 33. "Multi-Business Complex" means either (1) a group of structures housing more than one business or agency that share a common lot, access, and/or parking facility; or (2) a single structure housing more than one business or agency (but not including residential apartment buildings).

- 34. "Mural Sign" means a Sign which consists exclusively of paint applied to the wall of a building or alternate surface without application of any other material or framing.
- 35. "Neon Lighting" means lettering, numerals, symbols, logos, emblems, or illustrations which are directly visible and are constructed of and illuminated solely by glass tubes filled by neon gas or equivalent light-emitting gaseous elements.
- 36. "Noncommercial Sign" means any Sign that is not a Commercial Sign.
- 37. "Nonconforming Sign" means any Sign in existence within the City on the date of adoption of the ordinance codified in this chapter, or located in an area annexed to the City thereafter, which does not conform with the provisions of this chapter, but which did conform to all applicable laws in effect on the date the Sign was originally erected.
- 38. "Off-Premises Sign" means a Sign relating, through its message and content, to an activity, business, use, product, or service which is not located on or otherwise directly associated with the premises on which the Sign is located.
- 39. "Permanent Sign" means a Sign constructed of weather-resistant material and intended for permanent use and that does not otherwise meet the definition of "Temporary Sign."
- 40. "Pole Sign" means any Freestanding Sign composed of a Sign Cabinet, backboard, frame, or base and the Sign Pole, or pylon by which it connects to the ground, that does not meet the definition of "Monument Sign" or "Portable Sign."
- 41. "Portable Sign" means any Sign not permanently attached to the ground, building, or permanent structure, or a Sign designed to be transported. Portable Signs include, but are not limited to, Sandwich Board Signs, A-Frame Signs, and flags containing commercial messages.
- 42. "Premises" means the real property on which the entity advertised by the Sign or Signs mentioned in this chapter is situated.
- 43. "Primary Building" means the primary or predominate building on a lot.
- 44. "Primary Street Frontage" means the lineal length of the Street Frontage on which the Main Entry is located; provided that, in the event the Main Entry is located on a corner of the building or on a side other than a side which abuts the most heavily traveled street, Primary Street Frontage shall be determined as if the Main Entry were on the side which abuts the most heavily traveled street.
- 45. "Projecting Sign" means a Sign which is attached to and projects more than six (6) inches from a building wall or other structure not specifically designed to support the Sign.
- 46. "Reader Board Sign" means a Sign or part of a Sign on which writing may be easily changed from time to time without reworking, repainting, or otherwise altering the physical composition of the Sign.
- 47. "Revolving Sign" means a Sign which rotates or turns in motion in a circular pattern.
- 48. "Roof Sign" means a Sign erected upon or above a roof of a building or structure or attached to the wall of a building or structure and extending above the roofline.
- 49. "Sandwich Board Sign" – See "Portable Sign."

50. "Sign" means any device, fixture, object, painted surface, placard, banner, inflatable, structure, or portion thereof, other than a flag or government symbol, which contains graphics, lights, symbols, and/or writing designed, used, or displayed for the purpose of advertising, informing, identifying, attracting attention to, or promoting the interest of any person, institution, business, event, product, good, or service, and which is visible from a street, way, sidewalk, trail, parking area, or right-of-way open to the public.

51. "Sign Area" means the entire area of a Sign on which the writing or symbols are to be placed, not including any supportive framework, bracing, architectural embellishments, or decorative features, of fences or wall which contain no writing, symbols, or other commercial messages and are clearly incidental to the display itself. For multi-faced Signs, if the writing or symbols on all sides of the Sign is identical, the total Sign Area shall be calculated by measuring only the entire area of the largest Sign Face.

52. "Sign Face" means any surface of a Sign upon which there are graphics, lights, symbols, and/or writing.

53. "Sign Height" means the vertical distance from Grade to the highest point of a Sign or any projection thereof.

54. "Sign Structure" means any structure which supports or is capable of supporting any Sign as defined in this chapter. A Sign Structure may be a pole or poles, or may be an integral part of a building. Structures which perform a separate use, such as, but not limited to, a telephone booth, bus shelter, recycling or used goods container, etc., shall not be considered a Sign Structure.

55. "Streamer" means an attention-attracting device consisting of two or more pennants, banners, balloons, ribbons, reflectors, fringes, or similar objects strung together on a common line, pole, or Sign Structure, or attached to one or more products offered for sale.

56. "Street Frontage" means a side of a building which (1) contains an entrance open for public use, and (2) faces an abutting street.

57. "Temporary Sign" means any Sign that is intended and designed to be displayed for a limited period of time including, without limitation, a Sign that is not permanently mounted, painted, or otherwise affixed, excluding Portable Signs as defined by this chapter, including, but not limited to, any poster, banner, placard, stake Sign, or other Sign not placed in the ground with a means to provide permanent support and stability. Temporary Signs may only be constructed of nondurable materials including, but not limited to, paper, corrugated board, flexible plastics, foamcore board, vinyl canvas, and Sign painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered Permanent Signs and are subject to the permanent Sign regulations of this chapter. Exception: Feather Signs and Sail Signs are not considered Temporary Signs.

58. "Vehicle Sign" means a Sign used to display a commercial message that is mounted or painted on a vehicle (or trailer) where (1) the vehicle (or trailer) is normally licensed by the Washington State Department of Licensing, and (2) the primary purpose of the vehicle (or trailer) is not to display said Sign. Vehicle Signs include, but are not limited to, Signs on buses, taxis, and commercial vehicles.

59. "Wall Sign" means a Sign which is attached, painted onto, or etched parallel to an extending not more than six (6) inches from the façade or face of any building to which it is attached and supported throughout its entire length, with the exposed face of the Sign parallel to the plane of said wall or façade.

60. "Window Sign" means a Sign affixed to windows or a building or placed inside the window within three feet of the window, which faces the outside and which is intended to be seen primarily from the exterior. Merchandise displayed in a window that does not contain any writing (a) visible from a street, way, sidewalk, parking area, or right-of-way open to the public, or (b) which is not part of the displayed object itself; is not considered to be a Window Sign.

19.33.030 – Sign Permit Administration.

- A. Sign Permits Required. Except as exempted in subsection B of this section, no Sign shall be erected, re-erected, attached, replaced, revised, structurally altered, or relocated by any person, firm, or corporation without a Sign Permit issued by the city.

- B. Exemptions and Exceptions.
 - 1. Exemptions. The following types of Signs and activities are exempt from regulation under this chapter:
 - a. Regulatory, identification, or Directional Signs installed by, or at the direction of, a government entity;
 - b. Signs required by law;
 - c. Official public notices or official court notices;
 - d. Postal Signs;
 - e. Signs or displays not visible from streets, rights-of-way, sidewalks, trails, or parking areas open to the public;
 - f. The Flag of government or noncommercial institutions such as a school, provided that (1) such Flag does not exceed sixty (60) square feet in area, (2) such Flag shall not be flown from a pole the top of which exceeds forty (40) Feet in height, and (3) such Flag is flown in a manner that complies with all requirements of the United States Flag Code (4 U.S.C. 1);
 - g. Point-of-purchase advertising displays, such as product dispensers or vending machines;
 - h. "No trespassing," "no dumping," "no parking," "private," and other informational warning Signs which do not exceed six square feet in surface area;

- i. Reasonable seasonal decorations within the appropriate public holiday season, or civic festival season, provided that such displays shall be removed promptly at the end of the season;
 - j. Historic site markers, interpretive markers, or Commemorative plaques;
 - k. Barber poles;
 - l. Address numbers mounted flush on the wall of a building;
 - m. Lettering or symbols painted directly onto or flush-mounted magnetically onto a licensed and operable motor vehicle operating in the normal course of business; and
 - n. Repair, cleaning, repainting, or other normal maintenance activities, and other changes that do not alter the Sign Structure.
2. Exceptions – Signs Not Requiring Permits. The following types of Signs are not required to obtain a Sign Permit, but must be in conformance with all other requirements of this chapter and other applicable city ordinances:
- a. Dangerous Dog Signs;
 - b. Directional Signs not exceeding six square feet in Sign Area which direct vehicular and/or pedestrian traffic and which contain no commercial message;
 - c. Home Occupation Signs that comply with the requirements of LMC 19.57.140(H);
 - d. Incidental Signs;
 - e. Nonelectric Signs located in a residential zone not exceeding two square feet in Sign Area;
 - f. Portable Signs meeting the requirements of this chapter;
 - g. Sandwich Board Signs (except a permit is required for a Sandwich Board Sign placed within a public right-of-way);
 - h. Temporary Signs; and
 - i. Vehicle Signs.
3. Exemptions From Overall Permitted Sign Area Requirements. The following types of Signs shall not be included when calculating the total Sign Area of a site, pursuant to the maximum Sign Area limitations established by this chapter:
- a. Directional Signs (Except for Off-Premises Directional Signs within the HBD – See LMC 19.33.090(A)(5));
 - b. Directory Signs associated with a Multi-Business Complex;
 - c. Incidental Signs;
 - d. Street numbering of buildings / Addressing;

- e. Temporary Signs meeting the requirements of this chapter;
 - f. Temporary Window Signs, so long as each letter used in said Temporary Window Sign is less than six inches in height (if said lettering is six inches in height or greater, the entire Temporary Window Sign will be included when calculating Sign Area); and
 - g. Vehicle Signs.
- C. Sign Permit Application. Applications for Sign Permits shall be made to the Planning Director upon the permit form provided by the city. Such application shall require:
- 1. The name and title of the applicant;
 - 2. The address and/or tax parcel number of the premises where the Sign is to be located;
 - 3. The name and address of the Sign owner (if different than the record owner of the premises where the Sign will be located);
 - 4. The name and contact information of any contractors involved in the installation of the Sign;
 - 5. A complete list describing each existing Sign on the premises, including the Sign type, Sign Area, location on the premises, and installation date;
 - 6. A site plan showing the location of the premises, all buildings on the premises, and depicting both currently existing and proposed Signs;
 - 7. A scale drawing of each proposed Sign and/or Sign revision, including the location, size, height, copy, structural and footing details, material specifications, colors, method of attachment, illumination, front and end views of any Canopy Sign, and any other information required to ensure compliance with applicable laws; and
 - 8. If the applicant is not the owner of the premises where the Sign is to be erected, written consent of the owner of the premises is required.
- D. Design Review. All Permanent Signs subject to design review as provided in this chapter must obtain approval of the Design Review Board before a Sign Permit may be issued. This requirement applies to new Signs and replacement Signs.
- E. Sign Permit Fees. Permit fees shall be in accordance with the current fee schedule adopted by resolution of the City Council.
- F. Sign Permit Approval. Upon (1) approval of the proposed Sign Permit, and (2) payment of the required permit fee, the Community Development Director shall issue a Sign Permit. Sign Permits shall be numbered and shall disclose, at a minimum:
- 1. The type and description of the Sign(s) as described in this chapter;
 - 2. The street address of the premises upon which the Sign will be installed;
 - 3. The amount of the fee paid for the permit;
 - 4. The date of issuance;

- 5. The name of the person or company installing the Sign;
- 6. The name of the Sign owner.

G. Variance.

- 1. The intent of this variance process is to provide design flexibility that may not be possible through strict application of the Sign standards. This process may not be used to allow a Sign that is otherwise prohibited under LMC 19.33.035. The Design Review Board shall have the authority to grant a variance from the requirements of this chapter in accordance with the following procedures and considerations:
 - a. The person seeking a variance, shall prepare and submit an application on forms provided by the Community Development Director accompanied by a fee in the amount adopted by resolution of the City Council.
 - b. Upon receipt of an application, the Community Development Director shall first review the application for completeness. If the application is incomplete, the Community Development Director shall return it to the applicant and indicate the additional information needed to make the application complete within three business days of submittal.
 - c. Within thirty (30) days of receipt of a complete application, the Design Review Board shall make a preliminary determination of whether to grant the application, grant the same under specified conditions, or to deny the variance. In making this determination, the Design Review Board may grant a variance only upon specific, written Findings of Fact setting forth and showing that at least five of the following conditions exist. Of the required conditions, at least three of the conditions must be those within the first four conditions listed below:
 - i. Literal interpretation and strict application of the provisions and requirements of this chapter would cause undue hardship on the applicant because of unique or unusual conditions pertaining to the subject property.
 - ii. The unique or unusual conditions do not result from actions of the applicant or owner of the subject property.
 - iii. Granting the variance would not confer a special privilege to the subject property that is denied to other similarly situated properties.
 - iv. Granting the variance would not be materially detrimental to the property owners in the vicinity or to the traveling public.
 - v. Granting the variance would not be contrary to the objects of this chapter relating to the placement of Signs and the reduction of clutter.
 - vi. Granting the variance would be in harmony with the purpose and intent of this chapter and would not diminish the effect of this chapter in furthering these purposes.

- vii. Size and shape of the Sign must be in proportion to the bulk of the building.
- viii. The Sign is similar to the size and shape of Signs in the surrounding area.
- d. Variance for franchise Sign. A variance for a franchise Sign must provide proof of the franchise requirement, in the form of the franchise agreement.
- e. In granting any variance, the Design Review Board may attach thereto such conditions regarding the location, character, and other features of the proposed Sign as they may deem necessary to carry out the spirit and purpose of this chapter in the public interest.
- f. Within five (5) days of the making of the preliminary determination, the applicant shall cause to be mailed, by certified mail, a notice of the determination to the record owner or reputed record owner of the properties within 300 feet of the subject property, or 500 feet if the property is located within the CSR, ID or IBZ zones, as shown by the property tax records of the Whatcom County Assessor, and by posting notice in a conspicuous place on the subject property and at the Lynden City Hall. The notice shall identify the applicant, the street address or legal description of the subject property, the variance requested, the Design Review Board's preliminary determination and where the application and findings may be inspected and shall indicate that written comments or objections will be received and considered by the Community Development Director for a period of ten (10) days following the date of mailing. Receipts, or copies of the receipts, for this certified mailing must be delivered to the Community Development Director no later than the first day of the 10-day comment period.
- g. Within five (5) days of expiration of the comment period, the Chair of the Design Review Board shall consider any comments or objections made and render a final decision. The Community Development Director shall cause to be mailed notice of the final decision to the applicant and to each person from whom written comments or objections to the preliminary determination have been received. Such decision shall be final and binding unless appealed in writing to the City Council within fifteen (15) days of the date of mailing of the Community Development Director's final decision. Any person may file such an appeal by letter addressed to the Community Development Director, accompanied by an appeal filing fee in the amount of \$100.
- h. In the event of an appeal, the City Council will review the reasons and information set forth in the letter of appeal; the findings, conclusions, and decision of Design Review Board, together with any written material submitted by the Community Development Director; and may take public comment. The City Council shall affirm the decision of the Design Review Board unless it finds the decision to be clearly erroneous, arbitrary and capricious, or contrary to law, in which case the Council may reverse or modify the decision or any conditions in connection therewith or may remand the same to the Design Review Board for further review as directed.
- i. The final decision of the City Council shall constitute the final decision of the City.

- H. Administrative Guidelines. The Community Development Director is authorized to promulgate administrative guidelines and materials to illustrate the requirements of this chapter or to provide examples of Signs that are permitted or prohibited by this chapter. Such guidelines and materials may be revised periodically at the discretion of the Community Development Director.

19.33.035 – Prohibited Signs.

The following Signs are prohibited within the City:

- A. Abandoned Signs;
- B. Bench Signs on or within thirty (30) feet of a public right-of-way;
- C. New Billboard Signs. Existing Billboard Signs will be considered Nonconforming Signs and may not be reconstructed, replaced, or relocated;
- D. Commercial Off-Premises Signs (Except (1) within the HBD as authorized by 19.33.090(A)(5), and (2) Multi-Business Complex Directory Signs located on a lot within the Multi-Business Complex as authorized by 19.33.090(E)(1));
- E. Roof Signs, including roof-mounted Signs and any Signs painted directly on the roof surface;
- F. Signs or Sign Structures which by coloring, shape, design, or location resemble or conflict with traffic control signs or devices;
- G. Signs that create a safety hazard for pedestrian or vehicular traffic, as determined by the Community Development Director in consultation with the Public Works Director;
- H. Signs with flashing, rotating, or blinking lights. This category includes Signs with a changing light intensity or brightness, or which are so constructed and operated as to create an appearance or illusion of motion or animation;
- I. Signs attached to public property without the permission of the government agency owning the same, including, without limitation: trees, utility poles, and street lights;
- J. Signs within the public right of way, except permitted Canopy Signs, Marquees, and Projecting Signs;
- K. Off-Premises Signs within an RM or RS zone;
- L. Privately installed Signs that restrict or adversely impact the use or activity of any public right-of-way without permission from the City;
- M. Signs placed on vehicles (or trailers) which are parked or located for the primary purpose of displaying said Sign (however, this provision does not apply to vehicles (or trailers) which are advertising themselves for sale);
- N. Signs in City-designated buffer zones or greenbelt areas (however, this provision does not apply to park and/or trail information signs);

- O. Streamers or inflatable objects, except for special events provided that they (1) if associated with an event, are removed within twenty-four (24) hours of said event, (2) conform to the Temporary Sign requirements, and (3) are located outside the Historic Business District;
- P. Laser lights; and
- Q. Any Sign contrary to the provisions of this chapter.

19.33.040 – General Provisions.

The following provisions shall apply to all zoning districts and to all Signs regulated by this chapter, subject however to the specific regulations in each zoning district:

A. No Sign shall be erected, caused to be erected, or allowed to remain erected except in compliance with all the regulations established in this chapter. No owner or lessee of any real property located within the corporate limits of the City shall knowingly allow any sign to be erected on any such property in violation of the provisions of this chapter. No person shall take any action intending to, or having the effect of, circumventing the purpose and intent of this chapter.

B. Sign Owner Responsibility. By installing any Sign in the City of Lynden, whether or not a permit is required for said Sign, the owner of the Sign acknowledges and assumes responsibility for compliance with this chapter, for the safety of the Sign, and for any and all damage to property or injury to person resulting from the Sign.

C. Maintenance. All Signs and components thereof must be maintained in good repair and in a safe, neat, clean, and attractive condition. The owner of the premises upon which a Sign is located shall be responsible for Sign maintenance.

D. Abandoned Signs – Hazardous Signs. Abandoned Signs shall be removed by the owner or lessee of the premises upon which the Sign is located within sixty (60) days of abandonment. Signs which constitute a safety hazard to the public as determined by the Building Official or Public Works Director shall be removed or made safe immediately.

E. Design Elements. Design elements include the following: sandblasting, hand carving, graphic art, masonry materials, wood, border accents, stained glass, wrought iron, steel brackets, outlining, lighting, Dutch character or graphics, lettering style, three or more colors, gold leaf, tile, frames, and shadowing. When reviewing Signs, the Design Review Board shall consider the relationship of the design elements to one another in the design of the Sign.

F. Safe and Secure Installation. Signs, Sign Structures, and bracing systems shall be designed and constructed to meet all requirements of the Uniform Building Code and the Lynden Municipal Code. All Electric Signs shall be designed, installed, and inspected in conformance with the National Electrical Code.

G. Clearance and Sight Distance. Marquees, Canopy Signs and/or Projecting Signs which project over areas where motor trucks may be required to pass beneath them shall maintain a minimum vertical clearance of fifteen feet. No Marquee, Canopy Sign, and/or Projecting Sign may project closer than two

feet from the curb line of the street. All Marquees, Canopy Signs, and/or Projecting Signs must maintain a minimum of eight feet of vertical clearance over pedestrian ways. Freestanding Signs and Portable Signs may not be placed within the clear vision triangle at the intersection of any streets, alleys, or driveways. This clear vision triangle is defined in Title 17.

H. Sign Illumination. Signs may be illuminated by indirect, internal, and/or exposed lighting methods, subject to the following requirements:

1. For Signs using indirect lighting, such lighting shall be directed and/or minimized to reduce glare to adjoining properties and/or the public right-of-way.
2. For Signs that are illuminated by an internal lighting source, it is encouraged that the Sign Face be opaque, with only the copy and/or logo(s) illuminated.
3. For Signs using an exposed lighting method, such method must be incorporated as part of the Sign or Sign Face. Signs constructed solely of exposed neon tubing or similar are not permitted.
4. Historic Business District. Subdued, indirect lighting is encouraged for Freestanding Signs located within the HBD.
5. Residential Districts. Freestanding Signs located within a RM, RS or MH zone may only utilize indirect lighting for illumination. Exception: permitted Reader Board Signs located within a RM or RZ zone.
6. Illuminated Signs may not flash, rotate, or blink. See LMC 19.33.035(H).

I. Signs Placed Within the Public Right-of-Way or on City Property. For any Sign placed within the public right-of-way or property owned by the City, continuous proof of liability insurance naming the City of Lynden as an additional insured is required. The Clerk-Treasurer of the City is authorized to determine the policy provisions and coverage amounts required.

19.33.050 – Residential Districts (All RS, RM and MH zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in each residential zoning district (RS, RM and MH zones):

A. Total Allowable Sign Area. The following maximum limits on Sign Area apply within all RS, RM and MH zones:

1. Four (4) square feet of Sign Area for each residential unit located on a lot, up to a maximum of twenty-four (24) square feet.
2. Exception: maximum Sign Area for residences within a Planned Residential Development will be determined by the Development Contract.

B. Maximum Sign Height. The maximum Sign Height for a Sign within an RM, RS or MH zone is five (5) feet.

19.33.060 – Historic Business, Local Commercial Services, and Public Use Districts (HBD, CSL, and PU zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in the historic business, local commercial services, and public use zoning districts (HBD, CSL, and PU zones):

A. Total allowable Sign Area. The following maximum limits on Sign Area apply within HBD, CSL, and PU zones:

1. One and one-half (1.5) square feet of Sign Area for each lineal foot of Primary Street Frontage of the Primary Building.
 - a. If a building is located on a corner lot, an additional three-quarter (0.75) square feet of Sign Area per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
 - b. If a building has alley frontage, an additional one (1) square foot of Sign Area per lineal foot of alley frontage is added to the total allowable Sign Area. This additional allowable Sign Area must be used on the alley front of the building.
 - c. The total Sign Area of Signs attached to any one wall shall not exceed one-hundred and fifty (150) square feet.
2. Twenty (20) square feet for an outdoor business which operates without a building.
3. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.
4. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within an HBD, CSL, or PU zone shall not extend higher than the surface of the nearest roof or building. In addition:

1. A Freestanding Sign within the HBD shall not exceed seven (7) feet in height.
2. A Freestanding Sign within a CSL or PU zone shall not exceed seventeen (17) feet in height.
3. A Canopy Sign or Sign mounted to a Marquee (1) shall not extend higher than the highest roof surface of the Canopy or Marquee, and (2) shall not extend higher than the roof of the nearest building or cornice line.
4. A Monument Sign of a single-business or agency shall not exceed five (5) feet in height. A Monument Sign of a Multi-Business Complex shall not exceed five (5) feet plus one (1) additional foot for each separate business included on said sign, to a maximum of seven (7) feet in height in the HBD zone, or seventeen (17) feet in height in all other zones.

19.33.063 – Regional Commercial Services Districts (CSR Zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in each regional commercial services zoning district (CSR zones):

A. Total allowable Sign Area. The following limits on Sign Area apply within CSR zones:

- 1. Two and one-half (2.5) square feet of Sign Area for each lineal foot of Primary Street Frontage.
 - a. In the event a building is located on a corner lot, an additional one and one quarter (1.25) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
 - b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.
- 2. Twenty (20) square feet for an outdoor business which operates without a building.
- 3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within a CSR zone may not exceed twenty-five (25) feet in height, except that a Sign located at least one hundred (100) feet, but not more than three hundred (300) feet from the right-of-way of a state highway may not exceed thirty-five (35) feet in height. In addition:

- 1. Canopy Signs or Signs mounted on a Marquee shall not extend higher than the highest roof surface of the Canopy or Marquee.
- 2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height. A Monument Directory Sign of a Multi-Business Complex shall not exceed five (5) feet in height plus one (1) additional foot for each separate business included on said Sign to a maximum of seventeen (17) feet.

19.33.065 – Industrial Districts (ID and IBZ zones).

In addition to the other applicable provisions of this chapter, the following regulations also apply in each industrial zoning district (ID and IBZ zones):

A. Total allowable Sign Area. The following limits on Sign Area apply within all ID and IBZ zones:

- 1. One and one-half (1.5) square foot of Sign Area for each lineal foot of Primary Street Frontage of the primary building.
 - a. In the event a building is located on a corner lot, an additional three-quarters (0.75) square feet per lineal foot of Primary Street Frontage is added to the total allowable Sign Area.
 - b. The maximum size of any one Sign shall not exceed one hundred and fifty (150) square feet.

- 2. Twenty (20) square feet for an outdoor business which operates without a building.
- 3. The total allowable Sign Area includes all types of Signs on all sides and all stories of the building or premises.

B. Maximum Sign Height. A Sign within an ID or IBZ zone shall not extend higher than the surface of the nearest roof of the building. In addition:

- 1. A Freestanding Sign shall not exceed seventeen (17) feet in height).
- 2. A Monument Sign of a single business or agency shall not exceed five (5) feet in height). A Monument Directory Sign of a Multi-Business Complex shall not exceed in height five (5) feet plus one (1) additional for each separate business included on said Sign, up to a maximum of ten (10) feet.

19.33.090 – Standards for Specific Sign Types.

In addition to the standards listed elsewhere in this chapter, the following standards shall apply in all zones. For Signs that meet the definition of more than one Sign type, the Community Development Director shall determine which standards apply based on the Sign’s function, location, and orientation.

A. Directional Signs.

- 1. Directional Signs may be erected without a Sign Permit if restricted to posting regulations regarding the use of the lot and to identifying a parking lot with its owner, operator, or name of the business providing the lot.
- 2. No advertising other than the name of the business may be included.
- 3. Sign Area. The total Sign Area for Directional Signs shall not exceed six (6) square feet for each one thousand (1,000) square feet of parking lot area and each Sign Face shall not exceed six (6) square feet; provided that each lot shall be allowed at least one Directional Sign; and provided further that these restrictions may be exceeded to the extent required by any applicable laws of the State of Washington.
- 4. Sign Height. Directional Signs shall not exceed a Sign Height of six (6) feet.
- 5. Off-Premises Directional Signs within the Historical Business District. One Off-Premises Directional Sign may be permitted per business within the HBD. Off-Premises Directional Signs within the HBD are limited to a maximum Sign Area of sixteen square feet. Off-Premises Directional Signs in the HBD shall not be Freestanding Signs and must be mounted on a building within the HBD. Only one such Off-Premises Directional Sign may be mounted per building side.

B. Freestanding Signs (Including, but not limited to, Monument Signs and Pole Signs).

- 1. Setback. Freestanding Signs must be setback at least five (5) feet inside property lines.

2. Landscaped Base. All Freestanding Signs shall have a landscaped area at the base of the Sign at least twice the size of the Sign Area. All required landscaping must be contiguous to the Sign. However, it is not required that the Sign be centered in the landscaping or that the shape of the landscaped area is consistent with the shape of the Sign.
3. Freestanding Signs within an RM or RS zone.
 - a. Only the following types of Permanent Freestanding Signs may be permitted within an RM or RS zone:
 - i. Monument Signs;
 - ii. Pole Signs mounted on two poles placed at the outermost side of the Sign Face.
 - b. A maximum of one Pole Sign per lot may be approved within an RM or RS zone.
4. Freestanding Signs within the HBD zone.
 - a. Sign Area. Monument Signs within the HBD shall not exceed twelve (12) square feet in Sign Area.
 - b. Pole Signs within the HBD must be mounted on two poles placed at the outermost edge of the Sign Face.
 - c. The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan.
5. Freestanding Signs within a CSL or PU zone.
 - a. Each business or agency within a CSL or PU zone is allowed no more than one (1) Freestanding Sign.
 - b. Sign Area. Monument Signs within a CSL or PU zone shall not exceed eighty (80) square feet in Sign Area.
 - c. Additional Setback. Monument Signs within a CSL or PU zone that exceed five (5) feet in Sign Height must be setback from all property lines a distance of one (1) foot for each foot of Sign Height.
 - d. Exception: The Community Development Director is authorized to permit alternative Monument Sign placement as a part of a streetscape improvement project in conformance with any public streetscape improvement plan and/or Planned unit development.
6. Freestanding Signs within a CSR zone.
 - a. Each business or agency within a CSR zone is allowed no more than one (1) Freestanding Sign per sixty (60) feet of Street Frontage. If more than one Freestanding Sign greater than five (5) feet in Sign Height is requested, the Signs

must be located at least sixty (60) feet apart and each Sign must be of equal size and shape.

- b. Sign Area. Freestanding Signs within a CSR zone shall not exceed one-hundred and fifty (150) square feet in Sign Area. If more than one Freestanding Sign is requested, the maximum Sign Area for each Freestanding Sign is reduced to one-hundred (100) square feet. The combined Sign Area of all Freestanding Signs must comply with the maximum allowable Sign Area allowed pursuant to LMC 19.33.063(A).

7. Freestanding Signs within an ID or IBZ zone.

- a. Each business or agency within an ID or IBZ zone is allowed no more than one (1) Freestanding Sign. Monument Signs are encouraged.
- b. Sign Area. Freestanding Signs within an ID or IBZ zone shall not exceed eighty (80) square feet in Sign Area.

C. Fuel Signs. Any permitted business selling motor fuel to the public may have one permanently mounted Fuel Sign not to exceed eighteen (18) square feet per Sign Face. If such Fuel Sign is incorporated into a Monument Sign allowed pursuant to this Sign Code, the allowable height of such Monument Sign may be increased by four (4) feet.

D. Home Occupation Signs. Home Occupation Permit signs must comply with the requirements of LMC 19.57.140(H).

E. Multi-Business Complex Directory Signs.

- 1. Each Multi-Business Complex is allowed one Directory Sign per Street Frontage, which may be located on any lot within the Multi-Business Complex.
- 2. Sign Area. The total Sign Area for each Multi-Business Complex Directory Sign shall not exceed thirty-two (32) square feet plus an additional six (6) square feet per business or agency located within the Multi-Business Complex, up to a maximum of eighty (80) square feet.
- 3. The width of any Sign Face of a Multi-Business Complex Directory Sign shall not exceed ten (10) feet.
- 4. The applicant must apportion some of the Sign Area on a Multi-Business Complex Directory Sign to each business or agency operating within the Multi-Business Complex, including businesses or agencies internal to the complex with no primary Street Frontage or access.

F. Mural Signs. Mural Signs are only permitted within the HBD. Mural Signs must be approved by the Design Review Board and are subject to the following standards:

- 1. A building permit must be obtained prior to the painting and/or installation of a Mural Sign.
- 2. Mural Signs shall not contain commercial messages.
- 3. No part of the Mural Sign shall extend beyond the building wall or freestanding wall on which it is painted, tiled, or otherwise affixed.

4. Mural Signs must be aesthetically compatible with respect to the community and must compliment the associated building or structure in terms of scale, color, and pattern.
5. Mural Signs must not have electrical or mechanical components.
6. Mural Signs must use materials, coatings, and/or other protective techniques that will resist vandalism and weathering.
7. Mural Signs must not pose a hazard to pedestrian and/or vehicular traffic.
8. An application to install a Mural Sign shall include a permanent plan for maintenance of the Mural Sign. The city may require the applicant to post a bond for costs associated with the maintenance and/or removal of the Mural Sign.
9. If a Mural Sign is removed, any materials used to affix the Mural Sign to the surface including, but not limited to, mounting hardware, brackets, adhesives, glues, caulking, and/or grout must be removed at the same time.

G. Projecting Signs.

1. Sign Area. Projecting Signs shall be no larger than thirty-two (32) square feet per side.
2. Projecting Signs shall not project more than six (6) feet from the building.
3. Projecting Signs that project into the right-of-way shall comply with the requirements of LMC 19.23.070.
4. Projecting Signs shall have a minimum clearance of eight (8) feet above the sidewalk and six (6) inches from the vertical wall.
5. Each Main Entry shall have no more than one (1) Projecting Sign.

H. Reader Board Signs (Including Electronic Reader Board Signs).

1. Reader Board Signs are permitted within the CSL, CSR, and PU zones.
2. New Reader Board Signs are prohibited within the HBD, RS, RM, and ID/IBZ zones. Exception: Reader Board Signs located within the RS and RM zones may be allowed pursuant to a permitted Conditional Use Permit.
3. Sign Area. A Reader Board Sign located within a RM or RS zone permitted through a conditional use permit shall not exceed sixteen (16) square feet in Sign Area. Exception: if the Rader Board Sign is incorporated into a larger Sign Structure, then the total Sign Area shall not exceed forty (40) square feet. A Reader Board Sign located within an HBD, CSL, or PU zone shall not exceed thirty (30) square feet in Sign Area. In the CSR zone, a Reader Board Sign shall not exceed thirty-six (36) square feet or seventy-five percent (75%) of a lot's total allowable Sign Area, whichever is less.
4. New Portable Reader Board Signs. No new portable Reader Board Signs shall be installed after the adoption of this code provision.
5. Electronic Reader Board Signs.

- a. No more than one (1) Electronic Reader Board Sign shall be permitted on a site or development complex.
 - b. *Static Image Display Minimum.* Electronic Reader Board Signs with changing messages shall not blink, flash, or change their message more frequently than once every four seconds.
 - c. *No Animation or Video.* Electronic Reader Board Signs shall display one static image for no less than four (4) seconds before changing to another static image display.
 - d. *Brightness.* All Electronic Reader Board Signs shall be equipped with an automatic dimming photocell device which automatically adjusts the display's brightness to preset levels based on ambient lighting conditions. All Electronic Reader Board Signs shall operate at brightness levels of no more than 0.3 footcandles above ambient light levels. All Electronic Reader Board Signs shall also be preset to prevent luminance above 5,000 nits during daylight hours and above 300 nits at night. An application to install an Electronic Reader Board Sign must include a certification by the developer that said Electronic Reader Board Sign will comply with these requirements.
 - e. *Advertising.* Electronic Reader Board Signs shall only be used to (1) advertise products, activities, or services available on the property or development complex on which the Sign is located, and/or (2) present public service information.
 - f. *Light Trespass Standard.* A maximum of 0.1 footcandles measured at the property line of any park or residential property.
 - g. *Malfunctioning Sign.* In the event that an Electronic Reader Board Sign is malfunctioning, such Sign shall be turned off until the Sign is repaired and functioning in full compliance with the requirements of this section.
- I. Sandwich Board Signs. Sandwich Board Signs are not permitted within MH, RS or RM zones. Within all other zones, Sandwich Board Signs may be placed upon a public or private sidewalk, subject to the following standards:
- 1. Sandwich Board Signs shall be aesthetically compatible with respect to the surrounding community.
 - 2. Sign Area. Sandwich Board Signs shall have a maximum Sign Area of eight (8) square feet per Sign Face.
 - 3. A Sandwich Board Sign shall have a maximum width of thirty (30) inches.
 - 4. Sign Height. A Sandwich Board Sign shall have a Sign Height of not less than thirty (30) inches and not more than four (4) feet.
 - 5. A business shall not use more than one (1) Sandwich Board Sign.
 - 6. A Sandwich Board Sign shall be within twenty-five (25) feet of the Main Entry of the premises or Multi-Business Complex it is associated with.

- 7. Sandwich Board Signs shall use materials, coatings, and/or other protective techniques that will resist weathering.
 - 8. Each Sandwich Board Sign shall be of sound construction and designed to withstand high winds, to the satisfaction of the Building Official.
 - 9. Sandwich Board Signs shall not have electrical or mechanical components.
 - 10. Sandwich Board Signs shall not pose a hazard to pedestrian or vehicular traffic.
 - 11. Sandwich Board Signs shall not be placed closer than fifteen (15) feet from the intersection of the extension of the curb lines (the edge of the curbs on the vehicular traffic side) of each intersecting street.
 - 12. Sandwich Board Signs shall be placed no further than three (3) feet from the building line. Exception: Sandwich Board Signs may be placed within twenty-four (24) inches of the curb line wherever parking is prohibited in the adjacent street.
 - 13. Sandwich Board Signs shall not be placed closer than twelve (12) inches from any tree grate or other planting.
 - 14. Sandwich Board Signs shall not be placed within a crosswalk.
 - 15. Sandwich Board Signs shall not be placed within fifteen (15) feet of another Sandwich Board Sign.
- J. Temporary Signs. See LMC 19.33.100.
- K. Window Signs. Window Signs located within the HBD zone shall not cover more than 30% of the windowpane. Window Signs located in all other zones shall not cover more than 50% of the windowpane.

19.33.100 – Temporary Signs.

In addition to any other applicable provisions of this chapter, the following standards apply to all Signs meeting the definition of Temporary Sign:

A. General Requirements for Temporary Signs.

- 1. No Temporary Sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, bench, or other type of street furniture, or otherwise create a safety hazard.
- 2. Duration. If a Temporary Signs is promoting a specific event, the Temporary Sign shall be removed within ten (10) days following the conclusion of said event.
- 3. Maximum Number of Temporary Signs. No more than four Temporary Signs (or, for multifamily complexes containing more than four residential units, no more than one Temporary Sign per unit) visible from the public right-of-way per lot are allowed.

4. A Temporary Sign shall be removed if it is worn, dilapidated, in need of repair, or if it creates a public nuisance.

B. Temporary Signs in Public Right-of-Way.

1. Location. Temporary Signs are only allowed in non-hard surface areas of public rights-of-way. Temporary Signs shall not be located in a right-of-way adjacent to public property owned or under the control of a unit of federal, state, or local government, or a special purpose district, unless otherwise approved by the unit of government.

2. Safety. All Temporary Signs shall be placed in a manner that is safe for all users of the public right-of-way. Temporary Signs shall not block access to structures or parked cars and shall not block vehicular sight distance at corners or intersections.

3. Permission of Owner of Abutting Property. Temporary Signs may only be placed in the public right-of-way if the Sign owner has permission from the owner of the abutting property or the person in control of the abutting property (such as a tenant).

C. Temporary Signs on Private Property. Temporary Signs may only be placed on private property with the consent of the property owner or person in control of the property (such as a tenant). The property owner or person in control of the property may remove the Temporary Sign(s) without notice.

D. Maximum Sign Area. Temporary Signs are limited in size to four square feet.

E. Maximum Sign Height. Temporary Signs shall not exceed three feet in height.

F. Temporary Banner. Each tenant space shall have no more than one temporary banner. Temporary banners are limited to thirty-two (32) square feet in size. Temporary banners may be permitted for a maximum of thirty (30) days during any consecutive three-hundred-sixty-five-day (365) period.

G. Signs that exceed the height or size requirements herein are considered Permanent Signs and must meet the standards of the applicable Sign category in this chapter.

19.33.140 – Message Substitution.

Signs containing noncommercial speech are allowed anywhere that Signs regulated by this chapter are allowed, subject to the same regulations applicable to such Signs including, but not limited to, requirements to obtain a Sign permit where applicable. A substitution of a noncommercial message may be made without any additional approval, permitting, or notice to the City.

19.33.150 – Interpretations.

Where there is any dispute concerning the interpretation of this chapter, the decision of the Community Development Director shall prevail, subject to appeal to the Hearing Examiner.

19.33.160 – Enforcing Official—Powers and Duties.

The enforcing official of this chapter shall be the Community Development Director who is hereby authorized and directed to enforce all the provisions of this chapter. The Community Development Director may appoint a designee to assist with the enforcement of this chapter. Signs for which a permit is required may be inspected periodically by the Community Development Director for compliance with this chapter.

19.33.170 – Removal of Signs.

A. Abandoned Signs shall be removed by the owner or lessee of the premises upon which the Sign is located within sixty (60) days after the business or service advertised by the Sign is no longer conducted. This also applies to billboards advertising defunct businesses or events.

B. The Community Development Director may order the removal of any Sign erected, installed, or allowed to remain in violation of this chapter. The Community Development Director shall give at least thirty (30) days' notice in writing, to the owner of such Sign, or of the building, structure, or premises on which such Sign is located, to remove the Sign or to bring it into compliance with this chapter. The Community Development Director may order removal of the Sign at the expense of the owner of the premises if compliance with the written order is not obtained. Notice to the owner shall be deemed to be given as of the date of deposit in the United States mail addressed to the address on record that date at the office of the Whatcom County assessor.

Exception: In the case of Temporary Signs, Banner Signs, Portable Signs, or Streamers, only five (5) days' notice need be given.

C. The Community Development Director may cause any Sign which is erected or displayed in violation of this chapter to be summarily removed without notice and at the expense of the owner of the Sign and/or premises if:

- 1. The condition of placement of the Sign presents, in the opinion of the Community Development Director, an immediate threat to the health and/or safety of the public;
- 2. The Sign is placed, in violation of this chapter, in a public right-of-way, upon City property, or attached to a utility pole, tree, or traffic Sign; or
- 3. The Sign described in a notice issued pursuant to subsection (B) above is not removed or brought into compliance with this chapter by the expiration of the thirty (30) day period described in said notice.

19.33.180 – Nonconforming Signs.

A. Nonconforming Signs shall be removed or brought into compliance with this chapter upon the loss of nonconforming status as noted in this section.

B. Those revolving or blinking Signs or Electronic Reader Board Signs granted a Sign permit prior to September 1, 1996, are considered permitted Signs under this chapter without restriction on scrolling or changing of the message. Any change or replacement of those Signs will require that the Signs be brought into compliance with this chapter or that a variance be applied for and granted.

C. Exception Pertaining to Portable Signs, Banner Signs and Streamers. All Portable Signs, Banner Signs and Streamers made nonconforming by this chapter shall be removed within ninety days of the effective date of the ordinance codified in this chapter.

D. Loss of Nonconforming Status.

1. A Nonconforming Sign shall immediately lose its legal, nonconforming status if:

- a. The Sign is structurally altered in any way; or
- b. The Sign is damaged in excess of fifty percent (50%) of the original cost of the Sign; or
- c. The Sign is relocated; or
- d. The Sign is replaced.

2. On the occurrence of any of the events described in subsection (D)(1) of this section, the Sign shall be immediately brought into compliance with this chapter with a new permit secured therefor, or shall be removed; provided, however, that the Community Development Director may authorize specific alterations of such Nonconforming Signs if it is found that the total amount of aggregate noncompliance of the Sign Area of the existing Signs on the premises is reduced at least fifty percent (50%) by the proposed alterations.

19.33.200 - Severability.

If any provision of this Chapter 19.33 is found to be invalid, the remaining provisions stand on their own and are still valid.

SECTION 4: 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 5: Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION 6: This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

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

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

Robert Carmichael, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | June 17, 2024 | |
| Name of Agenda Item: | RES-24-1098 Request to Cancel Checks | |
| Section of Agenda: | Consent | |
| Department: | Finance | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| Legal Review: | <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required | |
| Attachments: | RES-24-1098 Copy of cancellation memo. | |
| Summary Statement: | <p>RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and</p> <p>RCW 35A.40.020 provides code cities with the ability to pay claims via warrant or check and additionally states: "Wherever in this title, reference is made to warrants, such term shall include checks where authorized by this section."</p> <p>Check Numbering: 29611 has not and will not be presented for payment; and should be canceled.</p> | |
| Recommended Action: | The City Council give consent approval of RES-24-1098 and authorize the Mayor's signature. | |

**A RESOLUTION BY THE CITY OF LYNDEN, WASHINGTON
REQUESTING THE CANCELLATION
OF WARRANTS OR CHECKS**

WHEREAS, RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and

WHEREAS, RCW 35A.40.020 provides code cities with the ability to pay claims via warrant or check and additionally states: "Wherever in this title, reference is made to warrants, such term shall include checks where authorized by this section."

WHEREAS, it has been brought to the attention of the City Council that the Check numbering: 29611 has not and will not be presented for payment; and

WHEREAS, documentation has been provided that the payment due was paid on an invoice; and

NOW, THEREFORE, BE IT ORDAINED BY the City Council of the City of Lynden as follows:

Section A: That the following check: #29611 for \$31.54 be cancelled.

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

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

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

ATTEST:

MAYOR

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

300 4th Street
Lynden, WA 98264



June 7, 2024

Dear Laura,

On March 5, 2024, the City of Lynden drafted a check payable to USI – New Precision Technology Inc. in the amount of \$31.54. As of today, this check (#29611) has not cleared our bank account. I called the vendor today and found out that they never received our check. Also, there was confusion on the order and we were billed in error.

Please approve this void through City Council:

Check #29611 3/5/2024 \$31.54

- Vendor #2712
USI - New Precision Technology Inc.

Thank you,

Fritzie Elton
Accounting Lead-A/P
Finance Department

CITY OF LYNDEN



EXECUTIVE SUMMARY

| | | |
|---|--|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | Ord. 24-1687 Annexation of the Weg Property | |
| Section of Agenda: | Unfinished Business | |
| Department: | Community Development | |
| Council Committee Review: | <input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required | |
| Attachments: | | |
| Resolution 24-1090, May 28 th Expiration Letter from the Boundary Review Board, Map exhibit, Ord 24-1687 draft. | | |
| Summary Statement: | | |
| <p>At the January 16, 2024, meeting the City Council passed Resolution 24-1090, a resolution of intent to annex the property owned by Rick and Carol Weg as represented by Annexation Application 23-01. This property includes approximately 45 acres of the City’s Urban Growth Area on the northwest edge of the city and the portion of Double Ditch Road right-of-way it fronts. Per the Pepin Creek Subarea Plan, the property is slated to be added to the city with a zoning category of Residential Mixed Density (RMD) which allows single family homes and duplexes on a variety of lot sizes. Following the Resolution of Intent the annexation request was sent, as required by interlocal agreement, to the Boundary Review Board. The comment period of the Board closed with no concerns regarding the annexation.</p> <p>Ordinance 24-1687 is the final action needed to add the Weg property to the City of Lynden.</p> | | |
| Recommended Action: | | |
| Motion to approve Ordinance 24-1687 annexing the Weg property as represented by City of Lynden annexation application 23-01, and Boundary Review Board application 24-01, and to authorize the Mayor’s signature on the document. | | |

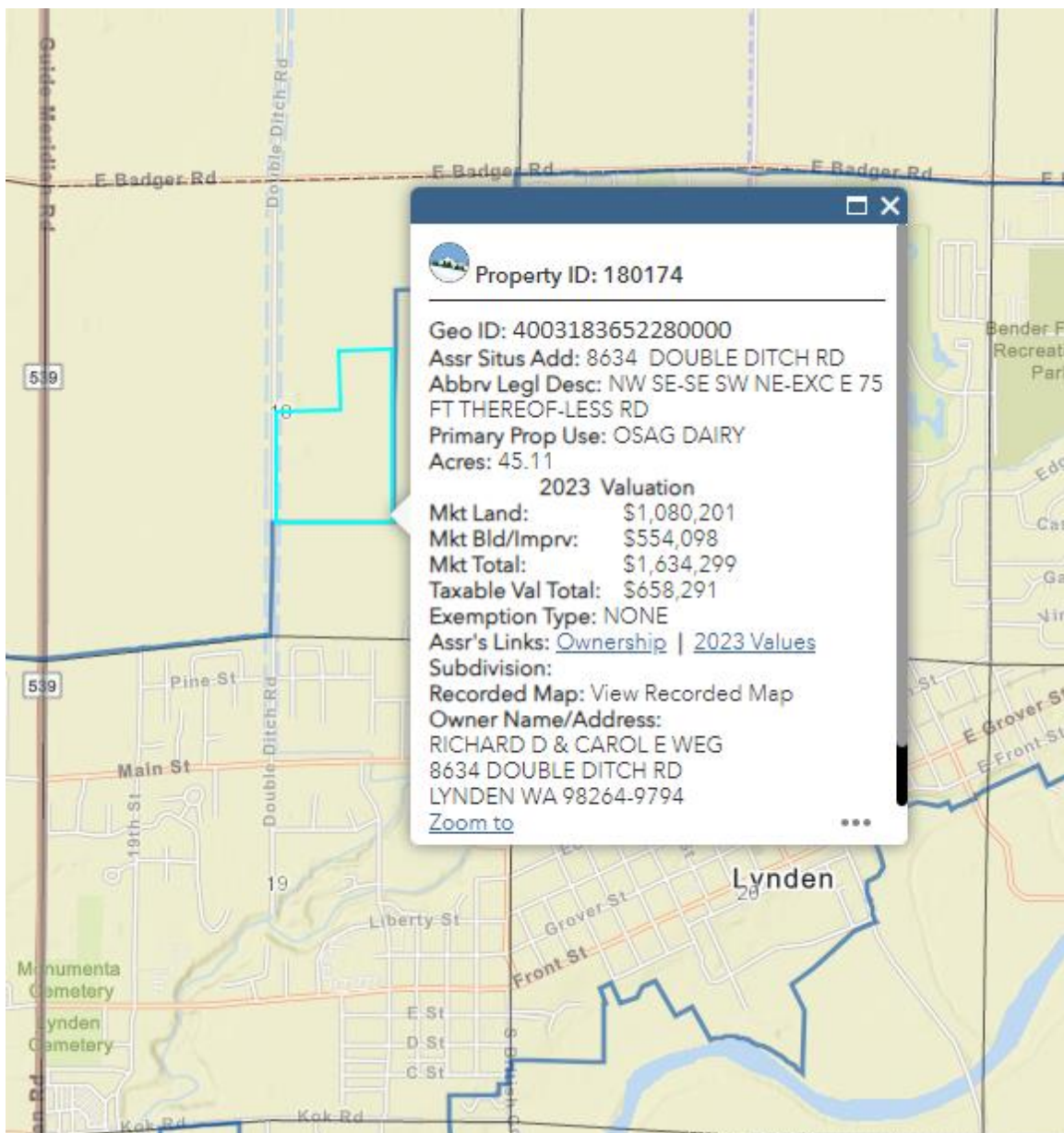
Land Description Weg Annexation

Legal Description:

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

Commonly known as: 8634 Double Ditch Road, Lynden

Assessor's Parcel No. 400318-365228



**Whatcom County
Boundary Review Board**



314 E. Champion Street
Bellingham, WA 98225
360.685.8382
wcbrb@wcog.org

75

May 28, 2024

Heidi Gudde
City of Lynden
300 4th Street
Lynden, WA 98264

Subject: BRB file #2024-01, City of Lynden annexation

Dear Ms. Gudde:

The 45-day timeframe for taking jurisdiction of BRB file #2024-01 expired May 28, 2024. Therefore, the Notice of Intention to annex approximately 47.57 acres into the City of Lynden, as described in BRB file #2024-01 is deemed approved pursuant to RCW 36.93.100.

The City of Lynden must give final approval to the annexation, and if approved shall submit a copy of the Final Ordinance **including the BRB number** to:

Lethal Coe, Chief Clerk
Boundary Review Board for Whatcom County
314 E Champion St
Bellingham WA 98225
Email: lethal@wcog.org or Fax: 360-738-6232

This will ensure that all appropriate Whatcom County Departments are notified, and adjustments are made to maps. This requirement is in addition to any state requirements.

Please contact me at wcbrb@wcog.org or 360-685-8382 if you have any questions.

Sincerely,

Lethal Coe, Chief Clerk
Boundary Review Board for Whatcom County

cc:

Whatcom County Executive
Whatcom County Public Works
Whatcom County Planning
Whatcom County Assessor
Whatcom County Sheriff
Whatcom County Auditor
Whatcom County Council
WCBRRB Board Members

Whatcom County Library System
North Whatcom Fire & Rescue District 21
Lynden Reg Parks and Recreation District
Lynden Community Development Director
Lynden School District
Cemetery District 10
City of Lynden Attorney

RES-24-1090

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

BACKGROUND

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

WHEREAS, the Property is legally described as:

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

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

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

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

PROCESS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

1.03 Ownership. Richard and Carol Weg.

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

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

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

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

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

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

CONCLUSIONS OF LAW

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

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

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

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

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

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

The foregoing recitals are a material part of this Decision.

NOW THEREFORE, BE IT RESOLVED by the Lynden City Council of intent to approve Annex 23-01 concerning the Weg Annexation under the conditions set forth herein. The final determination and associated findings and conditions of this Intent to Approve are fully incorporated herein by this reference. Final approval, by ordinance, will be made after final conclusions are determined by the Boundary Review Board per Whatcom County Contract No. 202206018.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF 6 IN FAVOR, 0 AGAINST, SIGNED THIS 17 DAY OF JANUARY 2024.

MAYOR



Scott Korthuis, Mayor

ATTEST:



Pam Brown, City Clerk

APPROVED AS TO FORM:



Bob Carmichael, City Attorney

ORDINANCE NO. 24-1687

**AN ORDINANCE OF THE CITY OF LYNDEN
TO PROVIDE ANNEXATION TO THE CITY OF LYNDEN**

BACKGROUND

WHEREAS, Richard and Carol Weg hereinafter called the “Proponent,” submitted a complete application to the City of Lynden, hereinafter called the “City,” for the annexation of approximately 47.57 acres (45.11 acres of property and 2.46 acres of right-of-way) into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as “the Property”; and

WHEREAS, the Property is legally described as:

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

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

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

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

PROCESS

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

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

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

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

WHEREAS, the Lynden Planning Commission reviewed the proposed application for the annexation of 47.57 acres into the City of Lynden and has provided recommendation to the Lynden City Council in Planning Commission Resolution 23-06; and

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

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

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

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

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

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

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

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

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

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

BACKGROUND

WHEREAS, Richard and Carol Weg hereinafter called the “Proponent,” submitted a complete application to the City of Lynden, hereinafter called the “City,” for the annexation of approximately 47.57 acres into the City of Lynden commonly described as 8634 Double Ditch Road, hereinafter referred to as “the Property”; and

WHEREAS, the Property is legally described as:

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

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

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

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

PROCESS

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

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

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

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

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

WHEREAS, the Lynden City Council held a public hearing on January 16, 2024, at the Lynden City Hall Annex, 205 4th Street, Lynden, Washington, to accept public testimony on the Weg Annexation, and that meeting was duly recorded; and

WHEREAS, the Lynden City Council reviewed the proposed application to annex and has approved Resolution 24-1090, indicating their intent to approve subject to the final determination of the Boundary Review Board per Whatcom County Contract No. 202206018.

WHEREAS, on May 28, 2024, the City received notice from the Boundary Review Board that the 45-day timeframe for taking jurisdiction expired and is deemed approved pursuant to RCW 36.93.100.

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

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

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

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

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

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

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

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

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

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

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

1.03 Ownership. Richard and Carol Weg.

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

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

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

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

1. The subject property is located within the City of Lynden’s Urban Growth Area (UGA) and has been determined by the City to be an appropriate location for future multi-family residential development. Upon annexation, the property will be zoned as Residential Mixed Density (RMD) as pre-determined by the Pepin Creek Sub-area Plan.
2. The area of annexation falls within the Pepin Creek Sub-area. Future development is subject to the Pepin Creek Sub-area plan as well as applicable development standards and associated impact fees.
3. The RMD zoning designation and the associated development standards are described in Lynden Municipal Code (LMC) 19.16. Current development regulations dictate a minimum density required within the RMD zoning in the Pepin Creek Subarea is 5 units per acre and the maximum permitted is 8 units per acre.
4. Critical area setbacks related to the existing and proposed Double Ditch / Pepin Creek channel will be applied as described in the City’s critical area ordinance.
5. The area is within the City’s water and sewer comprehensive plans. All water and sewer extensions shall be made in accordance with these adopted plans. Future development will be required to contribute toward the costs of any required pump stations which are needed to ensure adequate service to the area of annexation.
6. Stormwater: This area is within the City’s Stormwater Comprehensive Plan. A stormwater management plan prepared by a professional engineer will be required for new development and must be approved by the City of Lynden prior to approval of construction plans. An erosion control plan must be included in the drainage plan and construction plans as necessary. All plans must be designed and constructed in compliance with the Department of Ecology’s Best Management Practices and the standards approved in the Manual for Engineering Design and Development Standards.
7. This area is within the City’s Transportation Plan. Future development will be required to develop roadway networks consistent with this plan.
8. Future development will be subject to assessed fees in order to mitigate the impact on the City’s Park, Fire, and Transportation Systems. Some of these fees are due at the time of plat while others are assessed at the time of building permit. This property is also located within the Pepin Creek Service Area which has an additional Transportation Impact Fee due to infrastructure needs in this section of the City.

CONCLUSIONS OF LAW

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

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

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

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

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

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

The foregoing recitals are a material part of this Decision.

Section 3: The Property shall become a part of the City of Lynden and shall be subject to all laws, ordinances and resolutions of the City including any part of the comprehensive plan of said City hereinafter to be adopted with reference to Property and shall be therein designated RMD zoning (Residential Mixed Density), as per City of Lynden Zoning Map for said area, for land purposes, until otherwise classified.

Section 4: IT IS FURTHER PROVIDED that the Property shall be taxed or assessed to pay its share of any indebtedness of the City of Lynden, Washington, contracted prior to or existing at the date of this annexation.

Section 5: IT IS FURTHER PROVIDED that the annexation of the Property described in SECTION 1 above, being all of the property described in said petition, is subject to the conditions outlined in the Technical Review Committee Report and Planning Commission Resolution #23-06.

Section 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7: If any section, subsection, 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.

Section 8: This ordinance shall take effect and be in force from and after its passage by the City Council and approval by the Mayor, if approved, otherwise as provided by law and five (5) days after the date of publication.

AFFIRMATIVE VOTE ____ IN FAVOR, AND _____ AGAINST, AND SIGNED BY THE MAYOR THIS ____ DAY OF July 2024.

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

Robert Carmichael, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | Ordinance 24-1689 Regarding Fluoridation of the City's Water Supply | |
| Section of Agenda: | Unfinished Business | |
| Department: | Administration | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required | |
| Attachments: | ORDINANCE NO. 24-1689 | |
| Summary Statement: | At the June 3, 2024, Council meeting Motion made to direct staff to draft an ordinance to repeal LMC 13.04.440 (Fluoridation Authorized) and Ordinance No. 371 from 1959, regarding adding fluoride to the city's water supply. | |
| Recommended Action: | This item is available for Council discussion and action. | |

ORDINANCE NO. 24-1689

AN ORDINANCE OF THE CITY OF LYNDEN REPEALING ORDINANCE NO. 371, CODIFIED AT LYNDEN MUNICIPAL CODE 13.04.440, REGARDING FLUORIDATION OF THE CITY'S WATER SUPPLY

WHEREAS, the City of Lynden ("City") is a municipal corporation empowered under the laws of the State of Washington to furnish water service to property owners within and without the City in the manner provided by law; and

WHEREAS, in 1959 the Lynden City Council passed and approved Ordinance No. 371, a copy of which is attached hereto as **Exhibit A**, which authorized and directed the City's water department to add fluoride to the City's public water supply, in accordance with the rules and regulations of the State Board of Health pertaining thereto; and

WHEREAS, Ordinance Number 371 is currently codified at Lynden Municipal Code 13.04.440; and

WHEREAS, in 2023 the City Council began hearing from an increasing number of community members seeking discontinuation of the addition of fluoride to the City's water supply; and

WHEREAS, pursuant to RCW 70A.125.120, a public water system considering commencing or discontinuing fluoridation of its water supply must notify its customers and the Washington State Department of Health at least 90 days prior to a vote or decision on the matter; and

WHEREAS, in late January, 2024, the City sent a letter to the Washington State Department of Health notifying the Department that the City would be considering discontinuing fluoridation of the City's water supply; and

WHEREAS, the City scheduled a public hearing on whether the addition of fluoride to the City's water supply should be discontinued, and undertook extensive efforts to effectively notify its water customers ahead of said public hearing; and

WHEREAS, public notice of the hearing included without limitation: (1) posting a legal notice in the Lynden Tribune on January 31, 2024, (2) posting a News Flash on the City's website, (3) including an insert in the utility bills sent out to the City's customers during March and April 2024, and (4) placed an advertisement for the public hearing in the April 3rd and April 24th 2024 publications of the Lynden Tribune; and

WHEREAS, the City Council held a public hearing on whether the City should discontinue fluoridation of the City's water supply at its May 6, 2024 meeting, at which time public testimony was taken; and

WHEREAS, said public hearing was continued and further public testimony was taken at the May 20, 2024 City Council meeting, after which the public hearing was closed; and

WHEREAS, the City also invited the submission of written comments on the topic, which were included in the public record and provided to members of the City Council; and

WHEREAS, the City Council discussed whether to discontinue fluoridation of the City’s water supply at the June 3rd, 2024, City Council meeting; and

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

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Lynden, Washington, as follows:

Section 1: Ordinance No. 371 authorizing and directing the fluoridation of the City’s water supply is hereby repealed in full. Section 13.40.440 shall be removed from the Lynden Municipal Code.

Section 2: Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 3: If any section, subsection, 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 City 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 4: This ordinance shall be in full force and effect five (5) days after its passage, approval, and publication as provided by law.

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

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|--|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | RESOLUTION 24-1099 REGARDING FLUORIDATION OF THE CITY'S WATER SUPPLY | |
| Section of Agenda: | Unfinished Business | |
| Department: | Public Works | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____ | Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required |
| Attachments: | Resolution 24-1099 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNDEN REGARDING FLUORIDATION OF THE CITY'S WATER SUPPLY | |
| Summary Statement: | At the June 3, 2024, Council a motion was made by Councilor Lenssen, seconded by Councilor Wohlrab to the following: 1. Staff is instructed to use the remaining fluoride until it runs out; 2. That the fluoridization equipment is left in place at the water treatment plant for a minimum of five years and that it takes council action at that point or any time after to remove it; 3. Instruct Staff to come up with \$25,000 for promotion of oral health education in the Lynden community. Motion approved 7-0. | |
| Recommended Action: | This item is available for Council discussion and action. | |

RESOLUTION NO. 24-1099

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LYNDEN
REGARDING FLUORIDATION OF THE CITY’S WATER SUPPLY**

WHEREAS, the City of Lynden (“City”) is a municipal corporation empowered under the laws of the State of Washington to furnish water service to property owners within and without the City in the manner provided by law; and

WHEREAS, in 1959 the Lynden City Council passed and approved Ordinance No. 371, a copy of which is attached hereto as **Exhibit A**, which authorized and directed the City’s water department to add fluoride to the City’s public water supply, in accordance with the rules and regulations of the State Board of Health pertaining thereto; and

WHEREAS, Ordinance Number 371 is currently codified at Lynden Municipal Code 13.04.440; and

WHEREAS, in 2023 the City Council began hearing from community members seeking discontinuation of the addition of fluoride to the City’s water supply; and

WHEREAS, pursuant to RCW 70A.125.120, a public water system considering commencing or discontinuing fluoridation of its water supply must notify its customers and the Washington State Department of Health at least 90 days prior to a vote or decision on the matter; and

WHEREAS, in late January, 2024, the City sent a letter to the Washington State Department of Health notifying the Department that the City would be considering discontinuing fluoridation of the City’s water supply; and

WHEREAS, the City scheduled a public hearing on whether the addition of fluoride to the City’s water supply should be discontinued, and undertook extensive efforts to effectively notify its water customers ahead of said public hearing; and

WHEREAS, public notice of the hearing included without limitation: (1) posting a legal notice in the Lynden Tribune on January 31, 2024, (2) posting a News Flash on the City’s website, (3) including an insert in the utility bills sent out to the City’s customers during March and April 2024, and (4) placed an advertisement for the public hearing in the April 3rd and April 24th, 2024 publications of the Lynden Tribune; and

WHEREAS, the City Council held a public hearing on whether the City should discontinue fluoridation of the City’s water supply at its May 6, 2024 meeting, at which time public testimony was taken; and

WHEREAS, said public hearing was continued and further public testimony was taken at the May 20, 2024 City Council meeting, after which the public hearing was closed; and

WHEREAS, the City also invited the submission of written comments on the topic, which were included in the record and provided to members of the City Council; and

WHEREAS, the City Council discussed whether to discontinue fluoridation of the City's water supply at the June 3rd, 2024, City Council, meeting; and

WHEREAS, after consideration of the issue and the public comments received, it is the desire of a majority of the City Council that fluoridation of the City's water supply cease once the City's current supply of fluoride is exhausted; and

WHEREAS, the City Council also desires to make a commitment to promoting oral health efforts in the community; and

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lynden, Washington, as follows:

Section 1: Fluoridation of the City's water supply shall continue until the supply of fluoride the City's public works department currently has on-hand is exhausted.

Section 2: Once the current supply of fluoride is exhausted, the Public Works Department shall discontinue fluoridation of the City's municipal water supply.

Section 3: The fluoride tank, pumps, and related appurtenances at the City's water plant shall not be removed without prior authorization of the City Council. The City Council intends that said fluoride tank, pumps, and related appurtenances remain in place for a period of at least five (5) years from the date of this resolution.

Section 4: City staff shall develop a plan to promote oral health within the Lynden community for review by the City Council, to be funded in the amount of \$25,000 annually, commencing with the 2025 budget.

Section 5: 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 6: If any section, subsection, 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 City 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 has been declared invalid or unconstitutional, and if, for any reason, this resolution should be declared invalid or unconstitutional, then the original resolution or resolution shall be in full force and effect.

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

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

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



| | | |
|----------------------------------|---|--|
| Meeting Date: | July 1, 2024 | |
| Name of Agenda Item: | Approval of Payroll and Claims | |
| Section of Agenda: | Reports | |
| Department: | Finance | |
| Council Committee Review: | <input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks | <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____ |
| | | Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required |
| Attachments: | Payroll and Claims | |
| Summary Statement: | Approval of Payroll and Claims through June 17, 2024 | |
| Recommended Action: | None | |

CITY OF LYNDEN

FINANCE DEPARTMENT
Christy Fowler, Interim Finance Director
(360) 354 - 2829



CLAIMS CLEARING CERTIFICATION

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due, and unpaid obligation against the City of Lynden, and that I am authorized to authenticate and certify to said claim.

DATED: 5/21/2024

SIGNED: *Christy Fowler*
CHRISTY FOWLER, INTERIM FINANCE DIRECTOR

As of this date 5/21/2024, the following vouchers and checks have been reviewed and recommended for Council payment approval:

Manual Checks No. _____ through _____ Amount \$ _____

EFT Payment Pre-pays Amount \$ _____

Sub Total Prepays \$ 0.00

Checks No. 30150 through 30215 Amount \$ 612,560.62

EFT Payments Amount \$ 73,942.21

Sub Total \$ 686,502.83

Total Accounts Payable \$ 686,502.83

Paid By Affidavit of Lost Check No. _____ Amount \$ _____

Voided Checks: _____

CITY OF LYNDEN

FINANCE DEPARTMENT
Laura Scholl, Finance Director
(360) 354 - 2829



CLAIMS CLEARING CERTIFICATION

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due, and unpaid obligation against the City of Lynden, and that I am authorized to authenticate and certify to said claim.

DATED: 6/11/2024

SIGNED: 
LAURA SCHOLL, FINANCE DIRECTOR

As of this date 6/11/2024, the following vouchers and checks have been reviewed and recommended for Council payment approval:

| | | |
|-------------------------|----------------------|--|
| Manual Checks No. _____ | through _____ | Amount \$ _____ |
| EFT Payment Pre-pays | | Amount \$ <u>0.00</u> |
| | | Sub Total Prepays \$ <u>0.00</u> |
| Checks No. <u>30330</u> | through <u>30381</u> | Amount \$ <u>255,031.10</u> |
| EFT Payments | | Amount \$ <u>23,567.85</u> |
| | | Sub Total \$ <u>278,598.95</u> |
| | | Total Accounts Payable \$ <u>278,598.95</u> |

Paid By Affidavit of Lost Check No. _____ Amount \$ _____

Voided Checks: _____

CITY OF LYNDEN

FINANCE DEPARTMENT
Christy Fowler, Interim Finance Director
(360) 354 - 2829



CLAIMS CLEARING CERTIFICATION

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered, or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due, and unpaid obligation against the City of Lynden, and that I am authorized to authenticate and certify to said claim.

DATED: 6/4/2024

SIGNED: *Christy Fowler*
CHRISTY FOWLER, INTERIM FINANCE DIRECTOR

As of this date 6/4/2024, the following vouchers and checks have been reviewed and recommended for Council payment approval:

| | | | | | | |
|----------------------|--------------|---------|--------------|-------------------------------|----|-------------------|
| Manual Checks No. | <u>30279</u> | through | <u>30281</u> | Amount | \$ | <u>27,888.06</u> |
| EFT Payment Pre-pays | | | | Amount | \$ | <u>0.00</u> |
| | | | | Sub Total Prepays | \$ | <u>27,888.06</u> |
| Checks No. | <u>30282</u> | through | <u>30314</u> | Amount | \$ | <u>43,159.55</u> |
| EFT Payments | | | | Amount | \$ | <u>199,611.08</u> |
| | | | | Sub Total | \$ | <u>242,770.63</u> |
| | | | | Total Accounts Payable | \$ | <u>270,658.69</u> |

Paid By Affidavit of Lost Check No. _____ Amount \$ _____

Voided Checks: _____

CITY OF LYNDEN

FINANCE DEPARTMENT
 (360) 354 - 2829



City of Lynden Payroll Liability for May 5 thru May 18, 2024

Document No _____ Current Pay Period May 5-18, 2024 Adjustments Monthly Total

| Check No | Vendor payments generated by the City of Lynden | Current Pay Period | Adjustments | Monthly Total |
|--------------------|---|--------------------|-------------|---------------|
| Checks | | | | |
| General Teamster | | 1,172.50 | | 1,172.50 |
| Forge Fitness | | 26.57 | | 26.57 |
| NFOP-Labor Service | | 779.25 | | 779.25 |
| Homestead Fitness | | 452.29 | | 452.29 |
| Total Checks | | 2,430.61 | | 2,430.61 |

| Reference No | EFT Payments | Current Pay Period | Adjustments | Monthly Total |
|--------------|---|--------------------|-------------|---------------|
| 240524119 | Dept of Retirement (DRS) LEOFF | 24,738.81 | | 24,738.81 |
| 240524119 | Dept of Retirement (DRS) PERKS | 31,832.63 | | 31,832.63 |
| 240524117 | TASC FSA | 1,778.78 | | 1,778.78 |
| 240524119 | Dept of Retirement (DCP) | 7,850.50 | | 7,850.50 |
| 240524116 | Nationwide - ACH by City of Lynden | 6,017.30 | | 6,017.30 |
| 240524118 | LEAF (EE Activity Cont) | 261.00 | | 261.00 |
| 240524114 | Garnishment - ACH & Ready Chex | 693.56 | | 693.56 |
| 240524114 | IRS- ACH | 85,322.16 | | 85,322.16 |
| 240524115 | Mission Square | 7,612.61 | | 7,612.61 |
| | Homestead Fitness | | | |
| | Local 106 Lynden Fire House Fund | 32.50 | | 32.50 |
| | AFLAC | 1,261.07 | | 1,261.07 |
| | IAFF Local 106 | 1,070.94 | | 1,070.94 |
| | LPO Association | 313.00 | | 313.00 |
| | AWC Employee Benefits Trust | 7,944.62 | | 7,944.62 |
| | Total EFT Payments | 176,729.48 | | 176,729.48 |
| | Total Vendor Payments generated by the City of Lynden | 179,160.09 | | 179,160.09 |

| Reference No | Other Vendor payments | Current Pay Period | Adjustments | Monthly Total |
|--------------|-----------------------------|--------------------|-------------|---------------|
| | Quarterly | | | |
| | Employment Security | 1,538.98 | | 1,538.98 |
| | PFML Wa Disability | 5,848.92 | | 5,848.92 |
| | WA L&I | 20,982.23 | | 20,982.23 |
| | Total Quarterly | 28,370.13 | | 28,370.13 |
| | Total Other Vendor payments | 28,370.13 | | 28,370.13 |
| | TOTAL Vendor Payments | 207,530.22 | | 207,530.22 |

| Employee payroll | EFT & Other Liabilities | Current Pay Period | Adjustments | Monthly Total |
|---|-------------------------------|--------------------|-------------|---------------|
| Net Pay Direct Deposit | Non-L&I Liabilities | | | |
| 240524000-240524113 | Monthly EFT | 459,813.73 | | 459,813.73 |
| Checks | Check Liability | | | |
| City of Lynden Manual Checks | Total Non-L&I Liabilities | 459,813.73 | | 459,813.73 |
| Total Employee payroll | Quarterly Liabilities | | | |
| | Total EFT & Other Liabilities | 28,370.13 | | 28,370.13 |
| Council Approval | | | | |
| Payroll Liability May 24, 2024 | | 488,183.86 | | 488,183.86 |
| Vendor check adjustments | | - | | - |
| EFT Vendor Adjustment | | - | | - |
| Employment Security PML/PFL Adjustments | | - | | - |
| Labor & Industries Adjustments | | - | | - |
| Total Council Approval | | 488,183.86 | | 488,183.86 |
| | BALANCE FORWARD | | | 5,399,955.19 |
| | Y. T. D. | | | 5,888,139.05 |

I, the undersigned, do hereby certify, under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claim is a just, due and unpaid obligation against the City of Lynden, and that I am authorized to authenticate and certify said claim.

Approved for payment
 08/11/2024

Michael...
 Auditing and Finance Committee

Finance Director *Christi...*
 Christy Fowler, Accounting Manager
 Gina Umpero, Accounting Lead Payroll

CITY OF LYNDEN

FINANCE DEPARTMENT
(360) 354 - 2829



City of Lynden Payroll Liability for May 19 thru June 1, 2024

| Document No | Current Pay Period | | Adjustments | Monthly Total |
|--|--|-------------------|-------------|--|
| | May 19 - Jun 1, 2024 | | | |
| Vendor payments generated by the City of Lynden | | | | |
| Check No | Checks | | | |
| 30318 | General Teamster | 1,147.50 | \$ | 1,147.50 |
| 30315 | Forge Fitness | 26.57 | | 26.57 |
| 30317 | NFOP - Labor Service | 703.75 | | 703.75 |
| 30316 | Homestead Fitness | 474.21 | | 474.21 |
| | Total Checks | 2,352.03 | \$ | 2,352.03 |
| EFT Payments | | | | |
| Reference No | Dept of Retirement (DRS) LEOFF | 26,252.60 | \$ | 26,252.60 |
| 240607126 | Dept of Retirement (DRS) PERS | 32,523.04 | | 32,523.04 |
| 240607124 | TASC FSA | 1,845.44 | | 1,845.44 |
| 240607126 | Dept of Retirement (DCP) | 7,653.95 | | 7,653.95 |
| 240607123 | Nationwide - ACH by City of Lynden | 6,241.27 | | 6,241.27 |
| 240607119 | LEAF (EE Activity Cont) | 261.00 | | 261.00 |
| 240607124 | Garnishment - ACH & Ready Chex | 693.56 | | 693.56 |
| 240607118 | IRS - ACH | 86,572.07 | | 86,572.07 |
| 240607122 | Mission Square | 7,812.84 | | 7,812.84 |
| 240607120 | Homestead Fitness | 32.50 | | 32.50 |
| 240607115 | Local 106 Lynden Fire House Fund | 1,213.86 | | 1,213.86 |
| 240607117 | AFLAC | 1,070.94 | | 1,070.94 |
| 240607121 | IAFF Local 106 | 313.00 | | 313.00 |
| 240607116 | LPO Association | 171,250.09 | | 171,250.09 |
| | AWC Employee Benefits Trust | 343,738.16 | | 343,738.16 |
| | Total EFT Payments | 343,738.16 | \$ | 343,738.16 |
| | Total Vendor Payments generated by the City of Lynden | 346,090.19 | \$ | 346,090.19 |
| Other Vendor payments | | | | |
| Reference No | Quarterly | | | |
| | Employment Security | 1,538.98 | \$ | 1,538.98 |
| | PFML Wa Disability | 5,848.92 | | 5,848.92 |
| | WAL&I | 20,982.23 | | 20,982.23 |
| | Total Quarterly | 28,370.13 | \$ | 28,370.13 |
| | Total Other Vendor payments | 28,370.13 | \$ | 28,370.13 |
| | TOTAL Vendor Payments | 374,460.32 | \$ | 374,460.32 |
| Employee payroll | | | | |
| | Net Pay Direct Deposit | 283,912.38 | \$ | 283,912.38 |
| Checks | | | | |
| | City of Lynden Manual Checks | - | | - |
| | Total Employee payroll | 283,912.38 | \$ | 283,912.38 |
| Council Approval | | | | |
| | Payroll Liability June 07, 2024 | 658,372.70 | \$ | 658,372.70 |
| | Vendor check adjustments | - | | - |
| | EFT Vendor Adjustment | - | | - |
| | Employment Security Adjustments | - | | - |
| | Employment Security PML/PFL Adjustments | - | | - |
| | Labor & Industries Adjustments | - | | - |
| | Total Council Approval | 658,372.70 | \$ | 658,372.70 |
| | | | | Non-L&I Liabilities |
| | | | | Monthly EFT |
| | | | | Check Liability |
| | | | | Total Non-L&I Liabilities |
| | | | | 630,002.57 |
| | | | | Quarterly Liabilities |
| | | | | Total EFT & Other Liabilities |
| | | | | 28,370.13 |
| | | | | 658,372.70 |
| | | | | BALANCE FORWARD |
| | | | | Y. T. D. \$ 5,888,139.05 |
| | | | | 6,546,511.75 |

I, the undersigned, do hereby certify, under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claim is a just, due and unpaid obligation against the City of Lynden, and that I am authorized to authenticate and certify said claim.

Approved for payment
06/11/2024

[Signature]
Finance Director

[Signature]
Christy Fowler, Accounting Manager

[Signature]
Gina Imbier, Accounting Lead Payroll

Auditing and Finance Committee