

# CITY OF LYNDEN



Mayor  
Scott Korthuis

Council Members  
Gary Bode  
Ron De Valois  
Gerald Kuiken  
Nick H. Laninga  
Brent Lenssen  
Kyle Strengholt  
Mark Wohlrab

Regular City Council Meeting  
City Annex- 205 Fourth Street  
August 16, 2021

## **Call to Order**

## **Pledge of Allegiance**

## **Roll Call**

## **Oath of Office**

## **Approval of Minutes**

- [1.](#) Draft Council Minutes- Regular Meeting

## **Items from the Audience**

### ***Scheduled***

### ***Unscheduled (20 Minutes)***

*Audience members may address the Council on any issue other than those scheduled for a public hearing or those on which the public hearing has been closed. Prior to commenting please state your name, address, and topic. Please keep comments under 4 minutes.*

## **Consent Agenda**

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

## **Public Hearing**

- [3.](#) Continuation of Public Hearing to Amend LMC Titles 16 and 19 regarding SEPA thresholds and minimum density - Ord 1627
- [4.](#) Public Hearing- Ordinance No. 1632 Amending the Comprehensive Plan and Pepin Subarea Plan
- [5.](#) Public Hearing-Ordinance No. 1631 Updating Transportation Impact Fees (TIF)

## **Unfinished Business**

## **New Business**

**Other Business**

- [6.](#) Public Works Committee Meeting Minutes August 4, 2021
- [7.](#) Calendar

**Executive Session****Adjournment**

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Draft Council Minutes- Regular Meeting	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: N/A	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	Draft Council Minutes- Regular Meeting	
<b>Summary Statement:</b>	Draft Council Minutes- Regular Meeting	
<b>Recommended Action:</b>	For Council review.	

# CITY OF LYNDEN

## CITY COUNCIL MINUTES OF REGULAR MEETING



August 2, 2021

### 1. CALL TO ORDER

Mayor Korthuis called to order the August 2, 2021, regular session of the Lynden City Council at 7:00 p.m., held at the City Annex.

### ROLL CALL

Members present: Mayor Scott Korthuis and Councilors, Gary Bode, Ron De Valois, Jerry Kuiken, Brent Lenssen, Nick Laninga, and Kyle Strengholt.

Members absent: Councilor Wohlrab absent.

Staff present: Finance Director Anthony Burrows, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Police Chief Steve Taylor, and City Clerk Pam Brown.

### OATH OF OFFICE- None

### APPROVAL OF MINUTES

***Councilor De Valois moved and Councilor Strengholt seconded to approve the July 19, 2021, regular council minutes as presented. Motion approved on a 6-0 vote.***

### ITEMS FROM THE AUDIENCE

#### Scheduled- None

#### Unscheduled:

##### Angela McClendon, 849 Main Street, Lynden

Ms. McClendon spoke to council about the number of drivers speeding on Main Street. She also expressed concern with the lack of speed limit signage in the area of Main Street. She noted that the area is a 25 MPH residential zone. In the past week her neighbor's car (parked on the side of the road) was hit with such force that the car landed on its side. She also voiced concern for her children's safety and the possibility of someone being hit by a speeding driver.

##### Marsha V., 826 Main Street, Lynden

Marsha also voiced her concern with speeding on Main Street and spoke in support of Angela McClendon. She is interested in Lynden's form of local government in regard to the Mayor

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CITY COUNCIL  
MINUTES OF REGULAR MEETING



and council members representation and who should she contact if she has future concerns about that is happening in Lynden.

## 2. CONSENT AGENDA

### Payroll Liability to July 1 through July 15, 2021

#### EFT & Other Liabilities

##### Non-L&I Liabilities

Monthly EFT .....	\$380,172.04
Check Liability .....	\$10,082.58
Total Non-L&I Liabilities .....	\$390,254.62
Quarterly Liabilities .....	\$11508.34

**Total EFT & Other Liabilities** **\$401,762.96**

### Payroll Liability to July 16 through July 31, 2021

#### EFT & Other Liabilities

##### Non-L&I Liabilities

Monthly EFT .....	\$374,714.27
Check Liability .....	\$12,401.12
Total Non-L&I Liabilities .....	\$496,115.39
Quarterly Liabilities .....	\$12,405.44

**Total EFT & Other Liabilities** **\$508,520.83**

### Approval of Claims – August 3, 2021

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$276,386.28
				Sub Total Pre-Pays	\$276,386.28
Voucher Warrants No.	<u>22558</u>	through	<u>22593</u>		\$208,920.64
EFT Payments					\$0.000
				Sub Total	\$208,920.64
				Total Accts. Payable	<b>\$485,306.92</b>

### Ordinance No. 1630- Amendment to the 2021 Budget

As required by State regulations, the Finance Department is proposing an amendment to the 2021 Budget. Increased Protective Inspections have resulted in additional expenditures requiring an increase to the budget in Fund 119.

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## CITY COUNCIL MINUTES OF REGULAR MEETING



This amendment reflects Council authorized transactions for the following:

Adopted Budget	Amended Budget	Variance
\$65,000	\$140,000	\$75,000

The Finance Committee reviewed this amendment in their July 19, 2021, meeting.

### Set the Public Hearing Date-Amendment to the Comprehensive Plan – Pepin Planning

On March 1, 2021, City Council adopted a Resolution of Intent (Resolution No. 1031) which outlines the path forward to lifting the moratorium on the Pepin Creek Sub-Area and implementing the infrastructure associated with the Pepin Lite Plan.

The 13 infrastructure projects identified in Pepin Lite include creek re-location but also considerable street improvement projects. Nine of the projects directly serve the development within the Pepin Creek Sub-Area. Another 4 projects are identified as providing benefit to existing neighborhoods or the general community.

Next steps include the establishment of a fair allocation of costs for the 9 projects specific to the sub-area. The mechanism that showed the most merit is the use of Transportation Impact Fees (TIF) administered in the form of a SEPA mitigation fee or adopted as a TIF overlay.

The amendment to portions of the City's Comprehensive Plan, including the Pepin Creek Subarea Plan and Transportation Element, reflects the infrastructure projects associated with the Pepin Lite plan. Amending the Comprehensive Plan as well as the development code (see accompanying Ordinance No. 1627) assures alignment among the City's documents and standards.

On June 10, 2021, the Planning Commission held a public hearing on the item. The Commission concluded the hearing and review with a recommendation to approve the Amendment. (Minutes of that meeting are also included in the council packet.) As this is a legislative item, a second public hearing will be held with the City Council. Tonight, the Council is asked to set the date of that hearing for August 16, 2021.

### Set the Public Hearing Date- Update Transportation Impact Fees

On March 1, 2021, the City Council adopted a Resolution of Intent (Resolution No. 1031) which outlines the path forward to lifting the moratorium on the Pepin Creek Sub-Area and implementing the infrastructure associated with the Pepin Lite Plan. The mechanism that showed the most merit is the use of Transportation Impact Fees (TIF) administered in the form of a SEPA mitigation fee or adopted as a TIF overlay.

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## CITY COUNCIL MINUTES OF REGULAR MEETING



City staff has engaged with our consultant Transpo to revise the City's TIF project list to include the 13 infrastructure projects identified in Pepin Lite include creek and reflect the associated funding sources. Transpo has also adjusted their City-wide trip analysis to reflect the growth that will occur in Pepin Creek as laid out in the Pepin Creek Subarea. This is the addition of approximately 1550 housing units over the next 15 years.

Revisions to the TIF will also remove what is known as the West Lynden discount. This has been a 50% discount in transportation and park impact fees for specific areas west of the Guide Meridian based on Council Resolution No. 709. It was established in 2005 with the understanding that outside funding sources would subsidize the remaining half of the impact fees. Outside support for roadway projects has since declined and the City has been unable to secure the expected funding.

The Community Development Committee discussed the removal of the discount at an April meeting and asked that staff draft Council action which would remove the fee beginning in January 2022.

To summarize, the upcoming ordinance will:

1. Implement a TIF Overlay on the Pepin Creek Sub-area which will enable the City to collect a fee of \$17,328 per trip specifically to fund projects within the Pepin Subarea. This is proposed to be effective immediately upon approval.
2. Increase the City-wide TIF from \$2,111 per trip to \$2,168 per trip. Effective Jan. 1, 2022.
3. Remove the west Lynden 50% discount of transportation and park impact fees. Effective Jan. 1, 2022.

Tonight, the Council is asked to set the date of August 16, 2021, to hear and approve these TIF updates.

### Set Date for Continuation of Public Hearing to Amend LMC Titles 16 & 19 -SEPA Thresholds and Minimum Density (Ordinance No. 1627)

On June 7, 2021, the City Council held a hearing to take comment and review proposed amendments to LMC 16 and 19. That amendment:

- Lowers the SEPA threshold so that short plats within the Pepin Creek Sub-Area are no longer exempt from SEPA review.
- Implements a minimum density requirement. This ensures that property is developed at an expected density and fees are collected at an expected rate so that infrastructure costs can be covered.
- Removes the text related to Senior Housing Overlay as this was not implemented and is unnecessary.

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## CITY COUNCIL MINUTES OF REGULAR MEETING



- Specifically references the Pepin Creek Sub-Area Plan as part of SEPA substantive authority in LMC 16.05.160.

The Council tabled this decision for additional research into the minimum density issues and subsequently the Community Development Committee met on June 16 and July 21 with landowners and staff to discuss implications of the code and potential revisions. Staff worked with legal counsel to revise as requested. The resulting code now includes the following:

- Clarifies the definitions of net and gross density
- Includes a “farmstead exemption” which allows existing homes in the Pepin Subarea to remain on parcels of up to 5 acres in size without being counted toward the minimum density calculation.

Minimum density would be applied to new parcels only. Staff is bringing this item forward to note that the hearing associated with this amendment will be continued to the August 16th City Council meeting where it will be brought forward as Ordinance No. 1627. Draft code language is attached.

**Councilor Lenssen asked to pull the following two items from the consent agenda:**

- **Set the Public Hearing Date-Amendment to the Comprehensive Plan – Pepin Planning**
- **Set Date for Continuation of Public Hearing to Amend LMC Titles 16 & 19 -SEPA Thresholds and Minimum Density (Ordinance No. 1627)**

***Councilor De Valois moved and Councilor Bode seconded to approve the Consent Agenda as presented with the exception of the two items pulled by Councilor Lenssen. Motion approved on a 6-0 vote.***

After some council discussion about setting a date for a public hearing for the two items pulled from the Consent Agenda the following motions were made:

***Councilor De Valois moved and Councilor Bode seconded to set the Public Hearing of August 16, 2021, for an ordinance amending the City’s Comprehensive Plan to accommodate the Pepin Lite infrastructure plan and lift the development moratorium. Motion approved on a 6-0 vote***



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***Councilor De Valois moved and Councilor Strengholt seconded to set the continuation of the Public Hearing on the amendment to LMC 16 & 19 (Ordinance No. 1627 to August 16, 2021. Motion approved on a 5-1 vote with Councilor Lenssen opposed.***

### 3. PUBLIC HEARING

The City Council is being asked to hear public comment and consider a development agreement which outlines the developer obligations and timeline for a mixed-use portion of the Skyview Townhome project. This multi-family project is located east of Northwood Road with the northern edge Badger Road frontage.

The agreement affects Lot A of the Skyview Lot Line Adjustment as shown in the agreement exhibits. This parcel has a zoning of Commercial Services Local (CSL). The City's CSL zoning permits mixed-use development that maintains a minimum of 60% commercial space on combined ground floor areas.

Although the City's code includes provision for this ratio of commercial to residential use to be accommodated in multiple buildings it does not include specifics as to the timing of this build out. This development agreement proposes that the residential portion of the mixed-use development may proceed prior to the establishment of a commercial use. A portion of Lot A will be reserved to accommodate the commercial component at a later date.

The residential portion to be constructed on the CSL parcel includes 15 townhomes which are accessed from the southern residential neighborhood (North Prairie Phase 7) and built to residential (RM-3) development standard. The future commercial development would be accessed from the Badger Road to the north. The agreement includes developer obligations including landscape buffer and pedestrian trail connections which must be constructed in association with the residential portion of the project.

Staff is supportive of the agreement because the uses are defined by separate access points, the residential portion will be built to RM-3 standards, pedestrian amenities will be built with the residential phase, and the market for commercial property along the Badger corridor is relatively weak. Staff's recommended condition of approval is to note that the cost of the City's legal review is passed along to the applicant prior to execution of the agreement.

Mayor Korthuis opened the Public Hearing at 7:18 p.m.

Ian VanRy, 1280 Salix Lane spoke in support of the Skyview Development Agreement.

Mayor Korthuis closed the Public Hearing at 7:21 p.m.

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***Councilor Lenssen moved and Councilor Strengholt seconded to approve the Skyview Development Agreement and authorize the Mayor’s signature on the document on the condition that the applicant covers the City’s legal review process. Motion approved on a 6-0 vote.***

**4. UNFINISHED BUSINESS- None**

**5. NEW BUSINESS - None**

**6. OTHER BUSINESS**

Council Committee Updates

There were no council committee reports.

**7. EXECUTIVE SESSION**

Council did not hold an executive session.

**8. ADJOURNMENT**

The August 2, 2021, regular session of the Lynden City Council adjourned at 7:27 p.m.

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Pamela D. Brown, MMC  
City Clerk

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Scott Korthuis  
Mayor

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## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Approval of Payroll and Claims	
<b>Section of Agenda:</b>	Consent	
<b>Department:</b>	Finance	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>	None	
<b>Summary Statement:</b>	Approval of Payroll and Claims	
<b>Recommended Action:</b>	Approval of Payroll and Claims	

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## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Continuation of Public Hearing to Amend LMC Titles 16 and 19 regarding SEPA thresholds and minimum density - Ord 1627	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b>
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
<b>Attachments:</b>		
Ordinance 1627. See meeting package materials from August 2, 2021 for supporting information.		
<b>Summary Statement:</b>		
<p>On June 7, 2021 the City Council held a hearing to take comment and review proposed amendments to LMC 16 and 19. The primary objectives of the amendment are to:</p> <ul style="list-style-type: none"> <li>• Lowers the SEPA threshold within the Pepin Creek Sub-Area</li> <li>• Specifically references the Pepin Creek Sub-Area Plan in LMC 16.05.160</li> <li>• Implements a minimum density requirement for new development within the Pepin Creek Sub-Area.</li> <li>• Deletes the a code section to a Senior Overlay as this was not adopted in the Sub-area Plan</li> </ul> <p>The Council tabled this decision for additional research into the minimum density issues and subsequently the Community Development Committee met on June 16 and July 21 with landowners and staff to discuss implications of the code and potential revisions.</p> <p>Staff worked with legal counsel to revise as requested. The resulting code now includes the following:</p> <ul style="list-style-type: none"> <li>• Clarifies the definitions of net and gross density</li> <li>• Includes a “farmstead exemption” which allows existing homes in the Pepin Subarea to remain on parcels of up to 5 acres in size without being counted toward the minimum density calculation. Minimum density would be applied to new parcels only.</li> </ul> <p>The intent of the ordinance is to ensure that new development within the Pepin Creek Subarea is reviewed and assessed for impacts with the goal of recouping costs associated with infrastructure improvement in this area.</p> <p>The Planning Commission held a public hearing on this item on March 25, 2021, which concluded with a recommendation for approval. Staff, also recommending approval, is bringing this item forward as Ordinance 1627.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1627 and authorize the Mayor’s signature on the document to amend LMC 16 and 19 which implements changes to SEPA authority, SEPA thresholds, and minimum density requirements within the Pepin Creek Subarea.		

**Ordinance No. 1627**

**AN ORDINANCE OF THE CITY OF LYNDEN AMENDING CHAPTERS 16 AND 19 OF THE LYNDEN MUNICIPAL CODE REGARDING SEPA THRESHOLDS, SEPA AUTHORITY, AND MINIMUM DENSITY STANDARDS WITHIN THE PEPIN CREEK SUB-AREA**

**WHEREAS** in March of 2020 the City Council adopted the Pepin Creek Sub-Area Plan to establish goals and policies for the future development of this area regarding land use and zoning, environmental protection and restoration, infrastructure development, and finance to ensure the orderly development of this area; and

**WHEREAS** City staff created a plan for The Project known as ‘Pepin Lite’ which focused on transportation improvements and re-locating portion of Pepin Creek to complete these transportation improvements in association with Sub-area development; and

**WHEREAS** the financial mechanism of a SEPA mitigation fee or a Transportation Impact Fee showed merit for collecting the developers share of the Pepin Lite project costs while maintaining feasibility of development as described in the Pepin Creek Financial Mitigation Strategies Study by Berk Consulting; and

**WHEREAS** the City Council passed Resolution 1031 which directed staff to implement code revisions needed to implement the use of a SEPA mitigation fee, later developed fully into a Transportation Impact Fee, and establish minimum density standards; and

**WHEREAS** the following amendment to Title 16 of the Lynden Municipal Code is intended to reduce the SEPA threshold within the Pepin Creek Area so as to appropriately assess all development rather than provide exemptions to short plat applications. It also recognizes the authority of the Pepin Creek Subarea Plan as a guiding document; and

**WHEREAS** the following amendment to Title 19 of the Lynden Municipal Code is intended to establish a minimum density requirement for new residential development within the Pepin Creek Sub Area so as to avoid under-collection of fees needed to establish transportation systems improvements; and

**WHEREAS** the amendment to Title 19 also recognizes the ability of existing homeowners within the Pepin Creek Sub-area to maintain acreages which are exempt from minimum density division until such time they choose to redevelop; and

**WHEREAS** the City of Lynden issued a SEPA Determination of Non-Significance on February 12, 2021 regarding this non-project action followed by a two-week comment period; and

**WHEREAS** a public hearing was duly noticed and held before the Planning Commission regarding this amendment on March 25, 2021 and that meeting resulting in the Commission’s recommendation for approval; and

**WHEREAS** a public hearing was duly noticed and opened before the City Council on June 7, 2021 and that hearing was noticed to continue on August 16, 2021 and having been duly heard,

NOW THEREFORE, the City Council of the City of Lynden does ordain as follows:

**Section 1.** Chapter 16.05.070 Flexible Thresholds for Categorical Exemptions, and Chapter 16.05.160 Substantive Authority are amended to read as follows:

**16.05.070 - Flexible thresholds for categorical exemptions.**

- A. The city establishes the following exempt levels for minor new construction under WAC 197-11-800(1)(b) based on local conditions.
  - 1. For residential dwelling units in WAC 197-11-800(1)(b)(i):
    - a. Up to 12 dwelling units City-wide except in the Pepin Creek Subarea, or
    - b. In the Pepin Creek Subarea, up to 4 dwelling units.
  - 2. For office, school, commercial, recreational, service or storage buildings in WAC 197-11-800(1)(b)(iii): Up to ten thousand square feet and up to twenty-five parking spaces.
  - 3. For parking lots in WAC 197-11-800(1)(b)(iv): Up to forty parking spaces.
  - 4. For landfills and excavations in WAC 197-11-800(1)(b)(v): Up to two hundred fifty cubic yards.
- B. Whenever the city establishes new exempt levels under this section, it shall send them to the Department of Ecology, Headquarters Office, Olympia, Washington, 98504 under WAC 197-11-800(1)(c).

**16.05.160 - Substantive authority.**

- A. The policies and goals set forth in this chapter are supplementary to those in the existing authorization of the city of Lynden.
- B. The city may attach conditions to a permit or approval for a purpose so long as:
  - 1. Such conditions are necessary to mitigate specific probable adverse environmental impacts identified in environmental documents prepared pursuant to this chapter; and

2. Such conditions are in writing; and
3. The mitigation measures included in such conditions are reasonable and capable of being accomplished; and
4. The city has considered whether other local, state, or federal mitigation measures applied to the proposal are sufficient to mitigate the identified impacts; and
5. Such conditions are based on one or more policies in subsection D of this section and cited in the license or other decision document.

C. The city may deny a permit or approval for a proposal on the basis of SEPA so long as:

1. A finding is made that approving the proposal would result in probable significant adverse environmental impacts that are identified in a FEIS or final SEIS prepared pursuant to this chapter; and
2. A finding is made that there are no reasonable mitigation measures capable of being accomplished that are sufficient to mitigate the identified impact; and
3. The denial is based on one or more policies identified in subsection D of this section and identified in writing in the decision document.

D. The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this section:

1. The city shall use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:
  - a. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
  - b. Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
  - c. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
  - d. Preserve important historic, cultural, and natural aspects of our national heritage;

- e. Maintain, wherever possible, an environment which supports diversity and variety of individual choice;
- f. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- g. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

2. The city recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

3. The city adopts by reference the policies in the following city documents, as periodically updated:

- a. City of Lynden Comprehensive Land Use Plan;
- b. City of Lynden Shoreline Management Program;
- c. City of Lynden Critical Areas Ordinance;
- d. City of Lynden Subdivision Ordinance;
- e. All subarea plans adopted by the City of Lynden, including the Pepin Creek Subarea Plan as adopted by the City Council Ordinance 1600 on March 2, 2020.

E. When any proposal or action not requiring a decision of the city council is conditioned or denied on the basis of SEPA by a nonelected official, the decision shall be appealable to the city council. Such appeal may be perfected by the proponent or any aggrieved party by giving notice to the responsible official within ten days of the decision being appealed. Review by the city council shall be on a de novo basis.



**Section 2.** Chapter 19.11 Districts Established are amended to read as follows:

Chapter 19.11  
DISTRICTS ESTABLISHED

Sections:

19.11.010 Zones established -- Purpose.

19.11.020 Zones designated -- Essential use, maximum coverage, and density.

**19.11.010 Zones established -- Purpose.**

For the purpose of developing a comprehensive arrangement of land uses and related standards, regulations, rules and specifications, the classifications of essential uses, and the declaration of each essential use group establishing the purpose for the zones within each group set forth hereafter adopted.

19.11.015 - Definitions

- A. “Gross acreage” means the total acreage of the entire legal lot or lots of record on which the residential development is proposed, including half of existing street right-of-way around the perimeter of the site, new rights-of-way internal to the site, critical areas, wetlands, and other nondevelopable areas.
- B. “Net acreage” means gross acreage minus dedications exclusively for public use, such as dedications for rights of way, public trails, public stormwater facilities, and other public infrastructure, but not nonexclusive easements outside rights of way or easements for the sole benefit of residents in the development, or privately-owned land, including land owned by a common interest community.

**19.11.020 - Zones designated—Essential use, maximum coverage, and density.**

There are established the classifications of the essential land uses for all residential, business and industrial zones to be known by the zone symbols shown as follows:

Zone Symbol	Essential Use	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage	Maximum Development Density*	Minimum Development Density* – Pepin Creek Subarea only
A-1	Agricultural	0.10		1 D.U./20	

Zone Symbol	Essential Use	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage	Maximum Development Density*	Minimum Development Density* – Pepin Creek Subarea only
				Acres	
RS-100	Single Family Dwellings	0.35	0.60	4 D.U./Acre	
RS-84	Single Family Dwellings	0.35	0.60	4.5 D.U./Acre	
RS-72	Single Family Dwellings	0.35	0.60	5.0 D.U./Acre	<u>4 DU / Acre</u>
RMD	Residential Mixed Density	0.35	0.80	8.0 D.U./Acre	<u>5 DU / Acre</u>
MH	Mobile and Modular Home	0.40	0.80	8.0 D.U./Acre	
TR	Travel/Recreational Vehicle	0.65			
RM-1	Single Family and two Family Dwellings/bldg.	0.35	0.70	8.0 D.U./Acre	
RM-2	Up to 4 Dwellings/bldg.	0.40	0.70	12 D.U./Acre	
RM-3	Multiple Dwellings	0.40	0.75	16 D.U./Acre	<u>8 DU / Acre</u>
RM-4	Multiple Dwellings	0.45	0.75	24 D.U./Acre	
RM-PC	Detached Single Family Dwellings	0.35	See Open Space Requirements	12 D.U./Acre	<u>6 DU / Acre</u>
	Attached Single Family Attached	0.50			

Zone Symbol	Essential Use	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage	Maximum Development Density*	Minimum Development Density* – Pepin Creek Subarea only
	Multi-family Dwellings	0.40			
SO	Senior Housing Overlay in the Pepin Creek Subarea	0.40— 0.50	See Open Space Requirements	30 D.U./Acre	
HBD	Historic Business District	0.80			
CN	Commercial Neighborhood Overlay in the Pepin Creek Subarea	N/A			
CSL	Local Commercial Services	N/A			
CSR	Regional Commercial Services	N/A			
ID	Industrial District	N/A			
IBZ	Industrial Business Zone	N/A			
PU	Public Use	N/A			

\*See Section 19.11.030 regarding calculation of minimum and maximum densities.

**LMC 19.11.030 Density calculations.**

A. Calculations for Determining Minimum Density. The density minimum standard applies to some residential developments. Net acreage, not gross acreage, shall be used for the purpose of calculating minimum density.

1. Exception for existing homes in the Pepin Creek Subarea. Typically associated with a farmstead, existing homes within the Pepin Creek Subarea and their outbuildings may require larger lots than zoning or minimum density standards anticipate. Subdivisions within the Pepin Creek Subarea may exclude the area of a lot dedicated to preserving an existing home under the following conditions:

- a. Residence must have existed prior to August 1, 2021.
- b. Plats which create an excluded lot must document the existing residence and its date of construction.
- c. Plats which create an excluded lot must address the possibility of additional access and utility needs when / if future subdivision on these lots occur.
- d. No additional dwelling units can be added to the lot excluded from minimum density standards until it is further divided to meet minimum density standards. However, nothing in this section prevents the addition of an accessory dwelling unit or the repair, remodel, or replacement of the original residence.

2. Pepin Creek Subarea Wetland Exception. Within the Pepin Creek Subarea only, the portion of wetland and buffer areas in excess of 25% of the net acreage can be excluded from the minimum density calculation. Wetlands and buffers that cover the first 25% of the net acreage must be included in the minimum density calculation. Calculations of buffer area shall be conducted prior to any buffer reduction methods. For example:

- a. A site has 10 net acres; 4 acres are encumbered by wetlands and their buffers and 6 are not. Wetlands and buffers covering 25% of the net acreage shall be counted, in this case, 2.5 acres. The remaining 1.5 acres of wetlands and buffers will not be counted. The total acres counted for

the purpose of minimum density would be 6 developable acres plus 2.5 wetland acres, or 8.5 acres.

- b. A site has 10 net acres; 1 acre is encumbered by wetlands and their buffers, and the other 9 acres are not. 25% of the site would be 2.5 acres, but as there are less than 2.5 acres of wetlands and buffers, all of the wetlands and buffers are counted for the purpose of determining minimum density.

B. Calculations for Determining Maximum Density.

- 1. Maximum density for residential zones applies to all development with new residential dwelling units, unless otherwise noted herein.
- 2. Gross acreage of the lot or lots may be used in the calculation of the maximum allowed residential density.
- 3. For the purpose of meeting maximum density requirements for subdivisions in applicable zones, final plats must specify the maximum number of dwelling units per lot.

C. How to Calculate Density. Minimum and maximum density for an individual site must be calculated by multiplying the total site acreage based on subsections A and/or B of this section by the minimum and maximum dwelling units per acre for the applicable zone. When calculation results in a fraction, the fraction must be rounded to the nearest whole number; fractions of one-half and above must be rounded up, and fractions below one-half must be rounded down.

D. Prohibited Reduction. Any portion of a lot that was used to calculate minimum compliance with the standards and regulations of this title must not be subsequently subdivided or segregated from such lot unless all portions of the resulting lots continue to meet the code requirements after the subdivision.

**Section 3.** Chapter 19.18 Pepin Creek Subarea Zones is amended to read as follows:

**19.18.010 - Purpose and intent.**

- A. Purpose. The purpose of the Pepin Creek Subarea is to meet the goals of the comprehensive plan by ~~allowing~~ promoting residential development averaging ~~approximately about~~ seven dwelling units per net acre and to allow a variety of housing types that will meet the needs of families throughout their lifecycle. Development in the Pepin Creek Subarea should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping, and open space. Commercial uses are allowed where they serve the neighborhood.
- B. Established. The following zones and overlays are utilized within the Pepin Creek Subarea.

<b>Zone or Overlay</b>	<b>Uses</b>	<b>Development Standards</b>
RS-72	19.15	19.15
RMD	19.16	19.16
RM-PC	19.18.030	19.18.030
<u>RM-3</u>	<u>19.17.020</u>	<u>19.17.060</u>
<del>Senior Overlay</del>	<del>19.18.040</del>	<del>19.18.040</del>
Neighborhood Commercial Overlay	19.18.050	19.18.050
Public Use	19.27	19.27
Airport Overlay	19.55	19.55

**C. Minimum Densities within the Pepin Creek Subarea:**

- 1. Development must meet the minimum gross density for residential development according to the established zone category.

<u><b>Zone</b></u>	<u><b>Minimum Density*</b></u>
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<u>RS-72</u>	<u>4 DU / Acre</u>
<u>RMD</u>	<u>5 DU / Acre</u>
<u>RM-PC</u>	<u>6 DU / Acre</u>
<u>RM-3</u>	<u>8 DU / Acre</u>

~~\*See Section 19.11.030 regarding calculation of minimum and maximum densities.~~

2. Lots created in conformance with subsection C(1) above which are subsequently bound together with another lot in the Pepin Creek Subarea must continue to adhere to building setbacks as measured from property lines despite the lots being bound.

D. Conflicts. If there are any conflicts between the provisions of this chapter and any other parts of the Lynden Municipal Code, this chapter shall prevail except for where standards necessary to maintain public safety related to the operation of the airport.

(Ord. No. 1575, § A, 3-4-2019)

19.18.020 - Primary permitted uses within the Pepin Creek Subarea.

The primary permitted uses in the Pepin Creek Subarea are as follows. See Figure 19.18.010-1 to reference the location of applicable secondary, accessory, and conditional uses as well as development standards specific to each zoning category.

- A. Single family dwelling units, including detached site built single family dwellings and new manufactured homes. This includes types such as large lot single family, small lot single family and cottages.
- B. Single family attached dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex dwelling units.
- D. Multi-family dwelling units typically limited to a maximum of four to eight units per building.
- ~~E. The senior overlay provides the opportunity for development to accommodate a specific user. When activated, the permitted uses within the overlay include senior cottages, attached single family units, senior multi-family dwelling units, developed to standards specific to the overlay. A range of units or rooms per~~

~~building are permitted, however the entire Pepin Creek Subarea is limited to a maximum of three hundred total units within the senior overlay districts. All multi-family dwellings that contain more than four units per building within the Senior Overlay must be age restricted to persons age fifty-five and older.~~

- ~~F. Nursing home and assisted living facilities as defined in RCW 74.39A.009 are considered primary uses in senior overlay;~~
- E. The neighborhood commercial overlay provides an opportunity for a variety of primary permitted uses in key locations. These include personal services, sales of consumer goods, restaurants and cafes, banks and financial institutions, and upper story residential uses as further described in LMC 19.18.050.
  - ~~1. Personal Services. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry cleaning, or others that would serve the subarea.~~
  - ~~2. Sales of General Consumer Goods. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the planning director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.~~
  - ~~3. Restaurants and cafes.~~
  - ~~4. Banks and financial institutions.~~
  - ~~5. Second story residential uses may be developed in conjunction with first floor commercial uses.~~

(Ord. No. 1575, § A, 3-4-2019)

19.18.030 - Pepin Creek multi-family zone (RM-PC) and uses established.

A. Primary Permitted Uses.

- 1. ~~Multi-family dwelling units, that is multiple dwelling units located on a single lot,~~ Multi-family dwelling units and two-family dwelling units are permitted with the following restrictions:
  - a. Buildings containing two to four units are permitted consistent with Section 19.18.030.F and applicable design standards.
  - b. Buildings containing five to eight units are permitted at a ratio of one for every twenty-five lots created. Lot count may include those used for multi-family dwelling units, attached single family dwellings, or detached single family dwelling. Development must be consistent with Section 19.18.030.E and applicable design standards.
- 2. Single family attached dwelling units which are ground-related, fee simple ownership units that are attached through shared walls or rooflines. This



includes types such as townhomes, units with attached garages, and other innovative types. A maximum of four units may be attached to one another.

- 3. Single family dwelling units, including detached site-built single family dwellings and new manufactured homes.

B. Accessory Permitted Uses. Accessory permitted uses in the RM-PC zone is as follows:

- 1. Private garages for single family or single family attached residences. No detached garage or accessory building shall exceed one thousand square feet of inside floor area or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive;
- 2. Single family lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they are not stored in the front yard and meet the requirements of Section 19.31.020.B;
- 3. Tool sheds, satellite dishes, outdoor patios and outdoor fireplaces consistent with applicable design standards;
- 4. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of the primary residence. No units greater than eight feet by ten feet are permitted in residential zones, other than during construction or for a period of up to thirty consecutive days within a six-month period to facilitate the moving in or moving out of a residence. Units eight feet by ten feet or smaller may be placed on a lot for not more than six months during any two-year period and must be located in the rear yard;
- 5. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 LMC and subject to LMC 19.37.090;
- 6. Attached and detached accessory dwelling unit (ADU) consistent with Chapter 19.20 permitted in detached single family homes only.
- 7. No more than five, currently licensed and/or operable passenger vehicles may be stored on any single-family residential lot, subject to LMC 19.31.020.A. Inoperable vehicles may not be stored in the front yard (~~refer to Section 19.31.020.A.~~).
- 8. Recreation areas for residents.

C. Secondary Permitted Uses. Secondary permitted uses in the Pepin Creek Subarea zones are as follows:

- 1. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes;
- 2. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises except in the neighborhood commercial overlay;

3. Home occupations. See Chapter 19.57;
  4. Gardening and fruit growing not for commercial sale;
  5. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Chapter 19.39 of this Code;
  6. Family day care centers for up to eight individuals, not including the residents of the dwelling unit;
  7. Parks and playgrounds;
  8. Adult family homes and residential care facilities for up to ~~six~~ eight adults, when approved by the Washington State Department of Social and Health Services (DSHS).
  9. Temporary structures such as portable tents or canopies used by a business for an event or sale in the commercial neighborhood overlay. The event or sale shall be limited to seven days or less and all temporary structures must be removed within seventy-two hours of the sale or event.
- D. Conditional Permitted Uses. The following property uses may be permitted in Pepin Creek Subarea zones by conditional use permit when recommended by the planning commission and approved by the city council consistent with Section 19.49.050.
1. Public buildings and utility sub-stations;
  2. Club facilities that are directly related to the neighborhood such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas;
  3. Day care facilities for more than eight ~~people~~ individuals with the maximum number of individuals to be determined as part of the conditional use permit process;
  4. Nursing home and assisted living facilities as defined in RCW 74.39A.009 when located in the RS-72, RMD, or RM-PC zones;
  5. Bed and breakfast establishments (see Section 19.49.030);
  6. Churches, provided that the front yard is landscaped and all other parking and landscaping requirements are met; and
  7. Schools.
- E. Front Yard Use for Residential Uses.
1. Front yards shall be used for ornamental purposes only. No storage sheds, portable storage tents, temporary canopies or other similar structures may be located within the front yard; provided however that portable canopies or tent structures may be used during events or yard sales but must be removed within seventy-two hours of the sale or other event.

2. No fences, growth or other obstruction over three feet in height above the curb grade shall be allowed within the clear vision triangle.
3. Front yards setbacks may not be used for the storage of boats, campers, or any recreational vehicle. (Refer to Section 19.31.020.B)

F. RM-PC Development Standards. The development standards for the RM-PC zone are as follows:

1. RM-PC Height, Density, Area, Coverage, and Bulk Requirements.

Zone	Minimum Lot Size	Maximum Density	Minimum Density*	Maximum Lot Coverage	Maximum Height	Maximum Stories
RM-PC Single Family Detached	4000 sf	12 DU/AC	<u>6 DU / AC</u>	35%	32'	2
RM-PC Single Family Attached	3000 sf	12 DU/AC	<u>6 DU / AC</u>	50%	40'	3
RM-PC Multi-family dwelling	1600 sf per unit	12 DU/AC	<u>6 DU / AC</u>	40%	40'	3

~~\* Residential densities are based on net land area.~~ \*See Section 19.11.030 regarding calculation of minimum and maximum densities.

G. RM-PC Setback Requirements.

**Setbacks**

	RM-PC Detached	RM-PC Attached	RM-PC Multi Dwelling
<b>Front Setback</b>			
ROW to Porch	8'	8'	15'

ROW to House	10'	10'	20'
ROW to Garage	25'	25'	25'
Green to Porch	4'	4'	10'
Green to House	6'	6'	10'
<b>Side Setback<sup>+</sup></b>			
Minimum Side	7'	0' on attached sides, 10' on each unattached side	10'
Side Total	14'	20'	20'
Corner Lot	10'	10'	14'
<b>Rear Setback<sup>+</sup></b>			
Alley Easement to Garage Side	3'	3'	3'
Garage Side to Property Line	5'	5'	5'
Alley to Garage Door	21'	21'	25'
Alley to House	15'	10'	20'
To House	15'	10'	15'

+ On corner lots one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.

1. Additional RM-PC Development Standards:

- a. The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.
- b. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in this section. Additional fire protection may be required for structures located within ten feet of each other. It is the property owner's responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to Section 19.35.030.
- c. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.
- d. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within ten feet of the rear property line for detached homes on lots zoned RM-PC; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

H. Standards for Detached Accessory Buildings.

- 1. To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.
- 2. A detached accessory structure may not be built closer than six feet to the side or rear property line, except where a rear property line abuts an alley a structure may not be built closer than three feet to the rear property line. Structures which do not require a building permit per Chapter 15.04 must be setback a minimum of three feet to the side or rear property line.
- 3. Detached accessory structures on corner lots shall not be permitted nearer than ten feet to the side property line adjacent to the street.
- 4. The maximum height for all detached accessory structures shall be twelve feet, except for detached garages as noted below.
- 5. The maximum height of any detached garage shall be eighteen feet, provided there is no living space within the building. Detached garages with living spaces shall be subject to the standards for accessory dwelling units in Chapter 19.20 LMC. The roof pitch and siding on any detached garage shall be consistent with the primary structure on the lot, and the height of the building shall not exceed the height of the primary structure.
- 6. A secondary garage or shop shall be set behind the rear line of house.

I. Transition Area Standards.

1. A transition area of one hundred feet is applied to the RM-PC zone where the RM-PC zone abuts RS zoning located inside and outside of the Pepin Creek Subarea. ~~The transition area is also applied when the Senior Overlay is activated adjacent to RS zoning located inside and outside of the Pepin Creek Subarea.~~
2. A ten foot wide Type IV landscape buffer and six foot privacy fencing are required on RM-PC properties where abutting RS zones. Alternatively, a buffer is not required if lots are limited to a primary use as a detached single family home or pairs of attached single family homes.
3. Lots developed in the transition zone shall be limited to the maximum height of the abutting RS zone.

J. Open Space Requirements.

1. Each lot must maintain a minimum of seven and one-half percent in open space.
2. RM-PC developments which meet or exceed six units to the acre in net density must also provide common open space equal to ten percent of the developable parcel size. Common open space may be designed as a pocket park, common green, or access easement. Perpetual maintenance of the common open space must be addressed at the time of plat or development if a plat is not required.
3. Common open space must meet the following requirements:
  - a. One two inch caliper canopy tree is required for every one thousand square feet.
  - b. Spaces must be accessible to residents and suitable for passive or active recreational use. Play structures or pet friendly areas are encouraged.
  - c. Sidewalks or paths accessing the area must be a minimum of four feet wide.
  - d. The minimum lawn coverage of a common green area shall be seventy percent.

K. Residential Design Requirements. All residential dwelling units must meet the following design criteria unless varied by the design review board as provided under LMC 19.45.035:

1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
2. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

3. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
  4. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.
  5. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings.
  6. All units other than a detached single family residence shall be subject to review and approval by the Design Review Board.
  7. No more than fifty percent of the lineal frontage of the building elevation may be occupied by garage doors. For the purposes of this section, a set of garage doors serves one dwelling unit and means one double garage door or two single garage doors separated by less than five feet.
  8. Only one set of garage doors may face the street unless the garage doors are setback from the living area a minimum of ten feet.
  9. All parking requirements of Section 19.51.040 must be met on site.
- L. RM-PC Landscape Requirements: In addition to the landscaping requirements of Chapter 19.61 LMC, all proposed multi-family and attached single family development consisting of two or more attached units in this zone shall comply with LMC 19.17.110.

(Ord. No. 1575, § A, 3-4-2019)

~~19.18.040 – Pepin Creek Senior Overlay and Uses Established.~~

~~A. The senior overlay provides the opportunity for development to accommodate a specific user and developed to standards specific to the overlay.~~

- ~~1. A range of units or rooms per building are permitted, however the entire Pepin Creek Subarea is limited to a maximum of three hundred total units.~~
- ~~2. Utilization of the senior overlay standards requires the creation and recording of an associated plat or planned residential development (PRD). The use of the senior overlay must be indicated on the face of the plat.~~
- ~~3. All multi-family dwellings that contain more than four units per building within the senior overlay must be age restricted to persons age fifty five and older through a recorded covenant.~~
- ~~4. Any development within the senior overlay that is developed at densities above the maximum density allowed in the underlying zoning must be restricted, on the face of the plat, to persons age fifty five and older.~~

~~B. Senior Overlay Primary Uses.~~

- ~~1. Multi-family dwelling units, that is multiple dwelling units located on a single lot, are permitted.~~

- ~~2. Single family attached dwelling units which are ground related, fee simple ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types. A maximum of four units may be attached to one another.~~
- ~~3. Single family dwelling units, including detached site built single family dwellings and new manufactured homes.~~
- ~~4. Care Facilities. Nursing home and assisted living facilities as defined in RCW 74.39A.009.~~

~~C. Senior Overlay Accessory Permitted Uses.~~

- ~~1. Private garages for single family or single family attached residences. No detached garage or accessory building shall exceed one thousand square feet of inside floor area or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is more restrictive;~~
- ~~2. Single family lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they are not stored in the front yard and meet the requirements of Section 19.31.020.B;~~
- ~~3. Tool shed, satellite dish, outdoor patios and outdoor fireplaces consistent with applicable design standards;~~
- ~~4. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of the primary residence. No units greater than eight feet by ten feet are permitted in residential zones, other than during construction or for a period of up to thirty consecutive days within a six month period to facilitate the moving in or moving out of a residence. Units eight feet by ten feet or smaller may be placed on a lot for not more than six months during any two year period and must be located in the rear yard;~~
- ~~5. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of this Code and subject to Section 19.37.090;~~
- ~~6. Accessory dwelling unit (ADU) consistent with Chapter 19.20 permitted in detached single family homes only;~~
- ~~7. No more than three, currently licensed and/or operable passenger vehicles may be stored on any single family residential lot. Inoperable vehicles may not be stored in the front yard (refer to Section 19.31.020.A);~~
- ~~8. Recreation areas for residents;~~
- ~~9. Club facilities that are directly related to the neighborhood such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.~~

~~D. Senior Overlay Secondary Permitted Uses.~~



- ~~1. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes;~~
- ~~2. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises except in the Neighborhood Commercial Overlay;~~
- ~~3. Home occupations. See Chapter 19.57;~~
- ~~4. Gardening and fruit growing not for commercial sale;~~
- ~~5. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Chapter 19.39 of this Code;~~
- ~~6. Adult day care centers for up to eight individuals, not including the residents of the dwelling unit;~~
- ~~7. Parks and playgrounds;~~
- ~~8. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).~~
- ~~9. Temporary structures such as portable tents or canopies used by a business for an event or sale in the commercial neighborhood overlay. The event or sale shall be limited to seven days or less and all temporary structures must be removed within seventy-two hours of the sale or event.~~

~~E. Conditional Permitted Uses in the Pepin Creek Senior Overlay Zones. The following property uses may be permitted in Pepin Creek Subarea zones by conditional use permit when recommended by the planning commission and approved by the city council consistent with Section 19.49.050.~~

- ~~1. Public buildings and utility sub-stations.~~

~~F. Senior Overlay Development Standards. The development standards for developments utilizing the senior overlay are as follows:~~

- ~~1. Senior Overlay Height, Density, Area, Coverage, and Bulk Requirements.~~

<b>Zone</b>	<b>Minimum Lot Size</b>	<b>Maximum Density*</b>	<b>Maximum Lot Coverage</b>	<b>Maximum Height**</b>	<b>Maximum Stories</b>
Senior Overlay Detached Single Family Homes	4000 sf	12 DU/AC	40%	32'	2
Senior Overlay Attached Single	3000 sf	12 DU/AC	50%	32'	2

Family Homes					
Senior Overlay Multi-family dwelling	1600 sf per unit	12 DU/AC	40%	40'	3
Senior Overlay Care Facilities	1 acre	30 DU/AC	40%	40'	3

\* Residential densities are based on net land area.

\*\* Any development within the senior overlay that is developed at densities above the maximum density allowed in the underlying zoning must be restricted, on the face of the plat, to persons age fifty five and older.

**Senior Overlay Setback Requirements**

<b>Setbacks</b>	<b>Senior Overlay Detached Single Family</b>	<b>Senior Overlay Attached Single Family</b>	<b>Senior Overlay Multi-Family Dwelling</b>	<b>Senior Overlay Care Facility</b>
<b>Front Setback</b>				
— ROW to Porch (or Porte-cochere for Care Facilities)	8'	8'	15'	25'
— ROW to House or Facility	10'	10'	20'	30'
— ROW to Garage	25'	25'	25'	25'
— Green to Porch	4'	4'	10'	10'
— Green to House	6'	6'	10'	10'
<b>Side Setback*</b>				
— Minimum Side	7'	0' on attached sides, 10' on each	10'	50% of building height specific to

		unattached side		each side
— Side Total	14'	20'	20'	50'
— Corner Lot	10'	10'	14'	
<b>Rear Setback*</b>				
— Alley Easement to Garage Side	3'	3'	3'	NA
Garage Side to Property Line	5'	5'	5'	NA
Alley to Garage Door	21'	21'	21'	NA
— Alley to House	15'	10'	20'	NA
— To House	15'	10'	15'	30'

+ On corner lots one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.

2. ~~Additional Senior Overlay Development Standards Provisions:~~

- a. ~~The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.~~
- b. ~~All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in Section 19.16.070 or, for care facilities, half of the rear setback. Additional fire protection may be required for structures located within ten feet of each other. It is the property owner's responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to Section 19.35.030.~~
- c. ~~Uncovered wood decks and raised concrete patios not over twenty four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty four inches above the lowest grade.~~

d. ~~Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within ten feet of the rear property line for detached homes within the senior overlay; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.~~

G. ~~Standards for Detached Accessory Buildings.~~

- 1. ~~To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.~~
- 2. ~~A detached accessory structure may not be built closer than six feet to the side or rear property line, except where a rear property line abuts an alley a structure may not be built closer than three feet to the rear property line. Structures which do not require a building permit per Chapter 15.04 must be setback a minimum of three feet to the side or rear property line.~~
- 3. ~~Detached accessory structures on corner lots shall not be permitted nearer than ten feet to the side property line adjacent to the street.~~
- 4. ~~The maximum height for all detached accessory structures shall be twelve feet, except for detached garages as noted below.~~
- 5. ~~The maximum height of any detached garage shall be eighteen feet, provided there is no living space within the building. Detached garages with living spaces shall be subject to the standards for accessory dwelling units in Chapter 19.20. The roof pitch and siding on any detached garage shall be consistent with the primary structure on the lot, and the height of the building shall not exceed the height of the primary structure.~~
- 6. ~~A secondary garage or shop shall be set behind the rear line of the house.~~

H. ~~Senior Overlay Open Space Requirements.~~

- 1. ~~Each lot must maintain a minimum of seven and one-half percent in open space.~~
- 2. ~~Senior Overlay developments which exceed six units to the acre in net density must also provide common open space equal to ten percent of the developable parcel size. Common open space may be designed as a pocket park, courtyards, common green or access easement.~~
- 3. ~~Common open space must meet the following requirements:~~
  - a. ~~One two-inch caliper canopy tree is required for every one thousand square feet.~~
  - b. ~~Spaces must be accessible to residents and suitable for passive or active recreational use.~~
  - c. ~~Sidewalks or paths accessing the area must be a minimum of four feet wide.~~
  - d. ~~The minimum lawn coverage of a common green area shall be seventy percent.~~
- l. ~~Senior Overlay Landscape Requirements: In addition to the landscaping requirements of Chapter 19.61 of this title, proposed multi-family development~~

~~totaling more than two multi-family or attached single family units in this zone shall comply with Section 19.17.110.~~

(Ord. No. 1575, § A, 3-4-2019)

19.18.050 - Pepin Creek Neighborhood Commercial Overlay and Uses Established Described.

A. The neighborhood commercial overlay provides opportunities for a variety of primary permitted uses in key locations. Commercial uses may be established under the following conditions:

1. Uses are subject to the development and setback standards for the underlying zoning.
2. Parking standards per Chapter 19.51 LMC must be met; however, up to fifty percent of the required surface parking may be shared between commercial and residential uses which occupy the same structure if commercial uses are not considered nighttime uses per LMC 19.51.090.
3. Commercial structures are subject to applicable design standards and the approval of the design review board.

B. The neighborhood commercial overlay provides opportunities for a variety of primary permitted uses in key locations. These include:

1. Personal Services. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, child or adult daycare, or others that would serve the subarea.
2. Sales of General Consumer Goods. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the planning director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, and farm equipment. Outdoor storage associated with the sales of general consumer goods is also not allowed.
3. Restaurants and Cafes. Single lane drive-thrus which are screened and oriented away from the street are permitted.
4. Professional offices, banks and financial institutions.
5. Second and upper story residential uses may be developed in conjunction with first floor commercial uses.

(Ord. No. 1575, § A, 3-4-2019)

**Section 4:** Any ordinance or parts of ordinance in conflict herewith are hereby repealed insofar as they conflict with the provisions of this ordinance.

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

**Section 6:** This Ordinance shall be in full force and effect on October 1, 2021.

~~Section 4 of this Ordinance shall be in full force and effect on January 1, 2022.~~

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the \_\_\_\_ day of \_\_\_\_\_, 2021. Signed by the Mayor on this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
SCOTT KORTHUIS, MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Ord 1632 Amending the Comprehensive Plan and Pepin Subarea Plan	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	<b>Legal Review:</b> <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance 1632 with Exhibit C, See also the Council package of August 2, 2021 for Exhibit A and B as well as supporting information.		
<b>Summary Statement:</b>		
<p>The implementation of Pepin Lite has been summarized to include 13 infrastructure projects. Nine of the projects directly serve the development within the Pepin Creek Sub-Area. Another 4 projects are identified as providing benefit to existing neighborhoods or the general community. Steps have been taken through Ordinances 1631 and 1627 to fairly allocate the costs associated with Pepin Lite.</p> <p>The attached amendment to portions of the City’s Comprehensive Plan, including the Pepin Creek Subarea Plan and Transportation Element, reflects the transportation system improvement projects associated with the Pepin Lite plan. Amending the Comprehensive Plan as well as the development code (see accompanying Ord 1627) assures alignment among the City’s documents and standards.</p> <p>On June 10, 2021 the Planning Commission held a public hearing on the item. The Commission concluded the hearing and review with a recommendation to approve the Amendment. (Minutes of that meeting are attached.)</p> <p>The amendment was also sent to the Department Commerce (DOC) for review. The allotted 60-day comment period has closed without comment from the DOC.</p> <p>As this is a legislative item, a second public hearing is held tonight before the City Council to accept public testimony on the item.</p>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1632 amending the City’s Comprehensive Plan to accommodate the Pepin Lite transportation system improvement plan.		

# Transportation Improvement Projects and Programs

City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit								
Safety and Capacity	C-1	Birch Bay - Lynden Road and Berthusen Road	Evaluate intersection operations and install roundabout to improve future level of service when needed.	✓	✓			✓				Medium	Mid	\$1,159,000	Y	Y	0%	\$0	\$231,800
	C-2	17th Street and Grover Street	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓		✓	Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
	C-3	Nooksack & Grover	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓		✓	Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
	C-6	Benson Road and Main Street	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓			Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
Corridor Upgrades	R-3	3rd St between Front and Grover	Reconstruct corridor to HBD standards (inc. 36' width), including sidewalks. Complete intersection and signal timing improvements as needed.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$602,000	Y	N	0%	\$0	\$511,700
	R-4	4th St between Front and Grover	Reconstruct corridor to HBD standards with two one-way travel lanes with angled parking and center median with farmer's market area and possible use as community event space		✓	✓	✓	✓	✓	✓		Medium	Short	\$1,782,000	Y	N	0%	\$0	\$1,514,700
	R-5	6th St between Front and Grover	Reconstruct corridor to HBD standards (inc. 36' width), including sidewalks.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$524,000	Y	N	0%	\$0	\$445,400
	R-6	Main Street from Berthusen E .5 mile to existing roadway	Reconstruct corridor to City standards (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Short	\$2,821,000	Y	Y	0%	\$0	\$0
	R-7	Bradley Road from Vinup Road to Line Road	Reconstruct corridor to City standards (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$454,000	Y	Y	0%	\$0	\$39,100
	R-8A	Line Road from Badger Road to Aaron Drive	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities, and other safety measures to improve access to Middle School		✓	✓	✓	✓	✓	✓	✓	Medium	Mid	\$802,000	Y	Y	0%	\$0	\$69,700
	R-8B	Line Road from Kamm Road to Bradley Road	Reconstruct corridor to City standard (inc. 34' width), including sidewalks and bicycle facilities, and other safety measures to improve school access. Includes replacement of fish passage barrier culvert.		✓	✓	✓	✓	✓	✓	✓	Medium	Mid	\$1,225,000	Y	Y	0%	\$0	\$106,250
	R-9	Northwood Road from Badger Road (SR-546) to City Limits	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Low	Long	\$5,269,000	Y	Y	0%	\$0	\$458,150
	R-10	Kamm Road from Line Road to Northwood Road	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Low	Long	\$3,698,000	Y	N	0%	\$0	\$3,143,300
	R-11	4th Street from Front Street to new Riverview Road (Project 13)	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Mid	100% Developer	N	N	100%	NA	\$0
	R-12	W Front Street and Tromp from Duffner Drive to Birch Bay - Lynden Road	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Long	\$4,690,000	Y	N	0%	\$0	\$3,986,500
	R-13	Double Ditch Road from Main Street to Village Drive	Maintain existing roadway width and cross-section, but complete other Reconstructs to City standards, including sidewalks.		✓	✓	✓	✓	✓	✓		Low	Long	\$568,000	Y	N	0%	\$0	\$424,800
	Multimodal Connections	M-5	West Subarea - North-South Connection	Developer funded roadway extending Tromp Road to W Main Street serving new developments in West subarea. Alignments will be designed as part of future subarea studies.			✓	✓	✓	✓	✓		Low	Long	100% Developer	N	N	100%	NA
M-6		West Subarea - East-West Connection	Developer funded roadway extending Front Street to Berthusen Road serving new developments in West subarea. Alignments will be designed as part of future subarea studies.			✓	✓	✓	✓	✓		Low	Long	100% Developer	N	N	100%	NA	\$0
Active Transportation	A-2	Badger Rd Bike Pedestrian Corridor On-Street Bicycle Connection	Bicycle and pedestrian facilities on the South side of Badger Rd (SR546) providing safe east west corridor between Northwood and Bender Road			✓			✓	✓		Medium	Long	100% Developer	N	N	100%	NA	\$0
	A-3	Non-Street Trails Plan Projects	Paved trails based on county parks plan including new pathways adjacent to Nooksack River and Fish Trap Creek trails. (Parks Funded)			✓			✓	✓		Medium	Long	\$2,651,000	N	Y	0%	\$0	\$2,261,000
	A-4	Depot to 8th Street Trail	New trail from 8th Street to Depot Road on ROW adjacent to Fishtrap Creek. Includes new 60' bridge across creek. (Parks Funded)		✓	✓	✓		✓	✓		Medium	Short	\$2,495,000	N	Y	0%	\$0	\$1,120,000



## Transportation Improvement Projects and Programs

City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds							
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit															
Citywide Programs	P-1	Street Overlay, Maintenance and Operations Program	Annual program to maintain and operate the City's transportation roadway infrastructure.		✓		✓	✓				Medium	Ongoing	\$11,140,000	N	N	0%	\$0	\$9,000,000							
	P-2	Bicycle Facilities and Pathways Program	Striping of City-identified bicycle routes within City limits. Some facilities may be listed above in reconstruction projects.		✓	✓	✓			✓		Medium	Ongoing	\$223,000	N	N	0%	\$0	\$200,000							
	P-3	Sidewalk / Crossing Improvement Program	Annual program to construct missing sidewalk links, repair existing sidewalks, improve crosswalk markings, and install ADA- accessible curb ramps at intersections.		✓	✓	✓		✓			High	Ongoing	\$613,000	N	N	0%	\$0	\$550,000							
Pepin Creek Projects	PC-2	Main Street Bridge @ Pepin Creek	Construct new bridge over realigned Pepin Creek					✓	✓	✓										\$3,331,000	Y	Y				
	PC-3	Pine St Bridge (Vehicle Bridge Only)	Construct new bridge over realigned Pepin Creek					✓	✓	✓											\$2,888,000	Y	N			
	PC-4	Double Ditch Rd Phase 1: Pepin Creek Main Stem	Construct new Pepin Creek main stem to allow for Double Ditch Rd transportation improvements		✓																\$8,277,000	Y	N			
	PC-5	Double Ditch Rd Phase 2: Pepin Creek East/West Connection	Construct new Pepin Creek east/west connection to allow for Double Ditch Rd transportation improvements		✓																\$1,534,000	Y	N			
	PC-7	Double Ditch Rd Phase 3: Double Ditch Rd Cross Culvert	Construct new Pepin Creek cross culvert to allow for Double Ditch Rd transportation improvements		✓																\$807,000	Y	Y			
	PC-8	Double Ditch Rd Phase 4: Roadway Improvements	Improve/widen Double Ditch Rd to urban standards, between Pepin Parkway and Main St (2lanes, bike/ped, shoulder)					✓	✓	✓											\$4,416,000	Y	Y			
	PC-9	Benson Rd Pedestrian Improvements- North	Construct pedestrian improvements between Park St and new Pepin Parkway (near Sunrise Dr)				✓		✓												\$359,000	Y	Y			
	PC-10	Benson Roadway Improvements	Improve/widen Benson Rd to urban standards, between Pepin Parkway and Badger Rd (SR 546)	✓		✓	✓	✓	✓	✓											\$4,217,000	Y	Y			
	PC-11	Pepin Parkway Bridge @ Pepin Creek	Construct new bridge over realigned Pepin Creek (link with PC-12)	✓		✓	✓	✓	✓	✓											\$2,741,000	Y	N			
	PC-12	Pepin Parkway Construction	Construct new roadway between Benson Rd and Double Ditch Rd	✓		✓	✓	✓	✓	✓											\$5,093,000	Y	N			
PC-13	Main St. /Double Ditch Rd Intersection Improvements	Intersection widening and new traffic control (signal or compact roundabout)	✓		✓	✓	✓	✓	✓											\$1,433,000	Y	Y				

### Transportation Improvement Projects and Programs

City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit								
Other Agency Projects	O-1	SR 546 and Benson Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				Medium	Mid	\$1,225,000	N	N	0%	\$0	\$1,100,000
	O-2	SR 546 and Vinup Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				Medium	Mid	\$1,203,000	N	N	0%	\$0	\$1,080,000
	O-3	SR 546 and Line Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				High	Mid	\$1,225,000	N	N	0%	\$0	\$1,100,000
	O-4	SR 539 (Guide Meridian) from Birch Bay Lynden to SR 546 (Badger Rd)	Add roadway capacity as part of WSDOT project. Widen roadway to 4 travel lanes between BBL and Main Street. Lane and shoulder widening north of Main Street with safety improvements. Possible roundabouts at Main and Badger Intersections.	✓	✓	✓	✓	✓				High	Mid	\$24,073,000	N	N	0%	\$0	\$21,610,000

	2021 Total Cost Estimate	TIF Contribution	Developer Contribution	Agency Contribution
Safety and Capacity	\$2,764,000	\$2,211,200	\$0	\$552,800
Corridor Upgrades	\$22,435,000	\$3,365,250	\$0	\$10,699,600
Multimodal Connections	\$0	\$0	\$0	\$0
Active Transportation	\$5,146,000	\$0	\$0	\$3,381,000
Citywide Programs	\$11,976,000	\$0	\$0	\$9,750,000
Pepin Creek Projects	\$28,877,000	\$15,437,650	\$0	\$0
Other Agency (State Route) Projects	\$27,726,000	\$0	\$0	\$24,890,000
<b>TOTAL</b>	<b>\$98,924,000</b>	<b>\$21,014,100</b>	<b>\$0</b>	<b>\$49,273,400</b>

100%      21%      0%      78%  
**CITY TOTAL**      **\$24,383,400**      39%

TIF Cost	General Range
\$ 2,211,200	60-80%
\$ 3,365,250	10-20%
\$ -	80-100%
\$ -	0-20%
\$0	
\$15,437,650	
\$0	
<b>\$ 21,014,100</b>	

**Ordinance No. 1632**

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING PORTIONS OF THE COMPREHENSIVE PLAN TO ACCOMMODATE THE PEPIN LITE TRANSPORTATION SYSTEM IMPROVEMENTS

**WHEREAS**, on August 19, 2013, the City of Lynden (“the City”) adopted the April 2009 Amendment to the January 1992 Stormwater Management Plan identifying the “Pepin Creek” project which recognized the unique challenges associated with development in this area of the City; and

**WHEREAS**, on January 1, 2019, the City’s Comprehensive Plan was amended to delineate the Pepin Creek Subarea; and

**WHEREAS** the City conducted numerous complex and detailed planning, funding, and design studies to understand and communicate the complex issues associated with the Pepin Creek Subarea and advancement of residential development within the Subarea; and

**WHEREAS**, on March 3, 2020, the City Council adopted the Pepin Creek Subarea Plan into the City’s Comprehensive Plan to establish goals and policies for the future development of this area regarding land use and zoning, environmental protection and restoration, infrastructure development, and finance to ensure the orderly development of this area; and

**WHEREAS** City staff began implementation of the land use and zoning structure presented in the Subarea plan but found that infrastructure associated with the adopted Pepin Creek Subarea Plan presented permitting challenges and placed an unrealistic financial burden on the City and the future development in the Sub-Area; and

**WHEREAS** City staff created a plan for The Project known as ‘Pepin Lite’ which focused on transportation system improvements including relocating portion of Pepin Creek in association with subarea development; and

**WHEREAS** the City wishes to document its plans in the Transportation Element of the Comprehensive Plan, Subarea Plans, and the Transportation Improvement Projects and Programs list; and

**WHEREAS** the City issued a Determination of Non-Significance for this non-project action on June 4, 2021, following a two-week comment period; and

**WHEREAS** a public hearing was duly noticed and held before the Planning Commission on June 10, 2021, to accept public testimony on the proposed amendments and consider the matters of record to that date. This hearing concluded in a recommendation for approval; and

**WHEREAS** the proposed amendment was subsequently sent to the Washington State Department of Commerce to allow for a 60-day comment period which has since been completed without comment; and

**WHEREAS** the proposed amendments were introduced to the Lynden City Council on August 2, 2021, and a date for a public hearing was set; and

**WHEREAS** on August 16, 2021, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments and to consider the matters of record to that date; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

**Section 1:** Amendments to the Comprehensive Plan including the Pepin Creek Subarea Plan as tracked in Exhibit A. Amendments to the Transportation Element as tracked in Exhibit B. Adoption of the updated Transportation Improvement Projects and Programs List as shown in Exhibit C.

**Section 3:** Effective Date. This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, otherwise as provided by law, five days after the date of its publication.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_ 2021. Signed by the Mayor on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
**SCOTT KORTHUIS, MAYOR**

ATTEST:

\_\_\_\_\_  
PAM BROWN, CITY CLERK

APPROVED TO AS FORM:

\_\_\_\_\_  
ROBERT CARMICHAEL, CITY ATTORNEY

**Exhibit A:** Amendments the Pepin Creek Subarea Plan  
(see Council Pkg from August 2, 2012)

**Exhibit B:** Amendments to the Transportation Element  
(see Council Pkg from August 2, 2012)

**Exhibit C:** Updated Transportation Projects and Programs List (attached)

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Ord 1631 Updating Transportation Impact Fees (TIF)	
<b>Section of Agenda:</b>	Public Hearing	
<b>Department:</b>	Planning Department	
<b>Council Committee Review:</b>	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
<b>Legal Review:</b>	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
<b>Attachments:</b>		
Ordinance 1631 with Exhibits (Updated Transportation Impact Fee Project List and TIF Schedule), Reso 709 and Mayor Louws letter re west Lynden TIF discount.		
<b>Summary Statement:</b>		
<p>On March 1, 2021 the City Council adopted a Resolution of Intent (Reso 1031) which outlines the path forward to lifting the moratorium on the Pepin Creek Sub-Area and implementing the infrastructure associated with the Pepin Lite Plan. The mechanism that showed the most merit is the use of Transportation Impact Fees (TIF) administered in the form of a SEPA mitigation fee or adopted as a TIF overlay.</p> <p>City staff has engaged with our consultant Transpo to revise the City’s TIF project list to include the 13 infrastructure projects identified in Pepin Lite include creek and reflect the associated funding sources. Transpo has also adjusted their City-wide trip analysis to reflect the growth that will occur in Pepin Creek as laid out in the Pepin Creek Subarea. This is the addition of approximately 1550 housing units over the next 15 years.</p> <p>Revisions to the TIF will also remove what is known as the West Lynden discount. This has been a 50% discount in transportation and park impact fees for specific areas west of the Guide Meridian based on Council Resolution 709. It was established in 2005 with the understanding that outside funding sources would subsidize the remaining half of the impact fees. Outside support for roadway projects has since declined and the City has been unable to secure the expected funding. The CDC discussed the removal of the discount at an April meeting and asked that staff draft Council action which would remove the fee beginning in January 2022.</p> <p>To summarize, Ordinance 1632 proposed to:</p> <ol style="list-style-type: none"> <li>1. Implement a TIF Overlay on the Pepin Creek Sub-area which will enable the City to collect a fee of \$17,328 per trip specifically to fund projects within the Pepin Subarea. This is proposed to be effective immediately upon approval.</li> <li>2. Increase the City-wide TIF from \$2,111 per trip to \$2,168 per trip. Effective Jan. 1, 2022.</li> <li>3. Remove the west Lynden 50% discount of transportation and park impact fees. Effective Jan. 1, 2022.</li> </ol>		
<b>Recommended Action:</b>		
Motion to approve Ordinance 1631 and authorize the Mayor’s signature to amend the City’s Transportation Impact Fees (TIF), establish a Pepin Creek Subarea TIF Overlay, and rescinding the west Lynden TIF and park impact fee discounts.		

**ORDINANCE NO. 1631**

AN ORDINANCE OF THE LYNDEN CITY COUNCIL ESTABLISHING A PEPIN CREEK TRANSPORTATION IMPACT FEE OVERLAY AREA AND ASSOCIATED IMPACT FEES, ESTABLISHING NEW CITY-WIDE IMPACT FEES, UPDATING THE TRANSPORTATION IMPROVEMENT PROJECTS AND PROGRAMS LIST TO IDENTIFY CITY-WIDE AND PEPIN CREEK SUBAREA SYSTEMS IMPROVEMENT PROJECTS, AND RESCINDING A CITY POLICY DISCOUNTING TRANSPORTATION AND PARK FEES.

**WHEREAS**, the City of Lynden (“City”) desires to mitigate the transportation impacts of growth in a manner which is fair and equitable to all developers and citizens of the City and guided by the City’s Comprehensive Plan; and

**WHEREAS**, the City desires to plan for growth in a manner that is adequate for the long-range future and consistent with the plans and policies of the surrounding region to the extent required by state laws; and

**WHEREAS**, the City wishes to document its plans in the Transportation Element of the Comprehensive Plan, Subarea Plans, and the Transportation Improvement Projects and Programs list; and

**WHEREAS**, the City is authorized by Ch. 36.70A RCW, and Ch. 82.02 RCW to develop and implement a transportation impact fee program to provide for joint public and private financing of transportation improvements necessitated in whole or in part by the development in the City; and

**WHEREAS**, the City Council adopted Ordinance 1205 in April 2004, which established a Transportation Impact Fee program in Lynden Municipal Code (“LMC”) 3.46 TRANSPORTATION IMPACT FEES; and

**WHEREAS**, the City’s existing transportation impact fees have not been revised since January 1, 2017; and

**WHEREAS**, the needed transportation system improvements associated with the development of the Pepin Creek Subarea have been intensively studied and planned for; and

**WHEREAS**, as a culmination of that planning process, the City is simultaneously proposing Ordinance 1632 which amends the Pepin Creek Subarea, the Transportation Element, and the Transportation Project and Programs Improvements List which identifies the 13 transportation system improvement projects associated with what is known as the “Pepin Lite” plan; and

**WHEREAS**, the transportation systems improvements associated with the Pepin Lite warrant additional private funding due to significant and documented constraints associated with site conditions which are unique to this area of the City; and

**WHEREAS**, the City seeks to establish a transportation impact fee policy that is consistent with the adopted Transportation Element of the Comprehensive Plan and the Pepin Creek Subarea Plan and equitably distributes the cost of growth-related transportation improvements between the development community, the City, and other sources; and

**WHEREAS**, in 2005 the City Council adopted Resolution No. 709 which identified a desire to incentivize commercial and industrial growth in the west Lynden area. The resolution provided that transportation and park mitigation fees may be recouped through grants for economic development purposes, increases in real estate excise tax, and removal of property from open space taxation program. The result of this resolution was a City policy offering a fifty percent discount of transportation and park impact fees to those properties in west Lynden which held zoning designations of I-1 (Industrial), I-2 (Light Industrial), and CS-3 (Commercial Services) in 2005; and

**WHEREAS**, the recoup of the discounted impact fees has not been realized in recent years and the cost of systems improvements have significantly increased; and

**WHEREAS**, LMC 3.46.060 provides for the Planning Director to calculate the formulas for impact fees based on the improvements identified as growth related within the Transportation Element of the Comprehensive Plan; and

**WHEREAS**, the City Council has considered the proposed amendments to Chapters 3.46 and 3.47 LMC and the discounted impact fee policy at Council Committee meetings and an open record public hearing; and

**WHEREAS**, an open record public hearing was appropriately noticed in the Newspaper of Record on August 4, 2021; and

**WHEREAS**, the City issued a Determination of Non-Significance for this non-project action on June 4, 2021, following a two-week comment period; and

NOW THEREFORE, the City Council of the City of Lynden does ordain as follows:

**Section 1.** The Pepin Creek Transportation Impact Fee Overlay Area is hereby established, and associated transportation impact fees are hereby adopted. The Pepin Creek Transportation Impact Fee Overlay Area coincides with the boundaries of the Pepin Creek Subarea. Ch. 3.46 of the Lynden Municipal Code entitled “Transportation Impact Fees” are hereby amended to read as follows:



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## Chapter 3.46 TRANSPORTATION IMPACT FEES

### 3.46.010 Authority and purpose.

- A. This title is enacted pursuant to the city's authority under the Growth Management Act as codified in Chapter 36.70A RCW, the enabling authority in Chapter 82.02 RCW, Chapter 58.17 RCW relating to platting and subdivisions, and the State Environmental Policy Act (SEPA) Chapter 42.21C RCW.
- B. The purpose of this chapter is to:
  - 1. Develop a transportation impact fee program consistent with the Lynden Comprehensive Plan, for joint public and private financing of transportation improvements necessitated in whole or in part by development in the city;
  - 2. Ensure adequate levels of transportation and traffic service within the city consistent with the Comprehensive Plan;
  - 3. Create a mechanism to charge and collect fees to ensure that new development bears its proportionate share of the capital costs of off-site transportation facilities needed to serve new development, in order to provide an adequate level of transportation service consistent with the Comprehensive Plan;
  - 4. Ensure that the city pays its fair share of the capital costs of transportation facilities necessitated by public use of the transportation system; and
  - 5. Ensure fair collection and administration of such impact fees.
  - 6. Ensure that new development pays its fair share of the costs to meet urban standards including adequate pavement width, curbs, gutters, pedestrian facilities and other improvements outlined in the city's adopted development standards.
- C. The provisions of this chapter shall be liberally construed to effectively carry out its purpose in the interests of the public health, safety and welfare.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

### 3.46.015 Definitions.

The following are definitions provided for administering the transportation impact fee. The planning director shall have the authority to resolve questions of interpretation or conflicts between definitions.

"Adequate level of transportation service" means a system of transportation facilities which have the capacity to serve development without decreasing levels of

service below the city's established minimum or meet the city's development standards for urban streets. (LMC 17.15).

"City" means the city of Lynden.

"Comprehensive Plan" for purposes of this chapter and Ch. 3.47 LMC means the city of Lynden comprehensive plan and all applicable subarea plans.

"Development" or "development activity" means any final short or long plat approval, any construction or expansion of a building, structure, or use, or any changes in the use of land, that creates additional demand and need for public facilities.

"Director" means the planning director of the city of Lynden or his/her designee.

"Finance director" means the finance director of the city of Lynden or his/her designee.

"Impact fee or transportation impact fee" means an assessment imposed upon the approval or permitting of a development activity pursuant to this ordinance. "Impact fee" does not include a reasonable permit or application fee otherwise established by city council resolution.

"Jurisdiction" means a municipality or county.

~~"Ordinance" means the ordinance adopting the 2020 City of Lynden Budget and applicable impact fee schedules or as amended thereafter.~~

"Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project that are necessary for the use and convenience of the occupants or users of the project, and are not system improvements. No improvement or facility included in the capital facilities plan approved by the city council shall be considered a project improvement.

~~"Resolution" means Resolution 958 that provides the transportation impact fee schedule as currently adopted or amended thereafter.~~

"Service area" means a geographic area defined by ordinance or intergovernmental agreement in which a defined set of public streets and roads provide service to the development within the area.

"System improvements" means public facilities that are included in the transportation projects and programs list contained within the transportation element of the comprehensive plan and are designed to provide service areas within the community at large, in contrast to project improvements.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.020 Applicability.**

- A. The requirements of this chapter apply to all development activity in the city of Lynden.
- B. Mitigation of impacts on transportation facilities located in jurisdictions outside the city will be required when:
  - 1. The other effective jurisdiction has reviewed the development's impact under its adopted impact fee/mitigation regulations and has recommended to the city that the city impose a requirement to mitigate the impacts; and
  - 2. There is an interlocal agreement between the city and the effective jurisdiction specifically addressing transportation impact identification and mitigation.
- C. Under no circumstances shall the city impose impact fees under this ordinance on development located outside the corporate city limits.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.030 Geographic scope.**

The boundaries within which impact fees shall be charged and collected are co-extensive with the corporate city limits. Unincorporated areas later annexed to the city shall be subject to impact fees under this chapter upon the effective date of annexation.

~~The boundaries within which the Pepin Creek Transportation Impact Fee Overlay Area impact fees of the Pepin Creek transportation impact fee overlay area is shall be~~ [co-extensive with the Pepin Creek Subarea as defined in the City of Lynden Comprehensive Plan.](#)

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.040 Imposition of transportation impact fees.**

- A. The city is hereby authorized to impose transportation impact fees on new development according to the provisions of this chapter.
- B. Transportation impact fees:
  - 1. Shall only be imposed for system improvements that are reasonably related to the new development;

- 2. Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development;
- 3. Shall be used for system improvements that will reasonably benefit the new development; ~~and~~
- 4. May be collected and spent only for system improvements which are included in the transportation projects and programs list ~~within for the transportation~~ Transportation element Element of the ~~city's comprehensive~~ Comprehensive planPlan;-
- 5. Transportation impact fees charged for development within the Pepin Creek Transportation Impact Fee Overlay Area may be collected and spent only for system improvements which are included in the transportation projects and programs list for the Pepin Creek Subarea Plan;
- ~~56.~~ Should not be imposed to mitigate the same off-site transportation facility impacts that are mitigated pursuant to any other law;
- ~~67.~~ Should not be collected for improvements to state transportation facilities outside the city boundaries unless the state requests such improvements and an agreement to collect such fees has been executed between the state/county and the city;
- ~~78.~~ Shall not be collected for improvements to transportation facilities in other jurisdictions unless the affected jurisdiction requests such improvement and an interlocal agreement has been executed between the city and the affected jurisdiction for the collection of such fees; ~~and~~
- ~~89.~~ Shall be collected only once for each building permit, unless changes or modifications to the building permit are proposed which result in greater direct impacts on transportation facilities than were considered when the building permit was first approved.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.050 Fee schedules and establishment of service areas.**

- A. An impact fee schedule setting forth the amount of the transportation impact fees to be paid by a development is set out in Attachments B1 and B2 of Ordinance 1631~~the resolution~~, incorporated herein by this reference.
- B. The impact fee schedule ~~of costs, as set out in the resolution~~ shall be updated annually at a rate adjusted in accordance with the Washington State Department of Transportation Construction Cost Index (CCI) engineering news record (ENR) construction cost index for the Seattle area, using a June-June annual measure to establish revised fee schedules ~~effective July 1 of the current year.~~ The updated

impact fee schedule of cost will be included as an Addendum to the annual city budget.

C. For the purpose of this chapter, the City shall be composed of two service areas: District 1 shall include the area contained within the geographic scope of the Pepin Creek Subarea and fees associated with District 1 shall be incorporated into Attachment B1 of Ordinance 1631; District 2 shall include the remaining area of the City, and fees associated with District 2 shall be incorporated into Attachment B2 of Ordinance 1621. For the purpose of this chapter, the entire city and its urban growth area shall be considered one service area.

~~D. Transportation , established in LMC 3.46.055, shall be considered an additional service area within the larger city wide service area.~~

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.055 Establishment of the Pepin Creek Transportation Impact Fee Overlay Area**

A. The Pepin Creek Transportation Impact Fee Overlay Area is established in recognition of the unique and challenging system improvements which will be required by associated with the development of the Pepin Creek Subarea, which are further described in as described in the Pepin Creek Subarea Plan and the Transportation Element of the City of Lynden Comprehensive Plan.

~~B. The boundaries within which the impact fees of the Pepin Creek Transportation Impact Fee Overlay Area shall be assessed are co-extensive with the Pepin Creek Subarea as defined in the Comprehensive Plan.~~

~~B. Fees associated with the overlay area are assessed in addition to the city wide transportation impact fee.~~

~~C. The boundaries within which the impact fees of the Pepin Creek transportation impact fee overlay shall be co-extensive with the Pepin Creek Subarea as defined in the City of Lynden Comprehensive Plan.~~

~~DC. System improvement pProjects associated with the Pepin Creek Transportation Impact Fee Overlay Area are specifically identified in the City of Lynden Pprojects and Pprograms Llist in the Comprehensive Plan as adopted by City Council and periodically amended.~~

~~D. The transportation impact fees assessed on development within the Pepin Creek Transportation Impact Fee Overlay Area are assessed in addition to the transportation impact fees assessed based on the city-wide service area.~~

E. The Director shall calculate the Pepin Creek transportation impact fee as set forth in Ordinance 1631, subject to the provisions of this chapter including the annual indexing of fees.

**3.46.060 Calculation of impact fees.**

A. The Director shall calculate the transportation impact fees as set forth in ~~the resolution, attached to the ordinance~~ Ordinance 1631 as codified in this section, subject to the provisions of this chapter.

B. In determining the proportionate share attributable to a development, the method of calculating impact fees shall incorporate, among other things, the following:

1. The cost of public streets and roads necessitated by new development;
2. An adjustment to the cost of the public streets and roadways for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or pro-ratable to the particular system improvement;
3. The availability of other means of funding public street and roadway improvements;
4. The cost of existing public street and roadway improvements; and
5. The methods by which public street and roadway improvements were financed.

C. A credit, not to exceed the impact fee otherwise payable, shall be provided for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified the transportation projects and programs list within the ~~T~~transportation element Element of the ~~city's comprehensive~~ Comprehensive plan Plan and that are required by the city as a condition of approving the development activity. The determination of "value" shall be consistent with the assumptions and methodology used by the city in estimating the capital improvement costs.

~~D. The director may adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly.~~

~~E. The amount of fee to be imposed on a particular development may be adjusted by the director giving consideration to studies and other data available to the director or submitted by the developer demonstrating to the satisfaction of the director that an adjustment should be made in order to carry out the purposes of this chapter.~~

~~F. The impact fee shall provide for system improvement costs previously incurred by the city to the extent that new growth and development will be served by the~~

~~previously constructed improvements; provided, that such fees shall not be imposed to make up for any system improvement deficiencies.~~

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.065 Independent fee calculations.**

A. -If, in the sole judgment of the director, none of the land use categories set forth in the fee schedule in Attachment B1 and B2 of Ordinance 1631, for Citywide and Pepin Creek respectively, in Ordinance 1631 accurately describe the proposed land use, the applicant shall provide to the department for its review and evaluation an independent fee calculation, prepared by a traffic engineer included in the City's approved consultant list or approved by the director and paid for by the applicant to the department, at the applicant's expense. The independent fee calculation shall show the basis upon which it was made and shall include, but not limited to, trip generation characteristics. The director may accept this calculation and impose an impact fee based on this calculation, or Alternatively, the director may obtain a second independent fee calculation, which and then decide which impact fee calculation is more appropriate. The second independent fee calculation will shall be paid for by the City, but administrative costs necessary to review the second independent fee calculation will be charged to the applicant on an hourly basis. After reviewing both independent fee calculation studies, the director shall determine the impact fee.

B. -If an applicant requests not to have the impact fees determined according to the fee schedule in Attachment B1 and B2 of Ordinance 1631, then the applicant shall submit to the director an independent fee calculation, prepared by a traffic engineer included in the City's approved consultant list or approved by the director and paid for by the applicant.

1. If the director determines the independent fee study submitted by the applicant more accurately captures the impact of the proposed development, he or she may adjust the fee in accordance with said study. The independent fee calculation shall show the basis upon which it was made and shall include, but not be limited to, trip generation characteristics.

2. If the director determines, in his or her sole discretion, that the independent fee calculation study is not accurate, reliable, or sufficient, the director may reject the said study and require payment consistent with the fee schedule in Attachment B1 and B2 of Ordinance 1631.

3. The director may require the applicant to submit additional or different documentation for consideration at any time. If the director decides that third-

party engineers are needed to review the calculation and related documentation, the applicant shall pay for the reasonable cost of a review by such engineers.

C. When an independent fee calculation is sought under subsection (B), 3.46.065(B), the City may issue a building permit, or certificate of occupancy when no building permit is required for a change in use, prior to completion of the independent fee calculation; provided, that the impact fee based on the fee schedule in Attachments B1 and B2 or Ordinance 1631 must be collected based on the fee schedule in Attachment B, at the time of payment as described by this chapterspecified in LMC 3.46.070. If the director ultimately approves the independent fee calculation, the City shall refund the portion of the fee paid that exceeds the approved independent fee calculation.

D. Any independent fee calculation proposed under this section shall be accompanied by a study that complies with the following standards:

1. The study shall follow accepted traffic impact fee assessment practices and methodologies and be consistent with the methods used in developing the City’s transportation impact fee schedules.
2. The study shall use acceptable data sources and the data shall be comparable with the uses and intensities proposed for the proposed development activity.
3. The study shall comply with the applicable State laws governing impact fees including RCW 82.02.050 – 82.02.100, as these statutes may be amended from time to time.
4. The study, including any data collection and analysis, shall be prepared and documented by a professional traffic engineer on the City’s approved consultant list or otherwise approved by the director.

—The study shall show the basis upon which the independent fee calculation was made and shall include trip generation characteristics among other relevant factors.

5. E. —The director shall consider the independent fee calculation study and related documentation submitted by the applicant but is not required to accept the calculation if the director decides that the study is not accurate or reliable. If the director finds the study to be unreliable, the director may require the applicant to submit additional or different documentation for consideration. If the director decides that third-party engineers are needed to review the calculation and related documentation, the applicant shall pay for the reasonable cost of a review by such engineers. If an acceptable independent fee calculation study is not presented, the applicant shall pay the transportation impact fees based upon the process and schedules referenced in this chapter. If an acceptable independent



~~fee calculation study is presented, the director may adjust the fee to an appropriate amount.~~

FE. Determinations made by the director pursuant to this section may be appealed to the hearing examiner subject to the procedures set forth in Section 03.46.110.

**3.46.070 Payment of fees.**

A. All developers shall pay an impact fee in accordance with the provisions of this chapter at the time that final approval is granted as listed below. Impact fees due at the time of building permit for a single-family home may be eligible for deferral consistent with provisions of chapter 3.47 LMC. The fee paid shall be the amount in effect as of the date the development application is deemed completed.

Application Type	Assessment payable at time of:
Residential Subdivision	Final plat approval
Residential building permit for lot of record created prior to adoption of this ordinance or on an unplatted parcel of land, except where mitigation for the impact has been previously provided as determined by the director.	Building permit issuance
Nonresidential subdivision or binding site plan	Building permit issuance
Nonresidential building permit except where mitigation for the impact has been previously provided as determined by the director	Building permit issuance

B. The impact fee, as initially calculated after issuance of a final approval, shall be recalculated at the time of payment if the development is modified or conditioned in such a way as to alter the trip generation rate for the development.

C. No final permit or approval shall be issued until the impact fee is paid.

D. Impact fees may be paid under protest in order to obtain a permit or other approval of development activity.

E. Application to defer the payment of impact fees due at the time of building permit for a single-family home may be made in accordance with Chapter 3.47 LMC.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.080 Transportation Improvements Projects and Programs system improvement list.**

- A. The director shall ~~commonly~~ periodically review the ~~city's comprehensive land use and transportation plan ("comprehensive plan")~~ Transportation Element of the Comprehensive Plan, and shall:
  - 1. Identify each transportation system improvement in the comprehensive plan that is growth-related and the proportion of each such system improvement that is growth-related;
  - 2. Forecast the total moneys available from taxes and other public sources for road improvements over the next six years;
  - 3. Calculate the amount of impact fees already paid; and
  - 4. Identify those comprehensive plan system improvements that have been or are being built but whose performance capacity has not been fully utilized.
  
- B. Once a transportation system improvement is included the transportation projects and programs list within the ~~T~~ transportation element-Element of the ~~city's comprehensive Comprehensive planPlan~~, a fee shall be imposed on every development that impacts the system improvement until the system improvement is removed from the list by one of the following means:
  - 1. The council, by ordinance, removes the system improvement from the transportation projects and programs list within the ~~transportation Transportation element-Element~~ of the ~~city's comprehensive planComprehensive Plan~~. ~~In which case the f~~ Fees that have already been collected will be refunded if necessary to ensure that impact fees remain reasonably related to the traffic impacts of development ~~that have paid an impact fee~~; provided, that a refund shall not be necessary if the council transfers the fees to the budget of another system improvement that the council determines will mitigate essentially the same traffic impacts; or
  - 2. The impact fee share of the system improvement has been fully funded, in which case the director shall administratively remove the system improvement from the transportation system improvement list.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.090 Funding of system improvements.**

- A. A transportation impact fee restricted cash fund is hereby created. The finance director shall be the fund manager. Transportation impact fees shall be placed in appropriate interest-bearing deposit accounts within the transportation impact fee fund.

Transportation impact fees assessed on development in the Pepin Creek Transportation Impact Fee Overlay Area shall be deposited into a segregated account within the fund.

- B. The transportation impact fees paid to the city shall be held and disbursed as follows:
  - 1. The transportation impact fees collected shall be placed in a deposit account within the transportation impact fee fund;
  - 2. When the council appropriates capital improvement project (CIP) funds for a project on the system improvement list, the fees held in the impact fee fund shall be transferred to the CIP fund. The non-impact fee moneys appropriated for the system improvement may comprise both the public share of the system improvement cost and an advancement of that portion of the private share that has not yet been collected in transportation impact fees;
  - 3. The first money spent by the city on a system improvement after a council appropriation shall be deemed to be the fees from the impact fee fund;
  - 4. Fees collected after a system improvement has been fully funded by means of one or more council appropriations shall constitute reimbursement to the city of the public moneys advanced for the private share of the project.
  - 5. All interest earned on transportation impact fees paid shall be retained in the account and expended for the purpose or purposes for which the transportation impact fees were imposed.
- C. System improvements shall be funded by a balance between transportation impact fees and public funds, and shall not be funded solely by transportation impact fees.
- D. Transportation impact fees shall be expended or encumbered for a permissible use within six-ten (10) years of receipt, unless there exists an extraordinary and compelling reason for fees to be held longer than six-ten (10) years. The finance director may recommend to the council that the city hold fees beyond six-ten years in cases where extraordinary and compelling reasons exist. Upon entry of written findings of such extraordinary and compelling reasons, the council may authorize the city to hold the fees beyond said six-ten year time period.
- E. The finance director shall prepare an annual report on the transportation impact fee account showing the source and amount of all moneys collected, earned or received and system improvements that were financed in whole or in part by transportation impact fees.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.100 Refunds.**

- A. A developer may request and shall receive a refund when the developer does not proceed with the development activity for which transportation impact fees were paid, and the developer shows that no impact has resulted; however, the impact fee administrative fee shall not be refunded.
- B. The current owner of property on which an impact fee has been paid may receive a refund of such fees if the city fails to expend or encumber the impact fees within ~~six years~~ 10 years of when the fees were paid or as otherwise extended pursuant to Section 3.46.090 D. In determining whether impact fees have been encumbered, impact fees shall be considered encumbered on a first in, first out, basis.
- C. If an owner appears to be entitled to a refund of transportation impact fees, the finance director shall notify the owner by first class mail deposited with the United States Postal Service at their last known address. The owner must submit a request for a refund to the finance director in writing within one year of the date the right to claim the refund arises or the date the notice is given, whichever is later. Any transportation impact fees that are not expended or encumbered within the time limitations established by Lynden Municipal Code 3.46 and for which no application for a refund has been made within this one-year period, shall be retained and expended on any system improvement.
- D. In the event that transportation impact fees must be refunded for any reason, they shall be refunded with interest earned to the owners as they appear of record with the Whatcom County assessor at the time of refund.
- E. When the city seeks to terminate any or all impact fee requirements, all unexpended or unencumbered funds shall be refunded pursuant to this section. Upon the finding that any or all fee requirements are to be terminated, the city shall place notice of such termination and the availability of refunds in a newspaper of general circulation at least two times and shall notify all potential claimants by first class mail to the last known address of claimants. Claimants shall request refunds as in Subsection C of this section. All funds available for refund shall be retained for a period of one year. At the end of one year, any remaining funds shall be retained by the city, but must be expended on any city system improvements. This notice requirement shall not apply if there are no unexpended or unencumbered balances within an account or accounts being terminated.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.110 Appeals.**

- A. A developer or property owner shall have the right to file an appeal of the amount of an impact fee determined by the director. All such appeals shall be filed and reviewed in conformance with the requirements established for filing appeals

authorized by Title 17 of the Lynden Municipal Code ("LMC") as set forth in Chapter 17.11 LMC; and shall be heard by the ~~city council~~hearing examiner as an open record appeal as provided in Chapter 17.03 LMC. The developer or property owner shall bear the burden of proving:

- 1. That the director committed error in calculating the developer's/property owner's proportionate share, as determined by an individual fee calculation or, if relevant, as set forth in the fee schedule, or in granting credit for the benefit factors; or
- 2. That the director based his determination upon incorrect data; or
- 3. That the director's decision was arbitrary and capricious.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.120 Relationship to SEPA.**

- A. All development shall be subject to environmental review pursuant to SEPA and other applicable city ordinances and regulations.
- B. Payment of the impact fee shall constitute satisfactory mitigation of those traffic impacts related to the specific improvements identified on the [Transportation Improvement Projects and Programs List](#). ~~system improvement list at Table 8.~~
- C. Further mitigation in addition to the impact fee shall be required for identified adverse impacts appropriate for mitigation pursuant to SEPA that are not mitigated by an impact fee.
- D. Nothing in this chapter shall be construed to limit the city's authority to deny building permits, plat approvals, or other development permits or approvals, when a proposal would result in significant adverse traffic impacts identified in an environmental impact statement and reasonable mitigation measures are insufficient to mitigate the identified impact.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.130 Relationship to concurrency.**

Neither compliance with this chapter or the payment of any fee hereunder shall constitute a determination of concurrency under Chapter 17.15 of the Lynden Municipal Code.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.140 Necessity of compliance.**

A building permit issued after the effective date of the ordinance codified in this section shall be null and void if issued without substantial compliance with this chapter.

(Ord. 1205 § 1(part), 2004).

(Ord. No. 1594, § 2, 12-2-2019)

**3.46.150 Credits.**

- A. Credit Available. After the effective date of the ordinance codified in this chapter and as provided in RCW 82.02.060(4), a transportation impact fee credit shall be granted for the value of any dedication of land for, improvements to, or construction of any system improvements that are included within the city's current adopted capital facilities plan and are required by the city as a condition of approval for the development. Credit eligibility and the credit amount for a particular improvement or facility shall be determined as set forth in the provisions of this chapter, as now or hereafter amended.
- B. Credit Determination - Timing. The amount of credit shall be determined by the director prior to issuance of a building permit, or upon final plat or site plan approval, whichever occurs first.
- C. Application for Credit/Determination of Suitability of Land, Improvements, Construction. Applications for credit shall be made to the Director in writing and shall include an estimate of value of improvements prepared by a professional engineer licensed in the state of Washington. The director shall determine whether the land, improvements, and/or the facilities constructed are included within the city's current adopted capital facilities plan. In making a determination, the director may consult with other city staff, or such other persons or agencies as deemed necessary. In all cases the director shall provide the developer with a written determination as provided in subsection (E).
- D. Determination of Credit Amount. Once the city has determined that the land, improvements, and/or construction would be suitable for city purposes as provided in subsection (C) of this section, the director shall determine the amount of the credit. The applicant shall be entitled to a credit for a reasonable value of the land, improvements, and/or construction that are made or dedicated, based on the actual cost of improvements and/or construction, or the current assessed value according to the county assessor of any land dedicated. In the event an appraisal is necessary to determine value of the land dedicated, the full cost of such appraisal shall be paid by the applicant.
- E. Credit Letters/Administration. After determining the amount of a credit, the Director shall issue and provide the developer with a document, hereinafter known as a "credit letter," setting the dollar amount of the credit, the date of issuance, the reason for the credit, the legal description of property donated, and/or the

improvement or construction which was the basis for the credit, and the name and legal description of the development or property to which the credit letter is registered. The developer must sign, date and return the signed credit letter to the Director before the credit will be awarded. The failure of the developer to sign, date, and return the credit letter within sixty calendar days of its issuance by the director shall nullify the credit. In the event that the amount of any credit exceeds the amount of the impact fee due, the city shall not financially reimburse the difference to the developer and/or applicant; provided, that any unused credit remaining from the amount stated in the credit letter may be applied as credit against future impact fee assessments as described in the credit letter.

- F. Administrative Fees. The city shall levy a fee equal to one percent of the total credit to cover costs incurred by the city in administering the provisions of this section authorizing a credit.
- G. Appeals. Determination made by the director pursuant to this section shall be subject to the appeals procedures set forth in LMC 17.11.

(Ord. No. 1594, § 2, 12-2-2019)



**Section 2.** Update to the City-wide Transportation Impact Fee

The City hereby establishes the updated City-Wide Schedule of Transportation Impact Fees based on typical land uses using a new PM Peak hour trip cost of \$2,168 per trip as attached in Exhibit (Attachment) B2. The trips generated by various types of land uses shall be as described in the latest edition of the Institute of Transportation Engineers (ITE) Manual. The calculation of city-wide Impact Fees is as follows:

Impact Fee Calculation:

$$\begin{array}{rclclcl}
 \text{PM Peak Hour} & \times & \text{Pass-By trip} & \times & \$2,168 \text{ per new} & = & \text{Impact fee} \\
 \text{trip Rate} & & \text{reduction factor} & & \text{PM Peak hour} & & \text{per unit of} \\
 & & & & & & \text{development}
 \end{array}$$

**Section 3:** Establishment of the Pepin Creek Subarea Transportation Impact Fee.

The City hereby establishes the Pepin Creek Transportation Impact Fee Overlay Area and associated impact fee as attached in Exhibit (Attachment) B2. transportation improvement projects and programs list which identifies capital projects that are necessary for the development of and particularly benefit the Pepin Creek Subarea and are to be funded using transportation impact fees applied only to the Pepin Creek Transportation Impact Fee Overlay Area. The transportation impact fees within the Pepin Creek Transportation Impact Fee Overlay Area shall be calculated as follows:

$$\begin{array}{rclclcl}
 \text{PM Peak Hour} & \times & \text{Pass-By trip} & \times & \$17,328 \text{ per} & = & \text{Impact fee} \\
 \text{trip Rate} & & \text{reduction factor} & & \text{new PM Peak} & & \text{per unit of} \\
 & & & & \text{hour} & & \text{development}
 \end{array}$$

**Section 4:** Recognizes the update to the Transportation Improvement Projects and Programs List as adopted into the Transportation Element of the Comprehensive Plan by Ordinance 1632 and attached as Exhibit A.

**Section 5:** Rescind the policy in Resolution 709 which provided a fifty percent discount of transportation impact fees and park impact fees those properties in west Lynden that held zoning designations of I-1 (Industrial), I-2 (Light Industrial), and CS-3 (Commercial Services) in 2005.

**Section 6:** Any ordinance or parts of ordinance in conflict herewith are hereby repealed insofar as they conflict with the provisions of this ordinance.



**Section 7:**

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 code 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 8:** Sections 1, 3 and 4 of this Ordinance shall be in full force and effect on October 1, 2021.

Sections 2 and 5 of this Ordinance shall be in full force and effect on January 1, 2022.

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 and signed and approved by the Mayor on the same date.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY

**City of Lynden**  
**Attachment B1 - Schedule of Transportation Impact Fees - Pepin Creek Service Area**  
 Cost per PM peak hour trip end = \$17,328 (Includes Pepin Creek Only)

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>RESIDENTIAL</b>			
Detached Housing	210	Dwelling Unit	\$17,155
Multifamily Housing (attached and stacked)	220, 221	Dwelling Unit	\$9,704
Senior Housing	251, 252	Dwelling Unit	\$5,198
Nursing Home	620	Bed	\$3,812
Congregate Care/Asst. Living	253, 254	Dwelling Unit	\$4,505

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>INSTITUTIONAL</b>			
Public Park	411	Acre	\$1,906
Golf Course	430	Hole	\$50,424
Multi-Purpose Recreational Facility	435	1,000 sf GFA	\$62,034
Multiplex Movie Theater	445	Movie Screens	\$237,913
Casino/Video Lottery Establishment	473	1,000 sf GFA	\$233,755
Tennis Courts	490	Court	\$72,951
Health/Fitness Club	492	1,000 sf GFA	\$59,782
Elementary School	520	Student	\$2,946
Middle/Junior High School	522	Student	\$2,946
High School	530	Student	\$2,426
Church	560	1,000 sf GFA	\$8,491
Day Care Center	565	1,000 sf GFA	\$192,687
Library	590	1,000 sf GFA	\$141,396
Hospital	610	1,000 sf GFA	\$16,808

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>BUSINESS &amp; COMMERCIAL</b>			
Hotel	310	Room	\$10,397
Motel	320	Room	\$6,585
Building Materials/Lumber	812	1,000 sf GFA	\$35,696
Free-Standing Discount Superstore	813	1,000 sf GFA	\$59,274
Hardware/Paint Store	816	1,000 sf GFA	\$34,365
Nursery-Retail (Garden Center)	817	1,000 sf GFA	\$120,256
Shopping Center	820	1,000 sf GLA	\$43,573
Factory Outlet Center	823	1,000 sf GFA	\$39,681
Supermarket	850	1,000 sf GFA	\$102,471
Discount Supermarket	854	1,000 sf GFA	\$114,715
Discount Club	857	1,000 sf GFA	\$45,632
Home Improvement Superstore	862	1,000 sf GFA	\$23,417
Electronics Superstore	863	1,000 sf GFA	\$44,290
Toy/Children's Superstore	864	1,000 sf GFA	\$86,640
Apparel Store	876	1,000 sf GFA	\$71,391
Pharmacy/Drug Store w/out Drive-Through	880	1,000 sf GFA	\$69,307
Pharmacy/Drug Store w/ Drive-Through	881	1,000 sf GFA	\$90,936
Furniture Store	890	1,000 sf GFA	\$4,235
Bank/Savings: Walk-in	911	1,000 sf GFA	\$136,623
Bank/Savings: Drive-in	912	1,000 sf GFA	\$230,332
Drinking Place	925	1,000 sf GFA	\$127,950
Quality Restaurant	931	1,000 sf GFA	\$75,689
High Turnover Sit-Down Restaurant	932	1,000 sf GFA	\$96,498
Fast Food Restaurant w/out Drive-Through	933	1,000 sf GFA	\$245,538
Fast Food Restaurant w/ Drive-Through	934	1,000 sf GFA	\$283,053
Coffee/Donut Shop with Drive-Through Window	937	1,000 sf GFA	\$375,844
New Car Sales	840	1,000 sf GFA	\$42,107
Auto Parts Sales	843	1,000 sf GFA	\$48,496
Tire Store	848	1,000 sf GFA	\$49,655
Tire Superstore	849	1,000 sf GFA	\$36,562
Convenience Market (24 Hr)	851	1,000 sf GFA	\$416,979
Convenience Market w/ Gas Pump	853	Vehicle Fueling Position	\$135,741
Gasoline/Service Station	944	Vehicle Fueling Position	\$141,005
Gasoline/Service Station w/ Convenience Market	945	Vehicle Fueling Position	\$106,664
Quick Lubrication Vehicle Shop	941	Service Position	\$84,041
Auto Care Center	942	1,000 sf GLA	\$53,890
Self-Service Car Wash	947	Wash Stall	\$95,997

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>OFFICE</b>			
Clinic	630	1,000 sf GFA	\$56,836
General Office	710	1,000 sf GFA	\$19,927
Small Office Building	712	1,000 sf GFA	\$42,454
Corporate Headquarters	714	1,000 sf GFA	\$10,397
Medical-Dental Office Building	720	1,000 sf GFA	\$59,955
U.S. Post Office	732	1,000 sf GFA	#####
Research and Development Center	760	1,000 sf GFA	\$8,491
Business Park	770	1,000 sf GFA	\$7,278

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>INDUSTRIAL</b>			
General Light Industrial	110	1,000 sf GFA	\$10,917
Industrial Park	130	1,000 sf GFA	\$6,931
Manufacturing	140	1,000 sf GFA	\$11,610
Warehouse	150	1,000 sf GFA	\$3,292
Mini-Warehouse	151	1,000 sf GFA	\$2,946
Utilities	170	1,000 sf GFA	\$39,335

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>PORT and TERMINAL</b>			
Intermodal Truck Terminal	30	1,000 sf GFA	\$32,403
Park and Ride Lot with Bus Service	90	Parking Space	\$7,451

**NOTES:**

\* Abbreviations include: GFA = Gross Floor Area, sf = square feet, and GLA = Gross Leasable Area.

\* The City of Lynden has established Traffic Impact Fees (TIF) through Lynden Municipal Code 3.46, as authorized by RCW 82.02 and RCW 36.70A. Unless otherwise noted, the City of Lynden utilizes the weekday PM peak hour trip as the base measurement of trip generation. The City utilizes trip generation methodologies as identified in the most recent edition of the Institute of Traffic Engineers Trip Generation Manual.

\* No reduction in the City's base cost per trip may be considered at any time, although the City may consider variations to trip reduction rates for non-single family development when documented by the applicant utilizing methodologies accepted by the City.

**City of Lynden**  
**Attachment B2 - Schedule of Transportation Impact Fees - Citywide Service Area**  
 Cost per PM peak hour trip end = \$2,168

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>RESIDENTIAL</b>			
Detached Housing	210	Dwelling Unit	\$2,146
Multifamily Housing (attached and stacked)	220, 221	Dwelling Unit	\$1,214
Senior Housing	251, 252	Dwelling Unit	\$650
Nursing Home	620	Bed	\$477
Congregate Care/Asst. Living	253, 254	Dwelling Unit	\$564
<b>INSTITUTIONAL</b>			
Public Park	411	Acre	\$238
Golf Course	430	Hole	\$6,309
Multi-Purpose Recreational Facility	435	1,000 sf GFA	\$7,761
Multiplex Movie Theater	445	Movie Screens	\$29,767
Casino/Video Lottery Establishment	473	1,000 sf GFA	\$29,246
Tennis Courts	490	Court	\$9,127
Health/Fitness Club	492	1,000 sf GFA	\$7,480
Elementary School	520	Student	\$369
Middle/Junior High School	522	Student	\$369
High School	530	Student	\$304
Church	560	1,000 sf GFA	\$1,062
Day Care Center	565	1,000 sf GFA	\$24,108
Library	590	1,000 sf GFA	\$17,691
Hospital	610	1,000 sf GFA	\$2,103

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>BUSINESS &amp; COMMERCIAL</b>			
Hotel	310	Room	\$1,301
Motel	320	Room	\$824
Building Materials/Lumber	812	1,000 sf GFA	\$4,466
Free-Standing Discount Superstore	813	1,000 sf GFA	\$7,416
Hardware/Paint Store	816	1,000 sf GFA	\$4,300
Nursery-Retail (Garden Center)	817	1,000 sf GFA	\$15,046
Shopping Center	820	1,000 sf GLA	\$5,452
Factory Outlet Center	823	1,000 sf GFA	\$4,965
Supermarket	850	1,000 sf GFA	\$12,821
Discount Supermarket	854	1,000 sf GFA	\$14,353
Discount Club	857	1,000 sf GFA	\$5,709
Home Improvement Superstore	862	1,000 sf GFA	\$2,930
Electronics Superstore	863	1,000 sf GFA	\$5,541
Toy/Children's Superstore	864	1,000 sf GFA	\$10,840
Apparel Store	876	1,000 sf GFA	\$8,932
Pharmacy/Drug Store w/out Drive-Through	880	1,000 sf GFA	\$8,671
Pharmacy/Drug Store w/ Drive-Through	881	1,000 sf GFA	\$11,377
Furniture Store	890	1,000 sf GFA	\$530
Bank/Savings: Walk-in	911	1,000 sf GFA	\$17,094
Bank/Savings: Drive-in	912	1,000 sf GFA	\$28,818
Drinking Place	925	1,000 sf GFA	\$16,009
Quality Restaurant	931	1,000 sf GFA	\$9,470
High Turnover Sit-Down Restaurant	932	1,000 sf GFA	\$12,073
Fast Food Restaurant w/out Drive-Through	933	1,000 sf GFA	\$30,721
Fast Food Restaurant w/ Drive-Through	934	1,000 sf GFA	\$35,414
Coffee/Donut Shop with Drive-Through Window	937	1,000 sf GFA	\$47,024
New Car Sales	840	1,000 sf GFA	\$5,268
Auto Parts Sales	843	1,000 sf GFA	\$6,068
Tire Store	848	1,000 sf GFA	\$6,213
Tire Superstore	849	1,000 sf GFA	\$4,574
Convenience Market (24 Hr)	851	1,000 sf GFA	\$52,171
Convenience Market w/ Gas Pump	853	Vehicle Fueling Position	\$16,983
Gasoline/Service Station	944	Vehicle Fueling Position	\$17,642
Gasoline/Service Station w/ Convenience Market	945	Vehicle Fueling Position	\$13,345
Quick Lubrication Vehicle Shop	941	Servicing Position	\$10,515
Auto Care Center	942	1,000 sf GLA	\$6,742
Self-Service Car Wash	947	Wash Stall	\$12,011

Land Use Category - ITE 10th Edition	ITE Land Use Code	Unit	Impact Fee Per Unit
<b>OFFICE</b>			
Clinic	630	1,000 sf GFA	\$7,111
General Office	710	1,000 sf GFA	\$2,493
Small Office Building	712	1,000 sf GFA	\$5,312
Corporate Headquarters	714	1,000 sf GFA	\$1,301
Medical-Dental Office Building	720	1,000 sf GFA	\$7,501
U.S. Post Office	732	1,000 sf GFA	\$24,303
Research and Development Center	760	1,000 sf GFA	\$1,062
Business Park	770	1,000 sf GFA	\$911
<b>INDUSTRIAL</b>			
General Light Industrial	110	1,000 sf GFA	\$1,366
Industrial Park	130	1,000 sf GFA	\$867
Manufacturing	140	1,000 sf GFA	\$1,453
Warehouse	150	1,000 sf GFA	\$412
Mini-Warehouse	151	1,000 sf GFA	\$369
Utilities	170	1,000 sf GFA	\$4,921
<b>PORT and TERMINAL</b>			
Intermodal Truck Terminal	30	1,000 sf GFA	\$4,054
Park and Ride Lot with Bus Service	90	Parking Space	\$932

**NOTES:**

\* Abbreviations include: GFA = Gross Floor Area, sf = square feet, and GLA = Gross Leasable Area.

\* The City of Lynden has established Traffic Impact Fees (TIF) through Lynden Municipal Code 3.46, as authorized by RCW 82.02 and RCW 36.70A. Unless otherwise noted, the City of Lynden utilizes the weekday PM peak hour trip as the base measurement of trip generation. The City utilizes trip generation methodologies as identified in the most recent edition of the Institute of Traffic Engineers Trip Generation Manual.

\* No reduction in the City's base cost per trip may be considered at any time, although the City may consider variations to trip reduction rates for non-single family development when documented by the applicant utilizing methodologies accepted by the City.

# Transportation Improvement Projects and Programs

## City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit								
Safety and Capacity	C-1	Birch Bay - Lynden Road and Berthusen Road	Evaluate intersection operations and install roundabout to improve future level of service when needed.	✓	✓			✓				Medium	Mid	\$1,159,000	Y	Y	0%	\$0	\$231,800
	C-2	17th Street and Grover Street	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓		✓	Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
	C-3	Nooksack & Grover	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓		✓	Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
	C-6	Benson Road and Main Street	Evaluate intersection operations and install traffic signal to improve future level of service when needed.	✓	✓			✓	✓			Low	Long	\$535,000	Y	Y	0%	\$0	\$107,000
Corridor Upgrades	R-3	3rd St between Front and Grover	Reconstruct corridor to HBD standards (inc. 36' width), including sidewalks. Complete intersection and signal timing improvements as needed.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$602,000	Y	N	0%	\$0	\$511,700
	R-4	4th St between Front and Grover	Reconstruct corridor to HBD standards with two one-way travel lanes with angled parking and center median with farmer's market area and possible use as community event space		✓	✓	✓	✓	✓	✓		Medium	Short	\$1,782,000	Y	N	0%	\$0	\$1,514,700
	R-5	6th St between Front and Grover	Reconstruct corridor to HBD standards (inc. 36' width), including sidewalks.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$524,000	Y	N	0%	\$0	\$445,400
	R-6	Main Street from Berthusen E .5 mile to existing roadway	Reconstruct corridor to City standards (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Short	\$2,821,000	Y	Y	0%	\$0	\$0
	R-7	Bradley Road from Vinup Road to Line Road	Reconstruct corridor to City standards (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Mid	\$454,000	Y	Y	0%	\$0	\$39,100
	R-8A	Line Road from Badger Road to Aaron Drive	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities, and other safety measures to improve access to Middle School		✓	✓	✓	✓	✓	✓	✓	Medium	Mid	\$802,000	Y	Y	0%	\$0	\$69,700
	R-8B	Line Road from Kamm Road to Bradley Road	Reconstruct corridor to City standard (inc. 34' width), including sidewalks and bicycle facilities, and other safety measures to improve school access. Includes replacement of fish passage barrier culvert.		✓	✓	✓	✓	✓	✓	✓	Medium	Mid	\$1,225,000	Y	Y	0%	\$0	\$106,250
	R-9	Northwood Road from Badger Road (SR-546) to City Limits	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Low	Long	\$5,269,000	Y	Y	0%	\$0	\$458,150
	R-10	Kamm Road from Line Road to Northwood Road	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Low	Long	\$3,698,000	Y	N	0%	\$0	\$3,143,300
	R-11	4th Street from Front Street to new Riverview Road (Project 13)	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Mid	100% Developer	N	N	100%	NA	\$0
	R-12	W Front Street and Tromp from Duffner Drive to Birch Bay - Lynden Road	Reconstruct corridor to City standard (inc. 36' width), including sidewalks and bicycle facilities.		✓	✓	✓	✓	✓	✓		Medium	Long	\$4,690,000	Y	N	0%	\$0	\$3,986,500
	R-13	Double Ditch Road from Main Street to Village Drive	Maintain existing roadway width and cross-section, but complete other Reconstructs to City standards, including sidewalks.		✓	✓	✓	✓	✓	✓		Low	Long	\$568,000	Y	N	0%	\$0	\$424,800
	Multimodal Connections	M-5	West Subarea - North-South Connection	Developer funded roadway extending Tromp Road to W Main Street serving new developments in West subarea. Alignments will be designed as part of future subarea studies.			✓	✓	✓	✓	✓		Low	Long	100% Developer	N	N	100%	NA
M-6		West Subarea - East-West Connection	Developer funded roadway extending Front Street to Berthusen Road serving new developments in West subarea. Alignments will be designed as part of future subarea studies.			✓	✓	✓	✓	✓		Low	Long	100% Developer	N	N	100%	NA	\$0
Active Transportation	A-2	Badger Rd Bike Pedestrian Corridor On-Street Bicycle Connection	Bicycle and pedestrian facilities on the South side of Badger Rd (SR546) providing safe east west corridor between Northwood and Bender Road			✓			✓	✓		Medium	Long	100% Developer	N	N	100%	NA	\$0
	A-3	Non-Street Trails Plan Projects	Paved trails based on county parks plan including new pathways adjacent to Nooksack River and Fish Trap Creek trails. (Parks Funded)			✓			✓	✓		Medium	Long	\$2,651,000	N	Y	0%	\$0	\$2,261,000
	A-4	Depot to 8th Street Trail	New trail from 8th Street to Depot Road on ROW adjacent to Fishtrap Creek. Includes new 60' bridge across creek. (Parks Funded)		✓	✓	✓		✓	✓		Medium	Short	\$2,495,000	N	Y	0%	\$0	\$1,120,000

### Transportation Improvement Projects and Programs

City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit								
Citywide Programs	P-1	Street Overlay, Maintenance and Operations Program	Annual program to maintain and operate the City's transportation roadway infrastructure.		✓		✓	✓				Medium	Ongoing	\$11,140,000	N	N	0%	\$0	\$9,000,000
	P-2	Bicycle Facilities and Pathways Program	Striping of City-identified bicycle routes within City limits. Some facilities may be listed above in reconstruction projects.		✓	✓	✓			✓		Medium	Ongoing	\$223,000	N	N	0%	\$0	\$200,000
	P-3	Sidewalk / Crossing Improvement Program	Annual program to construct missing sidewalk links, repair existing sidewalks, improve crosswalk markings, and install ADA- accessible curb ramps at intersections.		✓	✓	✓		✓			High	Ongoing	\$613,000	N	N	0%	\$0	\$550,000
Pepin Creek Projects	PC-2	Main Street Bridge @ Pepin Creek	Construct new bridge over realigned Pepin Creek					✓	✓	✓				\$3,331,000	Y	Y			
	PC-3	Pine St Bridge (Vehicle Bridge Only)	Construct new bridge over realigned Pepin Creek					✓	✓	✓				\$2,888,000	Y	N			
	PC-4	Double Ditch Rd Phase 1: Pepin Creek Main Stem	Construct new Pepin Creek main stem to allow for Double Ditch Rd transportation improvements		✓									\$8,277,000	Y	N			
	PC-5	Double Ditch Rd Phase 2: Pepin Creek East/West Connection	Construct new Pepin Creek east/west connection to allow for Double Ditch Rd transportation improvements		✓									\$1,534,000	Y	N			
	PC-7	Double Ditch Rd Phase 3: Double Ditch Rd Cross Culvert	Construct new Pepin Creek cross culvert to allow for Double Ditch Rd transportation improvements		✓									\$807,000	Y	Y			
	PC-8	Double Ditch Rd Phase 4: Roadway Improvements	Improve/widen Double Ditch Rd to urban standards, between Pepin Parkway and Main St (2lanes, bike/ped, shoulder)					✓	✓	✓				\$4,416,000	Y	Y			
	PC-9	Benson Rd Pedestrian Improvements- North	Construct pedestrian improvements between Park St and new Pepin Parkway (near Sunrise Dr)				✓		✓					\$359,000	Y	Y			
	PC-10	Benson Roadway Improvements	Improve/widen Benson Rd to urban standards, between Pepin Parkway and Badger Rd (SR 546)	✓		✓	✓	✓	✓	✓				\$4,217,000	Y	Y			
	PC-11	Pepin Parkway Bridge @ Pepin Creek	Construct new bridge over realigned Pepin Creek (link with PC-12)	✓		✓	✓	✓	✓	✓				\$2,741,000	Y	N			
	PC-12	Pepin Parkway Construction	Construct new roadway between Benson Rd and Double Ditch Rd	✓		✓	✓	✓	✓	✓				\$5,093,000	Y	N			
PC-13	Main St. /Double Ditch Rd Intersection Improvements	Intersection widening and new traffic control (signal or compact roundabout)	✓		✓	✓	✓	✓	✓				\$1,433,000	Y	Y				

### Transportation Improvement Projects and Programs

City of Lynden Transportation Element Update: October 2021

	PID	Location (Extents)	Description	Benefit				Mode				Relative Priority	Time Frame	2021 Total Cost Estimate	TIF Eligible	Grant Eligible	Developer Funded %	Developer Portion of Cost Estimate	General City or Other Agency Transportation Funds
				Capacity	Safety	Connectivity	Mobility	Vehicles	Pedestrians	Bicycles	Transit								
Other Agency Projects	O-1	SR 546 and Benson Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				Medium	Mid	\$1,225,000	N	N	0%	\$0	\$1,100,000
	O-2	SR 546 and Vinup Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				Medium	Mid	\$1,203,000	N	N	0%	\$0	\$1,080,000
	O-3	SR 546 and Line Road	Upgrade intersection to a roundabout consistent with designs at adjacent intersections on SR 546 corridor.	✓	✓			✓				High	Mid	\$1,225,000	N	N	0%	\$0	\$1,100,000
	O-4	SR 539 (Guide Meridian) from Birch Bay Lynden to SR 546 (Badger Rd)	Add roadway capacity as part of WSDOT project. Widen roadway to 4 travel lanes between BBL and Main Street. Lane and shoulder widening north of Main Street with safety improvements. Possible roundabouts at Main and Badger Intersections.	✓	✓	✓	✓	✓				High	Mid	\$24,073,000	N	N	0%	\$0	\$21,610,000

	2021 Total Cost Estimate	TIF Contribution	Developer Contribution	Agency Contribution
Safety and Capacity	\$2,764,000	\$2,211,200	\$0	\$552,800
Corridor Upgrades	\$22,435,000	\$3,365,250	\$0	\$10,699,600
Multimodal Connections	\$0	\$0	\$0	\$0
Active Transportation	\$5,146,000	\$0	\$0	\$3,381,000
Citywide Programs	\$11,976,000	\$0	\$0	\$9,750,000
Pepin Creek Projects	\$28,877,000	\$15,437,650	\$0	\$0
Other Agency (State Route) Projects	\$27,726,000	\$0	\$0	\$24,890,000
<b>TOTAL</b>	<b>\$98,924,000</b>	<b>\$21,014,100</b>	<b>\$0</b>	<b>\$49,273,400</b>
	100%	21%	0%	78%
<b>CITY TOTAL</b>				<b>\$24,383,400</b>
				39%

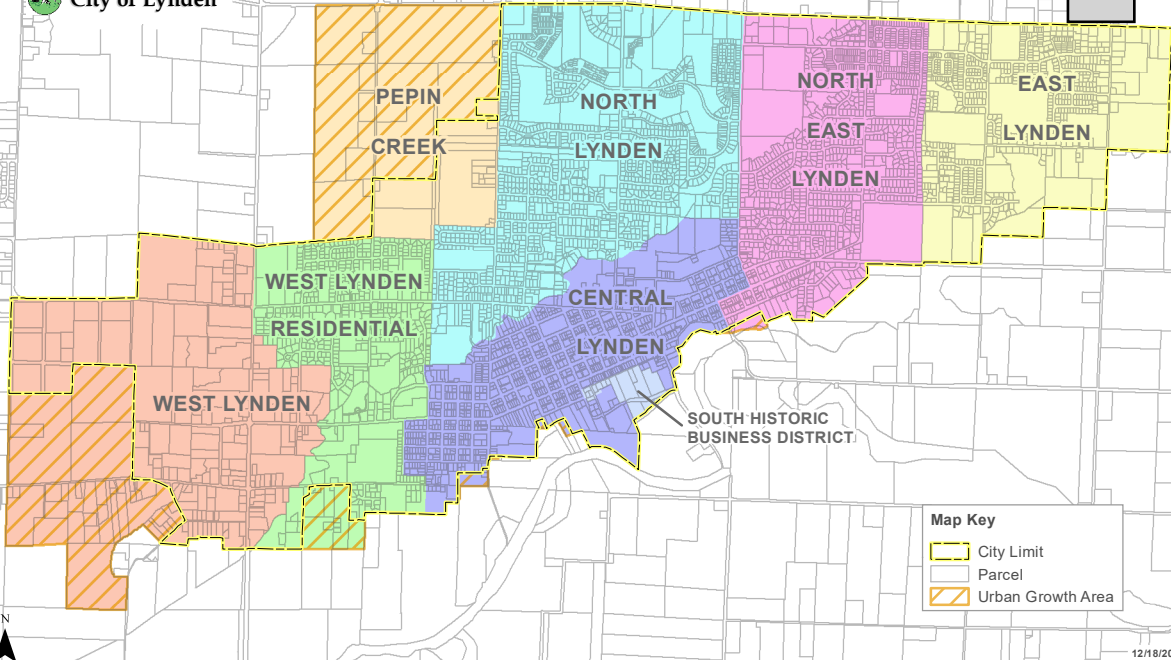
TIF Cost	General Range
\$ 2,211,200	60-80%
\$ 3,365,250	10-20%
\$ -	80-100%
\$ -	0-20%
\$0	
\$15,437,650	
\$0	
<b>\$ 21,014,100</b>	

# Sub-Areas



City of Lynden

71



**Map Key**

- City Limit
- Parcel
- Urban Growth Area



RESOLUTION NO. 709

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNDEN DECLARING THAT ECONOMIC DEVELOPMENT EFFORTS SERVE BROAD PUBLIC PURPOSE AND PROVIDING INCENTIVES FOR ECONOMIC GROWTH

WHEREAS, the City of Lynden desires for its citizens a quality of life that includes aesthetic quality, a strong sense of community and economic health; and

WHEREAS, the City of Lynden seeks a balance between residential growth and employment opportunities within the City; and

WHEREAS, the City of Lynden has adopted a Comprehensive Economic Development Plan that declares the public benefits of economic development and growth within the community; and

WHEREAS, the mission of the Economic Development Plan reads, ***"To work with business owners and citizens throughout the City to ensure the future economic health of the City by working to maintain and attract responsible businesses and industries that are compatible with the Communities values."***

WHEREAS, the public benefits of economic growth include an increased property tax base to support municipal services, schools, and other taxing authorities, the creation of jobs to gainfully employ the citizens of the community, increased sales tax revenues, and

WHEREAS, the public benefits of economic growth within the city also include less traffic congestion on outlying roads and highways, reduction in urban sprawl, investment within a municipal area that is able to provide the services needed for business and industry; and

WHEREAS, economic development within the City is supported by the goals and objectives of the Growth Management Act; and whereas,

WHEREAS, providing incentives for economic development is consistent with the Growth Management Act and the City's own goals for encouraging infill development; and

WHEREAS, there are obstacles to Lynden's economic growth that the City can not resolve, such as the distance of the City from Interstate 5, the limited border crossing, the cost of land within the community, all of which have affected Lynden's ability to retain existing businesses and attract new industrial development; and

WHEREAS, within the City limits there is land zoned appropriately for commercial and industrial development to provide opportunity for economic growth; and

WHEREAS, the areas zoned as CS-3, I-1 and I-2 provide land area specifically targeted for agricultural business, and industrial growth: land uses which are targeted for support within the Comprehensive Economic Development Plan; and

WHEREAS, since 1998 the City of Lynden has lost several employers within the City to areas that are ready to develop, are closer to I-5 and are more economical to expand; and

WHEREAS, Lynden needs additional incentives to encourage businesses within those areas to expand and to attract new business to the city and to counter the obstacles to economic growth within the City; and

WHEREAS, mitigation fees for transportation improvements and park and open space facilities may affect a business's decision to locate in the West Lynden Industrial Area; and

WHEREAS, revenue from transportation and park mitigation fees reduced as an incentive for locating within the West Lynden Industrial Area may be recouped through grants for economic development purposes, increase real estate excise tax, removal of property from the open space taxation program and general public benefit;



NOW THEREFORE BE IT RESOLVED by the Council of the City of Lynden to declare that economic development efforts serve a broad public interest to the citizens of Lynden by increasing the property tax base, and creating new jobs within the city; and


NOW THEREFORE BE IT ALSO RESOLVED by the Council of the City of Lynden to declare the zoning designations of I-1 (Industrial), I-2 (Light industrial), and CS-3 (Commercial Services) as economic assistance areas; and

NOW THEREFORE BE IT FURTHER RESOLVED by the Council of the City of Lynden to consider economic incentives, such as the reduction in mitigation fees for park facilities and transportation facilities, for new development in those areas declared as economic assistance areas.

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the 7<sup>th</sup> day of February, 2005 and signed and approved by the Mayor on the same date.

  
MAYOR  
Jack Louws

ATTEST:

  
CITY CLERK  
William Verwolf

APPROVED AS TO FORM:

  
CITY ATTORNEY  
Robert Carmichael

December 27, 2004

To Honorable City Council Members Adelstein, Bode, Burns, DeValois, Kuiken, Laninga, and Vis;

RE: Economic Development and Impact Fees

In the next twenty years, Lynden is anticipating more than eight thousand new residents within the community. Each year Lynden and Lynden Christian High Schools graduate more than three hundred students from the two high schools combined. In the current update to Lynden's Comprehensive Plan, the City is considering where these new residents and students may live and work and developing a land use plan that will insure there is adequate land area to meet those needs.

In addition to planning for the residential growth, the Comprehensive Plan works to make certain that there will be sufficient land for future commercial and industrial growth. However, planning for the land area is only one step of the process. Filling that property is also essential to Lynden's balanced growth and economic future. While the policies of the Comprehensive Plan and the goals of the Economic Development Plan, all champion creating new jobs through either business retention or new business attraction, there is a lack of positive strategies to implement these goals.

To encourage balanced growth within the community and to improve the City's self-sufficiency, more must be done to make Lynden a competitive place to do business. The City's distance from I-5, limited rail service, restricted border crossing hours and the cost of land all work against the City when trying to attract new industrial business. These are factors that the City can not change.

What the City can do to make Lynden competitive is to consider the structure for certain fees that business and industry pays to the City when they apply for their permits. The table below shows what certain types of businesses might currently pay in transportation and park impact fees at the time of their building permit.

Type of Business	Park Impact Fees	Transportation Impact Fees
70,000 sq. ft. Manufacturing Facility	\$6,580	\$94,483
10,000 sq. ft. Warehouse Facility	\$940	\$8,573
5,000 sq. ft. General Office Building	\$1,170	\$13,589
5,000 sq. ft. Medical/Dental Building	\$1,170	\$33,926
50,000 sq. ft. Retail Building	\$7,000	\$155,897

Many times, these fees are in addition to other development requirements, such as utility extensions or frontage improvements. While the impact fees may be a small portion of the total project cost, they can often serve as an indicator as to how the community responds to business.

My recommendation to the City Council is that the Council considers designating the land use zones I-1, I-2 and CS-3 as economic development assistance areas by resolution and citing how development in this area will economically benefit the Lynden community. Some examples of those benefits include:

1. Increased property taxes. Most properties are currently in open space taxation and the City is receiving very minimal property taxes. (For example, one parcel in the designated area is currently paying approximately \$360 per year in property taxes - total. Taken out of open space, the same property undeveloped would contribute approximately \$8,000 per year)
2. Stronger employment base to support the growing residential population. Families would not have to leave town in order to find employment, increasing the social benefit within the City.
3. Development activity spurs other types of funding opportunities like Whatcom County's Economic Development Initiative and CERB grants/loans.
4. Financial investments in the community through job creation, vocational training, sales tax revenue (people shop where they work), as well as social investments, are important to Lynden's future.

Providing the incentive across the industrial zoning spectrum (I-1, I-2 and CS-3) ensures that regardless of where the property is located, the incentives will apply to the type of development needed most within the Lynden community: job creating, manufacturing and assembly types of growth. The City has experienced very strong residential growth, as well as strong commercial growth. Now is the time to continue to balance the growth equation with new "industrial" jobs.

I recommend that the City provide a 50% reduction in Park and Transportation impact fees for these specific zones. The transportation mitigation fund will be reduced by approximately \$415,500 and the parks mitigation fund approximately \$22,000 by taking this action, but I contend that if we work with the County and State for Economic Development monies, we will be able to adequately provide the infrastructure needs of the community using these outside sources of potential money. The City Administration

and Staff are committed to work aggressively to find other revenues to support the proposed projects financed with mitigation funds. Partners such as the Port of Bellingham, Whatcom County (through the EDI program) and the State of Washington CURB and CERT programs are direct examples of potential revenue enhancement sources.

Attached is a draft resolution I'm asking you to consider adopting to take the first step in making this incentive for job creation possible. If the resolution is adopted, staff will then proceed in drafting potential amendments to the various ordinances and resolutions as needed. These amendments would include changes to the Park Impact Fee Ordinance and the Transportation Impact Fee ordinance as well as the Transportation Impact fee resolution.

Thanks for the opportunity to present this to you. As always, I would encourage committee review prior to adoption of a resolution, so I would suggest this be remanded to the Community Development , Parks and Public Works committees and be brought back to Council later for consideration. If you have questions, please contact Administrator Verwolf, Planning Director Harksell, or me.

Respectfully Submitted by,

---

Jack Louws

RESOLUTION NO. 709

A RESOLUTION OF THE COUNCIL OF THE CITY OF LYNDEN DECLARING THAT ECONOMIC DEVELOPMENT EFFORTS SERVE BROAD PUBLIC PURPOSE AND PROVIDING INCENTIVES FOR ECONOMIC GROWTH

WHEREAS, the City of Lynden desires for its citizens a quality of life that includes aesthetic quality, a strong sense of community and economic health; and

WHEREAS, the City of Lynden seeks a balance between residential growth and employment opportunities within the City; and

WHEREAS, the City of Lynden has adopted a Comprehensive Economic Development Plan that declares the public benefits of economic development and growth within the community; and

WHEREAS, the mission of the Economic Development Plan reads, *"To work with business owners and citizens throughout the City to ensure the future economic health of the City by working to maintain and attract responsible businesses and industries that are compatible with the Communities values."*

WHEREAS, the public benefits of economic growth include an increased property tax base to support municipal services, schools, and other taxing authorities, the creation of jobs to gainfully employ the citizens of the community, increased sales tax revenues, and

WHEREAS, the public benefits of economic growth within the city also include less traffic congestion on outlying roads and highways, reduction in urban sprawl, investment within a municipal area that is able to provide the services needed for business and industry; and

WHEREAS, economic development within the City is supported by the goals and objectives of the Growth Management Act; and whereas,

WHEREAS, providing incentives for economic development is consistent with the Growth Management Act and the City's own goals for encouraging infill development; and

WHEREAS, there are obstacles to Lynden's economic growth that the City can not resolve, such as the distance of the City from Interstate 5, the limited border crossing, the cost of land within the community, all of which have affected Lynden's ability to retain existing businesses and attract new industrial development; and

WHEREAS, within the City limits there is land zoned appropriately for commercial and industrial development to provide opportunity for economic growth; and

WHEREAS, the areas zoned as CS-3, I-1 and I-2 provide land area specifically targeted for agricultural business, and industrial growth: land uses which are targeted for support within the Comprehensive Economic Development Plan; and

WHEREAS, since 1998 the City of Lynden has lost several employers within the City to areas that are ready to develop, are closer to I-5 and are more economical to expand; and

WHEREAS, Lynden needs additional incentives to encourage businesses within those areas to expand and to attract new business to the city and to counter the obstacles to economic growth within the City; and

WHEREAS, mitigation fees for transportation improvements and park and open space facilities may affect a business's decision to locate in the West Lynden Industrial Area; and

WHEREAS, revenue from transportation and park mitigation fees reduced as an incentive for locating within the West Lynden Industrial Area may be recouped through grants for economic development purposes, increase real estate excise tax, removal of property from the open space taxation program and general public benefit;

NOW THEREFORE BE IT RESOLVED by the Council of the City of Lynden to declare that economic development efforts serve a broad public interest to the citizens of Lynden by increasing the property tax base, and creating new jobs within the city; and

NOW THEREFORE BE IT ALSO RESOLVED by the Council of the City of Lynden to declare the zoning designations of I-1 (Industrial), I-2 (Light industrial), and CS-3 (Commercial Services) as economic assistance areas; and

NOW THEREFORE BE IT FURTHER RESOLVED by the Council of the City of Lynden to consider economic incentives, such as the reduction in mitigation fees for park facilities and transportation facilities, for new development in those areas declared as economic assistance areas.

PASSED by the City Council of the City of Lynden, Whatcom County, Washington on the 7<sup>th</sup> day of February, 2005 and signed and approved by the Mayor on the same date.

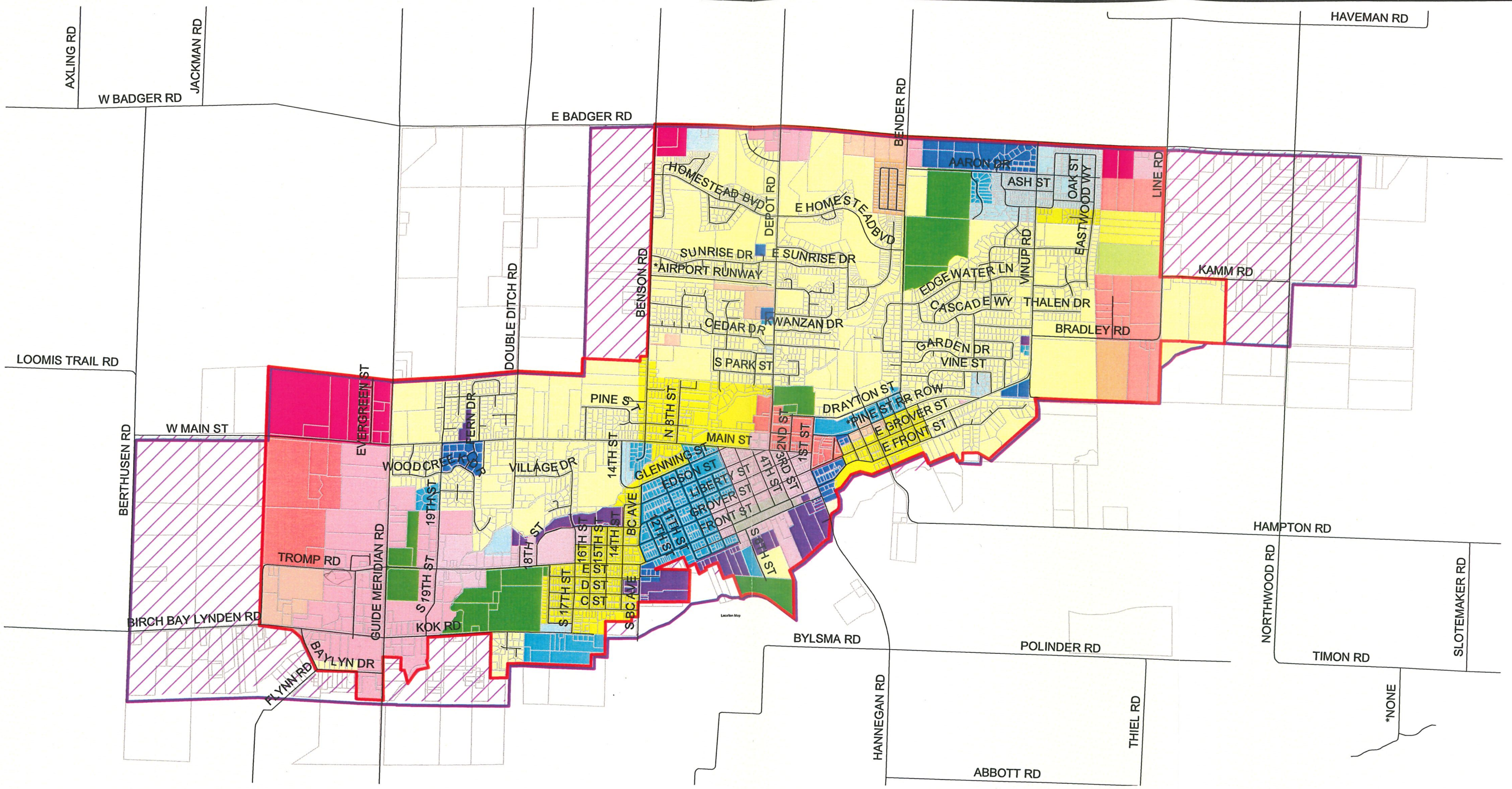
  
MAYOR  
Jack Louws

ATTEST:

  
CITY CLERK  
William Verwolf

APPROVED AS TO FORM:

  
CITY ATTORNEY  
Robert Carmichael



**CITY OF LYNDEN**  
**ZONING MAP**  
 AS OF  
 August 15, 2005

WHATCOM COUNTY



Legend	
	City Limits
	Urban Growth Area
	Future Land Use
	A-1 - Agricultural Holding
	RS-100 - Single Family (10,000 sq. ft. lot)
	RS-84 - Single Family (8,400 sq. ft.)
	RS-72 - Single Family (7,200 sq. ft. lot)
	MH - Manufactured Housing
	RMD - Residential Mixed Density
	RM-1 - Multi-Family (Duplex)
	RM-2 - Multi-Family (up to 4 DU/Bldg)
	RM-3 - Multi-Family (16 DU/Acre)
	RM-4 - Multi-Family (24 DU/Acre)
	HBD - Historic Building District
	CS-1 - Community Shopping
	CS-2 - Commercial Services
	CS-3 - Commercial Services
	I-1 - Industrial
	I-2 - Light Industrial
	PU - Public Use
	TR-RW - Travel and Recreation Vehicles

\*NONE

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Public Works Committee Meeting Minutes August 4, 2021	
<b>Section of Agenda:</b>	Approval of Minutes	
<b>Department:</b>	Public Works	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
<b>Attachments:</b>		
August 4, 2021 Draft Public Works Committee Meeting Minutes		
<b>Summary Statement:</b>		
Draft minutes for the August 4, 2021 Public Works Committee meeting.		
<b>Recommended Action:</b>		
For Review		



## CITY OF LYNDEN

PUBLIC WORKS DEPARTMENT  
Main Number: (360) 354-3446



**Public Works Committee Meeting Minutes**  
City Hall - 300 Fourth Street  
4:00 PM August 04, 2021

**Call to Order****Roll Call**

Members Present: Mayor Scott Korthuis, Councilors Gary Bode, Ron De Valois and Jerry Kuiken

Staff Present: Public Works Director Steve Banham, Programs Manager Mark Sandal, Building Official Ted Brouwer, Sr. Admin. Assistant Miriam Kentner

Public Present: Gary Vis, Brian Davidson, Wes Herman

**Action Items****1. Approve Minutes from July 07, 2021**

De Valois motioned to approve the minutes and Kuiken seconded the motion.

**Action:**

***The minutes from July 07, 2021 were approved***

**2. Lynden Recreation Center - Forge Fitness Siding Proposal**

Brian Davidson, lease holder of the Lynden Recreation Center, operating as Forge Fitness, discussed his proposal for replacing siding. The lease agreement was amended earlier this year authorizing the Davidsons to be reimbursed one time up to \$250,000 for building improvements, upon approval of City Council. That amendment was intended to allow for siding replacement. Davidson received a bid from Bay Road Building & Consulting LLC for \$255,411.00 plus sales tax out of the eight bids he solicited. The other contractors were too busy to do the work or were not interested in the job.

Brouwer referred to an inspection that was completed by the City in 2012 which indicated that the building structure was in good shape overall; however, he suggested that to maintain building integrity and to prevent structure damage, replacing the siding is essential.

The Committee also discussed the removal of the berm located around most of the building and Banham stated the Public Works Crew could do that work to stay within budget.

**Action:**

***The Public Works Committee concurred and requested that staff bring the siding proposal to a future City Council meeting with their recommendation for approval.***

3. **Request for Franchise Agreement - Sound Internet Services dba PogoZone**

Banham stated Staff has received a request for a franchise agreement from PogoZone, a provider of business and residential internet and phone service to Whatcom, Skagit, and Island counties. Banham stated the franchise agreement is currently under review with the City attorney and PogoZone.

**Action:**

***The Public Works Committee concurred and requested that staff bring the revised Franchise Agreement to a future Public Works Committee meeting for further discussion.***

4. **Sidewalk Obstruction – Revise Section 12.28 of the Lynden Municipal Code**

Banham presented a proposed Ordinance which amends Lynden Municipal Code Section 12.28 Sidewalk Obstructions to clarify the requirements for permitting and providing more guidance for outdoor dining facilities.

The amendment was previously discussed at the May 5, 2021 Public Works Committee meeting when Jesse Nelson, Owner of Overflow Taps, asked to expand their outdoor seating area.

Staff is proposing to amend the code to clarify which obstructions require permits and which are exempt from permit requirements. The permitting office was changed to Public Works. Provisions have been included for outdoor dining facilities to address the previous discussion with Overflow Taps. This includes preserving a five-foot continuous strip of sidewalk for pedestrian movement. The Committee discussed the following: securing obstructions in inclement weather, the height of obstructions, sandwich boards, public art, response to city notices to remove obstruction, and other minor changes. Banham stated the main goal is to create a document that adds clarity and provides reasonable authority to the City to protect public interests while still allowing use of extra sidewalk by the adjacent businesses. These wider sidewalks are primarily in the Historic Business District where there has been pressure in recent years to clarify how sidewalks can be used.

**Action:**

***The Public Works Committee concurred to recommend forwarding the Ordinance amending LMC 12.28 Sidewalk Obstructions to City Council for approval once staff has made the revisions discussed.***

5. **Community Center Parking Lot Access Agreement - Wes Herman / Upper End LLC**

Banham introduced Wes Herman, owner of 110 5<sup>th</sup> Street and representing Upper End, LLC. Herman is requesting a parking license agreement with the City for shared use of the five spaces abutting his property and partially on the Lynden Community Center parking lot. The Committee initially discussed the draft “License Agreement for Shared Parking” at the July 7, 2021 Public Works Committee Meeting. Herman has since provided a survey and property description which clearly shows that these five parking spaces are partially on his property and partially on City Community Center property.

The Committee agreed that a license clarifying the shared use of these five spaces made sense and discussed the possibility of allowing these spaces to be exclusively reserved from the hours from 4pm to 8am when the Community Center is closed.

**Action:**

***The Public Works Committee concurred and recommended that staff to work with Wes Herman and the City Attorney to finalize the License Agreement for Shared Parking. The Committee stated that Herman would be allowed to provide and install signs for those five spaces that would reserve them for his exclusive use from 4pm to 8am. The Committee concurred with bringing the license directly to City Council for approval after that review is complete.***

**Information Items**

**6. Darigold Expansion - Increased Wastewater Demand**

Banham explained that staff is working with a consultant to identify specific needs for improvements at the Wastewater Treatment Plant. Additional industries are currently looking at property in City limits which will increase wastewater treatment demands. Staff is looking at moving forward with some of the capital improvement projects identified in the General Sewer Plan. These projects will occur earlier than identified in the plan as a result of the expected increase on demand. Design and permitting to occur in 2021 and 2022 with construction planned for 2023.

**7. West Lynden Stormwater**

Staff is working with the following stormwater related projects in West Lynden:

- 1) Alliance Freeze Dried (purchasing the former PeaceHealth property in the West Lynden Business Park),
- 2) Dick Vandenberg and Lark Group (Canadian development company) on the remaining West Lynden Business Park property,
- 3) Staff is finalizing a Scope of Work for the \$40,000 analysis of downstream channel survey work using a Port of Bellingham grant (\$15,000),
- 4) Staff is finalizing the interlocal agreement with the Watershed Improvement and Drainage Districts to the north, west, and south of the city.

**8. Traffic Impact Fees in the Pepin Creek Subarea**

Banham explained that Public Works and Planning staff are working with Transpo Group to incorporate a Traffic Impact Fee overlay that will apply to the Pepin Creek Sub-Area. This data will be used in the development of updated Traffic Impact Fees that will be presented to City Council later this month.

**9. PROJECTS**

**Pepin Sub-Area Design**

Agreement executed with Reichhardt and Ebe Engineering to provide more accurate street location and cross-section information for the Pepin Parkway. This is in response to discussions with private property owners and future development interests.

**Managed Aquifer Recharge**

Banham stated that staff met with the Lummi Salmon Habitat Staff to provide updates on the Managed Aquifer Recharge project. Korthuis explained that Whatcom County Executive Satpal Sidhu is interested in meeting to discuss how Whatcom County can be of assistance.

Industrial Condensate Outfall

The Committee discussed Industrial Condensate Sanitary Sewer manhole installation project and associated road closures this week. Banham stated the Manhole and CIPP work is scheduled to be completed in August and the Shoreline Permit for the outfall is under review by Whatcom County.

West Front Street

Staff is planning to advertise for the West Front Street project in late September. This would be the narrower 34-foot cross section approved and funded with EDI grant and loan funds with the ability to widen the street to the full standard should Federal funding become available.

CIPP (Judson)

Finalizing Scope and Budget for Design for this project which will line the old and deteriorated main wastewater trunk line that runs down 6<sup>th</sup> Street south of Judson Alley and past Riverview toward the Wastewater Treatment Plant.

Decant Facility

The pre-engineered metal building is scheduled to arrive on August 13<sup>th</sup>. The City recently approved an amendment to extend the water main using water funds. This will extend the water main along the western property edge linking the main on Badger Road with the water main extension on the south side of the new apartments being built on the east side of Depot Road.

Lynden Municipal Airport

Banham explained that the 1970s vintage aviation fuel pump located at the Lynden Municipal Airport failed and currently no fuel is available. A new replacement fuel pump has been ordered but is taking much longer to arrive than expected. The estimated cost of the replacement pump is \$5,000.

**New Business:**

Septic Smart Campaign Postcard

Banham explained that the City of Lynden is partnering with the Whatcom County Health Department to launch a Septic Smart Campaign which will provide financial incentives for septic system owners to maintain their septic systems or to decommission their systems and connect to the City's sanitary sewer system. A press release will go out on August 18, 2021 along with post card mailers.

New Speed Trailer

Bode stated he discussed with Chief Taylor the need for a new speed trailer that could also collect traffic speed data and may be effective in responding to customer complaints about neighborhood speeding and actually help reduce speeds.

**Adjournment:** The meeting was adjourned at 5:30 pm

**Next Meeting:** September 8, 2021

# CITY OF LYNDEN

## EXECUTIVE SUMMARY



<b>Meeting Date:</b>	August 16, 2021	
<b>Name of Agenda Item:</b>	Calendar	
<b>Section of Agenda:</b>	Other Business	
<b>Department:</b>	Administration	
<b>Council Committee Review:</b>	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: N/A
	<b>Legal Review:</b> <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
<b>Attachments:</b>	Outlook Calendar	
<b>Summary Statement:</b>	See next page.	
<b>Recommended Action:</b>	None	

**3:00 PM - 4:00 PM**

**Finance Committee Meeting -- City Hall 1st Floor Large Conference Room**  
**Finance Committee Meeting**

UPDATE: beginning June 21<sup>st</sup> the location will return to the City Hall 1<sup>st</sup> Floor Large Conference room

Thank you!

**4:00 PM - 5:00 PM**

**Parks Committee -- City Hall 1st Floor Large Conference Room**

**7:00 PM - 9:00 PM**

**City Council Meeting -- City Annex Building**

City of Lynden is returning to in-person meetings located at the city Annex building.

For questions/concerns please reach out to me.

Thank you.

Pamela (Pam) D. Brown, MMC, CPRO | City Clerk

City of Lynden

300 4th Street, Lynden, WA 98264

Direct: (360) 255-7085 | Email: brownpa@lyndenwa.org

Our Vision: Cultivating Exceptional Service for Our Extraordinary Community

We Value: Communication – Teamwork – Community – Excellence – Integrity

**August 17, 2021**

Tuesday

4:00 PM - 5:00 PM

Civil Service Meeting -- City Hall 1st Floor Large Conference Room or Online  
Please see information below for Online or Telephonic attendance.

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Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 253-948-9362,,913741555#](#) United States, Tacoma

Phone Conference ID: 913 741 555#

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**August 19, 2021**

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

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Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 253-948-9362,,672083770#](#) United States, Tacoma

Phone Conference ID: 672 083 770#

**August 19, 2021 Continued**

Thursday

[Find a local number](#) | [Reset PIN](#)

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**August 24, 2021**

Tuesday

8:30 AM - 9:30 AM

**Leadership Team Meeting -- To Be Determined**

**August 25, 2021**

Wednesday

All Day

**Court -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room**

9:00 AM - 10:00 AM

**Meeting: Mark/Mike -- Mike's office**

**August 26, 2021**

Thursday

9:00 AM - 11:00 AM

**Hearings Examiner Hearing - Cedarbrook Partners Shoreline Substantial Development Permit -- Annex Council Chamber**

**September 1, 2021**

Wednesday

All Day

**Possible Jury Trial -- Annex Council Chamber; Annex North East Conference Room; Annex South East Conference Room; Annex East Training Room**



**September 2, 2021**

Thursday

2:00 PM - 4:00 PM

Technical Review Committee -- Microsoft Teams Meeting

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Microsoft Teams meeting

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 253-948-9362,,832433768#](#) United States, Tacoma

Phone Conference ID: 832 433 768#

[Find a local number](#) | [Reset PIN](#)

[Learn More](#) | [Meeting options](#)

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**September 6, 2021**

Monday

All Day

Labor Day Holiday

**September 7, 2021**

Tuesday

8:30 AM - 9:30 AM

Leadership Team Meeting -- To Be Determined: May be Teams Meeting

5:00 PM - 6:30 PM

Design Review Board -- To be determined

7:00 PM - 9:00 PM

City Council Meeting -- Annex Building