



Mayor
Scott Korthuis

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

City Council Agenda - Regular Meeting
City Hall Annex, 205 4th Street
May 20, 2019

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Approval of Minutes

- [1.](#) Draft Council Minutes - May 6, 2019

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
- [3.](#) Set the Public Hearing for Ordinance No. 1580
- [4.](#) Set the Public Hearing for Ordinance No. 1581
- [5.](#) Set the Public Hearing for Ordinance No. 1582
- [6.](#) Access Easement - Lynden School District - Glenning Street Playground Property

Public Hearing

Unfinished Business

New Business

- [7.](#) Public Defender Contract Amendment
- [8.](#) Resolution No. 1001 Approving City Use of State Revolving Fund Loan for Pepin Creek / Double Ditch Creek Alignment - Shoreline Stabilization
- [9.](#) Resolution No. 1002 Acceptance of Dept. of Transportation Aviation Division Grant for Lynden Municipal Airport

Other Business

[10.](#) Calendar

Executive Session**Adjournment**

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Draft Minutes May 6, 2019	
Section of Agenda:	Approval of Minutes	
Department:		
Council Committee Review:		Legal Review:
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	<input checked="" type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Other: _____	<input type="checkbox"/> Review Not Required
Attachments:		
Draft Minutes – May 6, 2019		
Summary Statement:		
Draft Minutes attached for review.		
Recommended Action:		
Council review.		

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



May 6, 2019

1. CALL TO ORDER

Mayor Korthuis called to order the May 6, 2019 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

ROLL CALL

Members present: Mayor Scott Korthuis and Councilors Gary Bode, Ron De Valois, Brent Lenssen, Kyle Strengtholt, and Mark Wohlrab.

Members absent: Councilors Jerry Kuiken and Nick Laninga absent with notice.

Staff present: Finance Director Anthony Burrows, Fire Chief Mark Billmire, Parks Director Vern Meenderinck, Planning Director Heidi Gudde, Police Chief John Billester, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator Mike Martin and City Attorney Bob Carmichael.

OATH OF OFFICE

Mayor Korthuis administered the Police Officer Oath of Office to newly hired officer, Anders Fiskdal. Mayor Korthuis, Council and Staff welcomed Officer Fiskdal to the City of Lynden.

APPROVAL OF MINUTES

Councilor De Valois moved and Councilor Strengtholt seconded that the minutes of April 15, 2019 be approved as presented. Motion approved on a 5-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled: None

Nonscheduled: None

2. CONSENT AGENDA

Approval of Payroll Disbursed – April 16-30, 2019

Paychex EFT	\$268,500.08
City of Lynden EFT	\$66,605.50
Warrant Liability	\$56,697.72
	\$391,803.30

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



Approval of Claims – May 9, 2019

Manual Warrants No.	<u>72924</u>	through	<u>72930</u>	\$26,820.35
EFT Payment Pre-Pays				\$2,289.44
			Sub Total Pre-Pays	\$29,109.79
Voucher Warrants No.	<u>72931</u>	through	<u>72973</u>	\$167,588.37
EFT Payments				0.00
			Sub Total	\$167,588.37
			Total Accts. Payable	\$196,698.16

2020 Budget Calendar

As required by RCW, there are several budget preparation deadlines as the City moves forward in preparing its year 2020 Budget. These dates are for final review and approval and will be distributed as presentation dates to the satellite agencies, as well as to City departments. This calendar was presented to the full Council for review at the Council's working session on April 18, 2019.

Resolution No. 1000-Request to Cancel Warrant No. 72482

RCW 39.56.040 states that any registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as is such warrants had never been issued; and Warrant No. 72482 has not and will not be presented for payment and should be canceled.

Councilor Bode moved and Councilor Wohlrab seconded to approve the Consent Agenda. Motion approved on 5-0 vote.

3. PUBLIC HEARING

Resolution No. 999-Six Year Transportation Program (STIP) 2020-2025

On April 15, 2019, City Council set a public hearing date of May 6, 2019 to hear comments on the City's Six Year Transportation Improvement Plan (2020-2025). To apply for project funding, every city and county must prepare a Planned Local Projects listing and forward it to the Washington State Department of Transportation by July 31, 2018 for inclusion in the State Transportation Improvement Program (STIP) list.

The Public Works Committee reviewed the STIP projects at recent meetings and concurred to forward the attached plan to City Council.

Mayor Korthuis opened the Public Hearing at 7:05 p.m.

There were no comments.

Mayor Korthuis closed the Public Hearing at 7:05 p.m.



Councilor Bode moved and Councilor De Valois seconded to approve Resolution No. 999 adopting the Six Year Transportation Improvement Program for the City of Lynden and authorize the Mayor's signature on the resolution. Motion approved on 5-0 vote.

4. UNFINISHED BUSINESS- None

5. NEW BUSINESS

Appointment to Planning Commission- Bryan Korthuis

The Mayor has appointed a new member, Bryan Korthuis, to fill a vacancy on the Planning Commission. The City has had six Planning Commissioners since Kyle Strengholt resigned after his election to City Council. Bryan Korthuis will be filling this vacated seat on the Commission.

A longtime resident, Mr. Korthuis has a depth of knowledge into Lynden's past and present growth. He currently is employed by Len Honcoop Gravel Inc. which also gives him insight into construction, development, and environmental standards.

As described in Title 2.08 of the Lynden Municipal Code, the Planning Commission consists of seven members. Commission members are selected without respect to political affiliations and shall serve without compensation. At the time of appointment and throughout his term of office, the primary residence of each member of the Planning Commission must be within the city limits of Lynden. The term of office for each member is four years.

Councilor De Valois moved and Councilor Strengholt seconded to confirm the appointment of Bryan Korthuis to the Lynden Planning Commission for a term beginning May 2019 and expiring December 2022. Motion approved on a 5-0 vote.

Wastewater Treatment Plant Outfall Replacement Project Contract Award

Staff solicited bids for the Wastewater Treatment Plant (WWTP) Outfall Replacement Project; which will replace the existing damaged outfall from the WWTP to the Nooksack River. The City received one bid on April 30, 2019 from Strider Construction Company.

BHC Consultants prepared the attached Bid Tabulation. After review BHC determined Strider's bid to be responsive, responsible and below the engineer's estimate; therefore, they have recommended acceptance of Strider's bid. This project is being funded by a 20-year 1.5% interest loan from the Department of Ecology.

Councilor Bode moved and Councilor Wohlrab seconded that the Council award the contract for the Wastewater Treatment Plant Outfall Replacement Project to Strider Construction Company, Inc. in the amount of \$1,013,844.90, including tax and authorize the Mayor to sign the contract. Motion approved on a 5-0 vote.



Final Plat Approval- Berryman Estates

On July 2, 2018 the City Council granted preliminary plat approval for the long plat known as Berryman Estates, a proposal by Marlin Arneson. The 11.38 acre long plat is located on the southeast corner of Badger Road and Line Road. The northern edge of the plat is zoned RM-2 and platted to accommodate duplex units.

The southern portion of the plat is zoned RS-72 and platted for single family homes. In total the plat is 39 lots and represents a built-out density of approximately 5 dwelling units per acre. The plat includes the amenity of an extension of the Badger trail at its northern boundary. Vehicular circulation is accommodated from Aaron Drive. Final development fees have been paid in full.

Staff recommends granting final approval based on the following conditions:

1. Completion of all punch list items.
2. Submittal and acceptance of required maintenance bonds and any necessary performance bonds.
3. Payment of final inspection fees for plat construction.
4. Submittal of final as-built drawings.
5. Submittal of final plat mylars.

Councilor Lenssen moved and Councilor Strengholt seconded to grant final plat approval of the Berryman Estates Long Plat #18-01 subject to the conditions noted. Motion approved on a 5-0 vote.

Mayor Korthuis stated that a Planning Commissioner will soon retire so it will be necessary to fill that vacant position. He asked that council, staff and audience members let others in the community aware of the opportunity to serve as a Planning Commissioner.

6. OTHER BUSINESS

Council Committee Updates

Councilor Lenssen reporting for the Public Safety Committee, involving the discussion of:

- Fire Department budget and the need for a larger fire house and a ladder truck.
- Fire Department monthly report.
- Police Department budget and the department's technology needs.
- Lynden Watch update.

7. EXECUTIVE SESSION

Council did not hold an executive session.

8. ADJOURNMENT

The May 6, 2019 regular session of the Lynden City Council adjourned at 7:18 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	5/20/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Finance	
Contact Name/Phone:	Anthony Burrows (360) 354-2829	
Council Committee Review: <input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		
Attachments:		
None		
Name of Agenda Item:		
Approval of Payroll and Claims		
Summary Statement:		
<p>RCW 42.24.180 sets forth the conditions for issuance of warrants or checks before Council approval. The auditing officer and the City officers designated to sign the warrants shall have an official duty for the faithful discharge of his or her duties.</p> <p>The City Council has adopted contracting, hiring, purchasing, and disbursing policies that implement effective internal controls; and shall provide for its review of the documentation supporting claims paid for its approval of all warrants issued in payment of claims and/or payroll at regularly scheduled public meetings within one month of issuance.</p> <p>The City Council shall require that if, upon review, it disapproves some claims and/or payroll, the auditing officer and the officer designated to sign the warrants or checks shall jointly cause the disapproved claims to be recognized as receivables and to pursue collection diligently until the amounts disapproved are collected or until the City Council is satisfied and approves the claims and/or payroll.</p> <p>The Finance Committee and/or full City Council may stipulate that certain kinds or amounts of claims and/or payroll should not be paid before the City Council has reviewed the supporting documents.</p>		
Recommended Action:		
Approve the payment of City Payroll and Claims.		

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Set the Public Hearing for Ordinance 1580	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:		Legal Review:
<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Ordinance 1580, Staff Memo summarizing revisions, Residential Design Standards Review Document		
Summary Statement:		
<p>Ordinance 1580 is one of three ordinances which propose to update the residential design standards for the City of Lynden.</p> <p>Planning staff has worked closely with the Design Review Board, the Planning Commission, and Building Official to develop Chapter 19.22 and make a corresponding amendment to Chapter 18.</p> <p>Although 19.22 is a new chapter in the Lynden Municipal Code, many of the design standards currently exist but repetitiously appear in each zoning category. Aside from the consolidation of standards, the amendments touch on site design, architecture, accessory structures, landscaping and screening, and street trees. The code also clarifies the path to seeking relief from the design standards which allows alternate designs to be considered and approved by the Design Review Board. (A more detailed summary of the amendments is included in the attached staff memo.)</p> <p>On April 11 the Planning Commission held a public hearing and recommended approval of the attached code revision as represented by Ordinance 1580, 1581, and 1582.</p> <p>Staff is proposing that the new design standards take effect on October 1, 2019 to allow time to inform residential developers, designers, and builders of the proposed changes.</p>		
Recommended Action:		
Motion to set a public hearing date of June 3 for Ordinance 1580 which amends Title 18 of the Lynden Municipal Code as part of the revisions to residential design standards.		

Note to the reviewer:

Black text = existing code standard. Many of the City's standards are repeated in each of the zoning categories and will be consolidated in this new chapter. Some standards exist only in specific zoning categories and are noted in parentheses – these notes will be removed prior to final adoption. The proposed standards will apply to all residential construction unless otherwise specified.

Green text = new code standard

Red text = modification to an existing standard

Chapter 19.22 - Residential Design Standards**19.22.010 Establishment, Relief, and Purpose**

A. Establishment and Relief. There is established therein residential design standards and regulation by which residential structures may be permitted and maintained.

1. Relief from the required standards must be sought through the variance process.
2. Variance requests which relate specifically to site design development standards described in Section 19.22.020 shall be submitted to the Board of Adjustment consistent with Section 19.47.
3. Variance requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050.

B. Purpose.

1. The essential purpose of the residential design standards to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and protect and enhance property values for the community as a whole.
 - a. To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.
 - b. To create high-quality communities that have variation of architectural style and durable materials. ~~To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.~~
 - c. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.
 - d. To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

2. Residential design standards also seek to encourage low impact design (LID) techniques such as rain gardens, xeriscape, or pervious pavement to minimize adverse impacts on the natural environment.

19.22.020 Site Design – Setbacks, Yards, Building Orientation, and Pedestrian Connections

Objective – To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.

A. Lot coverage

1. Lot coverage is limited by zoning category.
2. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

B. Building Orientation

1. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.
2. The side yard used for a driveway shall not be less than ten feet in width.
3. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance ~~faces~~ is obvious from the street or access easement which serves as its primary point of access.

C. Setbacks. Minimum setbacks are outlined in each zoning category. Standards related to setbacks are considered

1. All setbacks are measured from the property line to the foundation.
2. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet.
3. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
4. Additional fire protection may be required for structures located within 10 feet of each other.
5. It is the property owner's responsibility to have the property lines clearly marked for inspection.
6. On corner lots in the RS-72 zone, 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.
7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.

A. Garage Setbacks from Property Lines

1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25 feet.

2. In RS-84 and RS-100 zones an attached garage may be built as close as seven feet to the side property line provided the living area side setbacks total twenty~~-two~~ feet from the ~~furthest projection~~ building foundation to the property line.
3. In RS-72 and RMD zones an attached garage may be built as close as seven feet to the side property line provided the living area side setbacks total ~~fifteen~~ seventeen feet from the building foundation to the property line.

D. Pedestrian Connection

1. Sidewalk connections must be provided in all residential zones.
2. In all RM zones, primary sidewalks must be a minimum of 5 feet clear width without encroachment of vehicle overhang.
3. In RM zones sites must include pedestrian walkways which provide connection to common green spaces and public sidewalks. Cross walks provided as needed in parking areas and along streets.

19.22.030 Residential Architecture and Attached Garages

Objective – To create high-quality communities that have variation of architectural style and durable materials. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

A. Residential Structure

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. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

1. Building height is regulated by zoning category.
2. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.

C. Roofs

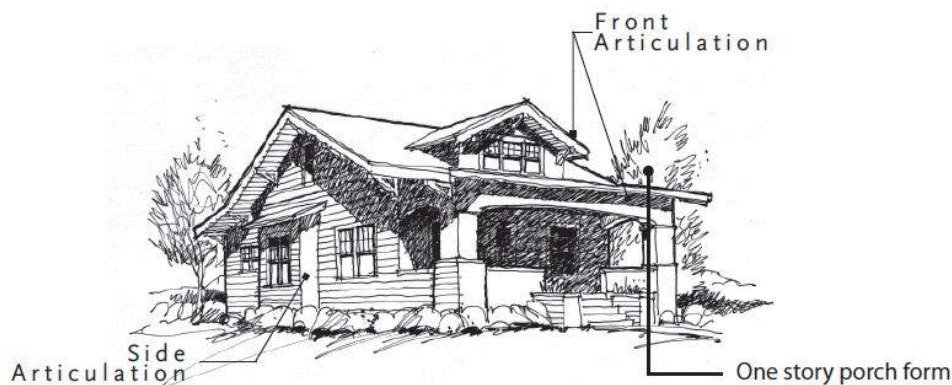
1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.

3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.
4. 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.

D. Building Elevations and Finishes

1. Residential Elevations

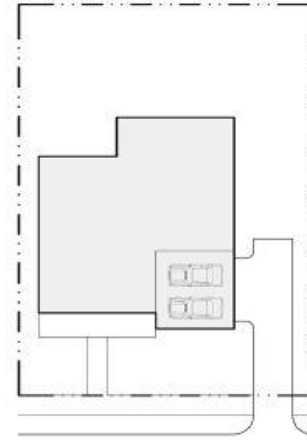
- a. The same architectural elevation shall be separated by a minimum of two other homes.
- b. An articulation is an architectural element such as a one-story porch or bay window. One such element shall be used on all sides of the building that face toward a public street, shared access easement, or common green. The articulation shall be offset a minimum of 12". A garage setback shall not count as an articulation.



2. Garage Elevations. To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front, with garage doors oriented toward the street are subject to the following standards:
 - c. At the ground level, the garage façade shall not extend forward of the home's living space by more than 12 feet.
 - d. The lineal frontage of the building elevation which can be occupied by garage doors is limited. ~~For the purposed of this section, a set of garage doors serves one dwelling unit and mean one double garage door or two single garage doors separated by less than five feet.~~
 1. In RS zones, no more than 50 percent of the building elevation can be garage doors.
 2. In RMD and RM zones, no more than 60 percent of the total first floor building elevation length can be garage doors.

3. Exterior Finishes

- a. The exterior of the home must be finished with a minimum of two types of materials or variation in reveals.
- b. Exposed fastener metal siding is prohibited on residential buildings.
- c. Exposed ends of stone and masonry façades are not permitted and must be finished with trim or end caps.
- d. All garage sides that are visible from streets or shared access easements shall provide architectural details and trim consistent with the design of the home. (graphic)
- e. In RS zones, attached garages or attached carports which provide a third covered or enclosed space must be offset a minimum of 2 feet from the first two covered or enclosed spaces.



Side Loaded Garage

E. Porches, Stoops, Decks, and Patios

1. Porches and stoops.

- a. Architecture of the primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
- b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
- c. Stairs with open risers are not permitted on front porches or stoops.

2. Decks and patios

- a. 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.
- b. Roof Structures covering decks or patios are permitted within the rear setback provided that the structure:
 1. Remains open on three sides;
 2. Does not come within eighteen feet of the rear property line;
 3. Does not encroach more than 2 feet into the side yard setbacks of the underlying zone; and,
 4. The addition does not exceed the permitted lot coverage.

- c. Deck or patio privacy screening or fencing which is located more than 6 feet from the property line, shall not be higher than may be up to eighty-four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of 6 feet above grade.

19.22.040 Detached Garages and Accessory Structures

Objective – To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

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 ~~twenty-four~~^{eighteen} inches.

Additional fire protection may be required for structures located within 10 feet of each other.

A. General Requirements

1. ~~Carports, cabanas, awnings and all other~~All accessory structures, whether defined in this title or not, ~~which are situated upon a manufactured home space or lot~~ shall conform to the requirements of the International Building Code. ~~Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes in like manner as if such additions and structures were a part of such home.~~ (Currently appears in MH bulk standards)
2. Architectural style of a detached garage, shop, or shed must match the style of the primary structure. However, agriculturally themed structures such the roofline of a traditional barn may be permitted. Also, this standard is not applicable to greenhouses or open-sided structures intended only to cover recreational vehicles.
3. All accessory structures, including carports, must utilize roofing material which is compatible with the primary structure.
4. Any structure intended to be established and remain for more than 72 hours and, as outlined in LMC 15.04.010, exceeds 120 square feet in area must obtain a building permit.

B. Accessory Structure Setbacks

1. A detached accessory structure or garden shed may not be built closer than six feet to the side or rear property line including property lines abutting alleys with a maximum eave of 24 inches.
2. Accessory structures on corner lots shall not be permitted nearer than fifteen feet to the side property line adjacent to the street.
3. Garages accessed from alleys with garage doors facing the alley must be setback a minimum of 21 feet in all RM zones and setback 25 feet in all RS zones.

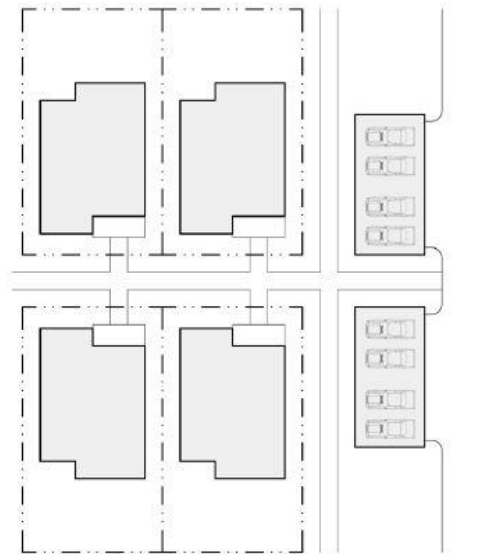
C. Accessory Structure Height

1. The maximum height for all accessory structures shall be twelve feet, except for detached garages, shops, and detached accessory dwelling units (ADU) as noted below.
2. The maximum height of any detached garage that is serving as the primary garage, a secondary garage, shop with an overhead door, or detached ADU shall be eighteen feet, provided however that
 - a. The setback shall be a minimum of six feet from the side and rear property line,

- b. Structures serving as secondary garages or shops are set behind the rear line of the house,
- c. The roof pitch and siding shall be consistent with the primary structure on the lot,
- d. There is no living space within the building except as permitted with a legal accessory dwelling unit (ADU) and larger setbacks as outlined in Chapter 19.20, and
- e. The height of the building does not exceed the height of the primary structure.
- ~~f. The maximum height of any secondary garage or shop shall be eighteen feet, provided however that the structure is set behind the rear line of the house, the roof has a minimum 4:12 pitch, there is no living space within the building and the height of the building does not exceed the height of the primary structure~~

D. Accessory Structure Area

1. In MH zones, no detached garage shall exceed one thousand square feet of inside floor area or exceed square footage of the primary structure.
2. In RS zones, no detached garage or accessory building footprint shall exceed one thousand square feet 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
3. Shared attached garages and carports are permitted in RM zones and within the Pepin Creek Senior Overlay. Shared garages shall have a maximum of 4 parking stalls and not exceed 44 feet in width. (see graphic)
4. Detached carports are permitted to accommodate for no more than ~~three~~ four vehicles and are limited to a maximum of 44 feet in width, but only if the lot does not have garages.



Shared Garage

~~Private garages for not more than three vehicles. (Currently appears in MH Accessory permitted uses)~~

19.22.050 Landscape, Fences, Screening, and Lighting

Objective – To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

A. Landscape, Fences and Screening**1. Landscape. Refer to Chapter 19.61 for full description of Residential Landscape Requirements****2. Fences.**

a. Fences shall not be built closer than three feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this 3 foot setback.

b. Refer to Chapter 19.63 for full description of Residential Fence Standards.

3. Screening

a. In RS zones, trash and recycling containers shall be stored in side or rear yards or within enclosed garages.

b. In RM zones, trash and recycling containers shall be stored in side or rear yards, or within enclosed garages, or in screened enclosures as approved by the Design Review Board during site plan review.

c. Except for public utilities, mechanical equipment shall not be located in front yards.

d. All mechanical equipment, including roof mounted, must be screened so as not be to visible from the street, shared access easement, and common green spaces. Screening can be accomplished by fencing, architectural screening, or evergreen landscape material. Equipment to be screened includes, but is not limited to, heating and air conditioning units, venting associated with commercial grade cooking facilities, and any mechanical equipment associated with pools or hot tubs.

e. In RS zones, the base of exterior mechanical equipment must not exceed the height of the finished floor elevation.

e-f. Recreational vehicles may only be stored on RS zoned properties consistent with LMC 19.15.030.

B. Street trees

1. Street trees are required at the time of plat as outlined in Chapter 18. Additionally, the installation or replacement of street trees may be required to this standard when

building permits are sought for additions, decks, remodeling, or the construction of accessory structures.

2. Street trees must be from the City's approved street tree list.
3. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
4. Street trees must be installed with root barrier protection as specified in the Engineering Design Standards.
5. Street trees shall be a minimum caliper of 1 1/2" at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of 1". Refer to the City of Lynden Engineering Design Standards for a full description of street tree requirements.

C. Lighting

1. All front entry ways shall have an exterior light.
2. In multi-family housing projects exterior lighting must be installed with a timer or sensors so that it operates automatically regardless of occupancy.
3. Light that is broadcast beyond the intended area and illuminates neighboring windows or beyond the lot boundary is not permitted.

- D. Addressing. To facilitate first responders in the event of an emergency, address numerals on all residential structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.

E. Front and Side Yard Uses

1. Front yards shall be used for ornamental purposes only.
 - a. 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.
 - b. Parking of vehicles or utility trailers on lawn or landscape areas of a front yard or a side yard adjacent to a public right-of-way is not permitted.
2. Front yards may be used for low impact development (LID) infiltration best management practices (BMPs).
3. Front yard setbacks may not be used for the storage of boats, campers, or any recreational vehicle. Refer to 19.31.020.
4. To reduce the visual impact of parking areas in RM zones, including RMD, a minimum of 50 square feet of landscaped area per unit must be located between the façade of the structure and the nearest public right-of-way unless otherwise approved by the Design Review Board. This applies to both side and front yards.

~~No fences, growth or other obstruction over three feet in height above the curb grade shall be allowed within the clear vision triangle.~~

Update to Chapter 19.31 – Residential Property Use Restrictions

19.31.020 - Single-family dwelling unit regulations.

A. Outside storage.

1. Inoperable vehicles shall not be stored on the premises longer than thirty days unless parked within an enclosed structure. Minor automotive repair on vehicles other than those registered to the occupant of the house is strictly prohibited. Automobile wrecking is also strictly prohibited.
2. A reasonable quantity of materials normally accessory to the primary residential use may be stored on the premises in areas other than the required setback areas and open space. There shall be no outside storage of any other materials. Materials that attract rodents and other pests may not be stored on site unless properly enclosed.
3. As per Chapter 8.04 of the Lynden Municipal Code, regular garbage/recycle pick-up is required. Garbage and recycling containers must be stored securely so as to avoid dispersal of materials on the property or neighboring properties.

B. Recreational Vehicles: Trailers or Motor Homes and Boats.

1. One trailer or one motor home and/or one boat may be stored on the premises if such storage is not detrimental to surrounding properties. The zoning official shall consider whether the storage:

a. Is properly screened from neighboring properties either by landscaping, fencing or the erection of an approved storage facility;

~~a-b.~~ Shall not be covered or screened by utility tarps;

~~b-c.~~ Is on a lot greater than or equal to ten thousand square feet;

~~c-d.~~ Has ingress and egress without crossing a neighbor's property.

2. Trailers, trailer houses, campers, mobile homes, or motor homes shall not be used as living quarters at any time unless located in a duly authorized mobile home park or properly zoned area.

C. Animals. No more than three of any species of common household pets, four months of age or older, shall be allowed per dwelling unit.

Update to Chapter 19.61.080 – Landscape Requirements

19.61.080 ~~-- Residential~~ Landscape requirements ~~for front yards.~~

Objective – To enhance the aesthetics of communities through the installation of landscape and the screening undesirable elements. Also, to enhance safety and function of residential properties through appropriate maintenance of landscape plantings.

A. Detached Residential Single Family (RS) Landscape Requirements

1. Property owners may landscape ~~as close as three feet to the owner's side of the sidewalk on any city street which has an overall right of way of more than sixty feet in any residential zone, providing however that grass may be planted within that three foot area.~~ adjacent to sidewalks on any city street provided that at no time the landscape encroaches into the path of the sidewalk which would impede pedestrian movement or create unsafe conditions. It is the property owner's responsibility to maintain the landscape in this manner.
2. Hedges. To facilitate visibility along streets and sidewalks, ~~front yard~~ hedges which fully block visibility must not be planted ~~come~~ within 3 feet of the sidewalk. View triangles, which protect sight distance, at street intersections may require additional height restrictions.
3. Street trees are required at the time of plat as outlined in Chapter 18.14. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
4. All plantings on city property are subject to removal by the property owner at the City's discretion and property owner's expense. In the case that the property owner does not remove the planting, the removal will be done by the City and the property owner will be billed.

B. Multi-Family Residential (RM) and Attached Single Family Landscape Requirements

~~(currently in Chapter 19.17.110) In addition to the landscaping requirements of Chapter 19.61 of this title, a~~ All proposed multi-family and attached single-family development greater than two attached units in these zones shall comply with the following standards. Variances, in accordance with the process set forth in Chapter 17.17 LMC, may be authorized by the planning director where factors such as but not limited to, topography, other site constraints prevent strict compliance.

1. All public streets will be required to include street trees between the curb and sidewalk, unless a variance to the street section standard and design is granted.
2. Entry areas, access easements, and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrances to the multi-family development, defined for this section as the entrances from public roadways, shall have landscaped

areas on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway intersect and running a distance of twenty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines. These areas may be utilized as rain gardens.

3. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.
 - a. Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.
 - b. At the time of installation, shrubs must be a variety of sizes (one to five gallon pots) and upright shrubs must have a minimum height and spread of eighteen to thirty-six inches. Spreading shrubs should have a minimum of twelve to eighteen inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan). Hedge material must have a minimum height of four feet at the time of planting.
 - c. Ground covers planted from flats shall have a maximum spacing of twelve inches on center or, when planted from one gallon pots, a maximum spacing of twenty-four inches on center.
4. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.
5. Building foundation plantings are required around all areas of the building except immediately adjacent to entries or garage doors. Sidewalks shall not be included within these areas. Installation of plant material is required and must be appropriate to the scale of the building. Area required is as follows:
 - a. Buildings containing 2-4 units must provide a planting area a minimum of 4 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 2 feet.
 - b. Buildings containing more than 4 units must provide a planting area a minimum of 6 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 3 feet.

Update to Chapter 18.14.130 – Street Trees and Planting Strips

- A. Street trees shall be provided by the subdivider in all subdivisions within the dedicated public utility easements adjacent to the street; preferably between the curb and the sidewalk.
1. In RS zones, there shall be a minimum of one tree per lot with a maximum of ~~one hundred~~ ~~seventy-five~~ 50 feet between trees, and
 2. In RM zones one street tree is required for every ~~50~~ ~~75~~ linear feet of street frontage. Distance may be averaged due to driveways and sight distance requirements.
 3. Street trees shall be a minimum caliper of 1 1/2" at the time of installation, small trees used under powerlines shall be a minimum a caliper of 1".
- 1.4. Street trees shall be selected, installed, and maintained in accordance with the standard City of Lynden engineering specifications. Trees shall be placed on the property with consideration of potential driveway cuts and utility services.
- B. Establishment of street trees and planting strips shall be per an approved site plan in conformance with design and bonding standards as set forth in LMC 19.61.
- C. Maintenance of street trees and planting strips shall be the responsibility of the adjoining property owner and shall be done in accordance with the city's engineering design and development standards



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

Planning Department Memorandum

To: City Council

From: Heidi Gudde, Planning Director

Date: May 15, 2019

Re: Residential Design Standards

The residential design standards for the City of Lynden are proposed to be combined into one location within the Lynden Municipal Code. Currently, many standards repetitiously appear in each zoning category. Additionally, some standards are proposed to be revised to address aesthetic or maintenance concerns within the City of Lynden.

The effort to consolidate and revise residential standards stemmed from the Pepin Creek planning effort as standards were originally written specific to the Pepin Creek Sub-area. After a number of review sessions with the Planning Commission, the Community Development Committee, and the Design Review Board, the recommendation was made to create relatively simple standards which could be applied to all districts rather than be specific to the Pepin Creek Sub-area.

The Design Review Board is the approving body that will be working most closely with the standards as all attached housing types and detached accessory dwelling units (ADU's) are required to seek Design Review Board Approval. On April 2 the Design Review Board completed their review of the proposed standards and recommended approval of the design standards with alterations suggested in several areas.

At a public hearing on April 11, the Planning Commission reviewed the version recommended by the Design Review Board and, after several alterations of their own, recommended the draft which is now reflected in Ordinances 1580, 1581, and 1582. The points at which the Design Review Board and Planning Commission differed are included in the summary points below.

The standards are now proposed to be organized into categories – each with its own objective. These will appear in a new section of code - LMC 19.22. The categories are listed below with a summary of changes below each. To coordinate the reorganization of residential design standards the update will also include amendments to the landscape code (LMC 19.61), residential use restrictions (LMC 19.31) and the subdivision code (LMC 18.14).

CITY OF LYNDEN



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

19.22.010. Establishment and Purpose

- This new section identifies the general and specific objectives of the residential design standards.

19.22.020. Site Design – Setback, Yards, Building Orientation, and Pedestrian Connections

- The majority of standards appearing in this section already exist. Minor changes were made to accommodate measuring setbacks to the foundations rather than eaves, and a section was added addressing pedestrian connections.

19.22.030. Residential Architecture and Attached Garages

- Many of these standards already exist in the municipal code but are consolidated into 19.22.
- The amendment initially included the elimination of a minimum roof pitch but ultimately the Planning Commission recommended keeping the minimum roof pitch of 4:12 while acknowledging that alternate designs which may call for a more shallow or flat roof could seek the approval of the Design Review Board.
- The new standards add a requirement to include articulation to buildings, they address placement and scale of attached garages, new points regarding the architecture of front entries, and a clarification about the screening of back decks and patios.

19.22.040. Detached Garages and Accessory Structures

- This section includes tougher architectural standards on accessory structures which will require some cohesive design elements between the residence and the accessory structure. It also clarifies language related to the scale of shared garage structures.
- No revisions to the permitted size or height of detached structures is being proposed with this amendment.

19.22.050. Landscape, Fences, Screening, and Lighting

- This section is intended to address concerns related to the screening of mechanical equipment and the proper storage of garbage containers and vehicles and several other miscellaneous topics.

19.31.080. Residential Property Use Restrictions

- Some use restrictions appeared in other sections of code. The amendment moves these use restrictions to the more appropriate location of 19.31. The section is used heavily when responding to code violation complaints. Additionally, one clarification was added to this section to state that recreational vehicles shall not be covered by utility tarps.



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

19.61.080. Landscape Requirements

- Generally, there are very few landscape requirements specific to single family homes, but a few were located in other sections of code and have been relocated to 19.61.
- Additionally, some clarification related to front yard use and hedges in single-family areas are also included in this section.
- Multi-family landscape requirements currently exist in the 19.17 and are being relocated to the landscape section of the code, 19.61, to consolidate landscape requirements.

18.14.130. Street Trees and Planting Strips

- This is a proposed update to the street tree planting requirement. Cities frequently have street tree requirements of one tree for every 30 to 40 feet while the City of Lynden has required one tree for each lot with no maximum spacing more than 100 feet. As lot frontages become smaller this standard would be difficult to enforce with inconsistencies between neighborhoods with differing lots widths.
- The Design Review Board recommended a conservative revision to a maximum spacing of 75 feet between trees. The Planning Commission recommended the maximum spacing be 50 feet as staff had initially recommended.

Ordinance No. 1580**AN ORDINANCE OF THE CITY OF LYNDEN AMENDING TITLE 18 OF THE
LYNDEN MUNICIPAL CODE**

WHEREAS, the City is responsible for enacting regulations that protect the health, safety and general welfare of the citizens of Lynden; and

WHEREAS, the Growth Management Act requires that local governments planning under the Act must adopt regulations which implement adopted comprehensive plans; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time ensure orderly review of zoning regulations within the City.

WHEREAS, certain amendments to Title 19, Residential Design Standards have necessitated the amendments to Title 18 to ensure consistency in the administration of the City's subdivision and development process; and

WHEREAS, the City of Lynden initiated public review processes including Planning Commission Workshops and Public Hearings; and

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on April 11, 2019, to accept public comments on the proposed regulations and recommended adoption to the City Council.

WHEREAS, on April 12, 2019, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed updates to Title 18 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on May 20, 2019, and a date for a public hearing was set; and

WHEREAS, on June 3, 2019, 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 A Title 18, amended as follows:

18.14.130 - Street trees and planting strips.

- A. Street trees shall be provided by the sub-divider in all subdivisions within the dedicated public utility easements adjacent to the street; preferably between the curb and the sidewalk.
1. In RS zones, there shall be a minimum of one tree per lot with a maximum of 50 feet between trees.
 2. In RM zones one street tree is required for every 50 linear feet of street frontage. Distance may be averaged due to driveways and sight distance requirements.
 3. Street trees shall be a minimum caliper of 1 1/2" at the time of installation, small trees used under powerlines shall be a minimum a caliper of 1".
 4. Street trees shall be selected, installed, and maintained in accordance with the standard City of Lynden engineering specifications. Trees shall be placed on the property with consideration of potential driveway cuts and utility services.

B. Establishment of street trees and planting strips shall be per an approved site plan in conformance with design and bonding standards as set forth in LMC 19.61.

C. Maintenance of street trees and planting strips shall be the responsibility of the adjoining property owner and shall be done in accordance with the city's engineering design and development standards.

SECTION B Severability. 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, then the original ordinance or ordinances shall be in full force and effect.

SECTION C Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION D Effective Date. This ordinance shall take effect on October 1, 2019. All development applications received after that date shall be reviewed under the provisions of this ordinance.

PASSED by the City Council this _____ day of _____, 2019. Signed by the Mayor on this _____ day of _____, 2019.

MAYOR, (SCOTT KORTHUIS)

ATTEST:

CITY CLERK, (PAMELA BROWN)

APPROVED TO AS FORM:

CITY ATTORNEY, (ROBERT CARMICHAEL)

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Set the Public Hearing for Ordinance 1581	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:		Legal Review:
<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Ordinance 1581, Staff Memo summarizing revisions, Residential Design Standards Review Document		
Summary Statement:		
<p>Ordinance 1581 is one of three ordinances which propose to update the residential design standards for the City of Lynden. Specifically, Ordinance 1581 repeals sections related to residential development standards and replaces with a more concise version of the same chapters. The action removes repetitive aesthetic design standards from each section and consolidates them into Chapter 19.22 which is proposed with the subsequent Ordinance 1582.</p> <p>Planning staff has worked closely with the Design Review Board, the Planning Commission, and Building Official to develop Chapter 19.22 and make a corresponding amendment to Chapter 18.</p> <p>Although 19.22 is a new chapter in the Lynden Municipal Code, many of the design standards currently exist but repetitiously appear in each zoning category. Aside from the consolidation of standards, the amendments touch on site design, architecture, accessory structures, landscaping and screening, and street trees. The code also clarifies the path to seeking relief from the design standards which allows alternate designs to be considered and approved by the Design Review Board. (A more detailed summary of the amendments is included in the attached staff memo.)</p> <p>On April 11 the Planning Commission held a public hearing and recommended approval of the attached code revision as represented by Ordinance 1580, 1581, and 1582.</p> <p>Staff is proposing that the new design standards take effect on October 1, 2019 to allow time to inform residential developers, designers, and builders of the proposed changes.</p>		
Recommended Action:		
Motion to set a public hearing date of June 3 for Ordinance 1581 which amends Title 19 of the Lynden Municipal Code as part of the revisions to residential design standards.		

CITY OF LYNDEN



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
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From: Heidi Gudde, Planning Director

Date: May 15, 2019

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CITY OF LYNDEN

PLANNING DEPARTMENT

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PLANNING DEPARTMENT

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- The Design Review Board recommended a conservative revision to a maximum spacing of 75 feet between trees. The Planning Commission recommended the maximum spacing be 50 feet as staff had initially recommended.

ORDINANCE NO. 1581**AN ORDINANCE OF THE CITY OF LYNDEN TO REPEAL AND REPLACE CERTAIN CHAPTERS WITHIN TITLE 19 OF THE LYNDEN MUNICIPAL CODE**

WHEREAS, the City of Lynden has adopted regulations pertaining to land development in order to ensure consistent, timely and orderly review of zoning and development applications with the City of Lynden; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time ensure that all development within the City complies with the adopted comprehensive plans, provides consistency and upholds the character of the neighborhood and or the surrounding neighborhoods, and

WHEREAS, the creation of LMC Chapter 19.22 (Ord 1582) consolidates and revises the residential design standards for the City of Lynden and combines such standards into one location within the Lynden Municipal Code.

WHEREAS, due to the consolidation of standards into one chapter, it is necessary to update and remove repetitive language from 19.15, 19.16, 19.17, 19.19, 19.31 and 19.61 of the zoning code.

WHEREAS, on April 10, 2019, the City issued a SEPA Determination of Non-Significance related to this Ordinance; and

WHEREAS, the Lynden Planning Commission held multiple work sessions to develop the revised zoning code draft; and

WHEREAS, the City of Lynden initiated public review processes including Planning Commission Workshops and Public Hearings; and

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on April 11, 2019, to accept public comments on the proposed regulations and recommended adoption to the City Council.

WHEREAS, on April 12, 2019, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed updates to Title 18 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on May 20, 2019, and a date for a public hearing was set; and

WHEREAS, on June 3, 2019, 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 Lynden City Council does ordain as follows:

SECTION A. Chapters 19.15, 19.16, 19.17, 19.19, 19.31 and 19.61 of the Lynden Municipal Code are hereby repealed in their entirety.

SECTION B. New Chapters 19.15, 19.16, 19.17, 19.19, 19.31 and 19.61 of the Lynden Municipal Code are hereby adopted as follows:

Chapter 19.15
RS SINGLE FAMILY BUILDING ZONES

19.15.010 Established
19.15.020 Primary Permitted uses
19.15.030 Accessory Permitted uses
19.15.040 Secondary Permitted uses
19.15.050 Conditional Property uses
19.15.060 Height, Area, Setback and Bulk requirements

19.15.010 Purpose and Zones Established.

A. Three single family zones are established:

Zone	Minimum Lot Size	Maximum Density
RS-100	10,000 square feet	4 DU/acre
RS-84	8,400 square feet	4.5 DU/acre
RS-72	7,200 square feet	5 DU/acre

Existing lots may be developed with single family homes even though they do not meet the size requirements of single-family zones. Future land divisions must meet the area requirements specified in the zone; provided however, that Title 18, Subdivisions, provides for methods of subdivision resulting in lots of different sizes.

The goal of this title is to: protect the character and the social and economic stability of all parts of the community and to encourage the orderly and beneficial development of the community through appropriate growth management techniques; to assure proper urban form and open space separation of urban areas; to protect environmentally critical areas and allow flexibility in site and design standards while promoting infill projects compatible with existing single-family developments.

B. Use of Low Impact Development Techniques

When an application for single family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the Planning Director, Planning Commission, or City Council, as applicable, is authorized to approve land divisions even though they may not meet the lot size requirements of single-family zones presented in this Title under the following conditions:

- A. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
- B. Site planning and design documents are completed by a licensed engineer in the State of Washington;
- C. The proposed development integrates with the character of the neighborhood;
- D. The requested waiver must be specified and justified in writing to the technical review committee and the approving body
- E. Written documentation of the decision on the waiver is recorded by the Director in City records

19.15.020 Primary Permitted Uses.

- A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.
- B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.
- C. Personal Services are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.
- D. Sales of General Consumer Goods are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. 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.
- E. Restaurants and Cafes are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only.

- F. Professional offices, Banks and Financial institutions in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only.

19.15.030 Accessory Permitted Uses.

Accessory permitted uses in the Single-Family Zones are as follows:

- A. Private garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- E. Accessory dwelling unit (ADU) per LMC 19.20.

19.15.040 Secondary Permitted Uses.

Secondary permitted uses in the Single-Family Zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five (5) acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family Day Care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and Playgrounds.
- H. Adult Family Homes and Residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.15.050 Conditional Property Uses.

The following property uses may be permitted in single family zones by conditional use permit when recommended by the Planning Commission and approved by the City Council. The conditional use permit may authorize height variations for public buildings, utility sub-stations, schools and churches.

- A. Public buildings and utility sub-stations.

- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. House of Worship, provided that the lot coverage does not exceed thirty-five percent, the front yard be landscaped and all other parking and landscaping requirements are met.
- E. Schools.
- F. Bed & Breakfast Establishments and Short Term Rentals. (Refer to Section 19.49.030)

19.15.060 Height, Area, Setback, and Bulk Requirements.

The following table and text provides regulations for height, area, setback and bulk requirements:

Zone	Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet Additional setback information follows in text			
							Side Yard	
			Feet	Story	Front	Rear	Minimum	Total
RS-100	10,000	35%	32	2	20	30	7	22
RS-84	8,400	35%	32	2	15	30	7	22
RS-72	7,200	35%	32	2	15	30	7	17

Chapter 19.16

Residential Mixed Density Zone

- 19.16.010 Purpose and Intent
- 19.16.020 Permitted Uses
- 19.16.030 Accessory Permitted Uses
- 19.16.040 Secondary Permitted Uses
- 19.16.050 Conditional Property Uses

19.16.060 Development Standards – Density, Lot, Height, Setbacks

19.16.085 Subdivision Design Guidelines

19.16.010 - Purpose and intent.

The purpose of creating the residential mixed density zone (RMD) is to meet the stated goals of the comprehensive plan by allowing increased residential density to be integrated within single family neighborhoods within the community.

The intent in the creation of this zone is to allow a creative mixture of single-family and duplex housing styles and types. Development of this area 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 and making low impact development (LID) the preferred and commonly used approach to site development.

19.16.020 - Permitted uses.

Permitted uses in the residential mixed density zone are as follows:

- 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 and small lot single family units. Mobile homes as defined in Section 17.01.030 LMC are prohibited.
- B. Two Single Family Attached Dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.

19.16.030 - Accessory permitted uses.

Accessory permitted uses are as follows:

- A. Private garages.
- B. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- C. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- D. Accessory dwelling unit (ADU) per LMC Chapter 19.20.

19.16.040 - Secondary permitted uses.

Secondary permitted uses are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. 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 Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.
- H. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.16.050 - Conditional property uses.

The following property uses may be permitted in single family zones by conditional use permit when recommended by the planning commission and approved by the city council. The conditional use permit may authorize height variations for public buildings, utility sub-stations, schools and churches.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Houses of Worship, provided that the lot coverage does not exceed thirty-five percent, the front yard be landscaped and all other parking and landscaping requirements are met.

E. Schools.

F. Bed and Breakfast establishments and Short Term Rentals. (Refer to Section 19.49.030)

G. Manufactured home parks or subdivisions subject to the development objectives of the applicable sub-area plan.

19.16.060 - Development Standards - Density, Lot, Height, Setbacks

	Detached Units	Attached Units
Minimum Lot Size ^{a, b, c}	6,000 sf	4,000 sf each unit
Maximum Lot Coverage on lots less than 7,000 sf	40%	35%
Maximum Lot Coverage on lots 7,000 sf or greater	35%	35%
Maximum Height	32'	32'
Maximum Stories	2 stories	2 stories
Front Setback		
ROW to Porch	10'	10'
ROW to House	15'	15'
ROW to Garage	25'	25'
Side Setback ^d		
Minimum Side	7'	0' attached side, 7' detached side
Side Total	14'	7' each end, 14' total
Corner Lot	10'	10'
Rear Setback ^d		
Alley Easement to Garage Side	3'	3'
Garage Side to Property Line	5'	5'
Alley to Garage Door	21'	21'
Alley to House	20'	20'
To House	20'	20'

Table Notes:

- a. For the purpose of this section net land area means the gross acreage within a parcel minus all development requirements, designated critical areas and their buffers.
- b. Lots developed immediately adjoining a different single family residential zone shall not be less than 80% of the minimum lot size of that adjoining zone. For the purpose of this section properties that are separated from

another single family residential zone by a street are not immediately adjoining said zone.

- c. A minimum of 40% of the net land area within a development shall be divided into lots with a minimum size of 7200 square feet or larger.
- d. 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 10 feet.

19.16.085 - Subdivision design guidelines.

All subdivisions must meet Chapter 18.14 of the Lynden Municipal Code, which provides minimum plat design requirements. In addition, subdivisions in the Pepin Creek Subarea must meet the Pepin Creek Subarea Residential Design Standards as adopted by the City Council. For developments outside of the Pepin Creek Subarea the following are specific design recommendations intended to improve the aesthetic design of the subdivision as a whole. The items below are not meant to be exhaustive and developers are encouraged to incorporate other creative design elements within the project.

- A. It is recommended that lot sizes and lot frontage widths are included and intermixed in the design of the subdivision to provide more street interest and potential for varying house designs.
- B. Curvilinear streets with connectivity are encouraged to provide a varied approach to the housing units.
- C. Low impact design (LID) design techniques are encouraged.

Chapter 19.17

RM MULTI FAMILY BUILDING ZONES

19.17.010 Established

19.17.020 Primary Permitted Uses

19.17.030 Accessory Permitted Uses

19.17.040 Secondary Permitted Uses

19.17.050 Conditional Property Uses

19.17.060 Height, Area, Setback, and Bulk Requirements

19.17.100 Design Review Board

19.17.010 Purpose and Zones Established.

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

Six multi-family zones are established:

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

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

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

RM-4, Residential Multi-Family 4 zone; (up to 50 units/building)

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

SO, Senior Overlay zone; (up to 30 units/acre)

A. Use of Low Impact Development Techniques. When an application for multi-family development seeks to add additional residential density to a parcel or parcels as infill development, the pertinent approving body, the planning director, planning commission, or city council, is authorized to approve future land divisions even though they may not meet the lot size requirements of multi-family zones presented in this Title under the following conditions:

1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;
2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
5. Written documentation of the decision on the waiver is recorded by the director in city records.

19.17.020 Primary Permitted Uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE			
	RM-1	RM-2	RM-3	RM-4
Single Family Dwelling Unit	P	P	P	P
Duplex Units	P	P	P	P
Three or Four units per building	N	P	P	P
More than four units per building	N	N	P	P
New manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P
Mobile homes as defined in Section 17.01.030 LMC	N	N	N	N

P = Permitted Use; N = Not Allowed

19.17.030 Accessory Permitted Uses.

Accessory permitted uses in the Multi - Family Zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- E. Accessory dwelling unit (ADU), per LMC 19.20.,
- F. Recreation areas for occupants.
- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

19.17.040 Secondary Permitted Uses.

Secondary permitted uses in the Multi Family Zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.

- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five (5) acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family Day Care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and Playgrounds.
- H. Adult Family Homes and Residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.17.050 Conditional Property Uses.

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the Planning Commission and approved by the City Council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
- E. Bed and Breakfast Establishments and Short Term Rentals (See Section 19.49.030).
- F. House of Worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.
- H. Community Service Facilities operated by a registered non-profit organization providing services to the community such as food banks, outpatient counseling services, and church related or outreach ministries. This use is subject to the following conditions in addition to the conditional use criteria established under Section 19.49.020.
 - 1. The use is limited to the RM-4 zones.

2. This use specifically excludes retail sales and any facilities offering in-patient treatment, inpatient counseling, or inpatient rehabilitation.
3. The maximum lot coverage for the proposed facility shall not exceed thirty percent.
4. All parking and landscaping requirements shall be met.

19.17.060 Height, Area, Setback and Bulk Requirements.

A. The following table provides regulations for height, area, setback and bulk requirements:

B. Zone	Min. Lot Size (sq. ft.)	Lot Coverage	Open Space Required	Height	Yard Setbacks in Feet			
					Side Yard			
				Feet	Front	Rear	Minimum	Total
RM-1	7,200	35%	7.5%	32	20	30	7	22
RM-2	7,200	40%	7.5%	32	20	30	7	22
RM-3	7,200	40%	7.5%	32	20	30	12	27
RM-4	1 Acre	45%	7.5%	32	20	30	15	32

B. The following table provides regulation regarding the maximum density allowable in each zone.

Zone	Square Feet Required for First Unit	Square Feet Required for Additional Units	Maximum Units/Bldg.
RM-1	6,000	2,000	2
RM-2	6,000	2,000	4

RM-3	6,000	2,500	12
RM-4	6,000	1,650 for units 2—24 1,400 for each additional unit	50

C. For the purposes of this chapter open space is as defined in Section 19.29.080(3) of the Lynden Municipal Code.

D. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

19.17.100 Design Review Board

All multi-family developments will be subject to approval by the Design Review Board.

Chapter 19.19

MH - MANUFACTURED HOME ZONE

Sections:

- 19.19.010 Established.
- 19.19.030 Primary Permitted Uses.
- 19.19.040 Accessory Permitted Uses.
- 19.19.050 Secondary Permitted Uses.
- 19.19.060 Maximum Density.
- 19.19.070 Minimum Width of Individual Space.
- 19.19.080 Manufactured Home Construction Requirements
- 19.19.090 Height, Area, Setbacks, and Bulk Regulations
- 19.19.100 Manufactured Home Park -- Individual space boundary requirements.
- 19.19.110 Manufactured Home Park -- Automobile parking requirements.
- 19.19.120 Manufactured Home Park -- Development Standards
- 19.19.150 Manufactured Home Park -- Landscaping.

19.19.010 Established.

There is established the MH -- Manufactured Home Zone and the standards and regulations by which certain land uses may be permitted therein.

19.19.030 Primary permitted uses.

- A. The primary uses permitted in the MH -- Manufactured Home Zone is manufactured homes, and manufactured home parks, as provided in this

chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.

- B. Site built, detached single family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in Section 17.01.030 LMC are prohibited.

19.19.040 Accessory permitted uses.

The accessory uses permitted in the MH Zone are as follows:

- B. Private garages.
- C. Carports.
- D. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- E. A maintenance building containing equipment and tools for owners of manufactured homes that are necessary for the repair and preservation of a manufactured home.

19.19.050 Secondary permitted uses.

The secondary uses permitted in the MH Manufactured Home Zone are as follows:

- A. Community laundry facilities used by the residents of the park or development.
- B. Community buildings for the residents of the park or development. These buildings may contain offices, recreational facilities and meeting halls.
- C. Private swimming pools, as provided in Chapter 15.16 in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.

19.19.060 Maximum density.

The maximum density of a manufactured home park or development in the MH Zone shall not exceed six units per gross acre.

19.19.070 Minimum width of individual space.

No manufactured home space in the MH Zone shall be less than forty-five feet in width.

19.19.080 Manufactured Home Construction Requirements

- A. Manufactured homes must meet or exceed all Federal and/or State requirements.

- B. Manufactured homes placed within the City of Lynden must meet the definition of a manufactured home as defined in Section 17.01.030 of the Lynden Municipal Code.

19.19.090 Height, Area, Setback and Bulk Requirements.

- A. The following provides regulations for height, area, setbacks & bulk requirements:

Minimum Lot Size (sq. ft.)	Lot Coverage	Height		Yard Setbacks in Feet			
						Side Yard	
		Feet	Story	Front	Rear	Minimum	Total
4,200	40%	25	2	20	20	7	17

19.19.100 Manufactured Home Park--Individual space boundary requirements.

The boundaries of each manufactured home space in a manufactured home park shall be clearly defined and marked by a fence, planting or other suitable means approved by the Planning Director, or by clearly visible, permanent markers at each corner of the space. For the purposes of this code, this boundary will be considered a property line.

19.19.110 Manufactured Home Park -- Automobile parking requirements

There shall be provided at least two automobile parking spaces for each manufactured home space, plus one additional automobile parking space for every five manufactured home spaces or any portion thereof for guests, visitors, service vehicles and additional automobiles of the tenants of the park.

19.19.120 Manufactured Home Park-- Development Standards.

See Chapter 18.22 of the Lynden Municipal Code.

19.19.150 Manufactured Home Park - Landscaping.

Privacy landscape buffers shall be required around the entire perimeter of the manufactured home park as required under Chapter 19.61 – Landscaping and Chapter 18.22-Manufactured Home Park and Subdivision Standards.

Chapter 19.31 **Residential Property Use Restrictions**

Sections:

19.31.010 Enforcement of Zoning Regulations

19.31.020 One-family dwelling unit regulations

19.31.030 Single family and Multi Family homes in commercial areas

19.31.010 Enforcement of Zoning Regulations.

The following regulations shall apply to all residential dwellings regardless of the zone in which they are located and to all property in residential zones of the city. Authority for the enforcement of these provisions is found in Chapter 17.13 of the Lynden Municipal Code. Violation of these provisions may be subject to civil penalties and fines as provided in that chapter.

19.31.020 Residential Property Regulations.

A. Outside storage.

1. Inoperable vehicles shall not be stored on the premises longer than thirty days (30) unless parked within an enclosed structure. Minor automotive repair on vehicles other than those registered to the occupant of the house is strictly prohibited. Automobile wrecking is also strictly prohibited.
2. No more than five, currently licensed and/or operable passenger vehicles may be stored outdoors on any residential lot. Inoperable vehicles may not be stored in the front yard (refer to Section 19.31.020(A)).
3. 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).4. A reasonable quantity of materials normally accessory to the primary residential use may be stored on the premises in areas other than required setback areas and open space. There shall be no outside storage of any other materials. Materials that attract rodents and other pests may not be stored on site unless properly enclosed.
5. As per Chapter 8.04 of the Lynden Municipal Code, regular garbage / recycle pick-up is required. Garbage and recycling containers must be stored securely so as to avoid dispersal of materials on the property or neighboring properties.
6. 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 8' x 10' are permitted in residential zones, other than during construction or for a period of up to 30 consecutive days within a six month period to facilitate the moving in or moving out of a residence. Units 8' x 10' 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.

B. Recreational Vehicles: Trailers or Motor Homes and Boats.

One trailer or one motor home and/or one boat may be stored on the premises only if such storage is not detrimental to surrounding properties.

In determining whether such storage is detrimental to surrounding properties, the zoning official shall consider whether the storage:

- a. Is properly screened from neighboring properties either by landscaping, fencing or the erection of an approved storage facility.
- b. Shall not be covered or screened by utility tarps;
- c. Is on a lot greater than or equal to ten thousand square feet.
- d. Has ingress and egress without crossing a neighbor's property.

Trailers, trailer houses, campers, mobile homes, or motor homes shall not be used as living quarters at any time unless located in a duly authorized mobile home park or properly zoned area.

C. Animals.

No more than three of any species of common household pets, four months of age or older, shall be allowed per dwelling unit.

19.31.030 Single family and multi-family homes in commercial areas.

Commercial sales are prohibited in the setback areas when the property is used for living purposes. Off street parking for the residents shall meet or exceed the requirements in Chapter 19.51.

CHAPTER 19.61 LANDSCAPE REQUIREMENTS

Sections:

- 19.61.010 Purpose
- 19.61.020 Scope
- 19.61.030 Landscape Development Plan
- 19.61.040 Performance Bond
- 19.61.050 Landscape Maintenance
- 19.61.060 Plant Choice
- 19.61.070 Landscaping and Planting Strip Types for Side and Rear Yards
- 19.61.080 Residential Landscape Requirements.
- 19.61.090 Minimum Landscape Requirements for Required Landscaping
- 19.61.100 Requirements for Commercial and Industrial Parking Lots
- 19.61.110 Tree Removal
- 19.61.120 Boulevard or Parking Strips – May be required
- 19.61.130 Boulevard or Parking Strips – Development and Maintenance
- 19.61.140 Maintenance of existing vegetation
- 19.61.150 Definitions

19.61.010 Purpose.

The purpose and intent of this chapter is to provide landscape development and buffering requirements in order to maintain and protect property values, enhance the appearance of the development, protect the aesthetic assets of the community, reduce erosion and storm water run-off, and provide screening between incompatible land uses. The landscape requirements of this chapter are minimum standards; additional landscaping will be encouraged.

19.61.020 Scope.

This chapter shall apply to all RM zones, MH zones, CS zones, I zones, public facilities, and any residential developments where the development is larger than four lots. No building permit, shall be issued where landscaping is required until a landscaping plan has been submitted and approved by the City Planner or the Design Review Board where applicable. A landscaping plan is not required for a single family building permit.

19.61.030 Landscape Development Plan.

Landscape development plans shall indicate all areas to be preserved and planted including proposed fencing and landscape features. The landscaping plan shall also show locations of individual trees and shrubs; and include name, size, spacing and quantity of the plant materials and all proposed irrigation lines and structures. It is recommended that a landscape architect or a professional nurseryman prepare required plans.

19.61.040 Performance Bond.

No permanent occupancy permit shall be granted until landscaping required under this chapter is completed. However, a permanent occupancy permit may be granted if a performance guarantee bond in the amount of 150% of the anticipated cost of the unfinished landscaping is posted guaranteeing the installation of required landscaping is posted within 180 days. If landscaping is not so completed, the City may finish it, in accordance with the approved plan, using the bond to pay the completion costs. The bond may be posted by certified check payable to the city, assignment of a restricted savings account to the City, or posting an irrevocable letter of credit or a bond with the City.

19.61.050 Landscape Maintenance.

Plantings including trees and shrubs shall be maintained in a healthy growing condition. Dead plants or trees shall be replaced by the property owner. If it becomes necessary for the City to take action in removal and/or replacement of required landscaping, the property owner will be billed for all costs associated with the removal and/or replacement. The property owner is also responsible to keep the landscaped areas reasonably free of weeds and trash.

19.61.060 Plant Choices.

All species shall be native to the area or recognized as being easily adaptable to the climate. The City will require the applicant to conform to the City's Design and Development Standards including modifying the plant choice to:

- A. Eliminate undesirable species which may conflict with power lines or sewers because of their growth or invasive root systems.
- B. Provide a diversity of species.
- C. Provide plant materials that will fulfill the buffering or landscaping purposes of that planting on a year-round basis.
- D. Provide visual relief on long facades.
- E. Provide species that are resistant to drought conditions.

19.61.070 Landscaping and Planting Strip Types for Side and Rear Yards.

A. TYPE I. Ornamental Landscaping

This landscaping shall consist of a combination of trees, shrubs and other landscaping materials, including bark and/or decorative rock, or grass. The landscaping shall be designed to improve the appearance of the development, not necessarily to obscure it. A mixture of evergreen and deciduous plantings reaching a maximum height of thirty inches is recommended. This does not apply to non-sight obscuring trees.

B. TYPE II. Mixed Trees, Shrubs, Low Plantings

This planting strip shall consist of one row of trees spaced a maximum of ten feet on center. The remainder of the planting strip shall be planted with plantings that will result in an attractive ground cover within two years.

C. TYPE III. Sight Screening Evergreen Hedge

The purpose of this landscaping type is to provide a sight, sound and psychological barrier between zones with some degree of incompatibility. The spacing of evergreen plants shall be such that they form a dense hedge within three years. The minimum height, at the time of planting, shall be four feet, except where the hedge would interrupt the clear vision triangle.

D. TYPE IV. Low Plantings, Trees, and Fencing

Evergreen conifer trees shall be spaced a maximum of fifteen feet on center, backed by a seventy-two inch fence which forms an effective barrier to sight, except where the fence would interfere with the clear vision triangle (see Chapter 15.28). The fence shall be placed on the inside of the planting strip. The remainder of the landscape area shall be planted with plantings that will result in an attractive ground cover within three years.

E. TYPE V. Wall of Trees

The purpose of this landscape type is to provide a sight, sound and psychological barrier between zones with a high degree of incompatibility. This planting strip shall consist of two rows of trees staggered and spaced a maximum of ten feet on center, so as to form an effective visual barrier within

five years. The minimum tree height, at the time of planting, shall be six feet, except where it would obscure the vision triangle.

F. TYPE VI. Boulevard or Parking Strip

Boulevard or parking strip plantings are encouraged. The strip should be planted with non-fruit bearing, deciduous trees a minimum of fifty feet on center. At the time of planting deciduous trees shall be at least three inches in diameter at four feet in height, and all necessary root barriers shall be installed.

19.61.080 Residential Landscape Requirements.

Objective – To enhance the aesthetics of communities through the installation of landscape and the screening undesirable elements. Also, to enhance safety and function of residential properties through appropriate maintenance of landscape plantings.

A. Detached Residential Single Family (RS) Landscape Requirements

1. Property owners may landscape adjacent to sidewalks on any city street provided that at no time the landscape encroaches into the path of the sidewalk which would impede pedestrian movement or create unsafe conditions. It is the property owner's responsibility to maintain the landscape in this manner.
2. Hedges. To facilitate visibility along streets and sidewalks, hedges which fully block visibility must not be planted within 3 feet of the sidewalk. View triangles, which protect sight distance, at street intersections may require additional height restrictions.
3. Street trees are required at the time of plat as outlined in Chapter 18.14. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
4. All plantings on city property are subject to removal by the property owner at the City's discretion and property owner's expense. In the case that the property owner does not remove the planting, the removal will be done by the City and the property owner will be billed.

B. Multi-Family Residential (RM) and Attached Single Family Landscape Requirements

All proposed multi-family and attached single-family development greater than two attached units in these zones shall comply with the following standards. Variances, in accordance with the process set forth in Chapter 17.17 LMC, may be authorized by the planning director where factors such

as but not limited to, topography, other site constraints prevent strict compliance.

1. All public streets will be required to include street trees between the curb and sidewalk, unless a variance to the street section standard and design is granted.
2. Entry areas, access easements, and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrances to the multi-family development, defined for this section as the entrances from public roadways, shall have landscaped areas on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway intersect and running a distance of twenty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines. These areas may be utilized as rain gardens.
3. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.
 - a. Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.
 - b. At the time of installation, shrubs must be a variety of sizes (one to five-gallon pots) and upright shrubs must have a minimum height and spread of eighteen to thirty-six inches. Spreading shrubs should have a minimum of twelve to eighteen inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan). Hedge material must have a minimum height of four feet at the time of planting.
 - c. Ground covers planted from flats shall have a maximum spacing of twelve inches on center or, when planted from one-gallon pots, a maximum spacing of twenty-four inches on center.

4. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.
5. Building foundation plantings are required around all areas of the building except immediately adjacent to entries or garage doors. Sidewalks shall not be included within these areas. Installation of plant material is required and must be appropriate to the scale of the building. Area required is as follows:
 - a. Buildings containing 2-4 units must provide a planting area a minimum of 4 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 2 feet.

Buildings containing more than 4 units must provide a planting area a minimum of 6 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 3 feet.

19.61.090 Minimum Landscape Standards for Required Landscaping.

- A. In order to reduce the incompatible characteristics of abutting properties with different land use classifications, minimum landscaping standards shall be applied to planting strips on the interior property lines of the most intense land use. In the case of a less intense land use being developed directly adjacent to an existing land use of higher intensity, the landscaping requirements may be established as a permit condition and may be placed on the interior property line of the less intense land use.
- B. For the purpose of this ordinance, the following is a listing of land uses in order of intensity from the highest to the lowest: ID, CSL, HBD, CSR, IBZ, TR, MH, RM-4, RM-3, RM-2, RM-1, RMD, RS-7,200, RS-8,400, RS-10,000.
 1. All I zones adjacent to all CS zones: Type III planting strip, ten feet in width.
 2. All I zones adjacent to public, semi-public or PU areas: Type III planting strip, fifteen feet in width.
 3. All I zones adjacent to MH zones: Type III planting strip, ten feet in width.
 4. I zones adjacent to TR zones: Type III planting strip, fifteen feet in width.
 5. All I zones adjacent to RM housing: Type IV planting strip, ten feet in width. If IBZ, fencing is optional.
 6. All I zones adjacent to RS housing: Type V planting strip, fifteen feet in width.
 7. CS zone adjacent to all MH: Type III planting strip, ten feet in width.

8. All CS zones adjacent to public or semi-public or PU areas: Type III planting strip, ten feet in width.
9. All CS zones adjacent to RM housing: Type II planting strip, ten feet in width.
10. All CS zones adjacent to RS housing: Type IV planting strip, fifteen feet in width.
11. TR zone adjacent to RM zones: Type III planting strip, ten feet in width.
12. TR zone adjacent to RS zones: Type IV planting strip ten feet in width.
13. MH zone adjacent to RS housing: Type IV planting strip, ten feet in width.
14. MH zone adjacent to RM housing: Type III planting strip, ten feet in width.
15. RM housing adjacent to RS housing: Type IV planting strip, ten feet in width. Fencing is optional.
16. PRD adjacent to all other zones: Type II planting strip five feet wide, except I and CS zones where it shall be ten feet in width.
17. Public buildings and utility sub-stations within all RS and RM zones: Type I planting strip five feet wide.

19.61.100 Landscaping Requirements for Commercial and Industrial Parking Lots

Landscaping requirements for parking lots should incorporate LID techniques as feasible and meet the following:

- A. Parking lots fronting on a public street right-of-way shall have fifty square feet of "Type I" landscaping for every thirty-five hundred square feet of parking area. Additional landscaping is encouraged, provided that the planting shall not obstruct the vision triangle at street intersections and driveways.
- B. Additional plantings may be placed on street right-of-way behind the sidewalk line if the owner agrees to remove the landscaping, at the owner's expense, upon request of the City. The owner will maintain all landscaping placed in the right-of-way.
- C. No landscaping area shall be less than fifty square feet in area,
- D. No parking stall shall be located more than fifty feet from a landscaped area. The Planner may approve landscaping plans involving alternatives to this specification for individual properties if the proposed alternative would be more effective in meeting the purposes of this chapter.
- E. All landscaping must be located between parking stalls, at the end of parking columns, or between stalls and the property line. No landscaping which occurs between the parking lot and a building or recreation area shall be considered in satisfaction of these requirements.

- F. Parking lots containing less than twenty parking spaces need provide only perimeter screening to satisfy the landscaping area requirements.
- G. When a parking lot abuts residentially designated property along any interior property line, a "Type III" buffer, or a minimum five-foot wide "Type IV" buffer with plantings spaced to form a solid sight-obscuring screen within three years, shall be installed along the property line. An earthen berm may be substituted for the above landscaping requirements, provided that the berm acts as a substantial buffer or screen, is height and width appropriate to the area and is planted with grass or other appropriate ground cover. This requirement shall not apply when the abutting residentially designated property is six feet or more above or below the elevation of the immediately adjacent parking area.
- H. All landscaped areas shall be protected from vehicle damage by a six-inch protective curbing and, if necessary, wheel blocks.

19.61.110 Tree Removal or Planting.

- A. No person shall remove any tree(s) or shrub from any street, alleys, boulevard or parking strips of the City of Lynden without first having applied for and received a permit from the City to do so. The application for the permit and the permit shall be on forms prescribed by the City and there will be no charge for such a permit.
- B. No person shall plant any tree(s), or shrubs on the streets, alleys, boulevard or parking strips of the City of Lynden without first having applied and received a permit from the City. There will be no charge for such a permit.

19.61.120 Boulevard or Parking Strip – May be required

Boulevard or parking strips are encouraged and may be required by the City as part of development permit approval. Planting requirements are listed above as Type VI planting strips. Where street trees are required, the trees fronting a building lot must be installed prior to final occupancy for that building constructed on the building lot. At the time of plat approval, a note shall be placed on the face of the plat indicating that it is the responsibility of the property owner to maintain all trees placed within the City right-of-way abutting their property.

19.61.130 Boulevard or Parking Strip – Development and Maintenance

- A. Street trees shall be planted in accordance with accepted commercial planting procedures and appropriate root barriers shall be installed at the time of planting.
- B. Street trees shall be chosen in accordance with the plantings recommended by Puget Sound Energy. Lists of recommended trees are available from the Planning Department.
- C. The Public Works Director will prune and maintain, or cause to be pruned and maintained, all of the trees along Lynden streets. The City will maintain the street trees on Front Street between First and 17th Streets. The

remaining trees will be the responsibility of the adjacent property owner to maintain. If said trees are not maintained, the Public Works Director may cause those trees to be maintained at the expense of the adjoining property owner.

- D. All trees along City streets shall maintain a minimum clearance of thirteen feet, six inches between the ground and lowest branch. Street trees shall not be planted within the clear vision triangle.
- E. Adjacent property owners shall be liable for any persons injured or who otherwise suffers damage due to the failure of trimming and proper maintenance of trees by adjacent property owners. This shall include the replacement of sidewalks damaged by intruding roots.

19.61.140 Maintenance of existing trees

When a building or development is planned on a site that includes existing trees greater than twelve inches in diameter at five feet in height, every reasonable effort shall be undertaken to preserve those trees. Except however, that those trees that are diseased or that pose a threat to public safety may be removed. All landscape plans must show all existing trees, those trees to be removed and the placement of a number of trees equal to that number of trees to be removed.

19.61.150 Definitions.

As used in this chapter.

“Berm” means an earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

“Buffer” means a combination of physical space and vertical elements, such as plants, berms, fences, or walls, the purpose of which is to separate and screen incompatible land uses from each other.

“Deciduous” means a plant with foliage that sheds annually.

“Conifer” means a plant with foliage that persists and remains green year-round, commonly known as evergreens.

“Ornamental tree” means a deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

“Screen” means a method of reducing the impact if noise and unsightly visual intrusions with less offensive or more harmonious elements, such as plants, berms, fences, walls, or any appropriate combination thereof.

“Shade Tree” means usually a deciduous tree planted primarily for its high crown of foliage or overhead canopy; normally a deciduous and rarely an evergreen.

“Shrub” means a woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

“Tree” means a large, woody plant having one or several self-supporting stems or trunks and numerous branches. May be classified as deciduous or coniferous.

SECTION C. 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, then the original ordinance or ordinances shall be in full force and effect.

SECTION D. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION E. This ordinance shall take effect on October 1, 2019.

PASSED by the City Council this _____ day of _____, 2019.

Signed by the Mayor on this _____ day of _____, 2019.

MAYOR (Scott Korthuis)

ATTEST:

CITY CLERK (Pamela Brown)

APPROVED TO AS FORM:

CITY ATTORNEY (Robert Carmichael)

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Set the Public Hearing for Ordinance 1582	
Section of Agenda:	Consent	
Department:	Planning Department	
Council Committee Review:		Legal Review:
<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Review Not Required
Attachments:		
Draft Ordinance 1582, Staff Memo summarizing revisions, Residential Design Standards Review Document		
Summary Statement:		
<p>Ordinance 1582 is one of three ordinances which propose to update the residential design standards for the City of Lynden. Specifically, it adopts a new section of code, Chapter 19.22.</p> <p>Planning staff has worked closely with the Design Review Board, the Planning Commission, and Building Official to develop Chapter 19.22 and make a corresponding revisions to Chapter 18 and other sections of Chapter 19.</p> <p>Although 19.22 is a new chapter in the Lynden Municipal Code, many of the design standards currently exist but repetitiously appear in each zoning category. Aside from the consolidation of standards, the amendments touch on site design, architecture, accessory structures, landscaping and screening, and street trees. The code also clarifies the path to seeking relief from the design standards which allows alternate designs to be considered and approved by the Design Review Board. (A more detailed summary of the amendments is included in the attached staff memo.)</p> <p>On April 11 the Planning Commission held a public hearing and recommended approval of the attached code revision as represented by Ordinance 1580, 1581, and 1582.</p> <p>Staff is proposing that the new design standards take effect on October 1, 2019 to allow time to inform residential developers, designers, and builders of the proposed changes.</p>		
Recommended Action:		
Motion to set a public hearing date of June 3 for Ordinance 1582 which amends Title 19 of the Lynden Municipal Code as part of the revisions to residential design standards.		



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

Planning Department Memorandum

To: City Council

From: Heidi Gudde, Planning Director

Date: May 15, 2019

Re: Residential Design Standards

The residential design standards for the City of Lynden are proposed to be combined into one location within the Lynden Municipal Code. Currently, many standards repetitiously appear in each zoning category. Additionally, some standards are proposed to be revised to address aesthetic or maintenance concerns within the City of Lynden.

The effort to consolidate and revise residential standards stemmed from the Pepin Creek planning effort as standards were originally written specific to the Pepin Creek Sub-area. After a number of review sessions with the Planning Commission, the Community Development Committee, and the Design Review Board, the recommendation was made to create relatively simple standards which could be applied to all districts rather than be specific to the Pepin Creek Sub-area.

The Design Review Board is the approving body that will be working most closely with the standards as all attached housing types and detached accessory dwelling units (ADU's) are required to seek Design Review Board Approval. On April 2 the Design Review Board completed their review of the proposed standards and recommended approval of the design standards with alterations suggested in several areas.

At a public hearing on April 11, the Planning Commission reviewed the version recommended by the Design Review Board and, after several alterations of their own, recommended the draft which is now reflected in Ordinances 1580, 1581, and 1582. The points at which the Design Review Board and Planning Commission differed are included in the summary points below.

The standards are now proposed to be organized into categories – each with its own objective. These will appear in a new section of code - LMC 19.22. The categories are listed below with a summary of changes below each. To coordinate the reorganization of residential design standards the update will also include amendments to the landscape code (LMC 19.61), residential use restrictions (LMC 19.31) and the subdivision code (LMC 18.14).

CITY OF LYNDEN

PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532



19.22.010. Establishment and Purpose

- This new section identifies the general and specific objectives of the residential design standards.

19.22.020. Site Design – Setback, Yards, Building Orientation, and Pedestrian Connections

- The majority of standards appearing in this section already exist. Minor changes were made to accommodate measuring setbacks to the foundations rather than eaves, and a section was added addressing pedestrian connections.

19.22.030. Residential Architecture and Attached Garages

- Many of these standards already exist in the municipal code but are consolidated into 19.22.
- The amendment initially included the elimination of a minimum roof pitch but ultimately the Planning Commission recommended keeping the minimum roof pitch of 4:12 while acknowledging that alternate designs which may call for a more shallow or flat roof could seek the approval of the Design Review Board.
- The new standards add a requirement to include articulation to buildings, they address placement and scale of attached garages, new points regarding the architecture of front entries, and a clarification about the screening of back decks and patios.

19.22.040. Detached Garages and Accessory Structures

- This section includes tougher architectural standards on accessory structures which will require some cohesive design elements between the residence and the accessory structure. It also clarifies language related to the scale of shared garage structures.
- No revisions to the permitted size or height of detached structures is being proposed with this amendment.

19.22.050. Landscape, Fences, Screening, and Lighting

- This section is intended to address concerns related to the screening of mechanical equipment and the proper storage of garbage containers and vehicles and several other miscellaneous topics.

19.31.080. Residential Property Use Restrictions

- Some use restrictions appeared in other sections of code. The amendment moves these use restrictions to the more appropriate location of 19.31. The section is used heavily when responding to code violation complaints. Additionally, one clarification was added to this section to state that recreational vehicles shall not be covered by utility tarps.



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

19.61.080. Landscape Requirements

- Generally, there are very few landscape requirements specific to single family homes, but a few were located in other sections of code and have been relocated to 19.61.
- Additionally, some clarification related to front yard use and hedges in single-family areas are also included in this section.
- Multi-family landscape requirements currently exist in the 19.17 and are being relocated to the landscape section of the code, 19.61, to consolidate landscape requirements.

18.14.130. Street Trees and Planting Strips

- This is a proposed update to the street tree planting requirement. Cities frequently have street tree requirements of one tree for every 30 to 40 feet while the City of Lynden has required one tree for each lot with no maximum spacing more than 100 feet. As lot frontages become smaller this standard would be difficult to enforce with inconsistencies between neighborhoods with differing lots widths.
- The Design Review Board recommended a conservative revision to a maximum spacing of 75 feet between trees. The Planning Commission recommended the maximum spacing be 50 feet as staff had initially recommended.

ORDINANCE NO. 1582

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LYNDEN,
WASHINGTON, REGARDING THE ADDITION OF CHAPTER 19.22,
RESIDENTIAL DESIGN STANDARDS TO THE LYNDEN MUNICIPAL CODE.

WHEREAS, The City of Lynden is required to plan under RCW 37.70A, commonly referred to as the Growth Management Act, and

WHEREAS, The Growth Management Act mandates that cities make plans to accommodate a reasonable allocation of growth at urban levels of density, and

WHEREAS, the City of Lynden has determined that the purpose of residential design standards is to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and to protect and enhance property values for the community as a whole; and

WHEREAS, residential design standards help to enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements and to enhance safety through appropriate exterior lighting, addressing and fencing.

WHEREAS, residential design standards also seek to encourage low impact design techniques.

WHEREAS, appropriate provisions have been made within the zoning text to ensure that the impacts to the surrounding neighborhoods will be minimized; and

WHEREAS, the City issued a SEPA Determination of Non-Significance related to this Ordinance on April 10, 2019; and

WHEREAS, the Lynden Planning Commission held multiple work sessions (open to the public) to develop the residential design standards; and

WHEREAS, on April 11, 2019, following public notice, the Planning Commission conducted a public hearing regarding this proposed Ordinance and, after considering all comments and testimony received, forwarded a recommendation to the City Council to adopt the proposed new Chapter 19.22 into the Lynden Municipal Code; and

WHEREAS, on April 12, 2019, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed addition of Chapter 19.22 to the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on May 20, 2019, and a date for a public hearing was set; and

WHEREAS, on June 3, 2019, 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

WHEREAS, the City Council approved the addition of the new Chapter 19.22 as recommended by the Planning Commission; and

WHEREAS, the City Council finds the proposed addition to the zoning code will uphold the goals of the Comprehensive Plan.

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

SECTION A. A new chapter 19.22 of the Lynden Municipal Code is hereby adopted as follows:

Chapter 19.22
RESIDENTIAL DESIGN STANDARDS

19.22.010 Establishment, Relief, and Purpose

19.22.020 Site Design – Setbacks, Yards, Building Orientation, and Pedestrian Connections

19.22.030 Residential Architecture and Attached Garages

19.22.040 Detached Garages and Accessory Structures

19.22.050 Landscape, Fences, Screening, and Lighting

19.22.010 Establishment, Relief, and Purpose

A. Establishment and Relief. There is established therein residential design standards and regulation by which residential structures may be permitted and maintained.

1. Relief from the required standards must be sought through the variance process.
2. Variance requests which relate specifically to site design development standards described in Section 19.22.020 shall be submitted to the Board of Adjustment consistent with Section 19.47.
3. Variance requests which relate specifically to the residential design criteria described in Section 19.22.030 through 19.22.050.

B. Purpose.

1. The essential purpose of the residential design standards to ensure that new developments meet and maintain a number of objectives that strive to promote orderly community growth and protect and enhance property values for the community as a whole.
 - a. To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.
 - b. To create high-quality communities that have variation of architectural style and durable materials.
 - c. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.
 - d. To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.
2. Residential design standards also seek to encourage low impact design (LID) techniques such as rain gardens, xeriscape, or pervious pavement to minimize adverse impacts on the natural environment.

19.22.020 Site Design – Setbacks, Yards, Building Orientation, and Pedestrian Connections

Objective – To soften and enhance the built environment using yards and green space, to incorporate inviting pedestrian scale elements into all residential construction, and to provide adequate parking areas.

A. Lot coverage

1. Lot coverage is limited by zoning category.
2. Lot coverage may be increased by one percent for each ten percent of the required off-street parking that is located beneath portions of the multiple-family dwelling units which are intended to be occupied by residents or used as hallways or meeting rooms.

B. Building Orientation

1. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.
2. The side yard used for a driveway shall not be less than ten feet in width.

3. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance is obvious from the street or access easement which serves as its primary point of access.

C. Setbacks. Minimum setbacks are outlined in each zoning category.

1. All setbacks are measured from the property line to the foundation.
2. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet.
3. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
4. Additional fire protection may be required for structures located within 10 feet of each other.
5. It is the property owner's responsibility to have the property lines clearly marked for inspection.
6. On corner lots in the RS-72 zone, 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.
7. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.

D. Garage Setbacks from Property Lines

1. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25 feet.
2. In RS-84 and RS-100 zones an attached garage may be built as close as seven feet to the side property line provided the living area side setbacks total twenty-two feet from the building foundation to the property line.
3. In RS-72 and RMD zones an attached garage may be built as close as seven feet to the side property line provided the living area side setbacks total seventeen feet from the building foundation to the property line.

E. Pedestrian Connection

1. Sidewalk connections must be provided in all residential zones.
2. In all RM zones, primary sidewalks must be a minimum of 5 feet clear width without encroachment of vehicle overhang.

3. In RM zones sites must include pedestrian walkways which provide connection to common green spaces and public sidewalks. Cross walks provided as needed in parking areas and along streets.

19.22.030 Residential Architecture and Attached Garages

Objective – To create high-quality communities that have variation of architectural style and durable materials. To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

A. Residential Structure

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. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

1. Building height is regulated by zoning category.
2. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.

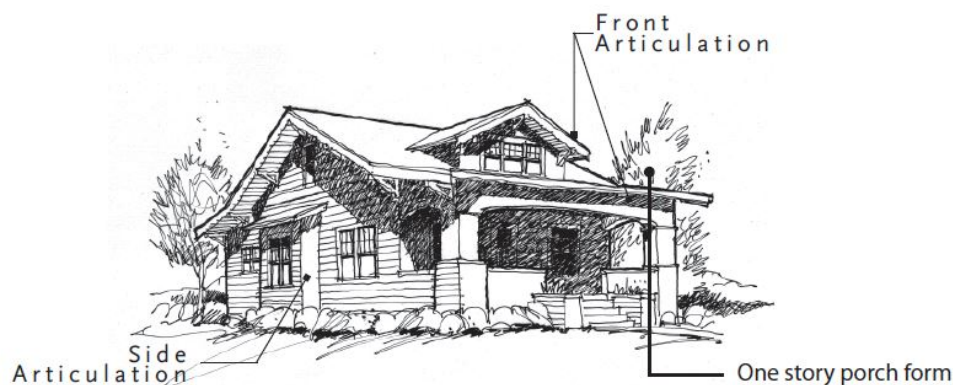
C. Roofs

1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
3. Using a membrane roof or built up roofing (BUR) for the primary roofing material is not permitted.
4. 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.

D. Building Elevations and Finishes

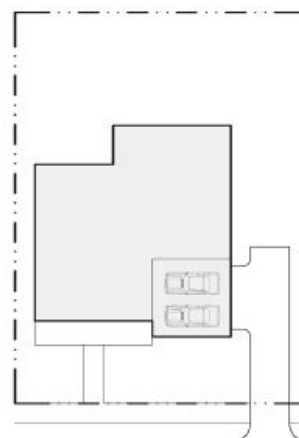
1. Residential Elevations

- a. The same architectural elevation shall be separated by a minimum of two other homes.
- b. An articulation is an architectural element such as a one-story porch or bay window. One such element shall be used on all sides of the building that face toward a public street, shared access easement, or common green. The articulation shall be offset a minimum of 12". A garage setback shall not count as an articulation.



2. **Garage Elevations.** To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front, with garage doors oriented toward the street are subject to the following standards:
 - a. At the ground level, the garage façade shall not extend forward of the home's living space by more than 12 feet.
 - b. The lineal frontage of the building elevation which can be occupied by garage doors is limited.
 - c. In RS zones, no more than 50 percent of the building elevation can be garage doors.
 - d. In RMD and RM zones, no more than 60 percent of the total first floor building elevation length can be garage doors.
3. **Exterior Finishes**
 - a. The exterior of the home must be finished with a minimum of two types of materials or variation in reveals.
 - b. Exposed fastener metal siding is prohibited on residential buildings.

- c. Exposed ends of stone and masonry façades are not permitted and must be finished with trim or end caps.
- d. All garage sides that are visible from streets or shared access easements shall provide architectural details and trim consistent with the design of the home. (graphic)
- e. In RS zones, attached garages or attached carports which provide a third covered or enclosed space must be offset a minimum of 2 feet from the first two covered or enclosed spaces.



Side Loaded Garage

E. Porches, Stoops, Decks, and Patios

1. Porches and stoops.

- a. Architecture of the primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
- b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
- c. Stairs with open risers are not permitted on front porches or stoops.

2. Decks and patios

- a. 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.
- b. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - 1. Remains open on three sides;
 - 2. Does not come within eighteen feet of the rear property line;

3. Does not encroach more than 2 feet into the side yard setbacks of the underlying zone; and,
 4. The addition does not exceed the permitted lot coverage.
- c. Deck or patio privacy screening or fencing which is located more than 6 feet from the property line, may be up to eighty-four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of 6 feet above grade.

19.22.040 Detached Garages and Accessory Structures

Objective – To reduce the visual impact of the garage and accessory structures and emphasize the pedestrian environment.

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 twenty-four inches. Additional fire protection may be required for structures located within 10 feet of each other.

A. General Requirements

1. All accessory structures, whether defined in this title or not, shall conform to the requirements of the International Building Code. (Currently appears in MH bulk standards)
2. Architectural style of a detached garage, shop, or shed must match the style of the primary structure. However, agriculturally themed structures such the roofline of a traditional barn may be permitted. Also, this standard is not applicable to greenhouses or open-sided structures intended only to cover recreational vehicles.
3. All accessory structures, including carports, must utilize roofing material which is compatible with the primary structure.
4. Any structure intended to be established and remain for more than 72 hours and, as outlined in LMC 15.04.010, exceeds 120 square feet in area must obtain a building permit.

B. Accessory Structure Setbacks

1. A detached accessory structure or garden shed may not be built closer than six feet to the side or rear property line including property lines abutting alleys with a maximum eave of 24 inches.
2. Accessory structures on corner lots shall not be permitted nearer than fifteen feet to the side property line adjacent to the street.

3. Garages accessed from alleys with garage doors facing the alley must be setback a minimum of 21 feet in all RM zones and setback 25 feet in all RS zones.

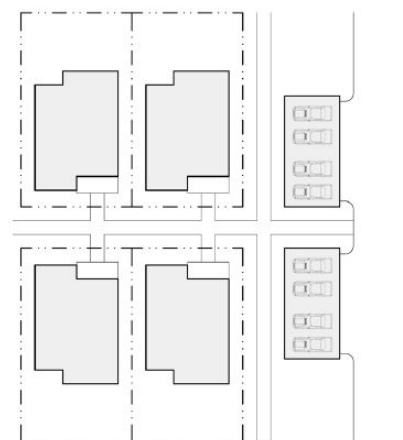
C. Accessory Structure Height

1. The maximum height for all accessory structures shall be twelve feet, except for detached garages, shops, and detached accessory dwelling units (ADU) as noted below.
2. The maximum height of any detached garage that is serving as the primary garage, a secondary garage, shop with an overhead door, or detached ADU shall be eighteen feet, provided however that
 - a. The setback shall be a minimum of six feet from the side and rear property line,
 - b. Structures serving as secondary garages or shops are set behind the rear line of the house,
 - c. The roof pitch and siding shall be consistent with the primary structure on the lot,
 - d. There is no living space within the building except as permitted with a legal accessory dwelling unit (ADU) and larger setbacks as outlined in Chapter 19.20, and
 - e. The height of the building does not exceed the height of the primary structure.

D. Accessory Structure Area

1. In MH zones, no detached garage shall exceed one thousand square feet of inside floor area or exceed square footage of the primary structure.

2. In RS zones, no detached garage or accessory building footprint shall exceed one thousand square feet 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
3. Shared attached garages and carports are permitted in RM zones and within the Pepin Creek Senior Overlay. Shared garages shall have a maximum of 4 parking stalls and not exceed 44 feet in width. (see graphic)



Shared Garage

4. Detached carports are permitted to accommodate no more than four vehicles and are limited to a maximum of 44 feet in width.

19.22.050 Landscape, Fences, Screening, and Lighting

Objective – To enhance the aesthetics of communities through the installation of landscape and the screening of undesirable elements. Also, to enhance safety and function of residential properties through appropriate exterior lighting, addressing, and fencing.

A. Landscape, Fences and Screening

1. Landscape. Refer to Chapter 19.61 for full description of Residential Landscape Requirements.
2. Fences.
 - a. Fences shall not be built closer than three feet to the property owner's side of the sidewalk for front yards and for street side yards on corner lots. If there is no curb and/or sidewalk, the fence shall be set back a minimum of three feet from the front property line and the street side property line on corner lots. When solid privacy fencing is installed, landscape material, such as groundcover, shrubs, or hedge material must be planted and maintained within this 3 foot setback.
 - b. Refer to Chapter 19.63 for full description of Residential Fence Standards.
3. Screening
 - a. In RS zones, trash and recycling containers shall be stored in side or rear yards or within enclosed garages.

- b. In RM zones, trash and recycling containers shall be stored in side or rear yards, or within enclosed garages, or in screened enclosures as approved by the Design Review Board during site plan review.
- c. Except for public utilities, mechanical equipment shall not be located in front yards.
- d. All mechanical equipment, including roof mounted, must be screened so as not be to visible from the street, shared access easement, and common green spaces. Screening can be accomplished by fencing, architectural screening, or evergreen landscape material. Equipment to be screened includes, but is not limited to, heating and air conditioning units, venting associated with commercial grade cooking facilities, and any mechanical equipment associated with pools or hot tubs.
- e. In RS zones, the base of exterior mechanical equipment must not exceed the height of the finished floor elevation.
- f. Recreational vehicles may only be stored on RS zoned properties consistent with LMC 19.15.030.

B. Street trees

- 1. Street trees are required at the time of plat as outlined in Chapter 18. Additionally, the installation or replacement of street trees may be required to this standard when building permits are sought for additions, decks, remodeling, or the construction of accessory structures.
- 2. Street trees must be from the City's approved street tree list.
- 3. Street trees located under utility lines must be species which will not conflict with overhead lines even when reaching maturity.
- 4. Street trees must be installed with root barrier protection as specified in the Engineering Design Standards.
- 5. Street trees shall be a minimum caliper of 1 1/2" at the time of installation except that small trees used under overhead lines shall be a minimum a caliper of 1". Refer to the City of Lynden Engineering Design Standards for a full description of street tree requirements.

C. Lighting

- 1. All front entry ways shall have an exterior light.

2. In multi-family housing projects exterior lighting must be installed with a timer or sensors so that it operates automatically regardless of occupancy.
 3. Light that is broadcast beyond the intended area and illuminates neighboring windows or beyond the lot boundary is not permitted.
- D. Addressing. To facilitate first responders in the event of an emergency, address numerals on all residential structures must be located near exterior lighting and in an area which is plainly visible when approached from the primary access point.
- E. Front and Side Yard Uses
1. Front yards shall be used for ornamental purposes only.
 - a. 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.
 - b. Parking of vehicles or utility trailers on lawn or landscape areas of a front yard or a side yard adjacent to a public right-of-way is not permitted.
 2. Front yards may be used for low impact development (LID) infiltration best management practices (BMPs).
 3. Front yard setbacks may not be used for the storage of boats, campers, or any recreational vehicle. Refer to 19.31.020.
 4. To reduce the visual impact of parking areas in RM zones, including RMD, a minimum of 50 square feet of landscaped area per unit must be located between the façade of the structure and the nearest public right-of-way unless otherwise approved by the Design Review Board. This applies to both side and front yards.

SECTION B. 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, then the original ordinance or ordinances shall be in full force and effect.

SECTION C. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION D. Effective Date. This ordinance shall take effect on October 1, 2019. All development applications received after that date shall be reviewed under the provisions of this ordinance.

PASSED by the City Council this _____ day of _____, 2019.

Signed by the Mayor on this _____ day of _____, 2019.

MAYOR (Scott Korthuis)

ATTEST:

CITY CLERK (Pamela Brown)

APPROVED TO AS FORM:

CITY ATTORNEY (Robert Carmichael)

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Access Agreement - Lynden School District – Glenning Street Playground Property	
Section of Agenda:	Consent	
Department:	Public Works	
Council Committee Review:		Legal Review:
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input checked="" type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance	<input checked="" type="checkbox"/> Public Works	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Review Not Required
Attachments:		
Access Easement – Lynden School District		
Summary Statement:		
<p>The City of Lynden is considering the purchase of the Glenning Street playground property from the Lynden School District. In anticipation of the purchase, the District is agreeing to grant the City the right to enter the property to perform environmental assessments per the attached easement.</p>		
Recommended Action:		
<p>That City Council approve the Access Agreement with the Lynden School District – Glenning Street Playground Property and authorize the Mayor's signature on the easement agreement.</p>		

ACCESS AGREEMENT

This ACCESS AGREEMENT ("Agreement") is made this _____ day of _____, 2019, by and between City of Lynden, a municipal corporation ("City"), and the Lynden School District, a municipal corporation ("District"). City and District shall be referred to herein individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS, the District owns the following-described real property:

Lots 1 through 10 of Block 32 and Lots 1 through 10 of Block 33 of the Supplemental and Corrected Plat of Lynden, according to the plat thereof, recorded in Volume 3 of Plats, Page 48, Auditor's File Number 12894, records of Whatcom County, Washington, together with the alleys and the portion of Seventh Street vacated by Ordinance No. 208 of the Town of Lynden, Washington.

Situate in Whatcom County, Washington.

Subject to and together with all easements of record.

herein referred to together as the "Property"; and

WHEREAS, the City presently intends to purchase the Property from the District, and the District presently intends to sell the Property to the City; and

WHEREAS, the Parties do not anticipate being able to sign a binding purchase and sale agreement ("PSA") for the Property for at least 2 to 4 more weeks after the execution of this Agreement; and

WHEREAS, the expected PSA terms will allow the City to perform an environmental assessment of the Property at a level of the City's choosing prior to closing; and

WHEREAS, due to the potentially time-consuming nature of the environmental assessment, both Parties wish that the City be allowed to commence the environmental assessment as soon as possible; and

WHEREAS, the purpose of this Agreement is to provide District authorization for the City to access the Property for the purpose of performing an environmental assessment of the level of its choosing; and

WHEREAS, these recitals are material to this Agreement.

ACCESS AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. Grant of Access. The District hereby grants to the City a nonexclusive right to enter the Property to perform one or more environmental site assessment(s) of the Property at the level of the City's choosing ("Right of Access").
2. Term. This Agreement shall commence upon its execution and shall terminate automatically upon either (1) execution by both Parties of a PSA for sale of the Property; or (2) written notice from either Party to the other that it does not wish to continue with the proposed sale; or (3) sixty (60) days from the date of this Agreement, whichever is earlier. Provided, however, the obligation of the City under Section 4, 6 and 13 shall continue in full force and effect following termination.
3. City's Rights. The City shall, by its employees, contractors, subcontractors, and other agents and assigns, have the right to enter the Property and the right to perform all necessary tasks related on the Property related to an environmental site assessment, including visual inspections, sampling, testing, excavations, restoration, and the placement of flags, stakes, and other similar items on the Property. The City shall have the right to exclude the public from its area of work on the Property as needed for safety purposes.
4. Disclosure. Any work product produced by the City or its consultants under this Agreement will be for the City's use only and will not be provided to third parties or government entities without the express written consent of the District, unless in the City's opinion disclosure is mandated by the Public Records Act (Chapter 42.56 RCW). In the event the City obtains a request for disclosure of such work product, it shall promptly notify the District in writing of same and provide the District with not less than three (3) business days to file a motion seeking a court order preventing disclosure. The City will provide the District with copies of any reports or work product produced under this Section in the event the City elects not to proceed forward to Closing to purchase the Property.
5. Restoration. The City shall take care not to damage the Property. In the event the City excavates soils or disturbs grass it shall replace said excavated soils, reseed grass, and replant vegetation with a similar kind. In the event the City damages the Property during the course of the environmental site assessment, it shall restore the Property to as near its original condition as reasonably practicable.

6. No Further Obligation Created. This Agreement creates no obligation for either Party to execute the PSA or close the sale of the Property from the District to the City.
7. Notice Required. The City shall give 24 hours' notice of its intent to enter the Property for the purpose of carrying out a task associated with the environmental site assessment. The City shall not be required to give notice of entry for any other purpose.

- a. All notices required under this License Agreement shall be delivered to:

District:

Jim Frey
Superintendent
1203 Bradley Road
Lynden, WA 98264
FreyJ@lynden.wednet.edu

City:

Mike Martin
City Administrator
300 4th Street
Lynden, WA 98264
BanhamS@LYNDENWA.ORG

- b. Notice may be made by US First Class Mail and shall be considered effective the business day following the date the notice was mailed. Alternatively, notice may be made by email, read receipt requested, and shall be considered effective the date of sending.
8. Recording. Either Party may record this Agreement at its option. Upon the District's request, after the termination of this Agreement pursuant to Section 2 above, the City shall record a subsequent document extinguishing this Agreement. The City shall pay all costs of recording.
9. Severability. Should any provision of this Agreement be found to be void or otherwise unenforceable, all other provisions shall remain enforceable and binding.
10. Governing Law and Venue. This Agreement shall be construed under the laws of the State of Washington. The venue of any legal action brought under the terms of this Agreement shall be in the Superior Court for Whatcom County, State of Washington.
11. Expenses and Attorneys' Fees. The prevailing Party in any action brought to enforce any terms and conditions of this Agreement shall be entitled to the recovery of their reasonable attorney's fees, costs and expenses.
12. Not a Public Dedication. Nothing contained in this Agreement grants a dedication of any portion of real property to the general public or for any public use, except as may be specifically provided herein. No other right, privilege, or immunity of any Party shall inure to the benefit of any third party,

nor shall any third party be a beneficiary of any of the provisions of this Agreement, except as may be specifically provided herein.

13. Indemnification.

- a. To the extent permissible by law, the City shall indemnify, defend and hold the District, its employees, officers, guests, invitees, partners, or licensees harmless for any injuries, damage to, or claims against the District or its employees, officers, guests, invitees, partners, or licensees, arising in relation to the City's negligent acts or omissions or negligent acts or omissions of the City's agents, employees, contractors, or subcontractors, pertaining to the exercise of its rights under this Agreement, except that the City's indemnification and hold harmless obligation shall be proportionally reduced by any negligent act, omission, or default on the part of the District and its agents, employees, contractors, or subcontractors.
- b. To the extent permissible by law, the District shall indemnify, defend and hold the City, its employees, officers, guests, invitees, partners, or licensees harmless for any injuries, damage to, or claims against the City or its employees, officers, guests, invitees, partners, or licensees, arising in relation to the District's negligent acts or omissions or negligent acts or omissions of the District's agents, employees, contractors, or subcontractors, pertaining to the exercise of its rights under this Agreement, except that the District's indemnification and hold harmless obligation shall be proportionally reduced by any negligent act, omission, or default on the part of the City and its agents, employees, contractors, or subcontractors.

14. Nonwaiver of Breach. Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right enforce such provision. Waiver of any breach of any provision of this Agreement does not constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

15. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the matters contained herein. No oral or written statements made by either Party prior to or following entry of this License Agreement shall be considered a part of this Agreement unless expressly incorporated herein in writing.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

DISTRICT:

CITY:

Jim Frey
Superintendent, Lynden School District

Scott Korthuis
Mayor, City of Lynden

STATE OF WASHINGTON

)

) ss

COUNTY OF WHATCOM

)

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

Dated this _____ day of _____, 2019.

Typed/Printed Name:

NOTARY PUBLIC in and for the State
of Washington

Residing at: _____

My appointment expires: _____

STATE OF WASHINGTON

)

) ss

COUNTY OF WHATCOM

)

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

Dated this _____ day of _____, 2019.

Typed/Printed Name:

NOTARY PUBLIC in and for the State
of Washington

Residing at: _____

My appointment expires: _____

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Public Defender Contract Amendment	
Section of Agenda:	New Business	
Department:	Administration	
Council Committee Review:		Legal Review:
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	<input checked="" type="checkbox"/> Yes - Reviewed
<input checked="" type="checkbox"/> Finance	<input type="checkbox"/> Public Works	<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	<input type="checkbox"/> Review Not Required
Attachments:		
1) Original Contract 2) Contract Amendment		
Summary Statement:		
<p>Individuals who appear in Municipal Court and who are unable to afford a private attorney are assigned a public defender. The attorney who performs that service in Lynden is Dan Parsons. Mr. Parsons has asked that Section VII of his current contract with the City (attachment 1) be modified so as to lower his malpractice insurance coverage, thus lowering his cost.</p> <p>His current contract requires him to have \$1 million in malpractice insurance coverage for each occurrence and \$2 million in the aggregate. The amendment (attachment 2) being proposed here requires him to have \$500 thousand for both individual and aggregate malpractice insurance. The City Administrator has researched the request and determined that the lower malpractice insurance is adequate for the misdemeanor offenses heard by the Lynden Municipal Court.</p> <p>There are no other changes to the contract. It expires December 31, 2020.</p>		
Recommended Action:		
Approve the contract amendment.		

AMENDMENT TO CITY OF LYNDEN PUBLIC DEFENDER CONTRACT FOR SERVICES

INDIGENT CRIMINAL DEFENSE

This Amendment is made this _____ day of _____ 2019, to that certain *Agreement for Public Defender Contract for Services* entered into May 16, 2017 and terminating December 31, 2020, between the City of Lynden, a municipal corporation, hereinafter referred to as the "City," and Daniel T. Parsons of Roy, Simmons, Smith & Parsons, P.S., Attorneys at law, hereinafter referred to as the "Contractor," for the purpose of providing attorney services as outlined therein ("Agreement").

WHEREAS, the original Agreement required malpractice insurance limits of a minimum liability of \$1,000,000 per occurrence/ \$2,000,000 aggregate, and

WHEREAS, the parties wish to amend the required malpractice insurance limits of the Agreement; and

NOW THEREFORE, in consideration of the mutual benefit derived by the parties and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties mutually agree as follows:

1. Section VII of the Agreement is amended to read as follows:

Section VII – Malpractice Insurance

The Contractor shall furnish to the City and file with the City Clerk and at all times during the existence of this Contract, maintain in full force and effect, at its own cost and expense, a professional malpractice insurance policy, each with a minimum liability of \$500,000 per occurrence/ \$500,000 aggregate. Failure to maintain coverage with the limits provided herein shall be a material breach of this Contract and cause for termination at any time. A policy naming the individual Contractor, among others named in the policy, shall be considered in compliance with this provision. A Certificate of Insurance containing the aforementioned minimum limits shall be provided to the City prior to the signing of this Contract. Written notice of cancellation or reduction in coverage shall be delivered to the City thirty (30) days in advance of the effective date thereof. Any company from which said professional malpractice insurance policy is obtained shall be approved by the state insurance commissioner pursuant to Title 48 RCW, and shall have at least an A or an A+ Best Rating.

2. Except as expressly modified in this Amendment, the original Agreement shall remain in full force and effect and the parties hereto acknowledge, confirm and ratify all of the terms of said Agreement.

IN WITNESS WHEREOF, the parties have executed this Amendment on the date last written which shall also be the effective date of this Amendment.

Daniel T. Parsons
Attorney-at-Law

Date signed: _____

Mike Martin
Administrator, City of Lynden

Date signed: _____

Approved as to Form:

Attorney for the City of Lynden
Date signed: _____

**City of Lynden
Public Defender Contract for Services
Indigent Criminal Defense**

This Agreement entered into this 16 day of May, 2017 between the City of Lynden, a municipal corporation, hereinafter referred to as the "City", and Daniel T. Parsons of Roy, Simmons, Smith & Parsons, P.S., Attorneys at law, hereinafter referred to as the "Contractor", for the purpose of providing attorney services as outlined herein, commencing the 16 day of May, 2017 and terminating the 31st Day of December, 2020.

The parties agree as follows:

Section I – Services

Contractor agrees to provide all professional services necessary for indigent defendants charged with misdemeanors and gross misdemeanors in the City of Lynden, Washington. Services include:

- 1) Attending regular and special sessions of the Lynden Municipal Court for all assigned defendants, pursuant to the Lynden Municipal Court calendar;
- 2) Timely contacting defendants if the defendant is incarcerated;
- 3) Appearing in Whatcom County Jail for hearings in the jail when necessary and as determined by the Lynden Municipal Court;
- 4) Having available an all-hours pager to respond to calls;
- 5) Representing indigent defendants in appeals to the Whatcom County Superior Court except when representing the same defendant during the trial; and
- 6) Performing services consistent with the standard of practice within the Lynden community.

The Contractor agrees to provide professional legal services for all Lynden Municipal Court cases that have been determined to be within the scope of indigent defense. Cases shall be assigned to the Contractor at the discretion of the Lynden Municipal Court Judge. The maximum number of cases which the Contractor will be assigned shall be consistent with the Standards for Indigent Defense adopted by the Washington Supreme Court, and as hereafter amended, and which allows the Contractor the ability to give each client the time and effort necessary to ensure effective representation.

Section II – Consideration

In consideration for the services described above, the City agrees to pay the Contractor for such services as follows:

- 1) The sum of two hundred and seventy-five dollars (\$275) per assigned case including probation revocation cases and probation review cases.

If a warrant is issued for a no show, on a defendant who is on the public defender's case load, and that warrant is not served within 45 days of the issuance of the warrant, nor the defendant found or available to be contacted within said 45 days, the public defender may enter a Motion to Withdraw from the case. Should the defendant later return to Lynden Municipal Court and require a public defender, the Contractor may charge the City as he/she would for a new case.

- 2) The sum of fifty dollars (\$50) per hour up to a maximum of six hundred dollars (\$600) for all appeals taken to Superior Court.
- 3) The sum of three hundred dollars (\$300) for cases that terminate in a bench trial before the Municipal Court Judge.
- 4) The sum of three hundred dollars (\$300) per half day spent in jury trial.
- 5) Reimbursement for the costs of investigation services as appropriate; provided that such services must be supported by documentation satisfactory to the City of Lynden.
- 6) Reimbursement for costs of the following nature, supported by documentation satisfactory to the City of Lynden.
 - a) The actual reasonable cost of an expert witness or interpreter ordered by the Lynden Municipal Court in connection with services performed under the terms of this Agreement.
 - b) The actual reasonable expense of service of subpoenas, if any required in connection with the services performed under the terms of this Agreement.
- 8) The Contractor's compensation shall be paid monthly on account for cases assigned during that month, with payment due within 30 days of the invoice date. The City of Lynden Finance Department must receive invoices from Contractor by the 5th of each month (or the following Monday if the 5th falls on a weekend day) for processing during the current month. The Finance Department is required to seek City Council approval of invoices during the second Council meeting of the month (third Monday) before payment can be rendered.

Section III – Review & Supervision

The City reserves the right to assure that indigent clients referred to the Contractor hereunder receive proper representation and further reserves the right to review and investigate the quality of such representation and require the Contractor to assist in any

such review or investigation. Nothing in this section shall be construed or applied in any manner that may violate the confidentiality of any privileged information.

Section IV – Maintenance of Office

The Contractor agrees to maintain a law office within Whatcom County, Washington with sufficient facilities to provide adequate legal representation as required by this contract.

Section V – Licensing

The Contractor agrees to remain licensed to practice law in the State of Washington during the term of any criminal defense contract with the City, and will further, at all times pertinent thereto, abide by the code of professional responsibility.

Section VI—Standards for Indigent Defense Services

The Contractor agrees to perform services consistent with the requirements contained in the Standards for Indigent Defense Services adopted by the Washington Supreme Court and as hereafter amended.

Section VII – Malpractice Insurance

The Contractor shall furnish to the City and file with the City Clerk and at all times during the existence of this Contract, maintain in full force and effect, at its own cost and expense, a professional malpractice insurance policy, each with a minimum liability of \$1,000,000 per occurrence/ \$2,000,000 aggregate. Failure to maintain coverage with the limits provided herein shall be a material breach of this Contract and cause for termination at any time. A policy naming the individual Contractor, among others named in the policy, shall be considered in compliance with this provision. A Certificate of Insurance containing the aforementioned minimum limits shall be provided to the City prior to the signing of this Contract. Written notice of cancellation or reduction in coverage shall be delivered to the City thirty (30) days in advance of the effective date thereof. Any company from which said professional malpractice insurance policy is obtained shall be approved by the state insurance commissioner pursuant to Title 48 RCW, and shall have at least an A or an A+ Best Rating.

Section VIII – Assignment or Subcontracting

The Contractor shall not assign or subcontract any portion of the services provided under the terms of this Agreement without obtaining prior written approval from the City; except that, from time to time the Contractor may subcontract with another qualified attorney from the approved list of attorneys attached as Exhibit A to assist with the services provided under the terms of this Agreement. Any request for an addition to the approved list of qualified attorneys shall be submitted to the City Administrator for approval prior to said attorney providing services under this Agreement, which approval may be withheld in the City's sole discretion. If after three (3) business days, no decision is made by the City Administrator on a requested addition to the approved list set forth in Exhibit A, the addition shall be deemed accepted by the City. A qualified attorney shall mean an attorney

licensed to practice law in the state of Washington who is able to certify that he or she complies with the applicable Standards for Indigent Defense Services as adopted by the Washington Supreme Court and as hereafter amended. All terms and conditions of this Agreement shall apply to any approved subcontract related to this Agreement. Contractor shall remain fully responsible for compliance with the terms and conditions of this Agreement on any case assigned to Contractor, including cases in which services are subcontracted by Contractor to another attorney as provided herein.

The City shall not assign any defense of indigent defendants to any Contractor or Attorney at Law other than to the Contractor herein; except that, the City shall assign an indigent defendant with whom the Contractor has a conflict of interest, to an Attorney-at-Law of the City's choice. Except as otherwise provided, assignment of indigent defendant cases to an Attorney-at-Law other than the Contractor shall constitute a material breach of this agreement by the City, and the City shall be liable to the Contractor for the fee that the Contractor would have received from the City had the case been properly assigned to the Contractor.

Section IX – Non-Discrimination

During the term of this Agreement, the Contractor agrees that no person shall, on the grounds of race, creed, color, national origin, sex, marital status, age, religion, or on the presence of any sensory, mental or physical disability, be excluded from full employment rights with the Contractor or from representation by the Contractor. The Contractor shall not discriminate against any employee or applicant for employment for the above reasons, provided the prohibition against discrimination in employment because of disability shall not apply if the particular disability prevents performance of the particular work involved.

Section X – Relationship of Parties

The parties intend that this Agreement shall create an independent Contractor relationship between the Contractor and the City. The Contractor shall not be considered to be agent, employee, servant or representative of the City for any purpose whatsoever, and no employee of the Contractor will be entitled to any benefits of City employment. The Contractor will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants and/or sub-contractors during the term of this Agreement.

In the performance of the services herein contemplated, the Contractor shall be deemed to be an independent Contractor with the authority to control and direct the performance of the details of the work; subject however, to direction by the Lynden Municipal Court and the City's right of inspection and review.

Section XI – Communication Between Parties

Communication between the Contractor and the City shall be addressed to the regular place of business of each party.

In the case of the Contractor, all communications to the Contractor, and referrals of cases, shall be sent to:

Daniel T. Parsons
1223 Commercial Street
Bellingham, WA 98225

In the case of the City, all communications to the City shall be sent to:

City of Lynden,
City Clerk
300 4th Street
Lynden, WA 98264

Section XII – Termination of Parties

In the event that the City in its sole discretion determines that the work of the Contractor or another qualified attorney hired by the Contractor, is unsatisfactory, the City shall notify the Contractor by serving at least thirty (30) days prior, written notice to the Contractor stating reasons why this Agreement is being terminated.

Either the City or the Contractor may terminate this Agreement without cause. To terminate this Agreement without cause, the party terminating shall notify the other party at least sixty (60) days in advance of the proposed date of termination and, during that sixty-day period, this Agreement shall remain in force unless terminated earlier by mutual agreement of the parties.

In the event that the date of termination of this Agreement passes without the execution of a similar contract by the parties that renews the Agreement herein and if, in that event, the parties continue to perform according to this contract's terms, then the terms of this Agreement shall control the duties and obligations of the parties until they execute a new written agreement.

Section XIII-Remedies for Breach and attorney's fees and costs

All remedies available in law and equity shall be available in the event of a breach of this Agreement. In the event, legal action is initiated by either party against the other, the prevailing party shall be entitled, in addition to all other amounts to which it is otherwise entitled by this Agreement, to its reasonable attorney's fees and costs, including those incurred on appeal.

Section XIV-Nonwaiver of Breach

Failure of either party to require performance of any provision of this Agreement shall not limit such party's right to enforce such provision, nor shall a waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

Section XV – Venue Stipulation

This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is mutually agreed that this Agreement shall be governed by the laws of the State of Washington and that any action in law or equity concerning this Agreement shall be instituted and maintained only in the Whatcom County Superior Court, Bellingham, Washington.

Section XVI-Integration

This writing supersedes all prior agreements between the parties (whether written or oral) and constitutes the full and only agreement between the parties, there being no promises, agreements or understandings, written or oral, except as herein set forth, or as hereinafter may be amended in writing. This Agreement may only be amended or modified by written agreement of the parties.

Section XVII-Severability

If any portion of this Agreement is deemed void, illegal or unenforceable, the balance of this Agreement shall not be affected thereby.

In Witness Whereof, the parties enter into this Agreement, mutually agree on above terms, are authorized to execute this Agreement and the parties have executed this Agreement on the day and year indicated.



Daniel T. Parsons
Attorney-at-Law



Scott Korthuis
Mayor, City of Lynden

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

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

Dated: May 16, 2017



Pamela D. Brown

NOTARY PUBLIC in and for the State of WA.

My commission expires 9/4/2017

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that Dan Parsons signed this instrument and acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it for Roy and Simmons, P.S. to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:

5/25/2015



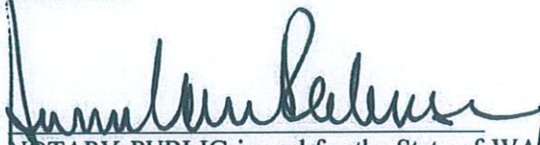

NOTARY PUBLIC in and for the State of WA.
Pamela M. Robinson
My commission expires 4/28/2019

EXHIBIT A

Qualified Attorneys

1. Bratlien, Mark E, WSBA #33819
2. Lackie, Patrick T., WSBA # 31484
3. Lyden, Thomas P., WSBA #39413

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Resolution No. 1001 Approving City Use of State Revolving Fund Loan for Pepin Creek / Double Ditch Creek Alignment – Shoreline Stabilization	
Section of Agenda:	New Business	
Department:		
Council Committee Review:	Legal Review:	
<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: _____	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:		
Resolution No. 1001 and Signed Opinion of Legal Counsel		
Summary Statement:		
<p>Staff is applying for a Department of Ecology State Revolving Fund Loan to finance the design of a stream bypass and stabilization measures for approximately .75 miles of shoreline along Pepin Creek, from Badger Road downstream to the confluence of Pepin and Fishtrap Creeks in the City. The amount of the loan is \$2,902,593.00. It is a 20-year loan with an interest rate of 1.5%. The Department of Ecology requires a Resolution by the City Council authorizing the loan and a review of the loan agreement by the City Attorney.</p> <p>This was discussed at the March 6, 2019 Public Works Committee meeting.</p>		
Recommended Action:		
Approve Resolution No. 1001 Authorizing City Use of a Department of Ecology State Revolving Fund Loan to design a portion of the Pepin Creek shoreline; and authorize the Mayor's signature on the resolution.		

A RESOLUTION APPROVING CITY OF LYNDEN USE OF STATE REVOLVING FUND (SRF)
LOAN NUMBER WQC-2018-LYNDPW-00044 FOR ENGINEERING
DESIGN AND ACQUISITION FOR PEPIN CREEK/DOUBLE DITCH CREEK REALIGNMENT –
SHORELINE STABILIZATION

WHEREAS, the Department of Ecology, a Washington state Agency, has established a State Revolving Fund (SRF) for providing financial assistance for municipal work; and

WHEREAS, the City of Lynden applied for SRF Loan and Centennial Grant funding to finance engineering design of the Pepin Creek Double Ditch Realignment – Shoreline Stabilization; and

WHEREAS, the City has received a twenty-year loan offer of \$2,402,593 at a 1.5% interest rate from the SRF along with \$500,000 in Centennial Grant funds and desires to participate in these funding programs; and

WHEREAS, the Washington State Department of Ecology (WSDOE) requires the governing body to approve the scope of work and the use of SRF Loan Funds for that work;

WHEREAS, real property purchased using WSDOE Water Quality Combined Funding is subject to limitations on future uses consistent with the conservation purposes of that funding and the eligibility criteria of the Funding Guidelines State Fiscal Year 2018. Intended uses may include restoration, invasive species control, bank stabilization, infrastructure removal, public access management, and education activities.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Lynden, Whatcom County, Washington that:

Section 1: The City of Lynden City Council does hereby authorize and approve the use of a Department of Ecology (DOE) SRF Loan to finance the acquisition of two properties along Double Ditch (Pepin) Creek and complete engineering design of the system needed to reduce flow into the Creek south of Main Street to protect it from erosion and further authorizes the Mayor to enter into a loan agreement with DOE for this work and take other such action as necessary and relevant to the SRF Loan Program.

Section 2: The City agrees that the use of SRF funds for property acquisition places restrictions on future uses of the property consistent with the conservation purposes for which the property was acquired and the eligibility criteria of the Funding Guidelines State Fiscal Year 2018. These restrictions will be more specifically identified in a Deed of Right granted to the State of Washington through the Department of Ecology which must be recorded on those properties acquired with these funds. Intended uses may include restoration, invasive species control, bank stabilization, infrastructure removal, public access management, and education activities.

Section 3: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this code and each section, regardless of whether any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if for any reason this Resolution is declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 4: This Resolution shall be in full force and effect on _____, 2019.

**PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF ____ IN FAVOR AND
____ IN OPPOSITION, AND SIGNED BY THE MAYOR THIS ____ DAY OF _____,
2019.**

100

Mayor Scott Korthuis

ATTEST:

City Clerk Pam Brown

APPROVED AS TO FORM:

City Attorney Bob Carmichael


ATTACHMENT 1: OPINION OF RECIPIENT'S LEGAL COUNSEL

I am an attorney at law admitted to practice in the state of Washington and the duly appointed attorney of **The City of Lynden** [the RECIPIENT], and I have examined any and all documents and records pertinent to the LOAN agreement.

Based on the foregoing, it is my opinion that:

- A. The RECIPIENT is a duly organized and legally existing municipal corporation or political subdivision under the laws of the state of Washington or a federally recognized Indian tribe;
- B. The RECIPIENT has the power and authority to execute and deliver and to perform its obligations under the LOAN agreement;
- C. The LOAN agreement has been duly authorized and executed by RECIPIENT's authorized representatives and, to my best knowledge and after reasonable investigation, all other necessary actions have been taken to make the LOAN agreement valid, binding, and enforceable against the RECIPIENT in accordance with its terms, except as such enforcement is affected by bankruptcy, insolvency, moratorium, or other laws affecting creditors' rights and principles of equity if equitable remedies are sought;
- D. To my best knowledge and after reasonable investigation, the LOAN agreement does not violate any other agreement, statute, court order, or law to which the RECIPIENT is a party or by which it or its properties are bound;
- E. There is currently no litigation seeking to enjoin the commencement or completion of the PROJECT or to enjoin the RECIPIENT from entering into the LOAN agreement or from accepting or repaying the LOAN. The RECIPIENT is not a party to litigation which will materially affect its ability to repay such LOAN on the terms contained in the LOAN agreement; and
- F. The LOAN agreement constitutes a valid general obligation of the RECIPIENT payable from annual *ad valorem* taxes to be levied within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.
- G. The LOAN agreement constitutes a valid general obligation of the RECIPIENT payable from special assessments to be imposed within the constitutional and statutory tax limitations provided by law without a vote of the electors of the RECIPIENT on all of the taxable property within the boundaries of the RECIPIENT.
- H. The LOAN agreement constitutes a valid obligation of the RECIPIENT payable from the Net Revenues of the Utility.
- I. The LOAN agreement constitutes a valid obligation of the RECIPIENT payable from the Net Revenues of the Utility and ULID Assessments in the ULID.

Capitalized terms used herein will have the meanings ascribed thereto in the LOAN agreement between the RECIPIENT and the DEPARTMENT.


 RECIPIENT's Legal Counsel
 Robert Carmichael
 City Attorney, Lynden

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	May 20, 2019	
Name of Agenda Item:	Resolution No. 1002 Acceptance of Dept of Transportation Aviation Division Grant for Lynden Municipal Airport	
Section of Agenda:	New Business	
Department:	Public Works	
Council Committee Review:		Legal Review:
<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety		<input type="checkbox"/> Yes - Reviewed
<input type="checkbox"/> Finance <input checked="" type="checkbox"/> Public Works		<input type="checkbox"/> No - Not Reviewed
<input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		<input checked="" type="checkbox"/> Review Not Required
Attachments:		
Resolution No. 1002		
Summary Statement:		
<p>The City is applying for a Washington State Department of Transportation, Aviation Division (WSDOT) grant to re-seal and re-stripe the runway at the airport in the amount of \$150,000. A 5% match is required in the amount of \$7,500. Funds were allocated in the 2019 budget for this project. Construction would be performed in 2020.</p> <p>The Public Works Committee discussed this at their March 6, 2019 meeting when authorizing the hire of Precision Approach Engineering, who is preparing the application.</p>		
Recommended Action:		
That City Council approve Resolution No. 1002, Acceptance of Department of Transportation, Aviation Division Grant and authorizing the Mayor's signature.		

RESOLUTION NO. 1002**A RESOLUTION AUTHORIZING ACCEPTANCE OF A WASHINGTON STATE
DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, GRANT FOR
THE LYNDEN MUNICIPAL AIRPORT,
CITY OF LYNDEN, WHATCOM COUNTY, WASHINGTON**

WHEREAS, the City of Lynden is applying for an Airport Aid grant from the Washington State Department of Transportation, Aviation Division, for pavement improvements at the Lynden Municipal Airport in the amount of \$150,000; and

WHEREAS, in order to be eligible for funding, the City of Lynden must submit an adopted resolution stating that matching funds are available and authorized by the Lynden City Council; and

WHEREAS, during the 2018 WSDOT funded inspection of the runway, the Pavement Condition Index (PCI) was 67 and WSDOT recommends slurry seal for pavements with a PCI between 65 and 84 for cost-effective lifecycle maintenance of runways; and

WHEREAS, the grant request is to re-seal and re-stripe the runway and the City's matching funds obligation is to provide 5% of the contract amount for this work; and

WHEREAS, the design would be completed in 2019 with the construction occurring during the 2020 construction season; and

WHEREAS, the City will provide \$7,500, in matching funds, out of the Airport Fund; and

WHEREAS, the Lynden Public Works Committee concurred to recommend to City Council that the City accept this grant.

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

Section 1. The Lynden City Council does hereby authorize the City to receive a Washington State Department of Transportation, Aviation Division grant for runway slurry seal and pavement remarking in the amount of \$150,000; and hereby commits that funding is available for the local match of 5% in the amount of \$7,500.

Section 2: BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 3: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this code and each section, regardless of whether any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, and if for any reason this Resolution is declared invalid or

unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 4: This resolution shall be in full force and effect on _____, 2019.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, _____ IN FAVOR
AND _____ AGAINST, AND SIGNED BY THE MAYOR THIS _____ DAY OF
_____, 2019.

MAYOR SCOTT KORTHUIS

ATTEST:

CITY CLERK PAMELA BROWN

APPROVED AS TO FORM:

CITY ATTORNEY BOB CARMICHAEL

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	5/20/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Administration	
Contact Name/Phone:	Pam Brown 360.255.7085	
Council Committee Review: <input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input checked="" type="checkbox"/> Other: N/A		
Attachments:		
Outlook Calendar		
Name of Agenda Item:		
Calendar		
Summary Statement:		
See next page.		
Recommended Action:		
None.		

May 20, 2019

Monday

106

4:00 PM - 5:00 PM

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

7:00 PM - 9:00 PM

Copy: Council Meeting -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room

May 21, 2019

Tuesday

9:00 AM - 11:00 AM

Small Cities Caucus -- City Hall 1st Floor Large Conference Room

9:30 AM - 10:30 AM

Airport Board Meeting -- City Hall 2nd Floor Large Conference Room

May 22, 2019

Wednesday

9:00 AM - 10:00 AM

Check-In Mark/Mike -- Mike's Office

10:00 AM - 11:00 AM

Check-In Nic/Mike -- Mike's Office

4:00 PM - 6:00 PM

Community Development Committee Mtg -- City Hall 2nd Floor Large Conference Room

May 24, 2019

Friday

10:00 AM - 11:00 AM

Check-In Steve/Mike -- Mike's Office

11:00 AM - 12:00 PM

Check-In Heidi/Mike -- Mike's Office

May 27, 2019

Monday

All Day

Memorial Day -- United States

May 27, 2019 Continued

107

Monday

9:00 AM - 10:00 AM

Copy: Check-In Vern/Mike -- Mike's Office

May 28, 2019

Tuesday

4:30 PM - 5:30 PM

Civil Service Meeting -- City Hall 1st Floor Large Conference Room

May 29, 2019

Wednesday

9:00 AM - 5:00 PM

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

4:00 PM - 6:00 PM

Community Development Committee Mtg (rescheduled) -- City Hall 1st Floor Large Conference Room

May 30, 2019

Thursday

7:00 PM - 9:00 PM

Rec. District Promotion Committee -- Annex South East Conference Room

June 3, 2019

Monday

7:00 PM - 9:00 PM

Council Meeting -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room