

CITY OF LYNDEN

PLANNING DEPARTMENT

Heidi Gudde – Planning Director

(360) 354-5532



Community Development Committee Meeting Agenda

City Hall - 300 Fourth Street

4:00 PM December 05, 2023

Roll Call

Introductions if guests are present.

Approval of Minutes

- [1.](#) CDC Meeting Minutes of 10/18/23

Discussion Items

- [2.](#) Unified Fee Schedule – Community Development
- [3.](#) Special Events Code Amendment – LMC 5.30
- [4.](#) Code Amendment re Civil Penalties
- [5.](#) Community Development 2024 Initiatives and Goals

Informational Items

- [6.](#) Pepin Creek Subarea Update

Next Meeting: January 17, 2023

CITY OF LYNDEN

EXECUTIVE SUMMARY



<u>Meeting Date:</u>	December 5, 2023
<u>Name of Agenda Item:</u>	CDC Meeting Minutes of 10/18/23
<u>Section of Agenda:</u>	Approval of Minutes
<u>Department:</u>	Community Development Department
<u>Attachments:</u>	
CDC Meeting Minutes of 10/18/23	
<u>Summary Statement:</u>	
CDC Meeting Minutes attached for committee review.	
<u>Recommended Action:</u>	
Review and correct as needed.	

CITY OF LYNDEN

PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

Heidi Gudde, Director
(360) 354 - 5532



COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

4:00 PM October 18, 2023
2nd Floor Conference Room, City Hall

1. ROLL CALL

Council Members: Brent Lenssen, Kyle Strengolt, Scott Korthuis
City Staff: John Williams, Dave Timmer, Heidi Gudde
Guests: Gary Vis

2. APPROVAL OF MINUTES

Community Development Committee Meeting Minutes of 9/20/23 approved as presented.

3. DISCUSSION ITEMS

a. LMC Text Amendment – Patio Screening and Enclosure

Revised text related to ventilation was reviewed by the committee and found to be consistent with feedback from the September meeting.

Next steps include the drafting of an ordinance to accompany the text amendment to Council. A hearing on this item was already held and the committee agreed that an additional hearing was not needed. Staff to bring the item forward as Ord 23-1674 at the next Council meeting.

b. November CDC Meeting Date

Staff related a scheduling conflict for the meeting slated for November 15th. The committee agreed to move the next CDC meeting to December 5th. The group also acknowledged that the December 20th CDC meeting may be cancelled.

Upcoming items for Committee review include changes to the sign code and revisions to the civil penalties code.

4. INFORMATIONAL ITEMS

a. Special Events – Amending LMC 5 and LMC 9

The summary memo, written by Dave Timmer, was included in the meeting packet. Staff is currently collecting feedback from all of Council.

A few items were discussed by the Committee including fees. Lenssen noted that he would prefer to keep the special event process very low barrier and have no fee for both Tier 1 and 2 events as the City's primary objective is to simply be aware of events that are occurring.

The number of people triggering a special event is currently set at 75 and Williams reported that the Police Chief concurred with that number.

Vis indicated a preference to go back to the draft version that exempted events, which are held in facilities specifically designed for that purpose, from getting a permit from the city. Examples included events such as dog shows or ag expos at the Fairgrounds or groups at the Jansen Art Center. However, he strongly recommended that social events which included dances should be subject to a special event permit regardless of where they are held so that the city is aware of their occurrence. Vis believes social events that include dancing, and often drinking, can become noisy, impact the community, or need police support.

Vis also expressed a desire to maintain code provisions which prohibit dancing in establishments that sell alcohol (LMC 5.05.035) citing examples from Blaine and Sumas and the potential need for additional law enforcement if night clubs are permitted.

Discussed the consumption of alcohol at special events. Mayor confirmed that the WA Liquor and Cannabis Board routes alcohol licenses to the city for review and approval.

Conclusions: The committee agreed that the proposed code amendments would repeal and replace LMC 5.32 which does not alter the code provisions of 5.04 - "Alcoholic Beverages". Staff will collect additional feedback from Council members and then return to CDC at the next meeting. Take-away from this meeting is return to a previous draft that exempted events that are held in locations designed for special events (auditoriums, Jansen Art Center, The Fairgrounds) from getting city permits but with the caveat that event that include dancing (band/DJ) will need a special event permit.

b. Comprehensive Plan – HB 1181 Climate Planning Strategy

A staff memo was included in the meeting packet that introduced the Committee to the requirements of HB 1181 which was passed by the State legislature earlier this year. The bill requires that the City address climate change in the next Comprehensive Plan update (due June 2025). This must include a Climate Element (chapter) in the Comp Plan which addresses reduction of greenhouse gas emissions and climate resiliency.

Staff noted that the State has set aside up to \$500,000 for the city, through a non-competitive grant, to address this requirement. Staff is proposing that the funds be used to meet the requirements of HB 1181 and conduct community outreach with the help of a consultant. The Committee was asked to identify community resilience topics that could be reviewed and / or prioritized in this process. Staff suggested that resiliency planning could include creek bank stabilization plans, flood hardening, urban tree programs, social wellness/safety including cooling/warming centers, water supply security, agricultural production protections/support.

The State is requiring that the city address greenhouse gas emissions and policies that could reduce overall vehicle miles traveled (VMT) in the city.

The Committee discussed the potential uses of the funds noting that the city cannot use the funds for capital expenditures, but they must be focused on planning. Consensus from the committee was to not conduct a broad GHG emission inventory. More information will be coming from the Dept of Commerce on this use of funds issue.

Conclusions: Staff will be completing an application to the Dept of Commerce by the end of October for grant funding. The application will propose to use funds for consultant assistance on the writing of the Climate Element, collecting public feedback, and assessing the city for both climate action assets and areas needing improvement. While the Committee did not have an interest in focusing specifically on greenhouse gas emissions, they were interested in pursuing other ideas. In addition to some of the programs that we have already started such as the aquifer recharge pilot project, adopting the Complete Streets, and Safe Routes to School programs, the Committee indicated an interest in the following community resilience topics:

- Urban Forestry Program – increasing tree canopy in the city and supporting residents as they do the same.
- Walkability (reduce VMT) – increase pedestrian access to commercial uses (including existing commercial centers) and green spaces (trail access) especially with families in mind.
- Solar programs such as a clearinghouse of information
- Emergency response to natural disasters (extended power outages, floods, extreme heat) especially for the most vulnerable or economically disadvantaged in our community.
- Electric Vehicle Charging network plan

- Creek bank stabilization 'how-to' / guide of resources for private property owners and potential strategy for securing funds that could be available to private property owners for stabilization projects.

c. 2023 Development Report – July through September

Committee reviewed the development reports from the last few months as well as the statistics for Accessory Dwellings Units that Gudde brought to the meeting.

Staff reported that ADU use has increased since the city revised the code in 2017. The most common way of seeing new ADUs is with new construction – when an ADU is planned in as part of a new home.

Next Meeting Date: **December 5, 2023**

CITY OF LYNDEN

EXECUTIVE SUMMARY



<u>Meeting Date:</u>	December 5, 2023
<u>Name of Agenda Item:</u>	Unified Fee Schedule – Community Development
<u>Section of Agenda:</u>	Discussion
<u>Department:</u>	Community Development Department
<u>Attachments:</u>	
Table of Building Division and Land Use Application Current and Proposed Fees	
<u>Summary Statement:</u>	
<p>The Finance Department has been working with every department to collect the city's fee information into one document so they can be collectively reviewed when needed. As part of this effort the Community Development Department has gathered building permit and land use application fees.</p> <p>The Community Development Department is also proposing a increases in building permit and land use application fees at the beginning of 2024. Most of the fees are increasing by 20% in an effort to catch-up to current rates and expenses. Additionally, existing land use fees are quite low, flat rate fees and a 20% increase results in relatively minor changes (i.e. a \$100 fee becomes a \$120 fee). Land Use application fees were last increased in 2020. Building Permit fees were last increased in 2018 and are currently several cycles behind the fees rates set as guidance by the International Code Council.</p> <p>For the Committee's information and review the fee table for building division and land use applications is attached. Increases are noted in a separate column with notes regarding the increase in the last column.</p> <p>The timeline for review of these potential increases would bring the unified fee schedule to Council at the January 2nd meeting as an ordinance for potential approval. Amendments or additions may be needed in the coming months to fully incorporate all of the City's fees into one document.</p>	
<u>Recommended Action:</u>	
Review and provide feedback in preparation for the January 2 nd hearing.	

Community Development Department Fees					
Department	Fee Name	Fee Description	Current Fee	Proposed Fee 2024	Notes:
Community Dev - Building	Building permit	Remodel, Addition, Alteration	Based on owner construction cost		
Community Dev - Building	Building permit	COVERED Porches, Decks, Patios	\$15.00/sq ft	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	OPEN Porches, Decks, Patios	\$10.00/sq ft	\$ 12.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Garage, shed, accessory, etc	\$44.63/sq ft	\$ 55.55	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Residential Foundation	\$2.00/sq ft (\$50 min)	\$ 2.40	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Comm Foundation	\$3.00/sq ft (\$100 min)	\$ 3.60	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Plan Check Fee/Building plan review	65% of permit fee		
Community Dev - Building	Building permit	State building code fee	\$4.50 + \$2.00/additional unit		
Community Dev - Building	Building permit	Mobile home -single wide	\$150.00	\$ 180.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Mobile home -double wide	\$200.00	\$ 240.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Mobile home - triple wide	\$250.00	\$ 300.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Solar Panel	\$120.00	\$ 144.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Demolition	\$50.00	\$ 60.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Demolition *in addition to city business license fee	\$25.00	\$ 30.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Fence Permit	\$25.00	\$ 30.00	20% fee increase of 2018 rates
Community Dev - Building	Building permit	Temporary Structures	Fee based on valuation of set up costs		
Community Dev - Building	Building permit	Signs	Based on Construction Cost		
Community Dev - Building	Inspection and Fees (Hourly Charge)	Outside of normal business hours (minmum one-hour charge)	\$75.00	\$ 90.00	20% fee increase of 2018 rates
Community Dev - Building	Inspection and Fees (Hourly Charge)	Re-Inspection fees	\$60.00	\$ 72.00	20% fee increase of 2018 rates
Community Dev - Building	Inspection and Fees (Hourly Charge)	Inspections for which no fee is specifically indicated	\$60.00	\$ 72.00	20% fee increase of 2018 rates
Community Dev - Building	Inspection and Fees (Hourly Charge)	Additional plan reviw required by changes, additions or revisions to p	\$60.00	\$ 72.00	20% fee increase of 2018 rates
Community Dev - Building	Inspection and Fees (Hourly Charge)	For use of outside consultants for plan checking and inspections*	Actual Cost	Actual Cost	
Community Dev - Building	Inspection and Fees (Hourly Charge)	Improvments to exsisting structures	Owners Construction Cost	Owners Construction Cost	
Community Dev - Building	Inspection and Fees	Building plan review and Inspection Services - Pass thru option	Consultant cost +10%	Consultant cost +10%	
Community Dev - Building	Inspection and Fees	Outside consultants and/or inspections	Admin+Overhead costs	Admin+Overhead costs	
Community Dev - Building	Mechanical Inspection/Permit Fees	A/C Air/Handling Units HP	\$11.00	\$ 13.20	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Water Heater-Gas (Electric water heaters - see Plumbing	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Gas Fireplace, Clothes Dryer, Heat Pump, Unit Heater	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Range Hood/Exhaust Fans	\$11.00	\$ 13.20	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Furance <100,000 BTU (Including Ducts and Vents)	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Furance >100,000 BTU	\$19.00	\$ 22.80	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Ventilation Fan	\$8.00	\$ 9.60	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Incinerator - Commercial/Industrial	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Boiler or Compressor	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	For each gas-piping system of one to four outlets	\$10.00	\$ 12.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	For each gas-piping system of one to four outlets - per outlet	\$2.00	\$ 2.40	20% fee increase of 2018 rates

Community Dev - Building	Mechanical Inspection/Permit Fees	Miscellaneous Fixtures (regulated by the IMC but not listed above)	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Base permit fee (+ fixture fee)	\$30.00	\$ 36.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Gas water heater	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Evaporate Coolers			
Community Dev - Building	Mechanical Inspection/Permit Fees	Gas fireplace, heat pump, dryer, heater	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Suspended heater, recessed wall heater, floor mounted unit	\$15.00	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Incinerator - Residential			
Community Dev - Building	Mechanical Inspection/Permit Fees	Appliance Vents	\$8.00	\$ 9.60	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Gas-piping system (1-4 outlets)	\$10.00/outlet	\$12.00/outlet	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Gas-piping system (4+ outlets)	\$2.00/outlet	\$2.40/outlet	20% fee increase of 2018 rates
Community Dev - Building	Mechanical Inspection/Permit Fees	Repairs and Additions			
Community Dev - Building	Mechanical Inspection/Permit Fees	Miscellaneous fixtures	\$15.00	\$ 18.00	20% fee increase of 2018 rates
					20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Base Fee	\$30	\$ 36.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Per Fixture: Bathtub, Bath sinks, Shower, Kitchen sink, Dishwasher, C	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Backflow Protective Device	\$10	\$ 12.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Roof Drains - Commercial/Industrial	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Vacuum Breakers	\$5	\$ 6.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Grease Traps	\$15	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Medical Gas Piping	\$50	\$ 60.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Miscellaneous Fixtures (regulated by the IPC but not listed above)	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Electric Water Heater	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Sprinkler System	\$10.00	\$ 12.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Installation/alteration/repair	\$0.00		
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Backflow	\$10	\$ 12.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Bath Sink	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Bathtubs	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Clothes Washer	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Dishwasher	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Drain	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Drinking Fountain	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Floor Drain	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Grease Trap	\$15	\$ 18.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Hot Tub	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Kitchen Sink	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Laundry Sink	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Medical Gas Piping	\$50	\$ 60.00	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing MISC Fixture	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Repair/ALT	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing REV/ADDTN	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Roof Drains	\$7	\$ 8.40	20% fee increase of 2018 rates
Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Showers	\$7	\$ 8.40	20% fee increase of 2018 rates

	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Sink (Bar, Service)	\$7	\$ 8.40	20% fee increase of 2018 rates
	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Toilets	\$7	\$ 8.40	20% fee increase of 2018 rates
	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Urinal	\$7	\$ 8.40	20% fee increase of 2018 rates
	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Vacuum Breakers	\$5	\$ 6.00	20% fee increase of 2018 rates
	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Water Electric Heater	\$7	\$ 8.40	20% fee increase of 2018 rates
	Community Dev - Building	Plumbing Inspection/Permit Fees	Plumbing Water Treatment Equip	\$7	\$ 8.40	20% fee increase of 2018 rates
	Community Dev - Building	Plan Check Fees	Plan Check Fees	65% of permit fee - in addt.to permit fees - all construction		
	Community Dev - Building	Plan Check Fees	An estimated plan review fee paid at time of permit app. For construction valuations over \$5000, base on estimated valuation.			
	Community Dev - Building	Plan Check Fees	Single Family Homes all pay an estimated plan review fee of \$400 at time off application.	\$400	\$ 480.00	20% fee increase of 2018 rates
	Community Dev - Building	Plan Check Fees	State Bulding Code Fee -BCF (RCW 19.27.085)	\$6.50 for each residential building permit plus \$2.00 for each additional residential unit, if mixed use occupancy		
	Community Dev - Building	Plan Check Fees	State Bulding Code Fee -BCF (RCW 19.27.085)	\$25.00 for each commercial building permit plus \$2.00 for each additional reidential until if mixed use occupancy.		

Land Use Fee -Type 1 Admin. Approvals Design Review and Historic Preservation						
Community Dev - Planning	Land Use Fee -Type 1	Pre-Application Meeting	0	0.00		no fee for this service
Community Dev - Planning	Land Use Fee -Type 1	Lot Line Adjustment	\$250	\$ 300.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Clearing, Grading & Fill - Type A	\$100	\$ 120.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Clearing, Grading & Fill - Type B	\$100	\$ 120.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	SEPA Environment Checklist	\$350	\$ 420.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Shoreline Written Exemption Determination	\$100	\$ 120.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Design Review (Buildings)	\$200	\$ 240.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Design Review (Signage)	\$50	\$ 60.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Design Review Variance	\$150	\$ 180.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Site Plan Approval (excluding SF)	\$250	\$ 300.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Historic Preservation	\$300	\$ 360.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 1	Critical Area Review	\$100.00 + cost of City's consultant review if required	\$100.00 + cost of City's consultant review if required		20% fee increase of 2020 rates
Land Use Fee -Type 2 Development Approvals						
Community Dev - Planning	Land Use Fee -Type 2	Planned Residential Development	\$600 + \$100 per lot	\$720 + \$120 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Short Plat	\$300 + \$120 per lot	\$360 + \$144 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Subdivision Plat - Preliminary	\$350 + \$120 per lot	\$420 + \$144 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Subdivision Plat - Final	\$70 per lot	\$84 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	General Binding Site Plan	\$350 + \$120 per lot	\$420 + \$144 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Specific Binding Site Plan	\$300 + \$100 per lot	\$360 + \$120 per lot		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Development Agreement	\$200 + cost of City's legal review fees	\$240 + cost of City's legal review fees		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Shoreline Substantial Development	\$550.00	\$ 18.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Shoreline Conditional Use	\$500.00	\$ 600.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee -Type 2	Shoreline Variance	\$1,000.00	\$ 1,200.00		20% fee increase of 2020 rates
Land Use Fee - Type 3 Variances and Amendments						
Community Dev - Planning	Land Use Fee - Type 3	Conditional Use Permit	\$400.00	\$ 480.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Variance - Hearing Examiner	\$400.00	\$ 480.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Fence Variance	\$150.00	\$ 180.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Development Standard Variance (per variance)	\$350.00	\$ 420.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Rezone	\$450.00	\$ 540.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Comprehensive Plan Amendment	\$600.00	\$ 720.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Plat Amendment (Major)	\$400.00	\$ 480.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Plat Amendment (Prior to final plat or plat expiration)	\$200.00	\$ 240.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Amendment to a Planned Residential	\$400.00	\$ 480.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Development (PRD) or Master PRD	\$400.00	\$ 480.00		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	CC&R modifications of PRD's	\$100 + legal fee	\$120 + cost of legal review		20% fee increase of 2020 rates
Community Dev - Planning	Land Use Fee - Type 3	Zoning Text Amendment	\$400 + Base fee or FRC	\$480 + cost of legal review		20% fee increase of 2020 rates

	Community Dev - Planning	Land Use Fee - Type 3	Vacation of Right-of-Way or Easement	\$300	360.00	20% fee increase of 2020 rates
	Land Use Fee - Type 4 Applications					
	Community Dev - Planning	Land Use Fee - Type 4	Home Occupation	\$100	\$ 120.00	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Request to Petition for Annexation	\$100	\$ 120.00	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Annexation	\$300 + legal review	\$360 + cost of legal review	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Appeal of Administrative Decision (non-SEPA)	\$200	\$ 240.00	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Appeal of Administrative Decision (SEPA)	\$500	\$ 600.00	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Cell Towers Construction/Replacement	\$1000 + cost of outside review if needed	\$1,200 + cost of 3rd party review if needed	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Cell Tower Revision or Addition	\$400 + building permit costs	\$480 + building permit costs	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	Small Cell Network Plan Review for installation of Equipment within City's ROW and Franchise Agreement	\$600 + cost of legal review	\$720 + cost of legal review	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	ADU Covenant	\$100	\$ 100.00	Maintain this fee as is.
	Community Dev - Planning	Land Use Fee - Type 4	Removal of ADU Covenant	\$100	\$ 100.00	Maintain this fee as is.
	Community Dev - Planning	Land Use Fee - Type 4	Zoning Verification Letter	\$200	\$ 240.00	20% fee increase of 2020 rates
	Community Dev - Planning	Land Use Fee - Type 4	HBD Commercial Parking - Payment in lieu of on-site parking	\$2350.00 per required stall	\$8,900 per stall	market rate to construct w/ drainage
	Public Works	Use of Public Space	Downtown Residential Parking Permit	\$240.00 annually	\$288 annually	20% increase
	Public Works	Use of Public Space	Public Sidewalk/Outdoor Dining Application	\$10.00 + \$2.00 per square foot of sidewalk used	\$11.00 + \$2.50 per square foot of sidewalk used	20% increase
	Comm Dev / Public Works	Impact Fee	Transportation Impact Fee	see applicable Ord or Reso		
	Comm Dev / Parks	Impact Fee	Park Impact Fee	see applicable Ord or Reso		
	Comm Dev / Fire Dept	Impact Fee	Fire Impact Fee	see applicable Ord or Reso		



CDC Meeting Date:	December 5, 2023	
Name of Agenda Item:	Special Events Code Amendment – LMC 5.30	
Section of Agenda:	Discussion	
Next Steps Proposed by Staff:		Legal Review:
<input type="checkbox"/> Staff revisions	<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Completed
<input type="checkbox"/> Return to CDC	<input type="checkbox"/> Other Committees	<input type="checkbox"/> Recommended
<input checked="" type="checkbox"/> Schedule for full Council	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Not Required
Attachments:		
<ul style="list-style-type: none"> • Draft of proposed redlines to LMC 5.30 (Dec 2023) • Ron DV comments on proposed updates (Oct 2023) 		
Summary Statement:		
<p>Following the October Public Safety Committee meeting, staff sent (via email) a redlined copy of the proposed LMC 5.30 to the full Council for individual review and a request for feedback if desired. Ron DV provided some comments on the draft – which are included in an attachment.</p> <p>At the Oct 18 CDC meeting, the committee discussed a proposed change to remove the permit requirement for events that take place at the Fairgrounds property (including the Rotary building). That proposed change is included in the latest (Dec 2023) redline draft of LMC 5.30.</p>		
Recommended Action:		
<p>Discuss and provide further feedback. If satisfied, send the proposed LMC 5.30 updates to full council for adoption.</p>		

Chapter 5.30 PARADES AND SPECIAL EVENTS

Sections:

5.30.010 Definitions.

In this chapter, unless a different meaning plainly is required, the following definitions shall apply:

- A. "Chief of police" means the chief of police of the city of Lynden.
- B. "City" means the city of Lynden.
- C. "Parade" means a large group of persons with or without animals or vehicles moving in a public procession or march in or upon any street, sidewalk, park, or other public place. A large group of persons means a group of more than fifteen persons.
- D. "Special events permit" means a permit as required by this chapter.
- E. "Special event" means an event organized by any person or which will generate or invite considerable public participation and/or spectators, for a particular and limited purpose and time, including, but not limited to concerts, fun runs, ~~roadway foot races~~, fundraising walks, bike-a-thons, carnivals, shows, exhibitions, ~~circuses festivals, block parties, and certain community events, and fairs~~. Special events are not limited to those events conducted on the public streets but may occur on private property. ~~This code does not include public dances as specified under LMC 5.32.~~
- F. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- G. "Street" or "Streets" means any public highway, sidewalk, alley, or portions thereof in the city of Lynden dedicated to the public use.
- G.H. "Substantial impact" means creating an increase in the amount, scope or level of need for city-provided emergency or protective services such as police, fire or medical aid and/or necessitating special traffic control measures such as barricades, traffic direction by police, or similar measures above those that would normally be required without the event and that results in actual, documented costs to the city due to the event.

Commented [DT1]: This rewrite would consider public dances a Special Event - regulated by this chapter.

(Ord. 1141 § A (part), 2002).

5.30.020 Permit—Required—Exceptions.

- 1) Permit Required: No person shall engage in, participate in, aid, form or start a special event or parade unless a permit has been obtained. Applications for permits must be obtained from the city administration office, completed by the applicant, and returned to the city administration office.
- 2) Special Event Permit Tiers:
 - a) Tier 1: Permit required, application fee waived, no insurance or indemnification agreement required, administrative approval.

How the Lynden Music Festival fits in since it uses multiple venues - on fee or several for each over the 75

In the 75 threshold going to rigorously enforced or is there anyway.

A purpose statement for this ordinance would be helpful.

i) A private event, on private property, more than 75 participants, and no substantial impact on public property, public streets, public services, neighbors, or other community members.

Commented [DT2]: No strong feelings expressed about 75 participants being the appropriate number where regulation begins. *ok with 75*

ii) Political or religious activity primarily intended for the communication or expression of ideas presumed to be protected by the First and Fourteenth Amendments of the United States Constitution.

Commented [DT3]: Consensus from CDC discussion was to leave Constitutionally protected events as Tier 1 (so the City is aware) and not as an outright exemption.

b) Tier 2: Permit required, application fee required, administrative approval.

i) A private or public event, on private property, more than 75 participants, with substantial impact on local traffic, noise, and the neighborhood, but does not require public services.

Is this going to require a permit for weddings and funerals happy with exemption

c) Tier 3: Permit required, application fee required, public services fee may be determined, administrative approval.

i) A private or public event that uses private and/or public property (this may include non-arterial street closures and 4th St between Front and Grover), more than 75 participants, and may result in substantial impact to public services (Police, Public Works, etc).

Commented [DT4]: Non-arterials and 4th St can be closed with administrative approval. *good idea*

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d) Tier 4: Permit required, application fee required, public services fee may be determined, City Council approval.

i) A private or public event that uses private and/or public property (specifically which includes arterial street closures and streets besides 4th St in the HBD), more than 75 participants, and a substantial impact to public services (Police, Public Works, etc).

Commented [DT5]: This would include 5th St events - those will still require Council approval *yes*

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3) Permit Exemptions: The permit requirement does not apply to the following:

a) Funeral and wedding processions.

b) A private event on private property, involving less than 75 participants, and which has no substantial impact on the neighborhood or on public services.

c) Groups of students involved in a school sponsored, school supervised event.

d) Events conducted in a facility designed for that purpose such as theaters, auditoriums, places of worship, etc.

e) Events separately approved by the Lynden Parks Department for use at a park property.

f) The annual Northwest Washington Fair. Other events held throughout the year at the Fairground's property and event center property are not exempt.

4)

2)4) Indemnification Agreement: In addition, the applicant must file an "Indemnification Agreement" in order to obtain a permit. An "Indemnification Agreement" section is included on the Special Event Application. This section must be completed (with appropriate signatures) with the application prior to issuance of the permit. Forms must be obtained from the city administration office, completed and signed by the applicant and returned to the city administration office. In order for a permit to issue, the "Indemnification Agreement" must be signed on behalf of the city by the mayor or his or her designee.

Commented [DT6]: CDC discussion wished to make clear that other events (besides the actual Fair) occurring on the fairgrounds property, including at the Rotary Building, would still need the permit.

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5) Insurance Requirements: General Requirements:

What is considered private property - a church, a school or are these considered public?
Is a dance permit required for a school prom?

The following insurance shall be required for special event permit approval:

—\$2,000,000 commercial general liability insurance per occurrence combined single limits.

\$5,000,000 aggregate unless waived by City Administrator.

A Certificate of Insurance, listing the City as an endorsement, shall be submitted with the Special Event Application.

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3)6) liability. \$1,000,000, etc.

4) Permit Exemptions: This chapter shall not apply to the following:

1. Funeral and wedding processions;

2. Funeral and wedding processions; Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;

3. A governmental agency including military units of the State of Washington and the United States acting within the scope of its functions.

4. Groups required by law to be so assembled;

5. Groups which are permitted by the U.S. Constitution and/or Washington State Constitution to be so assembled without the necessity of obtaining a permit as a condition precedent; or

6. The Northwest Washington Fair.

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7) Permit renewal: for recurring annual events.

a) Annual events are required to submit an application every year the event occurs. The application shall be submitted no less than 60 days prior to the event. Any changes to the event, and ongoing requests for public services shall be indicated in the application.

Commented [DT7]: Section updated to require annual recurring events to secure a permit every year

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5) The city administrator shall have the authority to renew permits for regularly recurring events without requiring the applicant to submit a new application for subsequent editions of the recurring event. Permits issued for recurring events shall be known as "annual permits." In order to obtain a renewal of an annual permit, the applicant must notify the city administrator in writing no less than sixty days prior to the event. In addition to the date upon which the event will be held, the applicant seeking a renewal must inform the city administrator of any changes between the most recent previous edition of the event and the edition contemplated by the renewal. If the city administrator denies the renewal, he or she must do so no later than twenty-five days prior to the date upon which the event is scheduled to occur. The applicant may appeal from a denial of a request for renewal of an annual permit as provided in this chapter.

Commented [DT8]: This section added to this rewrite. CDC consensus is that it should remain but appreciate c) where if deemed a public benefit, the cost of those public services do not need to be reimbursed. The actual fee schedule (for specific public services) is yet to be determined.

(Ord. 1141 § A (part), 2002).

8) Fees for Public Services Required:

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a) Upon approval of an application for a permit for a special event, the administrator, should provide the applicant with a statement of the estimated cost of providing public services (personnel and equipment) to support the event. The applicant/sponsor of the

event should be required to prepay these estimated costs for city services and equipment ten (10) days prior to the special events. City services and equipment may include the use of police officers and public employees for traffic and crowd control, pickup and delivery of traffic control devices, picnic tables, extraordinary street sweeping, and any other needed, requested or required city service and the cost of operating the equipment to provide such services.

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b. If the actual cost for city services and equipment on the date(s) of the event is less than the estimated cost, the applicant/sponsor will be refunded the difference by the city in a timely manner. If the actual cost for city services and equipment on the date(s) of the event is greater than the estimated cost, the applicant/sponsor will be billed for the difference.

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c. Permit fees and fees for the use of public services and equipment may be waived in part or in full by the City, if in review of the application it is found that the event is of sufficient public benefit to warrant the expenditure of city funds without reimbursement by the applicant/sponsor and would not result in the private financial gain of any individual or "for profit" entity.

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5.30.030 Permit—Application and contents.

- A. A person seeking issuance of a special event permit shall file an application with the city administration office on forms provided by the city.
- B. Filing period. An application for a special event permit shall be filed with the city administration office not less than sixty days before the date on which it is proposed to conduct the parade or special event.
- C. Contents. The application for a parade or special event permit shall set forth the following information:
 1. The name, address and telephone number of the contact person seeking to conduct such special event;
 2. If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization;
 - ~~3. The name, address and telephone number of the person who will be the parade chair and who will be responsible for its conduct;~~
 - ~~4.3.~~ The date when the event is to be conducted, the hours when the event will begin and finish, and a detailed description of the event to be held;
 - ~~5.4.~~ The location event will be held or (for parades) the route to be traveled, the starting point and the termination point;
 - ~~6.5.~~ The number of persons who it is anticipated will participate in said event and the numbers and types of animals and vehicles that will be used in said event;
 - ~~7. The hours when such event will start and terminate;~~
 - ~~8. For any requested street closures, a description of which streets, how much of the street will be used, a plan for any necessary traffic control, street barricades requested, any officer presence needed, and a plan for cleanup and reopening after~~

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the event. A statement as to whether the event will occupy all or only a portion of the width of any streets proposed to be traversed;

a. A description of any temporary street assembly areas shall be included in this request.

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9. The location by streets of any assembly areas for such event;

6. The time at which units of the event will begin to assemble at any such assembly area or areas;

7. A detailed request for Public Services needed to support the event:

a. Equipment such as street barricades, utility needs, street sweeper, etc

b. Staffing such as Public Works staff, Police and/or Fire personnel and equipment.

8. Detailed description and the proposed location of any private support services, such as waste management, portable toilets, food vendors, etc. that may be placed to support the special event.

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9. Indemnification Agreement

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10. Insurance requirements

11. Agent authorization. If the special event is designed to be held by and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the city administration office a communication in writing from the person proposing to hold the event, authorizing the applicant to apply for the permit on his or her behalf.

(Ord. 1141 § A (part), 2002).

5.30.040 Permit—Issuance standards.

The city administrator or his or her designee shall issue a permit as provided for under this chapter, when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that the following conditions exist:

- A. The conduct of the special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location;
- B. The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- D. The concentration of persons, animals and vehicles at assembly points of the event will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas;
- E. The conduct of such special event will not interfere with the movement of fire fighting equipment en route to a fire;

- F. The special event or parade is scheduled to move from its point of origin to a point of termination expeditiously and without unreasonable delays en route;
- G. The special event is not to be held for the sole purpose of advertising any product, goods or other event, and is not designed to be held purely for private profit;
- H. That the indemnification agreement required to have been submitted with the application for a permit is in proper order and has been countersigned by the Mayor or his or her designee as required in LMC 9.32.020(A).

(Ord. 1141 § A (part), 2002).

5.30.050 Permit—Rejection—Notice.

The city administrator or his or her designee shall act upon the application for a special event permit as promptly as is administratively feasible and shall notify the applicant of their decision no later than twenty-five days prior to the date upon which the event is proposed to be held. If the city administrator disapproves the application, they shall notify the applicant of their reasons for the denial of the permit.

(Ord. 1141 § A (part), 2002).

5.30.060 Permit—Rejection—Appeal.

Any person aggrieved shall have the right to appeal the denial of the permit to the city council. The appeal shall be taken within three days after notice. The city council shall act upon the appeal at its next regular or special meeting after receiving notice of appeal.

(Ord. 1141 § A (part), 2002).

5.30.070 Permit—Alternate.

The city administrator, in denying an application for a special event permit, shall be empowered to authorize the conduct of the event on a date, at a time, at a location or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three days after notice of the action of the city administrator, file a written notice of acceptance with the city administrator. An alternate permit shall conform to the requirements of and shall have the effect of a special event permit under this chapter.

(Ord. 1141 § A (part), 2002).

5.30.080 Permit—Notice to officials—Contents.

- A. Immediately upon receiving a completed application for a special event permit, the city administrator or their designee shall forward the application to the following personnel for their review prior to issuing the permit:

1. The chief of police;
2. The fire chief;
3. The public works director;
4. If the application proposes to use city park facilities, the parks director.

4. ~~B. Any requirements determined by the reviewing personnel shall be indicated on the permit approval documents. If the applicant is not able to meet the requirements, the application shall be denied.~~

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~~B. If the event is a parade, each permit shall state the following information:~~

- ~~1. Starting and terminating time;~~
- ~~2. The portions of the streets to be traversed that may be occupied by the parade;~~
- ~~3. Such other information as the chief of police and fire chief shall find necessary to the enforcement of this chapter;~~
- ~~4. The number of participating vehicles;~~
- ~~5. The number of participating pedestrians.~~

(Ord. 1141 § A (part), 2002).

(Ord. No. 1586, § 1, 6-17-19)

5.30.085 Animal prohibition.

- A. General Authority. At the request of the chief of police, the parks director if the special event will use city park facilities, or on his or her own initiative, the city administrator may condition the approval of a special event permit on the limitation or prohibition of animals from the event area during the hours of the special event. Such a condition on a special event permit approval shall require a written finding by the city administrator that the presence of animals would present an undue risk to the health and safety of persons or animals attending the event.
- B. Specific Special Event Prohibitions. Animals are prohibited from all event areas of the following event in the city: annual Raspberry Festival.
- C. Signage. Permittees for any special event for which animals are restricted or prohibited pursuant to subsections (A) or (B) herein shall post conspicuous signage in and around the event area. Said signage must clearly describe the event area from which animals are restricted or prohibited. Sign locations and content shall be approved in advance by the city administrator or his or her designee.
- D. Exemptions. This section does not apply to:
 1. Service animals as defined in the Americans with Disabilities Act, 42 USC § 12101 et seq. or the Washington Law Against Discrimination, Chapter 49.60 RCW; or
 2. Animals being used by a public officer in the performance of official duties.

(Ord. No. 1586, § 2, 6-17-19)

5.30.090 Permit—Compliance with directions—Display.

- A. A permittee under this chapter shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The chair of the event, or other person heading or leading such activity shall carry the special event permit upon their person throughout the entire duration of the event.

- C. The chair of the event, or other person heading or leading such activity shall be responsible for dissemination to every person responsible for each component of a special event and/or any entry in a parade, of the pertinent law and safety regulations for participation in such activity as set forth in the special event permit.
- D. Any violations of the requirements set forth in the special event permit will be grounds for immediate revocation of the permit and termination of the event.

(Ord. 1141 § A (part), 2002).

5.30.100 Public conduct.

- A. No person shall unreasonably hamper, obstruct, impede or interfere with any parade or event assembly or with any person, vehicle or animal participating or used in an event.
- B. No driver of a vehicle shall drive between the vehicle or persons comprising a special event or parade when such vehicles or persons are in motion.
- C. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a special event or parade. The city shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof and the same may be impounded for safekeeping by the city police. No person shall be liable for parking on an unposted street.
- D. Whenever animals have been limited or prohibited from an event area pursuant to Section 9.32.085(A) or (B), no person having custody of an animal may knowingly cause or allow the animal to be in the area designated for the event during event hours, except as specified in Section 9.32.085(D).

(Ord. 1141 § A (part), 2002).

(Ord. No. 1586, § 3, 6-17-19)

5.30.110 Violation—Penalty.

Any person found guilty of a violation of the provisions of 5.30.100 shall be deemed guilty of a misdemeanor.

(Ord. 1141 § A (part), 2002).

Chapter 5.30 PARADES AND SPECIAL EVENTS

Sections:

5.30.010 Definitions.

In this chapter, unless a different meaning plainly is required, the following definitions shall apply:

- A. "Chief of police" means the chief of police of the city of Lynden.
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- C. "Parade" means a large group of persons with or without animals or vehicles moving in a public procession or march in or upon any street, sidewalk, park, or other public place. A large group of persons means a group of more than fifteen persons.
- D. "Special events permit" means a permit as required by this chapter.
- E. "Special event" means an event organized by any person or which will generate or invite considerable public participation and/or spectators, for a particular and limited purpose and time, including, but not limited to concerts, fun runs, fundraising walks, bike-a-thons, carnivals, shows, exhibitions, festivals, block parties, and certain community events. Special events are not limited to those events conducted on the public streets but may occur on private property.
- F. "Person" means any person, firm, partnership, association, corporation, company, or organization of any kind.
- G. "Street" or "Streets" means any public highway, sidewalk, alley, or portions thereof in the city of Lynden dedicated to public use.
- H. "Substantial impact" means creating an increase in the amount, scope or level of need for city-provided emergency or protective services such as police, fire or medical aid and/or necessitating special traffic control measures such as barricades, traffic direction by police, or similar measures above those that would normally be required without the event and that results in actual, documented costs to the city due to the event.

(Ord. 1141 § A (part), 2002).

5.30.020 Permit—Required—Exceptions.

- 1) Permit Required: No person shall engage in, participate in, aid, form or start a special event or parade unless a permit has been obtained. Applications for permits must be obtained from the city administration office, completed by the applicant, and returned to the city administration office.
- 2) Special Event Permit Tiers:
 - a) Tier 1: Permit required, application fee waived, no insurance or indemnification agreement required, administrative approval.
 - i) A private event, on private property, more than 75 participants, and no substantial impact on public property, public streets, public services, neighbors, or other community members.

- ii) Political or religious activity primarily intended for the communication or expression of ideas presumed to be protected by the First and Fourteenth Amendments of the United States Constitution.
- b) Tier 2: Permit required, application fee required, administrative approval.
 - i) A private or public event, on private property, more than 75 participants, with substantial impact on local traffic, noise, and the neighborhood, but does not require public services.
- c) Tier 3: Permit required, application fee required, public services fee may be determined, administrative approval.
 - i) A private or public event that uses private and/or public property (this may include non-arterial street closures and 4th St between Front and Grover), more than 75 participants, and may result in substantial impact to public services (Police, Public Works, etc).
- d) Tier 4: Permit required, application fee required, public services fee may be determined, City Council approval.
 - i) A private or public event that uses private and/or public property (specifically which includes arterial street closures and streets besides 4th St in the HBD), more than 75 participants, and a substantial impact to public services (Police, Public Works, etc).
- 3) Permit Exemptions: The permit requirement does not apply to the following:
 - a) Funeral and wedding services and processions.
 - b) A private event on private property, involving less than 75 participants, and which has no substantial impact on the neighborhood or on public services.
 - c) Groups of students involved in a school sponsored, school supervised event.
 - d) Events conducted in a facility designed for that purpose such as theaters, event centers, auditoriums, places of worship, etc.
 - e) Events separately approved by the Lynden Parks Department for use at a park property.
 - f) The annual Northwest Washington Fair. ~~Other events held throughout the year at the Fairground's property and event center property are not exempt.~~
- 4) Indemnification Agreement: The applicant must file an "Indemnification Agreement" in order to obtain a permit. An "Indemnification Agreement" section is included on the Special Event Application. This section must be completed (with appropriate signatures) with the application prior to issuance of the permit.
- 5) Insurance Requirements:
 - a) The following insurance shall be required for special event permit approval:
 - \$2,000,000 commercial general liability insurance per occurrence combined single limits.
 - \$5,000,000 aggregate unless waived by City Administrator.
 - b) A Certificate of Insurance, listing the City as an endorsement, shall be submitted with the Special Event Application.

Commented [DT1]: Ron DV comments wondered if funerals and weddings would need a permit. Added "services" to clarify that Funerals and Weddings (and their processions) are exempt from the permit requirement.

Commented [DT2]: This deletion follows CDC discussion at the October meeting.

6) Permit renewal: for recurring annual events.

- a) Annual events are required to submit an application every year the event occurs. The application shall be submitted no less than 60 days prior to the event. Any changes to the event, and ongoing requests for public services shall be indicated in the application.
(Ord. 1141 § A (part), 2002).

7) Fees for Public Services Required:

- a) Upon approval of an application for a permit for a special event, the administrator should provide the applicant with a statement of the estimated cost of providing public services (personnel and equipment) to support the event. The applicant/sponsor of the event should be required to prepay these estimated costs for city services and equipment ten (10) days prior to the special events. City services and equipment may include the use of police officers and public employees for traffic and crowd control, pickup and delivery of traffic control devices, picnic tables, extraordinary street sweeping, and any other needed, requested or required city service and the cost of operating the equipment to provide such services.
- b. If the actual cost for city services and equipment on the date(s) of the event is less than the estimated cost, the applicant/sponsor will be refunded the difference by the city in a timely manner. If the actual cost for city services and equipment on the date(s) of the event is greater than the estimated cost, the applicant/sponsor will be billed for the difference.
- c. Permit fees and fees for the use of public services and equipment may be waived in part or in full by the City if in review of the application it is found that the event is of sufficient public benefit to warrant the expenditure of city funds without reimbursement by the applicant/sponsor and would not result in the private financial gain of any individual or "for profit" entity.

5.30.030 Permit—Application and contents.

- A. A person seeking issuance of a special event permit shall file an application with the city administration office on forms provided by the city.
- B. Filing period. An application for a special event permit shall be filed with the city administration office not less than sixty days before the date on which it is proposed to conduct the parade or special event.
- C. Contents. The application for a parade or special event permit shall set forth the following information:
 - 1. The name, address and telephone number of the contact person seeking to conduct such special event;
 - 2. If the special event is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization;
 - 3. The date when the event is to be conducted, the hours when the event will begin and finish, and a detailed description of the event to be held;

4. The location event will be held or (for parades) the route to be traveled, the starting point and the termination point;
5. The number of persons who it is anticipated will participate in said event and the numbers and types of animals and vehicles that will be used in said event;
 - a. For any requested street closures, a description of which streets, how much of the street will be used, a plan for any necessary traffic control, street barricades requested, any officer presence needed, and a plan for cleanup and reopening after the event. A description of any temporary street assembly areas shall be included in this request.
6. A detailed request for Public Services needed to support the event:
 - a. Equipment such as street barricades, utility needs, street sweeper, etc
 - b. Staffing such as Public Works staff, Police and/or Fire personnel and equipment,
7. Detailed description and the proposed location of any private support services, such as waste management, portable toilets, food vendors, etc. that may be placed to support the special event.
8. Indemnification Agreement
9. Insurance requirements as indicated in LMC 5.30.020 (5)
10. Agent authorization. If the special event is designed to be held by and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the city administration office a communication in writing from the person proposing to hold the event, authorizing the applicant to apply for the permit on his or her behalf.

(Ord. 1141 § A (part), 2002).

5.30.040 Permit—Issuance standards.

The city administrator or his or her designee shall issue a permit as provided for under this chapter, when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that the following conditions exist:

- A. The conduct of the special event will not substantially interrupt the safe and orderly movement of other traffic contiguous to its location;
- B. The conduct of the special event will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
- C. The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- D. The concentration of persons, animals and vehicles at assembly points of the event will not unduly interfere with proper fire and police protection of or ambulance service to areas contiguous to such assembly areas;
- E. The conduct of such special event will not interfere with the movement of fire fighting equipment en route to a fire;

- F. The special event or parade is scheduled to move from its point of origin to a point of termination expeditiously and without unreasonable delays en route;
- G. The special event is not to be held for the sole purpose of advertising any product, goods or other event, and is not designed to be held purely for private profit;
- H. That the indemnification agreement required to have been submitted with the application for a permit is in proper order and has been countersigned by the Mayor or his or her designee as required in LMC 9.32.020(A).

(Ord. 1141 § A (part), 2002).

5.30.050 Permit—Rejection—Notice.

The city administrator or his or her designee shall act upon the application for a special event permit as promptly as is administratively feasible and shall notify the applicant of their decision no later than twenty-five days prior to the date upon which the event is proposed to be held. If the city administrator disapproves the application, they shall notify the applicant of their reasons for the denial of the permit.

(Ord. 1141 § A (part), 2002).

5.30.060 Permit—Rejection—Appeal.

Any person aggrieved shall have the right to appeal the denial of the permit to the city council. The appeal shall be taken within three days after notice. The city council shall act upon the appeal at its next regular or special meeting after receiving notice of appeal.

(Ord. 1141 § A (part), 2002).

5.30.070 Permit—Alternate.

The city administrator, in denying an application for a special event permit, shall be empowered to authorize the conduct of the event on a date, at a time, at a location or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within three days after notice of the action of the city administrator, file a written notice of acceptance with the city administrator. An alternate permit shall conform to the requirements of and shall have the effect of a special event permit under this chapter.

(Ord. 1141 § A (part), 2002).

5.30.080 Permit—Notice to officials—Contents.

- A. Immediately upon receiving a completed application for a special event permit, the city administrator or their designee shall forward the application to the following personnel for their review prior to issuing the permit:
 1. The chief of police;
 2. The fire chief;
 3. The public works director;
 4. If the application proposes to use city park facilities, the parks director.

- B. Any requirements determined by the reviewing personnel shall be indicated on the permit approval documents. If the applicant is not able to meet the requirements, the application shall be denied.

(Ord. 1141 § A (part), 2002).

(Ord. No. 1586, § 1, 6-17-19)

5.30.085 Animal prohibition.

- A. General Authority. At the request of the chief of police, the parks director if the special event will use city park facilities, or on his or her own initiative, the city administrator may condition the approval of a special event permit on the limitation or prohibition of animals from the event area during the hours of the special event. Such a condition on a special event permit approval shall require a written finding by the city administrator that the presence of animals would present an undue risk to the health and safety of persons or animals attending the event.
- B. Specific Special Event Prohibitions. Animals are prohibited from all event areas of the following event in the city: annual Raspberry Festival.
- C. Signage. Permittees for any special event for which animals are restricted or prohibited pursuant to subsections (A) or (B) herein shall post conspicuous signage in and around the event area. Said signage must clearly describe the event area from which animals are restricted or prohibited. Sign locations and content shall be approved in advance by the city administrator or his or her designee.
- D. Exemptions. This section does not apply to:
 1. Service animals as defined in the Americans with Disabilities Act, 42 USC § 12101 et seq. or the Washington Law Against Discrimination, Chapter 49.60 RCW; or
 2. Animals being used by a public officer in the performance of official duties.

(Ord. No. 1586, § 2, 6-17-19)

5.30.090 Permit—Compliance with directions—Display.

- A. A permittee under this chapter shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The chair of the event, or other person heading or leading such activity shall carry the special event permit upon their person throughout the entire duration of the event.
- C. The chair of the event, or other person heading or leading such activity shall be responsible for dissemination to every person responsible for each component of a special event and/or any entry in a parade, of the pertinent law and safety regulations for participation in such activity as set forth in the special event permit.
- D. Any violations of the requirements set forth in the special event permit will be grounds for immediate revocation of the permit and termination of the event.

(Ord. 1141 § A (part), 2002).

5.30.100 Public conduct.

- A. No person shall unreasonably hamper, obstruct, impede or interfere with any parade or event assembly or with any person, vehicle or animal participating or used in an event.
- B. No driver of a vehicle shall drive between the vehicle or persons comprising a special event or parade when such vehicles or persons are in motion.
- C. The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a special event or parade. The city shall post signs to such effect, and it is unlawful for any person to park or leave unattended any vehicle in violation thereof and the same may be impounded for safekeeping by the city police. No person shall be liable for parking on an unposted street.
- D. Whenever animals have been limited or prohibited from an event area pursuant to Section 9.32.085(A) or (B), no person having custody of an animal may knowingly cause or allow the animal to be in the area designated for the event during event hours, except as specified in Section 9.32.085(D).

(Ord. 1141 § A (part), 2002).

(Ord. No. 1586, § 3, 6-17-19)

5.30.110 Violation—Penalty.

Any person found guilty of a violation of the provisions of 5.30.100 shall be deemed guilty of a misdemeanor.

(Ord. 1141 § A (part), 2002).

CITY OF LYNDEN

EXECUTIVE SUMMARY



<u>Meeting Date:</u>	December 5, 2023
<u>Name of Agenda Item:</u>	Code Amendment re Civil Penalties
<u>Section of Agenda:</u>	Discussion
<u>Department:</u>	Community Development Department
<u>Attachments:</u>	
Proposed Ordinance and Amendment	
<u>Summary Statement:</u>	
<p>Over the last 12 months City Administration, staff, and legal counsel, Luke Phifer, have been drafting an update to the City's civil penalties code. They are now prepared to introduce the amendment for Council's review.</p> <p>The City's current code is in need of this update as it includes numerous criminal misdemeanor penalties for offenses that would be more appropriately classified as civil infractions. Additionally, although the code recognizes the authority of the City to fine violators, it provides only broad guidance on what dollar amount could be used under this authority.</p> <p>The revised code carefully defines general penalties, civil infractions, misdemeanors, and gross misdemeanors. It assigns penalties to infractions which would be classified as C-1 through C-9 depending on the severity of the violation. The amended code also establishes a uniform process for citing and correcting violations, a critical tool for staff seeking to provide fair and consistent enforcement of the city's code provisions.</p> <p>To implement a revision of this nature it is necessary to amend numerous existing penalty provisions throughout the municipal code. The bulk of the civil penalties code will be located in Chapter 1 of the Lynden Municipal Code but many other chapters would also be amended to classify infractions and identify corrective processes.</p> <p>Council and its committees are asked to review the draft ordinance with the intent to hear at the January 2, 2024, meeting.</p>	
<u>Recommended Action:</u>	
Review and provide feedback in preparation for the January 2 nd hearing.	

EXHIBIT A

ORDINANCE NO. 23-1680

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

Chapter 1.24 – GENERAL PENALTY ~~AND ENFORCEMENT~~

1.24.010 – Classification of Penalties.

Penalties are classified as follows:

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

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

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

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

1.24.015 – General penalty.

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

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

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

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

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

1.24.030 – Principles of Liability.

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

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

1.24.040 – Penalties for Civil Infractions – Designated.

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

<u>Category</u>	<u>Penalty</u>
<u>C-1</u>	<u>\$25</u>
<u>C-2</u>	<u>\$50</u>
<u>C-3</u>	<u>\$75</u>
<u>C-4</u>	<u>\$100</u>
<u>C-5</u>	<u>\$250</u>
<u>C-6</u>	<u>\$300</u>
<u>C-7</u>	<u>\$350</u>
<u>C-8</u>	<u>\$500</u>
<u>C-9</u>	<u>\$1,000</u>

Chapter 1.34 – COMPLIANCE AND ENFORCEMENT

1.34.010 – Title.

This chapter shall be called “Compliance and Enforcement.”

1.34.020 – Applicability & Purpose.

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

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

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

-Title 15 (Building and Construction);

Title 16 (Environmental Policy);

-Title 17 (Land Development);

-Title 18 (Subdivisions);

-Title 19 (Zoning); and

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

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

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

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

1.34.030 – Definitions.

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

- A. “Abate” means to repair, replace, remove, destroy, demolish, board-up, or otherwise remedy a condition which constituted a civil infraction by such means, in such a manner, and to such extent as the Enforcement Official determines is necessary in the interest of the general health, safety, and welfare of the community.

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

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

- C. “Determination of Compliance” means a written statement from the City that the violation(s) identified in a Voluntary Correction Agreement, Civil Regulatory Order, or other notice has been sufficiently abated, remediated, or otherwise resolved.
- D. “Emergency” means a situation or civil violation which, in the opinion of an Enforcement Official, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.
- E. “Hearing Examiner” means the Lynden Hearing Examiner and the office thereof established pursuant to Lynden Municipal Code Chapter 2.09.
- F. “Person Responsible for the Violation” means the person or persons, firm, corporation, partnership, joint venture, limited liability company, or other legal entity who caused, or is reasonably believed by an Enforcement Official to have caused, the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy the property and/or premises where a civil violation occurs.
- G. “Remediate” means to restore a site to a condition that complies with critical area or other regulatory requirements as they existed before the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the general public health, safety, or welfare.

H. “Violation” means:

- (1) An act or omission contrary to any regulation or provision of the Lynden Municipal Code; and
- (2) An act or omission contrary to the conditions of any permit, notice, order, or stop work order issued pursuant to any such regulation or provision.

1.34.035 – Declaration of Public Nuisance.

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

1. Title 8 (Health and Safety);
2. Chapter 13.24.130;
3. Chapter 13.24.160;
4. Title 12 (Streets, Sidewalks and Public Places)
5. Title 15 (Building and Construction);
6. Title 16 (Environmental Policy);
7. Title 17 (Land Development);
8. Title 18 (Subdivisions); and
9. Title 19 (Zoning).

1.34.040 – Enforcement, Authority, and Administration.

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

- (1) Enter into a Voluntary Correction Agreement with a person responsible for the violation(s);
- (2) Issue Civil Regulatory Orders, assess civil penalties, and/or recover costs as authorized by this chapter and/or other applicable code sections;
- (3) Require abatement by the Person Responsible for the Violation or undertake summary abatement and charge the reasonable costs of such work as authorized by this chapter;
- (4) Order work stopped at a site by means of a stop work order, and if such order is not complied with, assess civil penalties as authorized by this chapter and/or other applicable code sections;

(5) Suspend, revoke, or modify any permit previously issued by the City or deny a permit application as authorized by this chapter and/or other applicable code sections when other efforts to achieve compliance have failed;

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

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

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

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

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

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

1.34.050 – Voluntary Correction Agreement.

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

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

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

D. *Content.* The Voluntary Correction Agreement is a contract between the City and the Person Responsible for the Violation under which such person agrees to correct the violation within a

specified time and according to specific conditions. The Voluntary Correction Agreement shall include, at a minimum, the following:

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

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

F. Administrative Review of Compliance. After the Person Responsible for the Violation has given written notice to the City of completion of the corrective action required under the Voluntary Correction Agreement, the Enforcement Official shall, within five working days, determine if the corrective action is complete. If the Enforcement Official determines that the corrective action is not complete, the Enforcement Official shall so notify the Person Responsible for the Violation in writing. The Person Responsible for the Violation shall have seven business days from the date of mailing of said notice in which to file an appeal with the

Enforcement Official for review of such determination by the Hearing Examiner. Said review shall be completed and a decision issued by the Hearing Examiner within thirty days of receipt of a timely appeal. The only issue subject to review during an appeal at this stage shall be whether there has been complete compliance with the terms of the Voluntary Correction Agreement.

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

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

I. *Monetary Penalty.*

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

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

1.34.060 – Civil Regulatory Order.

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

1.34.061 – Civil Regulatory Order – Issuance & Service.

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

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

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

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

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

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

11. A statement of the steps required to correct, abate, or remediate the violation;

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

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

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

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

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

1.34.062 – Civil Regulatory Order – Response.

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

B. *Declaration of Compliance.* If the Person Responsible for Violation provides evidence the violation has been corrected and/or pays any prescribed penalty, an Enforcement Official will undertake further investigation to determine whether compliance has been achieved. If compliance has been achieved, the Enforcement Officer will issue a Determination of Compliance within five business days to the person(s) named in the order. If the Enforcement

Official determines that compliance has not been achieved, they may elect to issue a new Civil Regulatory Order or pursue any other action available in law or equity.

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

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

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

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

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

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

1.34.070 – Penalties.

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

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

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

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

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

1.34.090 – Civil Regulatory Order – Appeal.

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

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

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

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

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

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

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

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

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

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

1.34.100 – Abatement by the City.

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

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

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

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

1.34.130 – Interference with Code Enforcement Unlawful.

Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve a Civil Regulatory Order, stop work order, emergency order, or intentionally obstructs, impedes, or

interferes with lawful attempts to correct a violation being processed under this chapter shall be guilty of a gross misdemeanor.

1.34.140 – Conflicts.

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

1.34.150 – Severability.

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

2.09.040 - Jurisdiction-duties—powers.

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

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

1. Appeals of the determinations of the fees and dedications made under Chapters [3.28](#), [3.40](#), [3.44](#), and [19.67](#) LMC;
2. Appeals of dangerous dog declarations under [Chapter 6.09](#) LMC;
3. Appeals of determinations of eligibility for relocation assistance under [Chapter 12.36](#) LMC;
4. Appeals of the city's determination to suspend services, impose penalties, recover costs, establish compliance schedules, or terminate a user's wastewater and/or collection services, under [Chapter 13.12](#) LMC;
5. Appeals of the city's computation or application of the stormwater management utility service charge or FCI charges or imposition of sanctions or fines under [Chapter 13.24](#) LMC;
6. Challenges of the written interpretations and/or decisions of the public works director made under [Chapter 13.28](#) LMC;
7. Petitions for exemptions from payment of the utility fee or for conversion to exempt status, and appeals of the city's computation of the applicable fees assessed, under [Chapter 13.32](#) LMC;

8. Appeals of the determination of the ~~planning director~~ Community Development Director regarding moving buildings under Chapter 15.05 LMC;
9. Appeals of the determination of the building code official as described in Chapter 15.14 LMC;
10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under Chapter 16.05 LMC, including related procedural and substantive issues;
11. Appeal of director's final critical area determinations;
12. All applications for shoreline permits or revisions to shoreline permits under Chapter 16.08 LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;
13. Under Chapter 16.12 LMC, Floodplain Management, all appeals of determinations of the director, and variance requests where not consolidated with an underlying project application being decided upon by a different hearing body;
14. Appeals of the imposition of penalties or of the ~~planning director's~~ Community Development Director's decision on mitigation or revision under Chapter 16.16 LMC;
15. Appeals of the administrative approvals described in LMC Sections 17.09.010 and 17.09.020;
16. Appeals of administrative interpretations and approvals under LMC Section 17.11.010;
17. Appeals of civil regulatory orders and civil fines issued under ~~Chapter 17.13~~ Chapter 1.34 LMC;
18. Appeals of the results of concurrency tests, denials of proposed mitigation for transportation facilities, and any other determinations of capacity or calculations or assessments of any fees made under Chapter 17.15 LMC;
19. Amortization periods for nonconforming signs;
20. All variances from the requirements of Title 19, except variances from the requirements of Chapter 19.33 LMC and LMC Sections 19.22.030, 19.22.040, and 19.22.050, and except where the variance is part of a project application being decided upon by a different hearing body;
21. Appeals of determinations of building official as described in LMC Section 19.42.040;
22. Appeals of administrative interpretations made under Chapter 19.59 LMC; and
23. ~~Other actions as required by this code.~~ Appeals of a determination of incomplete abatement under a voluntary correction order made under LMC Section 1.34.050(F) and
24. Other actions as required by this code.

C. In order to avoid the city holding two hearings on one project, the hearing examiner shall only hear variance applications and shoreline permit applications or revisions that are not filed as

part of an underlying project for which another hearing body will conduct a hearing. For example, if an applicant submits a long plat application along with a variance application to use an alternative cul-de-sac design, the hearing on the variance on the cul-de-sac shall be consolidated with the hearing on the long plat, and the consolidated hearing shall be before the hearing body holding the hearing on the long plat.

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

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

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

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

2.10.070 - Violation—Penalty.

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

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

B. To do any act forbidden by any lawful rules or regulations issued pursuant to this chapter, if such act is of a nature as to give, or be likely to give, assistance to the enemy, or to imperil the

lives or property of inhabitants of the city, or to prevent, hinder or delay the defense or protection thereof;

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

3.28.180 - Noncompliance—Penalty.

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

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

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

3.12.070 - Penalties.

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

3.36.060 - Penalty.

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

5.02.110 - Violation—Penalty.

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

5.04.040 - Violation—Penalty.

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

5.12.080 - Violation—Penalty.

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

8.04.090 - Violation—Penalty.

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

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

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

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

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

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

8.24.050 - Penalty for noncompliance.

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

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

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

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

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

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

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

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

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

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

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

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

thereof as belong to the defendants notified or appearing, in the manner provided for the sale of chattels under execution. Lewd matter shall be destroyed and not sold.

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

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

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

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

9.24.070 - Sitting or lying on public sidewalks prohibited.

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

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

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

f. All city owned parking lots including the library parking lot, but excluding the Lynden Community Center parking lot and the public parking lot located at the northeast corner of Fourth and Grover Streets;

g. The south half of the west side of Fourth Street between Grover Street and Liberty Street;

h. The south half of Fifth Street between Grover Street and Liberty Street;

i. The north side of Front Street between Seventh Street and Eighth Street;

j. The east side of Seventh Street between Front Street and Judson Alley.

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

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

2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk.

3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;

4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;

5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

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

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

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

9.24.120 - Public disturbance noise.

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

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

B. Penalties.

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

~~a fine not to exceed five hundred dollars or imprisonment not to exceed ninety days or by both such fine and imprisonment as set forth in LMC 9.04.050.~~

9.24.130 - Public disturbance/barking dogs.

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

B. Penalties.

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

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

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

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

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

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

First Violation:

C-5 Penalty (see LMC 1.24.040)

Each Subsequent Violation Within
a Twelve (12) Month Period:

9.04.050

Misdemeanor punishable as provided by LMC

9.60.140 - Handbills and posters—Violation—Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor, ~~punishable upon conviction thereof by fine of not more than two hundred fifty dollars or by imprisonment in~~

~~the county jail for a period of not more than five days, or by both such fine and imprisonment in the discretion of the Lynden municipal court judge.~~

10.04.060 - Violation—Penalty.

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

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

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

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

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

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

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

Third violation within twelve months:

C-1 Penalty

Fourth violation within twelve months:

C-2 Penalty

Fifth violation within twelve months:

C-3 Penalty

Sixth violation and all subsequent violations
within twelve months:

C-4 Penalty

10.08.100 - Parking prohibited on certain streets.

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

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

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

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

10.16.030 - Penalties.

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

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

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

10.18.030 - Violation—Penalty.

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

12.16.065 - Vehicle weight limited when—Exceptions—Penalty.

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

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

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

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

12.24.190 - Violations—Penalty.

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

12.28.060 - Penalty.

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

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

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

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

In the event the work to be completed pursuant to a conditional certificate of occupancy is not completed within the time allotted by the ~~public works department~~ Planning and Community Development Department, the building permit holder shall be ~~finned the sum of two hundred fifty~~

~~dollars plus twenty five dollars per day for each day the work remains uncompleted, subject to a C-5 penalty (see LMC 1.24.040). For every additional day the work remains uncompleted, the building permit holder shall be subject to an additional C-1 penalty (see LMC 1.24.040).~~

16.12.040 - Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of permit or approval conditions and safeguards established in connection with such conditions) shall constitute ~~a misdemeanor~~ civil infraction and shall subject the person responsible for the violation to a C-8 penalty (see LMC 1.24.040). ~~Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one thousand dollars or imprisoned for not more than one hundred eighty days, or both, for each violation, and in~~ In addition, the person responsible for the violation shall pay all costs and expenses involved in the case. Nothing in this chapter contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

16.16.140 - Offense and penalty.

~~A. Any person, firm, partnership, limited liability company, corporation, or other legal entity that fails to comply or causes the failure to comply with any provision of this chapter shall be guilty of a misdemeanor. Each day or portion of a day during which such a violation is found to have occurred shall constitute a separate offense.~~

~~B. The city may levy civil penalties against any person, firm, partnership, limited liability company, corporation, or other legal entity for failure to comply or causing a failure to comply with of any of the provisions of this chapter. The civil penalty shall be assessed as a one-time penalty of five hundred dollars and/or a maximum rate of five hundred dollars per day per violation.~~

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

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

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

~~D. The penalty provided in subsection (B) above shall be imposed by serving the responsible party with a notice in writing, either by certified mail with return receipt requested, or by personal service. The notice shall include the amount of the penalty imposed and shall describe the violation with reasonable particularity in ordering the act or acts constituting the violation or violations to cease and desist or, in appropriate cases, requiring necessary corrective action to be taken within a specific and reasonable time.~~

~~E. Within thirty days after the notice is received, the party incurring the penalty may apply in writing to the planning director for remission or mitigation of such penalty. Upon receipt of the application, the planning director may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper. The planning director's final decision on mitigation or revision shall be reviewed by the hearing examiner if the aggrieved party files a written appeal of said decision with the planning director within fourteen days of its issuance.~~

17.13.010 - Enforcing official—Authority.

The director shall be responsible for enforcing Titles ~~16~~ 15 through 19 of this code, and may adopt administrative rules to meet that responsibility. The director may delegate enforcement responsibility to the city engineer, director of public works, building official, fire chief or chief of police as appropriate.

17.13.020 - General penalty.

Compliance with the requirements of Titles ~~16~~ 15 through 19 of this code, shall be mandatory. The ~~general penalties and remedies established at Chapter 1.24 of this code, for such violations provisions for enforcing and obtaining compliance established in Chapter 1.34~~ shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

~~17.13.040—Civil regulatory order.~~

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

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

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

- ~~1. The name and address of the person to whom it is directed;~~
- ~~2. The location and specific description of the violation;~~
- ~~3. A notice that the order is effective immediately upon posting at the site and/or receipt by the person to whom it is directed;~~
- ~~4. An order that the violation immediately cease, or that the potential violation be avoided;~~
- ~~5. An order that the person stop work until correction and/or remediation of the violation as specified in the order;~~

~~6. A specific description of the actions required to correct, remedy, or avoid the violation, including a time limit to complete such actions;~~

~~7. A notice that failure to comply with the regulatory order may result in further enforcement actions, including civil fines and criminal penalties.~~

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

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

17.13.050 - Civil fines.

~~A. Authority. A person who violates any provision of the development code, or who fails to obtain any necessary permit or who fails to comply with a civil regulatory order shall be subject to a civil fine.~~

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

~~B. Amount. The civil fine assessed shall not exceed one thousand dollars for each violation. Each separate day, event, action or occurrence shall constitute a separate violation.~~

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

~~C. Notice. A civil fine shall be imposed by a written notice and shall be effective when served or posted as set forth in Section 17.13.030(B). The notice shall describe the date, nature, location, and act(s) comprising the violation, the amount of the fine, and the authority under which the fine has been issued.~~

~~D. Collection. Civil fines shall be immediately due and payable upon issuance and receipt of the notice. The director may issue a regulatory order stopping work until such fine is paid. If remission or appeal of the fine is sought, the fine shall be due and payable upon issuance of a final decision. If a fine remains unpaid thirty days after it becomes due and payable, the director may take actions necessary to recover the fine. Civil fines shall be paid into the city's general fund.~~

~~E. Application for Remission. Any person incurring a civil fine may, within ten days of receipt of the notice, apply in writing to the director for remission of the fine. The director shall issue a decision on the application within ten days. A fine may be remitted only upon a demonstration of extraordinary circumstances.~~

~~F. Appeal. Following the director's final determination on a timely application for remission, the civil fine imposed may be appealed to the hearing examiner in an open record hearing as set forth in Chapter 17.11 of this code.~~

19.49.060 - Content—Violations.

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

19.57.160 - Violations.

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

~~B. The permit holder or licensee may request a hearing within fourteen days of receipt of the notice. Should no hearing be requested, the planning director's decision shall be the final decision of the city of Lynden. If a hearing is requested, the planning commission shall issue its recommendation to the city council on the planning director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code Section 17.07.030 and the city council shall make the final decision for the city of Lynden. Appeal of the Community Development Director's administrative decision to suspend or revoke a home occupation use permit or business license may be appealed according to the procedures set forth in LMC 17.11.~~

19.59.240 - Violation—Penalty.

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

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

ORDINANCE NO. 23-1680

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

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

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

WHEREAS, RCW 53A.11.020 further provides that such penalties may constitute a misdemeanor, a gross misdemeanor, or a civil violation; and

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

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

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

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

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

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

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

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

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

1.24.010 – Classification of Penalties.

Penalties are classified as follows:

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

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

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

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

1.24.020 - Continuing Offenses.

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

1.24.030 – Principles of Liability.

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

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

1.24.040 – Penalties for Civil Infractions – Designated.

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

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

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

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

1.34.010 – Title.

This chapter shall be called “Compliance and Enforcement.”

1.34.020 – Applicability & Purpose.

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

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

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

-Title 15 (Building and Construction);

Title 16 (Environmental Policy);

-Title 17 (Land Development);

-Title 18 (Subdivisions);

-Title 19 (Zoning); and

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

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

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

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

1.34.030 – Definitions.

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

- A. “Abate” means to repair, replace, remove, destroy, demolish, board-up, or otherwise remedy a condition which constituted a civil infraction by such means, in such a manner, and to such extent as the Enforcement Official determines is necessary in the interest of the general health, safety, and welfare of the community.
 - B. “Enforcement Official” means the City official designated by code with enforcement authority of a particular title, chapter, section, or provision thereof and may include any of the following:
 - (1) The Chief of Police
 - (2) The City Administrator
 - (3) The Director of the department generally responsible for enforcement of the Lynden Municipal Code provision which is the subject of a violation including, but not limited to:
 - i. The Public Works Director (for violations of Titles 12-13)
 - ii. The Community Development Director (for violations of Titles 15-19)
 - iii. The Parks Director (for violations of Chapter 12.24)
 - (4) A Code Enforcement Officer, serving under the direction of the Community Development Director or Building Official;
 - (5) Any designee duly appointed by any of the officials identified in subsections B (1)-(3) above.
- Any of the officials identified in subsections B (1) – (5) above may act as an Enforcement Official pursuant to violations of Lynden Municipal Code Title 8.
- C. “Determination of Compliance” means a written statement from the City that the violation(s) identified in a Voluntary Correction Agreement, Civil Regulatory Order, or other notice has been sufficiently abated, remediated, or otherwise resolved.
 - D. “Emergency” means a situation or civil violation which, in the opinion of an Enforcement Official, requires immediate action to prevent or eliminate an imminent threat to the public health, safety, or welfare of persons or property.
 - E. “Hearing Examiner” means the Lynden Hearing Examiner and the office thereof established pursuant to Lynden Municipal Code Chapter 2.09.
 - F. “Person Responsible for the Violation” means the person or persons, firm, corporation, partnership, joint venture, limited liability company, or other legal entity who caused, or is

reasonably believed by an Enforcement Official to have caused, the violation and/or the owner, lessor, tenant, or other person entitled to control, use, and/or occupy the property and/or premises where a civil violation occurs.

G. “Remediate” means to restore a site to a condition that complies with critical area or other regulatory requirements as they existed before the violation occurred; or, for sites that have been degraded under prior ownerships, restore to a condition which does not pose a probable threat to the environment or to the general public health, safety, or welfare.

H. “Violation” means:

- (1) An act or omission contrary to any regulation or provision of the Lynden Municipal Code; and
- (2) An act or omission contrary to the conditions of any permit, notice, order, or stop work order issued pursuant to any such regulation or provision.

1.34.035 – Declaration of Public Nuisance.

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

1. Title 8 (Health and Safety);
2. Chapter 13.24.130;
3. Chapter 13.24.160;
4. Title 12 (Streets, Sidewalks and Public Places)
5. Title 15 (Building and Construction);
6. Title 16 (Environmental Policy);
7. Title 17 (Land Development);
8. Title 18 (Subdivisions); and
9. Title 19 (Zoning).

1.34.040 – Enforcement, Authority, and Administration.

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

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

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

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

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

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

1.34.050 – Voluntary Correction Agreement.

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

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

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

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

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

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

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

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

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

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

I. Monetary Penalty.

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

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

1.34.060 – Civil Regulatory Order.

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

1.34.061 – Civil Regulatory Order – Issuance & Service.

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

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

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

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

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

8. A statement that at any hearing to contest the determination, the rules for Hearing Examiner Proceedings established pursuant to LMC Chapter 2.09 will apply; and
9. A statement that failure to respond to a Notice of Civil Regulatory Order within fifteen days or to appear at a requested hearing is a misdemeanor and may be punished by a fine, imprisonment, or by both such fine and imprisonment; and
10. A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for purposes of explaining mitigating circumstances will result in a default judgment against the Person Responsible for the Violation in the amount of the penalty. In addition, the failure to appear may be referred to the prosecuting attorney for criminal prosecution for failure to respond and/or appear.

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

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

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

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

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

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

1.34.062 – Civil Regulatory Order – Response.

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

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

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

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

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

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

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

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

1.34.070 – Penalties.

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

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

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

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

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

1.34.090 – Civil Regulatory Order – Appeal.

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

1. A brief statement identifying the decision being appealed;

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

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

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

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

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

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

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

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

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

1.34.100 – Abatement by the City.

A. *Summary Abatement.* Whenever a condition constitutes an immediate threat to the public health, public safety, public welfare, or to the environment, the City may summarily and without

prior notice abate the condition. Written notice of such abatement, including the reason(s) for it, shall be given to the Person Responsible for the Violation as soon as reasonably practicable after the abatement.

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

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

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

1.34.130 – Interference with Code Enforcement Unlawful.

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

1.34.140 – Conflicts.

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

1.34.150 – Severability.

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

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

2.09.040 - Jurisdiction-duties—powers.

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

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

1. Appeals of the determinations of the fees and dedications made under Chapters 3.28, 3.40, 3.44, and 19.67 LMC;
2. Appeals of dangerous dog declarations under Chapter 6.09 LMC;
3. Appeals of determinations of eligibility for relocation assistance under Chapter 12.36 LMC;
4. Appeals of the city's determination to suspend services, impose penalties, recover costs, establish compliance schedules, or terminate a user's wastewater and/or collection services, under Chapter 13.12 LMC;
5. Appeals of the city's computation or application of the stormwater management utility service charge or FCI charges or imposition of sanctions or fines under Chapter 13.24 LMC;
6. Challenges of the written interpretations and/or decisions of the public works director made under Chapter 13.28 LMC;
7. Petitions for exemptions from payment of the utility fee or for conversion to exempt status, and appeals of the city's computation of the applicable fees assessed, under Chapter 13.32 LMC;
8. Appeals of the determination of the Community Development Director regarding moving buildings under Chapter 15.05 LMC;
9. Appeals of the determination of the building code official as described in Chapter 15.14 LMC;
10. Appeals of final SEPA threshold determinations and adequacy of final EISs, made under Chapter 16.05 LMC, including related procedural and substantive issues;
11. Appeal of director's final critical area determinations;
12. All applications for shoreline permits or revisions to shoreline permits under Chapter 16.08 LMC, except where the permit or revision is part of a project application being decided upon by a different hearing body;
13. Under Chapter 16.12 LMC, Floodplain Management, all appeals of determinations of the director, and variance requests where not consolidated with an underlying project application being decided upon by a different hearing body;
14. Appeals of the imposition of penalties or of the Community Development Director's decision on mitigation or revision under Chapter 16.16 LMC;
15. Appeals of the administrative approvals described in LMC Sections 17.09.010 and 17.09.020;

16. Appeals of administrative interpretations and approvals under LMC Section 17.11.010;
17. Appeals of civil regulatory orders and civil fines issued under Chapter 1.34 LMC;
18. Appeals of the results of concurrency tests, denials of proposed mitigation for transportation facilities, and any other determinations of capacity or calculations or assessments of any fees made under Chapter 17.15 LMC;
19. Amortization periods for nonconforming signs;
20. All variances from the requirements of Title 19, except variances from the requirements of Chapter 19.33 LMC and LMC Sections 19.22.030, 19.22.040, and 19.22.050, and except where the variance is part of a project application being decided upon by a different hearing body;
21. Appeals of determinations of building official as described in LMC Section 19.42.040;
22. Appeals of administrative interpretations made under Chapter 19.59 LMC; and
23. Appeals of a determination of incomplete abatement under a voluntary correction order made under LMC Section 1.34.050(F) and
24. Other actions as required by this code.

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

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

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

F. The hearing examiner has such other powers as are necessary to carry out the purpose and intent of this chapter, including without limitation to conduct pre-hearing conferences; to require the submittal of information; to schedule and continue hearings; to administer oaths and affirmations; to issue subpoenas; to regulate the course of pre-hearing discovery; to preside

over hearings and the conduct of parties; to question parties and witnesses at a hearing; to rule on all evidentiary, procedural and other matters, including all motions; to maintain order; to establish post-hearing procedures; to issue findings of fact and conclusions of law; to enter final decisions and orders; and to adopt procedures consistent with Section 2.09.050.

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

2.10.070 - Violation—Penalty.

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

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

3.28.180 - Noncompliance—Penalty.

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

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

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

3.12.070 - Penalties.

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

3.36.060 - Penalty.

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

5.02.110 - Violation—Penalty.

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

5.04.040 - Violation—Penalty.

Violation of any provision of this chapter is a misdemeanor.

5.12.080 - Violation—Penalty.

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

8.04.090 - Violation—Penalty.

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

8.16.080 - Penalties.

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

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

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

8.24.050 - Penalty for noncompliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

9.24.070 - Sitting or lying on public sidewalks prohibited.

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

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

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

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

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

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

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

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

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

9.24.120 - Public disturbance noise.

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

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

4. Sound from motor vehicle audio sound systems including, without limitation, tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the vehicle itself.
5. Sound from portable audio equipment, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source and outside the property of the operator.
6. Construction and industrial noises, including but not limited to, motorized construction and equipment operation, hammering, blasting, drilling and sawing in residentially zoned areas, between the hours of ten p.m. and seven a.m., which unreasonably disturb or interfere with the peace, comfort and repose of others; provided that this subsection shall not apply to noises caused by projects required in an emergency to repair public facilities or utilities or to prevent immediate damage or harm to persons or property; and further provided that this subsection shall not apply if the city council grants a variance from the provisions of this subsection for the construction or repair of a public facility or utility upon a finding that it is either necessary or in the public interest for all or a portion of the work to be performed between the hours of ten p.m. and seven a.m. The council may impose such conditions as it deems appropriate upon the granting of a variance.
7. Subsections 3 and 5 shall not apply to regularly scheduled events at parks or the Northwest Washington Fairgrounds, such as public address systems for games and activities or park concerts. Provided, that the foregoing enumeration of acts and noises are not to be construed as excluding other acts and noises which offend the public peace.

B. Penalties.

1. Any person violating this section shall, upon commission of the first such offense, be guilty of having committed a civil infraction and shall be subject to a C-5 penalty (see LMC 1.24.040).
2. Any person violating this section shall, upon conviction for a second or subsequent offense, be guilty of having committed a misdemeanor and shall be as set forth in LMC 9.04.050.

9.24.130 - Public disturbance/barking dogs.

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

B. Penalties.

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

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

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

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

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

First Violation:

C-5 Penalty (see LMC 1.24.040)

Each Subsequent Violation Within

a Twelve (12) Month Period:

Misdemeanor punishable as provided by LMC

9.04.050

9.60.140 - Handbills and posters—Violation—Penalty.

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

10.04.060 - Violation—Penalty.

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

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

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

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

2. Front Street between Third Street and Seventh Street;

3. Other areas signed or appropriately marked as a three hour parking limit.

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

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

1. First offense within any twelve months: a written warning;

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

3. Third and subsequent offense within twelve months:

Third violation within twelve months: C-1 Penalty

Fourth violation within twelve months: C-2 Penalty

Fifth violation within twelve months: C-3 Penalty

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

10.08.100 - Parking prohibited on certain streets.

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

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

10.16.030 - Penalties.

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

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

C. In his discretion, the officer may issue a notice of civil infraction and release the driver upon his signature, or he may require the driver or owner to deposit with the municipal court clerk a sum equal to a C-4 penalty (see LMC 1.24.040) prior to release of the vehicle as a guaranty of appearance in court.

10.18.030 - Violation—Penalty.

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

12.16.065 - Vehicle weight limited when—Exceptions—Penalty.

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

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

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

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

12.24.190 - Violations—Penalty.

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

12.28.060 - Penalty.

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

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

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

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

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

16.12.040 - Penalties for noncompliance.

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

16.16.140 - Offense and penalty.

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

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

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

17.13.010 - Enforcing official—Authority.

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

17.13.020 - General penalty.

Compliance with the requirements of Titles 15 through 19 of this code, shall be mandatory. The provisions for enforcing and obtaining compliance established in Chapter 1.34 shall apply to any

violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

17.13.050 - Civil fines.

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

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

19.49.060 - Content—Violations.

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

19.57.160 - Violations.

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

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

19.59.240 - Violation—Penalty.

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

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

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

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

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

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

~~17.13.040 – Civil regulatory order.~~

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

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

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

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

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

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

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

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

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

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

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney



CDC Meeting Date:	December 5, 2023	
Name of Agenda Item:	Community Development 2024 Initiatives and Goals	
Section of Agenda:	Discussion	
Next Steps Proposed by Staff:		Legal Review:
<input type="checkbox"/> Staff revisions	<input type="checkbox"/> Planning Commission	<input type="checkbox"/> Completed
<input type="checkbox"/> Return to CDC	<input type="checkbox"/> Other Committees	<input type="checkbox"/> Recommended
<input type="checkbox"/> Schedule for full Council	<input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Not Required
Attachments:		
Building Division and Planning Division Narratives		
Summary Statement:		
<p>Attached are the Department's narratives for the Building and Planning Divisions. Goals and initiatives for the 2024 year are included.</p> <p>Responding to the State's legislative requirements, collecting public input and moving the Comprehensive Plan update forward will dominate in the Planning Division while the Building Division will be focused on the implementation of new permitting software.</p>		
Recommended Action:		
Review and discuss.		

GENERAL FUND

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Division

Mission Statement:

The Community Development Department will serve the community and its elected and appointed officials by providing accurate information and informed recommendations to facilitate decision-making and the orderly growth of the community.

Services Provided:

Long Range and Current Planning
Code Enforcement Administration
Economic Development
Public Participation / Interface

2023 Highlights:

- Completion of the Community Facilities Code and ending the associated moratorium.
- Completion and adoption of the Buildable Lands Report.
- Urban Forestry Plan completed for Dickinson Park with DNR Grant.
- Initiate contract scoping for work on the 2025 Comprehensive Plan Update.
- Comprehensive Plan - Public Participation Plan created and adopted.
- Comprehensive Plan - Collaborated with Whatcom planners regarding scope of work, UGA review, and cost sharing for cooperative comprehensive planning tasks. Completed associated contract.
- On-board new administrative assistant to assist in application intake, receive phone calls, and monitor web-site updates.
- Modifications to the Planning Department layout to accommodate new employees and facilitate a better work environment.
- Retired JTB from Permit Tech Position after 33 years and on-board replacement.

Planning Application Rates

Intake of Land Use Applications				
	2020	2021	2022	2023
Annexations	0	1	2	2
Appeals	2	0	2	0
Conditional Use Permits	3	4	2	1
Design Review Board Applications	26	31	15	29
Long Plat Applications	1	0	3	0
Short Plat Applications	6	12	11	4
Lot Line Adjustments	2	7	10	8
Planned Residential Development	2	0	0	0
Rezone	5	1	2	2
Comprehensive Plan Amendments	0	2	2	0
Vacates	2	1	0	1
Development Agreements	0	2	0	1
SEPA Applications	17	21	14	8
Development Standards Variance	1	1	0	1
Shoreline Substantial Development	1	3	1	1
Zoning Text Amendments	2	0	1	4
Total	70	86	65	62 (as of 10/31/23)

Planning Department Staffing

Planning - Staffing Levels			
	2021	2022	2023
Employees (Full Time Equivalents)	2.75	2.87	3.37

2024 Staffing Levels (no increase proposed)	Full Time Equivalents
Director	1.00
Planner – Current	0.87
Planner – Long-Range	1.00
Administrative Assistant	0.50
Total	3.37

2024 Planning Division Goals and Objectives

- Comprehensive Plan scoping and public participation
- Permit tracking software implementation in multiple departments. Usage break-down roughly expected to be:

<i>40% Building</i>	<i>10% Fire</i>
<i>25% Planning</i>	<i>5% City Administration</i>
<i>15% Code Compliance</i>	<i>5% Police</i>
- Facilitate annexations in the Pepin Creek and West Lynden Sub-areas.
- Contract with a planning consultant(s) to begin work on the 2025 Comprehensive Plan Update.

Budget Comparison

Planning – Budget Comparison (does not include the Building Division)				
2021 Actual	2022 Actual	2023 Budget	2023 Actual	2024 Proposed Budget (includes \$130,000 in software for multiple departments)
\$479,340	\$509,396	\$498,841	\$441,383 (as of 10/31/23)	\$716,708

GENERAL FUND

COMMUNITY DEVELOPMENT DEPARTMENT

Property Development (Building) Division

Mission Statement:

The Building Division of the Community Development Department serves the Lynden community by providing fair, efficient, and professional services in issuing building permits, performing building inspections, and reviewing plans for building contractors and property owners.

Services Provided:

- Educate* Provide code information to building contractors and homeowners.
- Review* Provide and coordinate efficient and thorough plan review.
- Permit* Process and track building permits to completion. Collect fees.
- Inspect* Perform construction inspections in a timely way; coordinate with multiple City Departments to assure compliance with applicable codes and resolve disputes in a reasonable manner.

2023 Highlights:

- Integrate new part-time inspector into daily inspection schedule.
- Implement third party review policies.
- On-boarded new permit technician to handle permit intake and routing, inspection scheduling.
- Provide training and certification opportunities for building inspectors.
- Permit review and approval of significant commercial development of 61,570 square feet along the Guide Meridian corridor which includes a 66-room hotel and a gas station with trucking facilities.

Building Division Statistics

Building Division: Construction Value Comparison				
Estimated Value by Permit Type	2020	2021	2022	2023 as of 10/31/2023
Commercial / Industrial Construction	\$6,937,500	\$24,493,000	\$35,553,000	\$10,207,800
Single Family Residential Construction	\$10,035,100	\$17,933,700	\$35,802,700	\$13,370,000
Attached Housing Units / Multi-Family	\$7,042,000	\$12,367,200	\$12,726,800	\$5,150,000

Housing Units: Permits Issued				
	2020	2021	2022	2023 as of 10/31/23
New single-family home permits	74	44	94	40
New attached housing units	63	93	121	33
Totals	137	137	215	73

Building Division Staffing

Building Division Staffing Levels				
	2021	2022	2023	2024
Employees (Full Time Equivalents)	1.5	2.25	3.0	3.0

2024 Staff Positions	Full Time Equivalents
Building Official	1.0
Building Inspector	0.5
Building Permit Tech	1.0
Administrative Assistant	0.5
Total	3.0

2024 Goals and Objectives:

- Implement permit tracking software.
- Broaden website offerings and create informational handouts for permit applicants.
- Implement International Building Code update.
- On-board new administrative assistant to handle inspections scheduling and assist in permit intake, phone calls, and web-site updates.
- Continue to provide training and certification opportunities for building inspectors.

Budget Comparison

Building Division Budget Comparison				
2021 Actual	2022 Budget	2023 Budget	2023 Actual	2023 Proposed Budget
\$184,206	\$318,067	\$313,252	\$240,062 (as of 10/31/23)	\$276,168

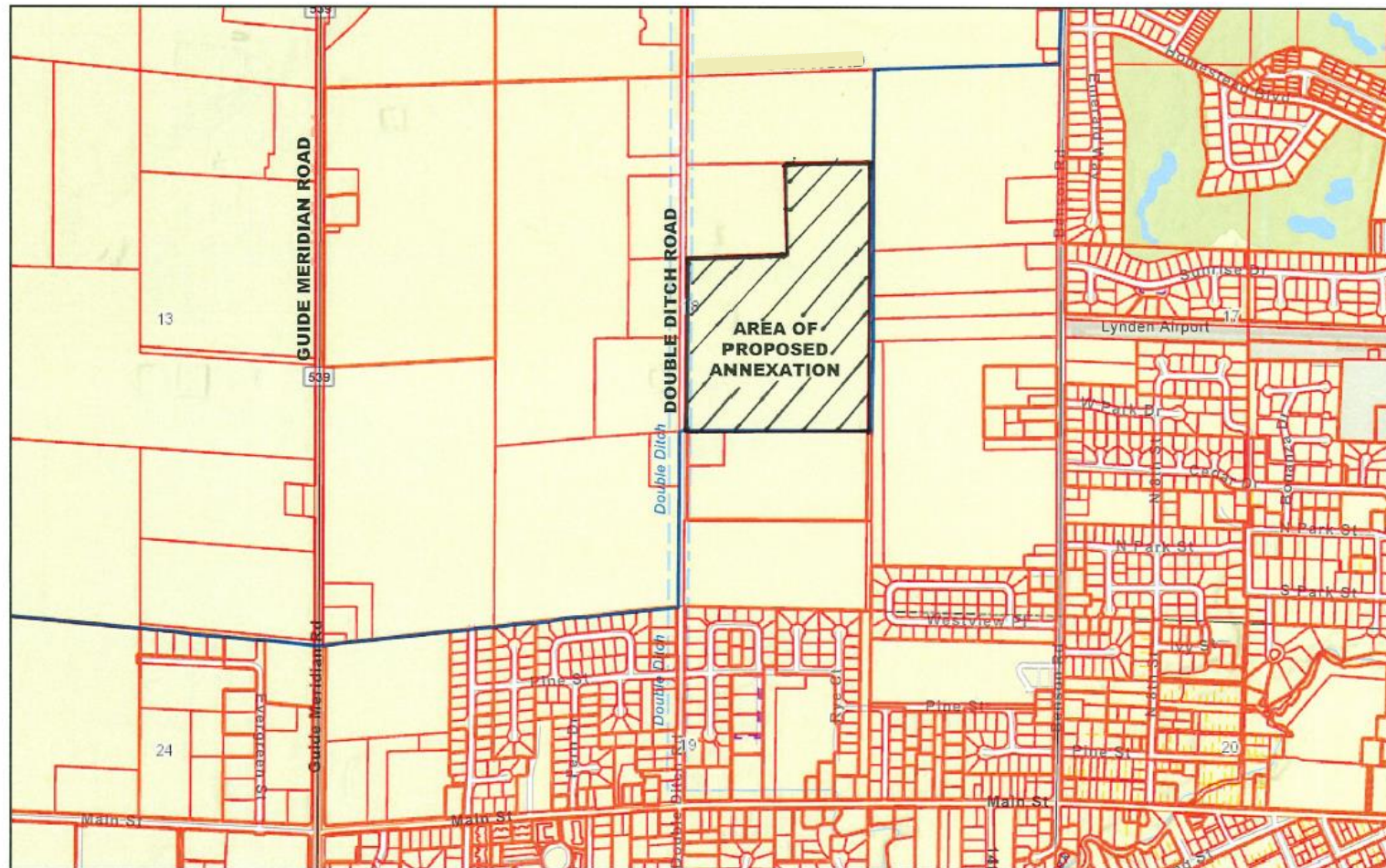
CITY OF LYNDEN

EXECUTIVE SUMMARY



<u>Meeting Date:</u>	December 5, 2023
<u>Name of Agenda Item:</u>	Pepin Creek Subarea Update
<u>Section of Agenda:</u>	Informational
<u>Department:</u>	Community Development Department
<u>Attachments:</u>	
Transpo Task Scope re Roadway and Trail Network in the Pepin Creek Subarea	
<u>Summary Statement:</u>	
<p>The Pepin Creek Subarea is slated to accommodate the next phases of residential growth within the City of Lynden. Extensive study regarding infrastructure needs and feasibility has been done when writing the associated plan for growth in this area. In August of 2021 a revised Pepin Creek Subarea Plan which was adopted. Steps are currently being taken to continue to refine these adopted concepts into infrastructure designs and/or private development obligations. Recent work includes:</p> <ol style="list-style-type: none"> 1. City purchase of property to dictate the alignment of Pepin Parkway with Sunrise Drive.(Public Works Department) 2. City-approved development agreement to secure the right-of-way for the alignment of Pepin Parkway where it intersects Benson Road. (Comm Dev Department) 3. Benson Road improvement plans. (Public Works Department) 4. Sewer Planning activities. (Public Works Department) 5. Creek channel development and funding. (City Administration and Public Works Department) 6. Transportation and trail planning. (Comm Dev Department) 7. Potential annexation of an additional 45 acres (Weg Property) to go before Council Jan. 2024. (Comm Dev Department) 	
<u>Recommended Action:</u>	
No action needed.	

EXHIBIT A



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

Subdivisions
 Lots
 Encumbrances
 Tax Parcels
 Sections
 City Boundaries

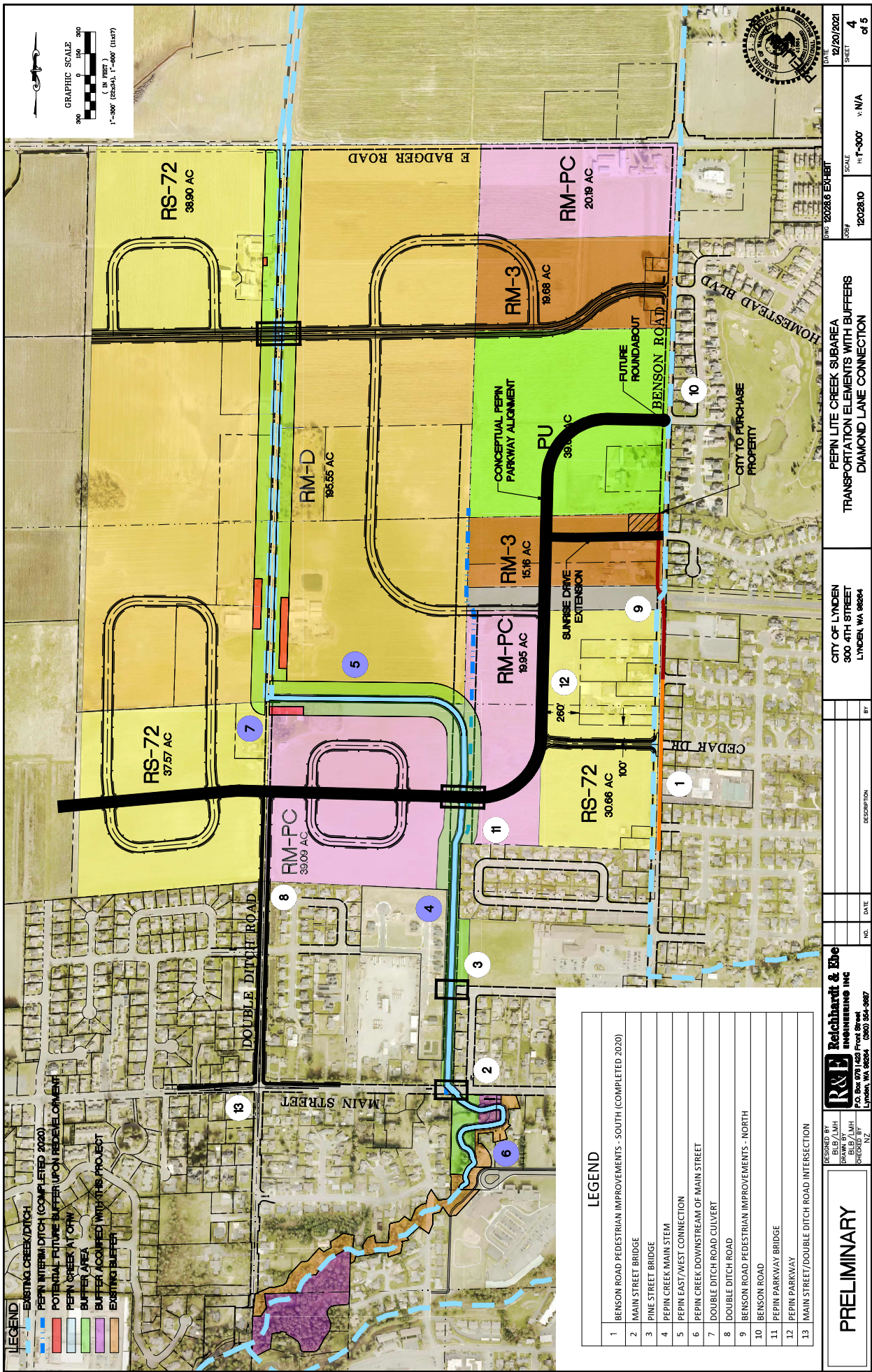
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Whatcom, Esri, NASA, NOAA, USGS, FEMA, Esri Community Maps Contributors, Whatcom County, WA State Parks GIS, Esri, HERE, Garmin, Web AppBuilder for ArcGIS

Esri, NASA, NOAA, USGS, FEMA | Esri Community Maps Contributors, Whatcom County, WA State Parks GIS, © OpenStreetMap contributors, Esri, HERE, Garmin, GeoEye, GeoTechnologies, Inc., Mapbox, USGS, Bureau of Land Management, EPA, NPS, US



**Service Agreement
City of Lynden
On-Call Transportation Services**

Task Order #02

Date	September 19, 2023
Purpose	The City of Lynden is seeking assistance in updating the Pepin Subarea roadway network plan that is generally consistent with the Pepin Creek Subarea Plan but updated to reflect the latest available information on projects and developments in the area. The following identifies our proposed scope of services, schedule, and budget for assisting the City.
Scope of Service	<p>Task 1 – Update Pepin Subarea Roadway Network and Access Map</p> <p>Transpo will update the future network map that is found in the Pepin Creek Subarea Plan (Berk, July 2021; see Exhibit 5 “Circulation in the Pepin Creek Subarea”) to show updated roadway alignments, roadway classifications, major intersections, and anticipated access point for parcels within the subarea. The City has already provided a mark-up version of this map for reference.</p> <p>Transpo will work with the city to document if any street cross-section assumptions or other elements shown in the 2021 Subarea Plan need to be updated in accordance with the map update.</p> <p>Task 2 – Confirm Traffic Forecasts and Intersection Control</p> <p>Transpo will update traffic forecasts for subarea roadways as well as major intersections. Transpo will then confirm anticipated intersection traffic controls at these intersections. The intersection of Main Street/Double Ditch Road is anticipated to be studied in finer detail as part of this task. Other than intersection controls, the main purpose of this task is to confirm that the overall functional classification of new roadways is appropriate given anticipated volumes.</p> <p>Consultant Deliverables</p> <ul style="list-style-type: none"> • <i>Technical Memorandum that presents maps and supporting text explaining changes to the Pepin Creek Subarea Plan.</i> <p>Assumptions</p> <ul style="list-style-type: none"> • <i>Deliverables will later be incorporated into City’s Comprehensive Plan update.</i> • <i>Assumptions and findings will attempt to be compatible with likely future planning efforts.</i> • <i>May need to coordinate with R&E (City’s civil engineering consultant) on any design-related questions.</i>
Budget Estimate	Up to \$15,000
Schedule	<ul style="list-style-type: none"> • Mid-November: First draft of technical memorandum. • Mid-January: Final draft of technical memorandum

Agency Signature: _____



Date: _____

9.19.2023