



Mayor
Scott Korthuis

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

City Council Agenda - Regular Meeting
City Hall Annex, 205 4th Street
February 19, 2019

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Approval of Minutes

1. Draft February 4, 2019 Council Minutes

Items from the Audience
Scheduled

Unscheduled (20 Minutes)

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

Consent Agenda

2. Approval of Payroll and Claims
3. Emergency Declaration- Incident #19-0410-Severe Winter Storm Weather
4. Lexipol Policy Agreement
5. Set the Public Hearing Date-Ord 1574 re Pepin Creek Zoning Amendment
6. Set the Public Hearing Date-Ord 1575 re Pepin Creek Subarea
7. Set the Public Hearing Date-Ord 1576 re Residential Mixed Density (RMD)
8. Set the Public Hearing Date-Ord 1577 re Pepin Creek Moratorium Extension

Public Hearing

Unfinished Business

9. Latecomer Agreement N Prairie 7 Sanitary Sewer Extension

New Business

Other Business

[10.](#) Draft Public Works Committee Meeting Minutes – February 6, 2019

[11.](#) Calendar

Executive Session

Adjournment

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Administration	
Contact Name/Phone:	Pam Brown 360.255.7085	
Council Committee Review:		
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Other: N/A	
Attachments:		
Draft Minutes- February 4, 2019		
Name of Agenda Item:		
Draft Minutes- February 4, 2019		
Summary Statement:		
See next page.		
Recommended Action:		
For Council review.		

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

February 4, 2019

1. CALL TO ORDER

Mayor Korthuis called to order the February 4, 2019 regular session of the Lynden City Council at 7:00 p.m. at the Lynden City Hall Annex.

ROLL CALL

Members present: Mayor Scott Korthuis and Councilors Gary Bode, Ron De Valois, Brent Lensen, Nick Laninga, Kyle Strengholt, and Mark Wohlrab.

Members absent: Gerald Kuiken, absent with notice.

Staff present: HR Manager, Vanessa Bronsema, Police Chief John Billester, Public Works Director Steve Banham, City Clerk Pam Brown, and City Attorney Bob Carmichael.

OATH OF OFFICE - None

APPROVAL OF MINUTES

Councilor Strengholt moved and Councilor Wohlrab seconded that the minutes of January 22, 2019 be approved as presented. Motion approved on a 6-0 vote.

ITEMS FROM THE AUDIENCE

Scheduled: None

Nonscheduled: None

2. CONSENT AGENDA

Approval of Payroll Disbursed – January 1-15, 2019

Paychex EFT	\$280,926.67
City of Lynden EFT	\$65,441.26
Warrant Liability	\$55,101.39

\$398,469.32

Approval of Payroll Disbursed – January 16-31, 2019

Paychex EFT	\$274,217.67
City of Lynden EFT	\$62,641.93
Warrant Liability	\$56,753.91

\$393,613.51

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

Approval of Claims – February 5, 2019

Manual Warrants No.	<u>72252</u>	through	<u>72254</u>		
			<u>& 72382</u>		\$245,180.50
EFT Payment Pre-Pays					\$567,078.15
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>72383</u>	through	<u>72419</u>		\$107,241.87
EFT Payments					0.00
				Sub Total	\$107,241.87
				Total Accts. Payable	\$919,500.52

Councilor Bode moved and Councilor De Valois seconded to approve Payroll and Claims which were added to the Consent Agenda at the council meeting. Motion approved on 6-0 vote.

3. PUBLIC HEARING

North Prairie Phase 7, Sanitary Sewer Extension Latecomer's

On January 22, 2019 Council set a Public Hearing date of February 4, 2019 to hear comments on the North Prairie Phase 7, Sanitary Sewer Extension Latecomer's Application.

Developer Bob Libolt submitted a complete Latecomer's application on December 13, 2018. The assessment would only occur if the benefitting properties develop and connect to the City Sewer System within 20 years from the date the latecomer's agreement is recorded. The 34 benefitting property owners were notified about the proposed assessment on December 26, 2018.

Mayor Korthuis opened the Public Hearing at 7:05 p.m. with a presentation from Public Works Director Steve Banham. The following property owners participated in a 35-minute question and answer session with members of the council and staff:

- Kalise Hastings 1421 Kamm Road
- Ted Linde & Suzanne Linde 1421 Kamm Road
- Bill Gorsuch 1420 Kamm Road
- Arnold van Dyken 1436 Kamm Road
- Darryn Kleyn 8872 Northwood Road
- Bob Libolt 125 Rosemary Way

Mayor Korthuis closed the Public Hearing at 7:40 p.m.

Councilor Bode moved and Councilor De Valois seconded approve the North Prairie Phase 7 Sanitary Sewer Extension Latecomer's Agreement for Mayor's signature and recording. Motion approved on 6-0 vote.

CITY OF LYNDEN



CITY COUNCIL MINUTES OF REGULAR MEETING

4. UNFINISHED BUSINESS - None

5. NEW BUSINESS

Police Officers Collective Bargaining Agreement 2018-2021

On October 1, 2018 the City reached a tentative agreement for the labor contract with the commissioned Police Officers represented by the Teamsters Local 231. The Union voted to ratify the contract on January 14, 2019. During the document revision process further changes were made to Article 8 (Sick Leave) to comply with recent changes to Washington State's minimum wage and sick leave law; those changes are captured in the supplemental Memorandum of Understanding (MOU).

The City Council has been provided a "red-lined" version of the documents to see the changes from the previous contract separate from the final documents included here, which are prepared for the Mayor's signature.

Some key components of the contract include:

- Four (4) year term, effective Jan. 1, 2018 – Dec. 31, 2021.
- Inclusion of the supervisory Lieutenant position.
- 14.45% cost of living adjustment (COLA) / wage increase over the life of the contract.
- Employee health care premium contribution of 10% (monthly), with a monthly "cap" removed in 2021.
- \$3,000 per officer for health care premium offset in 2018 and 2019.

The expected cost of the contract over the four-year term is \$460,000 for wages and health insurance benefits. Other benefits, such as retirement contributions, are not included in this estimate.

Councilor Strengholt moved and Councilor Wohlrab seconded to approve the Collective Bargaining Agreement, including the Memorandum of Understanding for sick leave and authorize the Mayor's signature. Motion approved on 6-0 vote.

OTHER BUSINESS

Council Committee Updates

Councilor Lenssen reporting for the Community Development Committee, involving the discussion of:

- Lynden's 2-year supply with the current rate of building
- Park & Trail Master Plan and the online survey
- Pepin Creek project costs, consultant costs, where the city can expect funding
- Downtown sidewalks, signs and sidewalk sign boards
- Short-term vacation rentals
- Hearing Examiner
- Design Standards related to new zoning and zoning text changes

HR Manager Vanessa Bronsema will soon confirm a date for the Council retreat. The two dates currently being considered are April 18 and April 23rd. She will have more information in a few days.



7. EXECUTIVE SESSION

Council recessed into Executive Session at 8:00 p.m. a potential acquisition of real estate. It was anticipated that the Executive Session would last approximately 10 minutes and that a decision would be made.

The Council meeting reconvened at 8:12 p.m.

Councilor De Valois moved and Councilor Strengholt seconded that Council authorize the Mayor to sign the Purchase and Sale Agreement, Interim Access Easement (30"), the Temporary Construction Easement and the Boundary Line Agreement and sign documents associated with closing with the School District for property needed for City extension of Kaemingk Trail along Fishtrap Creek west of Depot Road after the School District has authorized, signed and provided the documents to the satisfaction of the City Attorney. Motion approved on 6-0 vote.

8. ADJOURNMENT

The February 4, 2019 regular session of the Lynden City Council adjourned at 8:13 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

DRAFT

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Finance	
Contact Name/Phone:	Anthony Burrows (360) 354-2829	
Council Committee Review:		
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input checked="" type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	
Attachments:		
None		
Name of Agenda Item:		
Approval of Payroll and Claims		
Summary Statement:		
<p>RCW 42.24.180 sets forth the conditions for issuance of warrants or checks before Council approval. The auditing officer and the City officers designated to sign the warrants shall have an official duty for the faithful discharge of his or her duties.</p> <p>The City Council has adopted contracting, hiring, purchasing, and disbursing policies that implement effective internal controls; and shall provide for its review of the documentation supporting claims paid for its approval of all warrants issued in payment of claims and/or payroll at regularly scheduled public meetings within one month of issuance.</p> <p>The City Council shall require that if, upon review, it disapproves some claims and/or payroll, the auditing officer and the officer designated to sign the warrants or checks shall jointly cause the disapproved claims to be recognized as receivables and to pursue collection diligently until the amounts disapproved are collected or until the City Council is satisfied and approves the claims and/or payroll.</p> <p>The Finance Committee and/or full City Council may stipulate that certain kinds or amounts of claims and/or payroll should not be paid before the City Council has reviewed the supporting documents.</p>		
Recommended Action:		
Approve the payment of City Payroll and Claims.		

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Administration	
Contact Name/Phone:	Mike Martin 360-255-7109	
Council Committee Review:		
<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		
Attachments:		
Emergency Declaration Lynden Municipal Code Chapter 2, Section 10.060		
Name of Agenda Item:		
Emergency Declaration- Incident #19-0410- Severe Winter Storm Weather		
Summary Statement:		
See attached Emergency Declaration		
Recommended Action:		
Council approval (by motion) of the Emergency Declaration- Incident #19-0410- Severe Winter Storm Weather document.		

CITY OF LYNDEN



ADMINISTRATION DEPARTMENT
Scott Korthuis, Mayor
(360) 354 - 1170

CITY OF LYNDEN EMERGENCY DECLARATION

WHEREAS, Governor Inslee and the Whatcom County Executive have issued declarations of Emergency for the State and for Whatcom County and incident number #19-0410 has been assigned based on the current severe winter storm weather; and

WHEREAS, the City Administrator has reported to the Mayor that beginning on February 8th and continuing to this date, heavy snowfall has resulted in an emergency response by City personnel to keep essential City streets, parking lots, drainage, and walkways clear, and,

WHEREAS, this incident is a threat to public safety, and demands immediate action, and;

WHEREAS, property could be damaged unless further efforts are taken to reduce that threat, and;

WHEREAS, this constitutes an emergency as defined by the Whatcom County Comprehensive Emergency Management Plan and necessitates the utilization of powers granted pursuant to the City Emergency Management Plan and RCW 38.52.070(2); therefore,

BE IT PROCLAIMED BY THE MAYOR that an emergency exists in Lynden; therefore, City departments are authorized to do the following:

- Enter contracts and incur obligations necessary to combat such emergency situations to protect the public, and;
- Take necessary actions to mitigate property damage; and,
- Other actions, as deemed appropriate by the City Administrator or his designee.

Each department is authorized to exercise the powers vested under this proclamation in the light of the exigencies of an extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law (excepting mandatory constitutional requirements). This Proclamation shall remain in effect until the issuance of a Termination Proclamation by the Mayor.

Dated this 12th day of February 2019.



Scott Korthuis, Mayor

2.10.060 - Emergency and disaster powers of the mayor.

In the event of a proclamation of a disaster as provided in this chapter, or upon the proclamation of a state of emergency by the Governor, the mayor is empowered:

- A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the city council;
- B. To obtain vital supplies, equipment, and such other properties found lacking and needed for the protection of the life and property of the people and to bind the city for the fair value thereof, and, if required immediately, to commandeer the same for public use;
- C. To control and direct the efforts of the emergency management organization of the city for the accomplishment of the purposes of this chapter;
- D. To require emergency services of any city officer or employee, and, in the event of the proclamation of a state of extreme emergency by the Governor in the region in which this city is located, to command the aid of as many citizens of this city as may be deemed necessary in the execution of the mayor's duties; such persons to be entitled to all privileges, benefits and immunities as are provided by state law or registered emergency workers;
- E. To requisition necessary personnel or material of any city department or agency;
- F. To execute all of the special powers conferred upon the mayor by this ordinance, or by any other statute, agreement or lawful authority, as necessary;
- G. To establish and maintain continuity of government so as to establish provided exemptions to notice requirements of the Open Public Meetings Act and ensure proper succession of authority as is established in the city emergency operations procedures.

(Ord. 1037 § A(part), 1997).

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Department:	Police	
Contact Name/Phone:	Lt. Jeremy Bos / 360-255-7792	
Council Committee Review:		
<input type="checkbox"/> Community Development	<input checked="" type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	
Attachments:		
Lexipol Solutions Proposal, Lexipol Agreement for Use of Subscription Material		
Name of Agenda Item:		
Lexipol Policy Agreement		
Summary Statement:		
As part of the 2019 Police Budget, the Police Department proposed transitioning to the Lexipol Policy System for Police Department Policy. The Lexipol System agreement includes an up-to-date, legally defensible Policy Manual, Daily Training Bulletins, Policy Updates, Web-based Delivery Platform and Mobile App, Reports, and a Support Package.		
Recommended Action:		
That the City Council approve the Agreement and authorize the Mayor's signature on the Agreement.		



SOLUTIONS PROPOSAL



PREPARED FOR:
Lynden Police Department
Lieutenant Jeremy Bos
bosj@lyndenwa.org
(360) 354-2828

PREPARED BY:
Rosemarie Curran
rcurran@lexipol.com
(949) 272-5818

2801 Network Boulevard, Suite 500
Frisco, Texas 75034
(631) 786-8643
www.lexipol.com

Executive Summary

Public safety agencies today face challenges of keeping personnel safe, reducing liability and maintaining a positive reputation. Add to that the dynamically changing legislative landscape and evolving best practices, and even the most progressive, forward-thinking agencies can struggle to keep up.

That is why Lexipol is pleased to present Lynden Police Department with a proposal for a customized policy management, update and training solution.

Our program is designed to save you time and money while protecting your personnel. Our team of public safety lawyers and policy experts continually monitor national and Washington-specific policy changes. We then use these updates to help provide the content and training your department needs to minimize risk and effectively serve your community.

AGENCY GOALS

Lynden Police Department is looking for a way to access comprehensive policies to limit agency risk and enhance personnel safety. By using Lexipol, you will achieve peace of mind knowing your policies are up-to-date and legally defensible. The incorporated policy training component reinforces your staff's understanding of policies and provides individual training acknowledgement.

Once you have high-quality policies in place, you want to be sure your personnel use them. The Lexipol program offers online access to your agency's policies through a web-based platform and mobile app. This flexibility allows your personnel to easily reference policies and complete training in the field. Using Lexipol's program will provide Lynden Police Department with:

- Policies that reflect up-to-date industry standards and best practices
- Content specific to the laws and practices of Washington
- Daily scenario-based training that reinforces your agency's policies
- Timely updates in response to new legislation and case law

THE LEXIPOL ADVANTAGE

Lexipol was founded by public safety experts who saw a need for legally defensible policy content that was continually monitored and updated based on legislative changes. Since the company launch in 2003, Lexipol has grown to represent more than 3,000 public safety agencies across the United States.

Lexipol is the only company with public safety professionals, attorneys and subject matter experts working together to provide essential policies and policy management tools, from continuous updates to mobile access to daily training. Our legal and content development teams follow a rigorous multi-step process to evaluate content for new policies and policy updates, reviewing thousands of pieces of legislation each year.

Agencies that use our policy service have clear, effective policy manuals that reflect the true values and philosophy of their agency. Proven benefits of using the Lexipol system include reduced risk and cost associated with litigation, reduced time spent developing and maintaining policy, and an increased ability to focus resources on other agency priorities. We look forward to working with Lynden Police Department to realize these same benefits.

Scope of Services

Policy Manual

Legally defensible, up-to-date policies are the foundation for consistent, safe public safety operations and are key to lowering liability and risk. Lexipol's comprehensive policy manual covers all aspects of your agency's operations.

- More than 155 policies researched and written by public safety attorneys and subject matter experts
- Policies based on State and federal laws and regulations as well as nationwide best practices
- Content customized to reflect your agency's terminology and structure

Daily Training Bulletins (DTBs)

Even the best policy manual lacks effectiveness if it's not backed by training. Lexipol's Daily Training Bulletins are designed to help your personnel learn and apply your agency's policy content through 2-minute training exercises.

- Scenario-based training ties policy to real-world applications
- Understanding and retention of policy content is improved via a singular focus on one distinct aspect of the policy
- Each Daily Training Bulletin concludes with a question that confirms the user understood the training objective
- Daily Training Bulletins can be completed via computers or from smartphones, tablets or other mobile devices
- Reports show completion of Daily Training Bulletins by agency member and topic

Policy Updates

Lexipol's legal and content development teams continuously review state and federal laws and regulations, court decisions and evolving best practices. When needed, we create new and updated policies and provide them to your agency, making it simple and efficient to keep your policy content up to date.

- Updates delivered to you through Lexipol's web-based content delivery platform
- Changes presented in side-by-side comparison against existing policy so you can easily identify modifications/improvements
- Your agency can accept, reject or customize each update

Web-Based Delivery Platform and Mobile App (Knowledge Management System)

Lexipol's online content delivery platform, called KMS, provides secure storage and easy access to all your policy and training content, and our KMS mobile app facilitates staff use of policies and training completion.

- Ability to edit and customize content to reflect your agency's mission and philosophy
- Efficient distribution of policies, updates and training to staff
- Archival and easy retrieval of all versions of your agency's policy manual
- Mobile app provides in-the-field access to policy and training materials

Reports

Lexipol's Knowledge Management System provides intuitive reporting capabilities and easy-to-read reports that enhance command staff meetings and strategic planning.

- Track and report when your personnel have acknowledged policies and policy updates

- Produce reports showing completion of Daily Training Bulletins
- Sort reports by agency member, topic and other subgroups (e.g., shift, assignment)
- Reduce the time your supervisors spend verifying policy acknowledgement and training completion

Support+ Package

Lexipol's Support+ Package provides a discounted, customizable solution for agencies looking for one-on-one policy implementation support. Packages are offered in 50-hour increments with a flexible scope of work and are offered at a discount off Lexipol's standard hourly rate for professional services.

Prepared By: Rosemarie Curran
 Phone: (949) 272-5818
 Email: rcurran@lexipol.com

Quote #: Q-01344-1
 Date: 1/24/2019
 Valid Through: 4/24/2019

Overview

Lexipol is America’s leading source of state-specific policy and training solutions that reduce risk, lower litigation costs and improve personnel safety in public safety agencies. The services proposed below are designed to guide your agency in providing up-to-date, legally defensible policy and training content to your personnel.

Subscription

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Law Enforcement Policy Manual & Daily Training Bulletins (12 Months)	USD 7,304.00	USD 213	USD 213.00	USD 7,091.00
	Subscription Line Items Total			USD 213.00	USD 7,091.00
				USD 213.00	USD 7,091.00
				Subscription Discount:	USD 213.00
				Subscription TOTAL:	USD 7,091.00

Implementation Support+ Discount - Receiving Contract by 2/8/19

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Law Enforcement Support+ Package (50 Hours)	USD 6,950.00	USD 1950	USD 1,950.00	USD 5,000.00
	One-Time Line Items Total			USD 1,950.00	USD 5,000.00
				USD 1,950.00	USD 5,000.00
				Implementation Support+ Discount - Receiving Contract by 2/8/19 Discount:	USD 1,950.00
				Implementation Support+ Discount - Receiving Contract by 2/8/19 TOTAL:	USD 5,000.00

*Law Enforcement pricing is based on 14 Law Enforcement Sworn Officers.

Discount Notes

Implementation Discount Receiving contract by February 8, 2019



AGREEMENT FOR USE OF SUBSCRIPTION MATERIAL

Agency's Name: Lynden Police Department
Agency's Address: 203 19th St
Lynden, Washington 98264

Attention: Lieutenant Jeremy Bos

Lexipol's Address: 2801 Network Boulevard, Suite 500
Frisco, Texas 75034

Attention: Rosemarie Curran

Effective Date: _____
(to be completed by Lexipol upon receipt of signed Agreement)

The Agreement for Use of Subscription Material is between Lexipol, LLC, a Delaware limited liability company ("**Lexipol**"), and the Agency identified above. The Agreement consists of (a) this cover sheet; (b) **Exhibit A** (Subscriptions Being Purchased and Subscription Fees) attached to this cover sheet, (c) **Exhibit B** (General Terms and Conditions) attached to this cover sheet, and (d) **Exhibit C** (Scope of Services) attached to this cover sheet. Capitalized terms that are used in Exhibit A and not defined therein shall have the respective meanings given to them in Exhibit B.

Agency

Signature: _____

Print Name: _____

Title: _____

Date Signed: _____

Lexipol

Signature: _____

Print Name: Van Holland

Title: Chief Financial Officer

Date Signed: _____

SUBSCRIPTIONS BEING PURCHASED AND SUBSCRIPTION FEES

Agency is purchasing the following:

Subscription

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Annual Law Enforcement Policy Manual & Daily Training Bulletins (12 Months)	USD 7,304.00	USD 213	USD 213.00	USD 7,091.00
	Subscription Line Items Total			USD 213.00	USD 7,091.00
				USD 213.00	USD 7,091.00
Subscription Discount:					USD 213.00
Subscription TOTAL:					USD 7,091.00

Implementation Support+
Discount - Receiving Contract by
3/1/2019

QTY	DESCRIPTION	UNIT PRICE	DISC	DISC AMT	EXTENDED
1	Law Enforcement Support+ Package (50 Hours)	USD 6,950.00	USD 1950	USD 1,950.00	USD 5,000.00
	One-Time Line Items Total			USD 1,950.00	USD 5,000.00
				USD 1,950.00	USD 5,000.00
Implementation Support+ Discount - Receiving Contract by 3/1/2019 Discount:					USD 1,950.00
Implementation Support+ Discount - Receiving Contract by 3/1/2019 TOTAL:					USD 5,000.00

*Law Enforcement pricing is based on 15 Law Enforcement Sworn Officers.

Discount Notes

Subscription Discount to reflect 2018 pricing quoted Implementation Discount Receiving contract by March 1, 2019

EXHIBIT B

GENERAL TERMS AND CONDITIONS

1. **Definitions.** For purposes of this Agreement, each of the following terms will have the meaning indicated in this Section:

1.1 **Agency's Account.** "**Agency's Account**" means the account by which Agency accesses the Subscription Materials.

1.2 **Agreement.** "**Agreement**" means (a) the cover sheet to which these General Terms and Conditions are attached, (b) Exhibit A (Subscriptions and Services Being Purchased and Related Fees) attached to that cover sheet, (c) these General Terms and Conditions, and (d) Exhibit C (Scope of Services).

1.3 **Initial Term/Contract Year.** "**Initial Term**" means the twelve-month period commencing on the Effective Date and "**Contract Year**" means each twelve-month period commencing on each anniversary of the Effective Date, except as may otherwise be modified by Section 2.1 Term below.

1.4 **Derivative Work.** "**Derivative Work**" means a work that is based on the Subscription Material or any portion thereof, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the Subscription Material or any portion thereof may be recast, transformed, or adapted. For purposes of this Agreement, a Derivative Work also includes any compilation that incorporates any portion of the Subscription Material. Further, "**Derivative Work**" includes any work considered a "derivative work" under United States copyright law.

1.5 **Effective Date.** "**Effective Date**" means the date specified on the cover sheet to which these General Terms and Conditions are attached.

1.6 **Subscription Materials.** "**Subscription Materials**" means the policy manuals, supplemental policy publications, daily training bulletins and other materials provided by Lexipol to Agency from time to time during the term of this Agreement under the subscriptions purchased by Agency as specified in Exhibit A.

2. **Term and Termination.**

2.1 **Term.** This Agreement is effective upon the execution and delivery of this Agreement by both Lexipol and Agency, and shall continue in effect until the expiration of the Initial Term; provided, however, that the term of this Agreement will automatically be extended for successive one-year periods thereafter (each a Contract Year), unless either party gives written notice to the other party to the contrary not less than thirty (30) days prior to the expiration of the Initial Term or the then current Contract Year, as the case may be. Notwithstanding the foregoing, however, this Agreement will be subject to termination as provided in Section 2.2 below.

2.2 **Termination.** This Agreement may be terminated by either party, effective immediately, (a) in the event that the other party fails to discharge any obligation or remedy any default under this Agreement for a period of more than thirty (30) calendar days after it has been given written notice of such failure or default; or (b) in the event that the other party makes an assignment for the benefit of creditors or commences or has commenced against it any proceeding in bankruptcy, insolvency or reorganization pursuant to the bankruptcy laws of any applicable jurisdiction.

2.3 **Effect of Expiration or Termination.** Upon the expiration or termination of this Agreement, all of the rights granted to Agency by this Agreement to the subscriptions identified on Exhibit

A shall automatically terminate. The termination or expiration of this Agreement shall not, however, relieve either party from any obligation or liability that has accrued under this Agreement prior to the date of such termination or expiration. The right to terminate this Agreement pursuant to Section 2.2 above shall be in addition to, and not in lieu of, any other remedy, legal or equitable, to which the terminating party shall be entitled at law or in equity. The provisions of Sections 1 (Definitions), 4 (Copyright; Derivative Works; Lexipol's Ownership), 5 (Right to Use; Limitations on Use of Subscription Material and Derivative Works), 7 (Privacy Policy), 8 (Policy Adoption), 9 (Disclaimer of Liability), 10 (Limitation of Liability), 13 (Miscellaneous), and this Section 2.3 shall survive the expiration or termination of this Agreement for any reason whatsoever.

3. Subscription Fees, Etc.

3.1 Subscription Fee/Invoicing. Lexipol will invoice Agency at the commencement of the Subscription Service (Initial Term) and thirty (30) days prior to the date for each Contract Year (refer to 2.1 above). Agency will pay to Lexipol the subscription fee specified on Exhibit A within thirty (30) days following Agency's receipt of the invoice for such subscription and renewal fees. All invoices will be sent to Agency at the address for Agency specified on the cover sheet to which these General Terms and Conditions are attached. All payments will be made to Lexipol at the address for Lexipol specified on the cover sheet to which these General Terms and Conditions are attached. Lexipol reserves the right to increase pricing for subsequent Contract Years.

3.2 Taxes; Past Due Amounts. All amounts required to be paid under this Agreement, unless otherwise stated on Exhibit A, are exclusive of all taxes and similar fees now in force or enacted in the future imposed on the subscriptions purchased by Agency under this Agreement and/or delivery by Lexipol to Agency of Subscription Material, all of which Agency will be responsible for and will pay in full, except for taxes based on Lexipol's net income. In the event any amount owed by Agency is not paid when due, and such failure is not cured within ten (10) days after written notice thereof from Lexipol, then in addition to any other amount due, Agency shall pay a late payment charge on the overdue amount at a rate equal to the lower of (a) one percent (1%) per month, or (b) the highest rate permitted by applicable law.

4. Copyright; Derivative Works; Lexipol's Ownership. Agency acknowledges and agrees that the Subscription Material is a proprietary product of Lexipol, protected under U.S. copyright law, and that Lexipol reserves all rights not expressly granted in this Agreement. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants Agency the right to prepare Derivative Works, except as limited by the terms of this agreement; provided, however, that Agency acknowledges and agrees that Lexipol will be the sole owner of all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto, and Agency hereby assigns and transfers to Lexipol all right, title and interest in and to all Derivative Works prepared by or for Agency, including all copyrights and other intellectual property and proprietary rights therein or pertaining thereto. Agency will not remove from any copies of the Subscription Material provided by Lexipol to Agency any copyright notice or other proprietary notice of Lexipol appearing thereon, and shall include such copyright and other notices at the appropriate place on each copy of the Subscription Material and each copy of any Derivative Work made by or for Agency, in any form.

5. Right to Use; Limitations on Use of Subscription Material and Derivative Works. Subject to the terms and conditions contained in this Agreement, Lexipol hereby grants to Agency a perpetual, personal, fully paid-up, right to use, except as limited by the terms of this agreement the Subscription Material and any Derivative Works prepared by or for Agency, solely for the Agency's internal purposes. Agency will not use, copy, republish, lend, distribute, post on servers, transmit, redistribute, display, in whole or in part, by any means or medium, electronic or mechanical, or by any information storage and retrieval system, any Subscription Material or any Derivative Work prepared by or for Agency other than as expressly authorized by the immediately preceding sentence. Without limiting the generality of the foregoing, Agency will not import, upload, or otherwise make available any

Subscription Material or any Derivative Work prepared by or for Agency into or onto any third party knowledge, document, or other content management system or service without Lexipol's prior written consent. The foregoing does not, however, prohibit or restrict Agency from providing Subscription Material or Derivative Works prepared by or for Agency pursuant to an order from a court or other governmental agency or other legal process, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, nor does it prohibit or restrict Agency from displaying the adopted/approved final policy document on a publicly accessible website for official Agency purposes, so long as Agency includes the appropriate copyright and other proprietary notices on such final policy document as required by Section 4 above.

6. Account Security. Agency is solely responsible for maintaining the confidentiality of Agency's user name(s) and password(s) and the security of Agency's Account. Agency will not permit access to Agency's Account, or use of Agency's user name(s) and/or password(s) by any person or entity other than authorized Agency personnel. Agency will immediately notify Lexipol in writing if Agency becomes aware that any person or entity other than authorized Agency personnel has used Agency's Account or Agency's user name(s) and/or password(s).

7. Privacy Policy. Lexipol will hold all information Agency provides in confidence unless required to provide information in accordance with an order from a court or other governmental agency or other legal process such as a Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request. Lexipol will use commercially reasonable efforts to ensure the security of information provided by Agency. Lexipol's system also uses Secure Socket Layer (SSL) Protocol for browsers supported by Lexipol application(s). SSL encrypts information as it travels between the Agency and Lexipol. However, Agency acknowledges and agrees that Internet data transmission is not always 100% secure and Lexipol does not warrant or guaranty that information Agency transmits utilizing the Lexipol system or online platform is 100% secure.

Agency acknowledges that Lexipol may provide view-only access and summary information (including but not limited to, status of number of policies developed or in development, percentage of staff reviews of developed policies, and percentage of DTBs taken) to the Agency's affiliated Risk Management Authority, Insurance Pool or Group, or Sponsoring Association, if they are actively funding their member Agencies' Subscription Fees.

8. Policy Adoption. Agency hereby acknowledges and agrees that any and all policies and Daily Training Bulletins (DTBs) included in the Subscription Material provided by Lexipol have been individually reviewed, customized and adopted by Agency for use by Agency. Agency further acknowledges and agrees that neither Lexipol nor any of its agents, employees or representatives shall be considered "policy makers" in any legal or other sense and that the chief executive of Agency will, for all purposes, be considered the "policy maker" with regard to each and every such policy and DTB.

9. Disclaimer of Liability. Agency acknowledges and agrees that Lexipol its officers, agents, managers, and employees will have no liability to Agency or any other person or entity arising from or related to the Subscription Materials, or any act or omission by Agency or its personnel pursuant to, or in reliance on, any of the Subscription Materials.

10. Limitation of Liability. Lexipol's cumulative liability to Agency and any other person or entity for any loss or damages resulting from any claims, demands, or actions arising out of or relating to this Agreement or the use of any Subscription Materials shall not exceed the subscription fees actually paid to Lexipol for the use of the Subscription Materials under this Agreement during the twelve-month period immediately prior to the assertion of such claim, demand or action. In no event shall Lexipol be liable for any indirect, incidental, consequential, special, or exemplary damages or lost profits, even if Lexipol has been advised of the possibility of such damages. The limitations set forth in this Section shall apply whether Agency's claim is based on breach of contract, tort, strict liability, product liability or any other theory or cause of action.

11. **Non-Transferability.** The subscriptions and rights to use the Subscription Material granted by this Agreement are personal to Agency and Agency shall not assign or otherwise transfer the same to any other person or entity.

12. **Confidentiality.** From time to time during the term of this Agreement, either party may be required to disclose information to the other party that is marked “confidential” or the like, or that is of such a type that the confidentiality thereof is reasonably apparent (“Confidential Information”). The receiving party will: (a) limit disclosure of any Confidential Information of the other party to the receiving party’s directors, officers, employees, agents and other representatives (collectively “Representatives”) who have a need to know such Confidential Information in connection with the business relationship between the parties to which this Agreement relates, and only for that purpose; (b) advise its Representatives of the confidential nature of the Confidential Information and of the obligations set forth in this Agreement and require such Representatives to keep the Confidential Information confidential and to use it only as permitted by this Agreement; (c) keep all Confidential Information confidential by using a reasonable degree of care, but not less than the degree of care used by it in safeguarding its own confidential information; and (d) not disclose any Confidential Information received by it to any third party (except as otherwise provided for herein). Notwithstanding the foregoing, however, a party may disclose Confidential Information of the other party pursuant to any governmental, judicial, or administrative order, subpoena, discovery request, regulatory request, or Freedom of Information Act (FOIA) request, or Public Records Act (PRA) request, or similar method, provided that the party proposing to make any such disclosure will promptly notify, to the extent practicable, the other party in writing of such demand for disclosure so that the other party may, at its sole expense, seek to make such disclosure subject to a protective order or other appropriate remedy to preserve the confidentiality of the Confidential Information. Each party shall be responsible for any breach of this Section by any of such party’s Representatives.

Miscellaneous.

13.1 **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, without giving effect to any choice of law doctrine that would cause the law of any other jurisdiction to apply.

13.2 **Entire Agreement.** This Agreement embodies the entire agreement and understanding of the parties hereto and hereby expressly supersedes any and all prior written and oral agreements and understandings with respect to the subject matter hereof, including without limitation any and all agreements and understandings pertaining to the use of the Subscription Materials by Agency. No representation, promise, inducement, or statement of intention has been made by any party hereto that is not embodied in this Agreement. Terms and conditions set forth in any purchase order, or any other form or document of Agency, which are inconsistent with, or in addition to, the terms and conditions set forth in this Agreement, are hereby objected to and rejected in their entirety, regardless of when received, without further action or notification by Lexipol, and shall not be considered binding on Lexipol unless specifically agreed to in writing by it.

13.3 **Headings.** The captions and other headings contained in this Agreement are for convenience only and shall not be considered a part of or affect the construction and interpretation of any provision of this Agreement.

13.4 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

13.5 **Amendment.** No amendment, modification, or supplement to this Agreement shall be binding unless it is in writing and signed by the party sought to be bound thereby.

13.6 **Attorneys’ Fees.** If any action is brought by either party to this Agreement against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable attorneys’ fees and expenses of litigation.

13.7 General Interpretation. The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent. This Agreement shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under the Agreement. No rule of strict construction will be applied against any person or entity.

13.8 Notices. Any notice required by this Agreement or given in connection with it, shall be in writing and shall be given by personal delivery, by certified mail, postage prepaid, or by recognized overnight delivery service to the appropriate party at the address of such party stated on the cover sheet to which these General Terms and Conditions are attached, or such other address as such party may indicate by a notice delivered to the other party in accordance with the terms of this Section. Alternatively, electronic mail or facsimile notice is acceptable when acknowledged by the receiving party.

13.9 Invalidity of Provisions. Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Further, if a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable, then the parties agree that the court should endeavor to give effect to the parties' intention as reflected in such provision to the maximum extent possible.

13.10 Waiver. Lexipol's failure to exercise, or delay in exercising, any right or remedy under any provision of this Agreement shall not constitute a waiver of such right or remedy.

End of General Terms and Conditions

Scope of Services

Policy Manual

Legally defensible, up-to-date policies are the foundation for consistent, safe public safety operations and are key to lowering liability and risk. Lexipol's comprehensive policy manual covers all aspects of your agency's operations.

- More than 155 policies researched and written by public safety attorneys and subject matter experts
- Policies based on State and federal laws and regulations as well as nationwide best practices
- Content customized to reflect your agency's terminology and structure

Daily Training Bulletins (DTBs)

Even the best policy manual lacks effectiveness if it's not backed by training. Lexipol's Daily Training Bulletins are designed to help your personnel learn and apply your agency's policy content through 2-minute training exercises.

- Scenario-based training ties policy to real-world applications
- Understanding and retention of policy content is improved via a singular focus on one distinct aspect of the policy
- Each Daily Training Bulletin concludes with a question that confirms the user understood the training objective
- Daily Training Bulletins can be completed via computers or from smartphones, tablets or other mobile devices
- Reports show completion of Daily Training Bulletins by agency member and topic

Policy Updates

Lexipol's legal and content development teams continuously review state and federal laws and regulations, court decisions and evolving best practices. When needed, we create new and updated policies and provide them to your agency, making it simple and efficient to keep your policy content up to date.

- Updates delivered to you through Lexipol's web-based content delivery platform
- Changes presented in side-by-side comparison against existing policy so you can easily identify modifications/improvements
- Your agency can accept, reject or customize each update

Web-Based Delivery Platform and Mobile App (Knowledge Management System)

Lexipol's online content delivery platform, called KMS, provides secure storage and easy access to all your policy and training content, and our KMS mobile app facilitates staff use of policies and training completion.

- Ability to edit and customize content to reflect your agency's mission and philosophy
- Efficient distribution of policies, updates and training to staff
- Archival and easy retrieval of all versions of your agency's policy manual
- Mobile app provides in-the-field access to policy and training materials

Reports

Lexipol's Knowledge Management System provides intuitive reporting capabilities and easy-to-read reports that enhance command staff meetings and strategic planning.

- Track and report when your personnel have acknowledged policies and policy updates
- Produce reports showing completion of Daily Training Bulletins
- Sort reports by agency member, topic and other subgroups (e.g., shift, assignment)
- Reduce the time your supervisors spend verifying policy acknowledgement and training completion

Accreditation Workbench - Basic

Managing the agency accreditation process is a complex task that requires intimate knowledge of policy and extreme attention to detail. Lexipol's Accreditation Workbench Basic provides your agency's Accreditation Manager access to content that significantly reduce the time and effort required to successfully prepare for and execute an accreditation assessment.

- Current standards for supported accreditation programs are preloaded and viewable
- Lexipol policies are pre-tagged to many applicable standards and your Accreditation Manager can easily add or modify tagging to meet your specific program needs

Support+ Package

Lexipol's Support+ Package provides a discounted, customizable solution for agencies looking for one-on-one policy implementation support. Packages are offered in 50-hour increments with a flexible scope of work and are offered at a discount off Lexipol's standard hourly rate for professional services.

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review:
Department:	Planning Department	<input type="checkbox"/> Yes - Reviewed
Contact Name/Phone:	Heidi Gudde (360)354-5532	<input type="checkbox"/> No - Not Reviewed
Council Committee Review:		<input checked="" type="checkbox"/> Review Not Required
<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	
Attachments:		
Draft Ordinance 1574, Staff memo, and Planning Commission Minutes from 1-24-19		
Name of Agenda Item:		
Set the Public Hearing Date for Ord 1574 re Pepin Creek Zoning Amendment		
Summary Statement:		
<p>The planning of the Pepin Creek Sub-area represents a significant multi-step project. One aspect of the project is to create zoning categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.</p> <p>The proposed zoning text amendments will come forward to the City Council in three separate ordinances.</p> <ul style="list-style-type: none"> -Ordinance 1575 addresses the Pepin Creek Sub-area specifically, -Ordinance 1576 proposes revisions to the Residential Mixed Density (RMD) zoning category which is anticipated to be used within the Pepin Creek Sub-area, and -Ordinance 1574 proposes amendments within the three land development chapters which accommodate the proposed code and promote consistency throughout zoning categories. <p>The proposed amendments and new zoning categories are summarized in a staff memo attached.</p> <p>The current proposals come forward after careful review that has included public survey results, input from local real estate agents and builders, detailed work sessions with the Planning Commission and Community Development Committee.</p> <p>On January 24, 2019 the Planning Commission held a public hearing and recommended approval of the amendments described in Ordinance 1574, 1575, and 1576.</p> <p>It should be noted that while these ordinances create the zoning categories they do not assign them to properties within the sub-area. These assignments will be subsequently adopted through the sub-area plan later this year. A draft of this plan was released on September 12, 2018 and is available on the City's website.</p> <p>At this time staff would like to request that the City Council set a public hearing date of March 4, 2019 to consider the approval of these amendments to Chapters 17, 18, and 19 of the land development code for the accommodation of the Pepin Creek Sub-area.</p>		
Recommended Action:		
Motion to set a public hearing date of March 4, 2019 to consider Ordinance 1574 which amend Chapters 17, 18, and 19 of the Lynden Municipal Code to accommodate the addition of the Pepin Creek Sub-area zoning categories and overlays.		

CITY OF LYNDEN



PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354 - 5532

Planning Department Memorandum

To: City Council
From: Heidi Gudde, Planning Director
Date: February 8, 2019
Re: Zoning Amendments to Accommodate Pepin Creek

The Pepin Creek Sub-area represents a significant planning project. Although the sub-area will utilize some zoning categories with already exist, the planning effort has also included the creation of new categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.

The change is not considered lightly. The proposed zoning text amendment comes forward after careful review that has included public survey results, input from local real estate agents and builders, as well as six workshops with the Planning Commission, four joint meetings with the Community Development Committee, and one joint workshop with the City Council. A number of these meetings have included opportunities for public input.

The proposed amendments and new zoning categories are summarized briefly below. Zoning regulations including primary, accessory and secondary uses, were written to resemble, as closely as possible, the City's existing regulations.

Proposed Zoning Amendments and Pepin Creek Zoning Categories and Overlays

Residential Multi-Family-Pepin Creek (RM-PC): This multi-family zoning category resembles the existing RM-2 zoning as it permits up to 4 units per building and, in larger developments up to 8 units per building. It differs from RM-2 in that it allows for smaller lots, smaller setbacks, and encourages fee simple attached single-family housing. The most familiar form of this housing type is the row house or townhome. Other creative housing arrangements could be accommodated in this zoning including clusters of cottages and shared garage layouts. The permitted density of the RM-PC is higher than the RM-2 zoning. The goal of this housing type is to create attached product that promotes home ownership at more affordable rates than detached single family homes.

Residential Mixed Density (RMD): This zoning category is one that already exists within the City of Lynden. It is meant to blend detached single-family housing with attached single-family homes (also known as paired housing) and duplex units. Some amendments have been proposed to the

CITY OF LYNDEN



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

existing development standards of RMD which would eliminate the opportunity to construct triplex units but allows for smaller minimum lot sizes.

Senior Overlay: This zoning overlay allows a developer to activate additional density if specific criteria are met. In this case the criteria relate to providing housing for seniors. This may take the form of age restricted neighborhoods, assisted living, or full-time care facilities. The underlying zoning category dictates if this criterion is not met.

Commercial Overlay: This zoning overlay encourages small neighborhood commercial establishments to be developed at high visible intersections. The uses permitted here are intended to serve the adjacent neighborhoods. Commercial establishments in these areas are subject to design standards. The underlying zoning category dictates if the commercial overlay is not utilized.

Other Sections: The zoning addition of Chapter 19.18 proposed above also warranted changes and improvements to other existing sections of code including sections in Chapters 17 and 18, and other sections of Chapter 19. The most significant change may be the revision to measure setbacks from property line to foundation rather than the farthest projection of the building. Adjustments have been noted in each affected section to accommodate this change but with little to no change in the currently permitted building envelope.

Ordinance No. 1574

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING TITLE 17, TITLE 18 AND TITLE 19 OF THE LYNDEN MUNICIPAL CODE

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

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

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

WHEREAS, the amendments to Title 19 regarding the repeal and replacement of Chapter 19.16 - Residential Mixed Density Zone and the creation of Chapter 19.18- Pepin Creek Sub-Area Zones have necessitated the amendments to Title 17 and 18 to ensure consistency in the administration of the City’s development process; and

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

WHEREAS, the Lynden Planning Commission held an open record public hearing regarding the proposed amendments on January 24, 2019, to accept public comments on the proposed regulations and recommended adoption to the City Council.

WHEREAS, on January 25, 2019, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed updates to Title 17, Title 18 and Title 19 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, the proposed regulations were introduced to the Lynden City Council on February 19, 2019, and a date for a public hearing was set; and

WHEREAS, on March 4, 2019, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments and to consider the matters of record to that date; and

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

SECTION A Title 17, amended as follows:

Chapter 17.01, Definitions

The following definitions shall apply to Titles 16 through 19; other definitions may be found in individual titles. The definitions set forth in this chapter shall apply to the terms used in this title. Those terms not defined in this chapter, shall be as defined in the 1991 Uniform Zoning Code.

Dwelling Unit, Multiple. "Multiple dwelling unit" means a structure containing three or more dwelling units, each of which provides a complement of necessary facilities to accommodate one family. This definition excludes single-family attached dwellings.

Dwelling Unit, Two-Family or Duplex. "Two-family dwelling unit" or "duplex" means a structure accommodating two dwelling units, each of which is equipped with a complement of the facilities necessary for the living accommodations of one family. This definition excludes single-family attached dwellings.

"Green Street" is a linear, landscaped, public or semi-public open space that provides frontage for alley-loaded residential units. Green streets may accommodate non-motorized transportation and neighborhood-serving recreational uses such as park benches, picnic tables, or play spaces for children.

"Impervious Surface" means a non-vegetated surface area which either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen material, and oiled, macadam or other surfaces which similarly impede the natural infiltration of stormwater.

"Personal services" means a use that provides a non-medical service and may include the sales of products related to the services that are provided. Examples of personal services include but are not limited to: beauty or barber shop, shoe repair, laundry service, tailor, or health spas.

"Pervious Surface" means any surface that allows stormwater to infiltrate into the ground. Examples include lawn, landscape, pasture, native vegetation areas, and permeable pavements.

“Reciprocal Use Easements” are shared agreements between property owners that grant multiple parties rights to use privately held land. For example, a private driveway or the open space between two homes may be subject to a reciprocal use easement that allows both homeowners to use the space.

"Single-family detached dwelling" means a building containing only one dwelling unit.

“Single-family attached dwelling” means a structure containing two or more dwelling units sharing common walls and/or rooflines but with individual ground-related entries for each unit. Every dwelling unit is situated on its own parcel of land available for fee-simple ownership. Each dwelling unit provides a complement of necessary facilities to accommodate one family.

Chapter 17.03, Administration amended as follows:

17.03.060 - Design review board.

The design review board shall review and act on the following subjects:

- A. All building permits for commercial buildings, attached single family buildings of two or more units, and multifamily buildings of two or more units;
- B. Landscape plans;
- C. Signs;
- D. Detached Accessory Dwelling Units;
- E. Requests for variance of adopted design standards.

The review criteria for the Design Review Board have been adopted by the City Council as part of the Design Review Guidebook and as residential design standards adopted within LMC Chapter 19. An appeal of a final decision of the Design Review Board shall be filed in accordance with section 17.11.020 and shall be heard by the City Council as a closed record appeal.

SECTION B Title 18 Amended as follows:

Chapter 18.14, New Development or Redevelopment Site Planning and Design, amended as follows:

18.14.010 - General provisions.

- A. Applicability. All applications for short subdivision, subdivision, or binding site plan shall follow procedures set forth in this title and conform to requirements in Chapter 13.24 LMC.
- B. Administration. The approving body, as dictated in LMC Title 18, shall have authority to approve, approve with conditions, or deny an application made pursuant to the provisions of this chapter. The approving body may consider modified plans or attach conditions to an approval of an application. The action of the approving body shall be supported with specific findings of fact and shall reference the city's design and development standards and other relevant documents.
- C. Use of Low Impact Development Methods and Practices. Each application for new development or redevelopment shall demonstrate site assessment and development design using a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes by minimizing impervious surfaces, minimizing loss of native vegetation, and minimizing stormwater runoff.
- D. Low impact development (LID) methods and practices shall be employed where feasible. "Feasible" means when the application meets the design criteria, limitations, and infeasibility criteria for each LID BMP as described in the Stormwater Management Manual for Western Washington (Ecology Manual) adopted by the City.

18.14.020 - Lot design guidelines.

These guidelines govern lot sizes, lot widths and frontage requirements.

- A. No residential lot shall be created deeper than three times its width unless specifically varied under the provisions of Chapter 17.17 LMC or Chapter 13.24 LMC.
- B. No lots shall be created that have less than fifty feet of frontage, except where approved by council in a planned residential development or except in the Pepin Creek Subarea.
- C. A lot located on a cul-de-sac may have forty feet of frontage width; provided however, that the lot shall meet the minimum frontage requirement listed above at the line of the minimum front yard setback. Lots created within the Pepin Creek Subarea are exempt from this minimum standard.
- D. Residential lots shall access residential access or collector streets rather than arterial streets whenever reasonably feasible. Secondary access points

along arterial streets are not permitted. This access restriction shall be noted on the face of the plat and does not exempt the subdivision from any off-site improvement requirements.

E. Lots shall be designed to provide a building site that meets the minimum zoning standards after the consideration of building orientation, setbacks, drainage and other critical areas.

F. No residential lots shall have street frontage along two opposite boundaries, unless topographical features or the need to provide access separation of lots from arterials, railways, commercial activities, or industrial activities justify designing of double frontage lots.

G. Lot Averaging. As long as the subject property has sufficient land area to subdivide and meet the lot area requirements as specified in the zoning ordinance, a lot averaging mechanism may be utilized for the creation of more functional and desirable lot design as determined by the city. This mechanism may be permitted if all the following conditions are met:

1. No lot less than the required size may be placed adjacent to previously developed lots meeting the minimum lot size requirements.
2. Lots shall not be less than ninety percent of the minimum area required; except that, up to five percent of the total number of lots may be reduced to seventy percent of the minimum required lot size.
3. The average size of all lots within the subdivision must meet the minimum lot size required by that zone.

18.14.030 - Right-of-way requirements.

All lots shall abut on a dedicated or private street with right-of-way that meets the city's standards for width as set forth in the city's design and development standards. Lots within the Pepin Creek Subarea may abut an alley designed to the city's standards for width if the lot fronts on a common open space. In the event the abutting street or alley does not meet said standards, additional right-of-way shall be required prior to the approval of a subdivision or short subdivision, unless specifically varied through the process described in Chapter 17.17 LMC.

18.14.040 - Pipe stem lots.

A pipe stem lot is defined as a lot having a narrow entrance to a wide lot that is behind another lot. A maximum of one pipe stem lot may be permitted per short plat or one pipe stem lot per twenty-five lots or portion thereof of a long plat, so long as the following standards are met:

- A. There shall be a minimum of twenty-four feet of frontage on a dedicated right-of-way; and
- B. The stem shall be no longer than one hundred fifty feet in length; and
- C. The address is clearly marked at the street for emergency location.

18.14.050 - Division resulting in below minimum lots sizes for dedication.

Within a subdivision, the city may consider the required dedication of right-of-way in the minimum lot size; provided that the resulting lot after dedication (exclusive of dedicated area) shall not be less than ninety-five percent of the required lot size.

18.14.060 - Flood prone and bad drainage conditions.

Land which has been found to be unsuitable due to flooding, bad drainage or high water table conditions that are harmful to the health, safety and general welfare of the future residents, shall not be subdivided unless:

- A. A mitigation plan demonstrates adequate means of flood control, consistent with the city's stormwater management plan, the Stormwater Management Manual for Western Washington adopted by the City, Chapter 86.16 RCW, and Chapters 16.12 LMC (Floodplain Management Ordinance) and 16.16 LMC (Critical Areas Ordinance), now or as hereafter amended; and
- B. The design and mitigation plan has been reviewed and recommended by the technical review committee in conjunction with the plat application; and
- C. The city council approves the proposed mitigation plan and plat.

18.14.070 - Slope and unstable soil conditions.

In the event the land to be subdivided has a slope or slopes of more than twenty percent and/or has rock or other unstable soil conditions, the subdivider shall provide soils data to the city as required by the city's critical areas ordinance,

codified in Title 16. A qualified professional as required under that title shall prepare this information.

A. Land which has topographical conditions that are hazardous to the health, safety and general welfare of the persons or properties, in or near the proposed subdivision shall not be subdivided unless the construction of protective improvements shall eliminate the hazards or unless the land subject to the hazard is reserved for those uses which will not expose persons or property to the hazard.

B. If conditions warrant control measures to correct slide, erosion, or other similar problems, the subdivider shall be responsible for the design, installation, and expense of any devise or corrective measures.

C. Protective improvements and restrictions on uses shall be clearly noted on the face of the final plat and recorded as a covenant on the deed for each affected parcel.

18.14.080 - Access easements, private alleys, and private streets.

A. Access easements serving up to three single-family lots, or a multi-family development which, per zoning, could not exceed twelve units, may be permitted under the following conditions:

i. The easement area must be a hardened surface, a minimum of twenty-four feet in width;

ii. The easement area shall be paved for a minimum of fifty feet from the street and must be paved the entire length of the driveway when serving multi-family development; and

iii. The proponents shall have a signed and recorded maintenance agreement filed with the city and the county auditor. This agreement shall be referenced by the auditor's file number on the face of the plat.

iv. An existing easement shall not be expanded to serve additional lots without the written and recorded permission of the grantors or current owners of the property over which the easement runs; and

v. The location and configuration of the parcel will be considered when allowing an easement to serve more than a single lot.

B. Access to a multi-family development which exceeds, or could exceed 12 units when fully developed, must utilize the private street standard set forth in the city's design and development standards.

C. All easements and private streets must meet the minimum standards for the Uniform Fire Code and Design and Development Standards for the City of Lynden for access and driving surfaces.

D. Use and maintenance of all easements, private alleys, and private streets must be addressed in the easement language or a maintenance agreement which is reviewed and approved at the time of plat or at the time the easement is recorded by separate instrument.

E. Private alleys may be utilized through a Planned Residential Development and associated Development Agreement. Private alleys may also be utilized in the Pepin Creek Subarea consistent with the City's Engineering Design Standards and the Pepin Creek Design Standards.

18.14.090 - Utility easements.

A. A five-foot utility easement shall be placed on the interior property line of all residential lots for the installation and maintenance of public utilities. Vertical encroachment of the easement by eaves or awnings may be permitted at the discretion of the Public Works Director.

B. Commercial plats shall grant easements to the City of Lynden as required for the extension of public utilities.

C. Reduction or encroachment of this easement may be permitted, by development agreement, in a planned residential development and master planned residential development.

D. This easement provision does not restrict the property owner from placing fences or landscaping within the easement area.

18.14.100 - Roads ends, turnabouts, cul-de-sacs and hammerheads.

Dead end streets and turnabouts shall be designed to minimize impervious area while providing emergency vehicle access. Loop road configuration should be considered as an alternative.

A. Cul-de-sac streets shall be designed so as to provide a circular turnaround at the closed end that has a minimum radius as required by the city's design and

development standards. Use of LID techniques shall be employed where feasible including smaller turning radius and curb cuts to LID facilities.

B. A hammerhead may be permitted, by the approving body under certain circumstances and such hammerhead must meet the requirements of the city's design and development standards and the Uniform Fire Code.

C. Cul-de-sac streets shall not exceed four hundred fifty feet in length unless specifically varied through the process described in Chapter 17.17 LMC.

D. Plats with opposing cul-de-sacs, or cul-de-sacs backing onto an adjoining property, shall provide for a minimum fifteen feet sidewalk or trail easement through the cul-de-sac to provide more efficient pedestrian circulation patterns. Use of LID techniques on the sidewalks and trails shall be considered.18.14.110 - Circulation system design.

A. The street system within a subdivision shall be designed to permit the safe, efficient, and orderly movement of traffic; to meet the needs of the present and future populations; to have a simple and logical pattern; to respect natural features and topography in conformance with Title 12.

B. Every lot shall be provided with convenient vehicular access by a public street private access as allowed in Section 18.14.080 which is connected to an existing public street or highway. Access should be designed first to access streets, then to collector streets, then to arterial streets and highways.

C. Access may be granted by permanent appurtenant easement as allowed in Section 18.14.080 for a maximum of one easement per short plat or one easement per twenty-five lots or portion thereof of a long plat unless part of an approved planned residential development.

D. In residential subdivisions, the street system shall be designed to serve the needs of the neighborhood and to discourage use of residential access streets by through traffic.

18.14.120 - Conformity to comprehensive plan and all utility plans.

A. The proposed subdivision shall conform to the policies reflected by the comprehensive plan, including the transportation element, and shall provide for such requirements as are contained in the implementation of the plan in part by the zoning and subdivision ordinances. Natural features such as trees, ridgelines, hilltops and views shall be preserved and kept in a natural state to the extent possible.

B. All utility extensions shall be designed and developed in conformance with the adopted plans for that utility. This shall include water, sanitary sewer and stormwater management.

18.14.130 - Street trees and planting strips.

A. Street trees shall be provided by the subdivider in all subdivisions within the dedicated public utility easements adjacent to the street; preferably between the curb and the sidewalk. Unless otherwise required by adopted design standards, there shall be a minimum of one tree per lot with a maximum of one hundred feet between trees, and street trees shall be selected, installed, and maintained in accordance with the standard engineering specifications. Trees shall be placed on the property with consideration of potential driveway cuts and utility services.

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

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

18.14.140 - Street naming.

A. No street within a new subdivision shall be approved which bears a name using a word that is the same as, similar to or pronounced the same as a word in the name of any other street within the city. All subdividers shall present their proposed street names to the Lynden Technical Review Committee to reduce the duplication of names within the city and throughout the county. The city shall solicit comment from dispatching agencies prior to giving final approval of the street names.

B. Streets extended or continuing across a street perpendicular to it shall bear the same name as the previously existing street segment.

18.14.150 - Compliance with development standards—Generally.

All plans for improvements listed below shall be designed and stamped by a professional engineer.

A. Easements for electric, telephone, telecommunications, water, sanitary and storm sewer, gas and similar utilities shall be a minimum of ten feet to assure future maintenance.

B. Subdivisions shall provide underground utility lines, including, but not limited to those for electricity, communications, cable TV and street lighting.

C. All streets, curbs, gutters, sidewalks, bridges, drains, culverts, and related structures and facilities shall be constructed in accordance with the ecology manual adopted by the city and the city's design and development standards and applicable state and federal requirements.

D. All streets shall be constructed in accordance with LMC Title 12 and the city's project manual for engineering design and development standards.

E. Water supply facilities adequate to provide potable water from a public supply to each lot within a subdivision shall be installed in conformity with the city's project manual for engineering design and development standards. Each lot shall be provided with a connection to the city's sanitary sewer, water and stormwater system in conformity with the ecology manual adopted by the city and the city's design and development standards.

F. Prior to construction of any structures within the subdivision, all public utilities shall be installed in conformance with the ecology manual adopted by the city and the city's design and development standards.

18.14.160 - Street and utility extensions required.

All streets and utility extensions required by the city shall be made to the furthest extent of the property or the edge of the subdivision except where there is no expectation of extension of the street or utilities or the service of additional lots.

SECTION C Title 19 Amended as follows:

Chapter 19.11. Zones Designated, Amended as follows:

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

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

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density
A-1	Agricultural	0.10		1 D.U./20 Acres
RS-100	Single Family Dwellings	0.35	0.60	4 D.U./Acre
RS-84	Single Family Dwellings	0.35	0.60	4.5 D.U./Acre
RS-72	Single Family Dwellings	0.35	0.60	5.0 D.U./Acre
RMD	Residential Mixed Density	0.35	0.80	8.0 D.U./Acre
MH	Mobile and Modular Home	0.40	0.80	8.0 D.U./Acre
TR	Travel/Recreational Vehicle	0.65		
RM-1	Single Family and two Family Dwellings/bldg.	0.35	0.70	8.0 D.U./Acre
RM-2	Up to 4 Dwellings/bldg.	0.40	0.70	12 D.U./Acre
RM-3	Multiple Dwellings	0.40	0.75	16 D.U./Acre
RM-4	Multiple Dwellings	0.45	0.75	24 D.U./Acre
RM-PC	Detached Single Family Dwellings	0.35	See Open Space Requirements	12 D.U./Acre
	Attached Single Family Attached	0.50		
	Multi-family Dwellings	0.40		
SO	Senior Housing Overlay in the Pepin Creek Subarea	0.40-0.50	See Open Space Requirements	30 D.U./Acre
HBD	Historic Business District	0.80		

Zone Symbol	Essential Use	Maximum Percent Coverage	Maximum Percent Impervious Coverage	Maximum Development Density
CN	Commercial Neighborhood Overlay in the Pepin Creek Subarea	N/A		
CSL	Local Commercial Services	N/A		
CSR	Regional Commercial Services	N/A		
ID	Industrial District	N/A		
IBZ	Industrial Business Zone	N/A		
PU	Public Use	N/A		

Chapter 19.13, A-1 Agricultural Zone, Amended as follows:

19.13.070 - Height, area, setback and bulk requirements.

A. The regulations for height, area, setback and bulk requirements are:

1. Minimum parcel size: twenty acres;
2. Maximum height of buildings: thirty feet;
3. Yard setbacks for all buildings:
 - a. From street, other than state highways: twenty feet,
 - b. From state highways: one hundred feet from centerline,
 - c. From side property line: ten feet,
 - d. From rear property line: thirty-five feet.

All setbacks are measured to the building foundation. Eaves and bay windows are permitted to encroach into setbacks a maximum of 2 feet.

B. The side yard used for a driveway shall not be less than ten feet in width.

C. Front yards, the area immediately in front of any dwelling unit, may be used for ornamental purposes only, but at least one hundred feet from the front property line may not be used for raising of crops or pasturing of animals.

Chapter 19.15, Single Family Building Zones, Amended as follows:

19.15.020 - Primary permitted uses.

A. The primary land uses permitted in the single-family zones are detached, site-built single-family dwellings and new manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code.

B. Mobile homes as defined in LMC Section 17.01.030 LMC are prohibited.

C. Personal Services are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. This is to allow for businesses such as barbershops, beauty salons, day spas, laundry facilities, dry-cleaning, or others that would serve the subarea.

D. Sales of General Consumer Goods are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only. This is to allow for retail sales of food, household goods, pet supplies, and other goods to residents in the subarea. The sales of goods geared toward a regional customer base, as determined by the Planning Director, are not allowed. Such regional uses include fuel sales, auto sales, large format stores, construction and landscaping materials, farm equipment. Outdoor storage associated with the sales of General Consumer Goods is also not allowed.

E. Restaurants and Cafes are allowed in the Neighborhood Commercial Overlay in the Pepin Creek Subarea only.

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

19.15.060 - Height, area, setback and bulk requirements.

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

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

A. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in LMC 19.15.060(O). Additional fire protection may be required for structures located within 10 feet of each other. It is the property owner’s responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030. It is the property owner's responsibility to have the property lines clearly marked for inspection.

B. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be twenty-five feet.

C. An attached garage may be built as close as seven feet to the side property line provided the living area setbacks total twenty feet (fifteen feet in the RS-72 zone), from the foundation to the property line.

D. On corner lots in the RS-72 zone, one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.

E. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.

F. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.

- G. The side yard used for a driveway shall not be less than ten feet in width.
- H. To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.
- I. A detached accessory structure or tool shed, which requires a building permit per LMC 15.04, may not be built closer than six feet to the side or rear property line including property lines abutting alleys. Structures which do not require a building permit per LMC 15.04 to be setback a minimum of three feet to the side or rear property line. Accessory structures on corner lots shall not be permitted nearer than fifteen feet to the side property line adjacent to the street. The maximum height for all accessory structures shall be twelve feet, except for detached garages as noted below.
- J. The maximum height of any detached garage that is serving as the primary garage shall be eighteen feet, provided however that the setback shall be a minimum of five feet from the side and rear property line, the roof pitch and siding shall be consistent with the primary structure on the lot, there is no living space within the building and the height of the building does not exceed the height of the primary structure. Living space and alternative building heights may be permitted as described in LMC Chapter 19.20.
- K. The maximum height of any secondary garage or shop shall be eighteen feet, provided however that the structure is set behind the rear line of the house, the roof has a minimum 4:12 pitch, there is no living space within the building and the height of the building does not exceed the height of the primary structure. Living space and alternative building heights may be permitted as described in LMC Chapter 19.20.
- L. The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.
- M. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.

N. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.

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

Chapter 19.17, RM Multi Family Building Zones, Amended as follows:

19.17.010 - Established.

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

Six multi-family zones are established:

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

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

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

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

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

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

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

1. Site planning incorporates LID components that minimize impervious surfaces and achieves a more restrictive percent maximum coverage than would the larger lot size;

2. Site planning and design documents are completed by a licensed civil engineer in the State of Washington;
3. The proposed development integrates with the character of the neighborhood;
4. The requested waiver must be specified and justified in writing to the technical review committee and the approving body;
5. Written documentation of the decision on the waiver is recorded by the director in city records.

19.17.060 - Height, area, setback and bulk requirements.

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

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

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

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

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

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

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

E. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in this section. Additional fire protection may be required for structures located within 10 feet of each other. It is the property owner's responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030. It is the property owner's responsibility to have the property lines clearly marked for inspection.

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

G. An attached garage may be built as close as seven feet to the side property line provided the living area setbacks total twenty feet (fifteen feet in the RS-72 zone), from the furthest projection to the property line.

H. On corner lots in the RS-72 zone, one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.

I. On corner lots in all other residential zones, the side yard setback adjacent to the street must be a minimum of fifteen feet.

J. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.

- K. The side yard used for a driveway shall not be less than ten feet in width.
- L. To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.
- M. A detached accessory structure or garden shed may not be built closer than six feet to the side or rear property line including property lines abutting alleys. Accessory structures on corner lots shall not be permitted nearer than fifteen feet to the side property line adjacent to the street. The maximum height for all accessory structures shall be twelve feet, except for detached garages as noted below.
- N. The maximum height of any detached garage that is serving as the primary garage shall be eighteen feet, provided however that the setback shall be a minimum of five feet from the side and rear property line, the roof pitch and siding shall be consistent with the primary structure on the lot, there is no living space within the building and the height of the building does not exceed the height of the primary structure.
- O. The maximum height of any secondary garage or shop shall be eighteen feet, provided however that the structure is set behind the rear line of the house, the roof has a minimum 4:12 pitch, there is no living space within the building and the height of the building does not exceed the height of the primary structure.
- P. The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.
- Q. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.
- R. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.
- S. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within

eighteen feet of the rear property line; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

19.17.110 - Multi-family landscape requirements.

In addition to the landscaping requirements of Chapter 19.61 of this title, all proposed multi-family and attached single-family development greater than two attached units in these zones shall comply with the following standards.

Variances, in accordance with the process set forth in Chapter 17.17 LMC, may be authorized by the planning director where factors such as but not limited to, topography, other site constraints prevent strict compliance.

A. All public streets will be required to include street trees between the curb and sidewalk, unless a variance to the street section standard and design is granted.

B. Entry areas, access easements, and driveways shall be landscaped to create a feeling of identification and continuity of plant materials related to the plantings around the buildings and parking areas. The primary entrances to the multi-family development, defined for this section as the entrances from public roadways, shall have landscaped areas on either side of the entrance. This landscape area shall be a triangle beginning at a point where the back of the sidewalk and the driveway intersect and running a distance of twenty feet parallel with the street, and fifteen feet from the back of the sidewalk along the driveway, and diagonally connecting the two lines. These areas may be utilized as rain gardens.

C. Plant choices should include those plants that are native to the region, have minimal maintenance requirements and high survival rates. Large, more mature plant materials are encouraged to ensure that some immediate effect on the project's appearance will be attained within two years of planting. The following sizes and spacing are suggested and/or required for plant materials at time of installation.

1. Street trees shall have a minimum caliper size of two inches. Trees located along drives and in the street side of planting areas adjacent to parking areas or buildings shall have a minimum caliper size of one and one-half inches. Trees located elsewhere are to have a minimum caliper size of one inch and equivalent to a fifteen-gallon container size.
2. At the time of installation, shrubs must be a variety of sizes (one to five gallon pots) and upright shrubs must have a minimum height and spread of eighteen to thirty-six inches. Spreading shrubs should have a minimum

of twelve to eighteen inches (smaller shrub sizes may be approved where it is more appropriate within the particular landscape plan). Hedge material must have a minimum height of four feet at the time of planting.

3. Ground covers planted from flats shall have a maximum spacing of twelve inches on center or, when planted from one gallon pots, a maximum spacing of twenty-four inches on center.

D. Earth berms and rain gardens are convenient devices for providing variation in the ground plane and for screening interior portions of the site. The bermed areas should be as long, as gradual and as graceful as space will allow. Maximum slopes for bermed areas should not exceed 4:1.

E. Building foundation plantings are required around all areas of the building except immediately adjacent to entries or garage doors. Sidewalks shall not be included within these areas. Installation of plant material is required and must be appropriate to the scale of the building. Area required is as follows:

1. Buildings containing 2-4 units must provide a planting area a minimum of 4 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 2 feet.
2. Buildings containing more than 4 units must provide a planting area a minimum of 6 feet in width. Required area of foundation planting may be averaged, but in no case may the width be less than 3 feet.

Chapter 19.19, MH Manufactured Home Zones, Amended as follows:
19.19.090 - Height, area, setback and bulk requirements.

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

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

- B. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in this section. Additional fire protection may be required for structures located within 10 feet of each other. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030. It is the property owner's responsibility to have the property lines clearly marked for inspection.
- C. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25 feet.
- D. An attached garage may be built as close as six feet to the side property line provided the living area setbacks total fifteen feet.
- E. On corner lots, one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than ten feet.
- F. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.
- G. The side yard used for a driveway shall not be less than ten feet in width.
- H. To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.
- I. A detached accessory structure or garden shed may not be built closer than five feet to the side or rear property line including property lines abutting alleys. Accessory structures on corner lots shall not be permitted nearer than fifteen feet to the side property line adjacent to the street. The maximum height for all accessory structures shall be twelve feet, except for detached garages as noted below.
- J. The maximum height of any detached garage that is serving as the primary garage shall be eighteen feet, provided however that the setback shall be a minimum of five feet from the side and rear property line, the roof pitch and siding shall be consistent with the primary structure on the lot, there is no living space within the building and the height of the building does not exceed the height of the primary structure.
- K. The maximum height of any secondary garage or shop shall be eighteen feet, provided however that the structure is set behind the rear line of the house, the roof has a minimum 4:12 pitch, there is no living space within the building and the height of the building does not exceed the height of the primary structure.

- L. The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.
- M. Carports, cabanas, awnings and all other structures, whether defined in this title or not, which are situated upon a manufactured home space or lot shall conform to the requirements of the International Building Code. Such additions and structures shall be considered as a portion of the manufactured home for determining the extent of lot coverage, setback lines and all other requirements for manufactured homes in like manner as if such additions and structures were a part of such home.
- N. Uncovered wood decks and raised concrete patios may be permitted within fifteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.
- O. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within fifteen feet of the rear property line; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

Chapter 19.23, Commercial Zoning, Amended as follows:

19.23.050 - Setbacks, access and queuing requirements.

A. Setbacks are established to ensure adequate circulation and access for emergency services. The setback requirements for the HBD and CS zones shall be as follows:

	HBD	CSL	CSR
Rear setback	20 ft. (1)	10 ft.	25 ft.
Front setback (2)	0 ft.	10 ft.	20 ft.
Side setback (3)	0/10 ft.	0/10 ft.	0/10 ft.
Maximum building height	48 ft.	48 ft.	48 ft.

(1) May be located closer if parking is available underground with access to Judson Alley.

(2) When adjacent to Badger Road, front setback shall be one hundred feet from Highway Center line. When adjacent to the Guide Meridian Highway the front setback shall be one hundred feet from the center of the highway on the east side and one hundred and ten feet from the center of the highway on the west side. Once the required right-of-way for planned

improvements has been acquired through dedication, setbacks shall be consistent with the setback requirements listed above.

(3) Where construction types and the International Building Code allow, the side yard setback in any commercial zone may be zero; provide, however, that the setback between a building and a right-of-way will not be less than ten feet.

B. All development located on state highways must comply with the access requirements of the Washington State Department of Transportation in addition to the City of Lynden Manual for Engineering Design and Development Standards.

C. All businesses with a drive-thru window must have a minimum queue length of sixty feet. This is a cumulative total but does not include the vehicle at the drive-thru window. Businesses generating more than twenty-five p.m. peak hour trips must include queuing in the required traffic analysis checklist.

D. All setbacks are measured from the property line to the foundation.

Chapter 19.25, Industrial Zoning, Amended as follows:

19.25.060 - Required bulk regulations, height limits and setbacks.

A. The following bulk, height and setback regulations are established for each industrial zone:

	IBZ	ID
Permitted Lot Coverage	N/A	N/A
Front Setback	20	15
From Centerline of the existing rights-of-way for Badger Road (State Route 546), Main Street, Tromp Road, West Front Street, Birch Bay Lynden Road, Berthusen Road ²	100 ft.	100 ft.
Rear Setback	Per the IBC/IFC Standards	
Rear Setback if adjacent to residential zone ^A	20 ft.	30 ft.
Side Setback	Per the IBC/IFC Standards	
Side Setback if adjacent to residential zone ^A	20 ft.	30 ft.
Corner lot side yard setback to street line	20 ft.	15 ft.

Height Limit - See Section 19.37 for exemptions to height limit ^{ul}	45 ft.	60 ft.
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² Once the required right-of-way for planned improvements has been acquired through dedication, setbacks shall be consistent with the setback requirements listed above.

^A Setbacks may be reduced through the approval of a conditional use permit.

^{ul} Building height may be increased through the approval of a conditional use permit.

B. All setbacks are measured from the property line to the foundation.

Chapter 19.37, Miscellaneous Provisions, Amended as follows:

19.37.050 - Lot sans frontage or right-of-way to street—Uses or structures prohibited.

No building, structure or use shall be placed or erected on any lot which does not have either immediate frontage on a street, a permanent unobstructed right-of-way to a street, or as permitted per Chapter 18.14.

Chapter 19.45, Design Review Board, Amended as follows:

19.45.010 - Design Review Board established.

A design review board is established for the purpose of reviewing: exterior design of buildings proposed for construction of multi-family dwellings, detached accessory dwelling units (ADUs), the construction, reconstruction or remodeling of commercial buildings in all commercial zones, signs as required in Chapter 19.33 of the Lynden Municipal Code, and the variance of adopted design standards. Those appointed should be capable of the following:

- A. Reading and understanding building design drawings.
- B. Having an appreciation of architecture and landscape architecture.
- C. Having an understanding and appreciation of the "European/Dutch" theme proposed in the Front Street area.

19.45.030 - Meetings—Notice—Rule promulgation—Records—Quorum.

Meetings of the design review board shall be held at least once every six months, and at other times as the chairperson of the design review board may determine or a request for design review is made by an applicant. There shall

be a fixed place of meeting, and all regular design review board meetings shall be open to the public.

A. Notice Requirements

1. The City shall publish notice of all meetings at least ten days in advance of the meeting date.
2. In some cases, the owner of the property for which the review is sought shall notify all adjacent property owners accordingly:
 - a. In the case of review of construction, or remodel within the Historical Business District, notice shall be given to all property owners along Front Street within the block where construction is proposed.
 - b. In the case of review of new multi-family construction which includes a structure of more than four units, or single family construction of four or more attached units in one structure, notice shall be given to all property owners within three hundred feet of the property on which construction is proposed.
 - c. Notification, in all cases, shall be by certified mail or registered mail, and satisfactory evidence of such notice must be provided prior to the hearing date.

B. Proceedings

The design review board shall adopt its own rules or procedures and keep a record of its proceedings, findings and action in each case, and the vote of each member on each question considered in the proceedings. The presence of three members shall be necessary to constitute a quorum.

Chapter 19.55, Airport Overlay Standards, Amended as follows:

19.55.010 - Established.

There is established an AO zone—Airport overlay zone and the regulations and standards for land uses permitted within. This zone includes the land owned and leased by the city of Lynden for the purpose of owning and operating a municipal airport, together with the land adjacent with said property extending one hundred fifty feet north and one hundred fifty feet south of the edge of the runway pavement. Also included are Lots 1 through 6 of the Milky Way Subdivision, providing they have access to a paved taxiway. All land within the

AO zone is located with frontage on the Lynden Municipal Airport, a paved taxiway, or a designated runway safety zone.

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

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

SECTION F Effective Date. This ordinance shall be effective five days after the date of publication. All development applications received after that date shall be reviewed under the provisions of this ordinance.

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

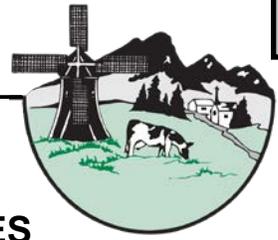
SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED TO AS FORM:

ROBERT CARMICHAEL, CITY ATTORNEY



PLANNING COMMISSION MEETING MINUTES

7:30 PM January 24, 2019
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Gerald Veltkamp, Blair Scott, Diane Veltkamp, Lynn Templeton and Tim Faber.

Absent with notice: Brett Kok.

Staff Present: Gudde, Planning Director; Samec, City Planner and Timmer, City Planner.

3. APPROVAL OF MINUTES

A. January 10, 2019

Minutes approved as presented. Veltkamp motion/ Templeton 2nd. Approved unanimously.

4. Declaration of Conflict

Chairwoman Veltkamp described the process of the public hearing.

Commissioners stated they had no conflict of interest, no ex parte communication and that they can hear and make a decision on this matter fairly.

5. PUBLIC HEARING – Pepin Creek Zoning and Zoning Code Update

Gudde addressed the Commission and stated that the Pepin Creek Sub-area represents a significant planning project. This meeting does not set the locations of these zones within the Pepin Creek Subarea. Although the sub-area will utilize some zoning categories with already exist, the planning effort has also included the creation of new categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.

The change is not considered lightly. The proposed zoning text amendment comes forward after careful review that has included public surveys, input from local real estate agents and builders, as well as six workshops with the Planning Commission, four joint

meetings with the Community Development Committee, and one joint workshop with the City Council. A number of these meetings have included opportunities for public input.

This evening Staff would like to review the three proposed amendments separately and as follows:

A. Addition of LMC Chapter 19.18, Pepin Creek, Residential Multi-Family-Pepin Creek (RM-PC)

This multi-family zoning category resembles the existing RM-2 zoning as it permits up to 4 units per building and, in larger developments up to 8 units per building. It differs from RM-2 in that it allows for smaller lots, smaller setbacks, and encourages fee simple attached single-family housing. The most familiar form of this housing type is the row house or townhome. Other creative housing arrangements could be accommodated in this zoning including clusters of cottages and shared garage layouts. The permitted density of the RM-PC is higher than the RM-2 zoning. The goal of this housing type is to create attached product that promotes home ownership at more affordable rates than detached single family homes.

Public Comment: Veltkamp opened the meeting to the audience.

Faber question: Residential Design Requirements. They are in there. Should they be included here as they are still being discussed?

Gudde stated that these are the City's current design standards that are currently included in the code. She left them in there while the discussion is occurring so they are in there. If changes occur, they would be updated at that point.

Number of vehicles allowed: Veltkamp asked if we should maintain the 5 vehicles per lot rule. Some discussion occurred on whether that should be limited.

Detached / attached question:

Daryl Roosenda, property owner within Pepin Creek Subarea, asked when the zoning locations would be determined. Gudde described that those locations have been proposed but it is still up for workshopping details and additional discussions with public, Public Works Dept and the Airport Board. The upcoming scheduled meetings – workshop the zoning locations as part of the overall subarea plan.

G. Veltkamp: Why the March 1, 2019 date highlighted in the document as a “grandfathered-in”?

Gudde responded that it is highlighted because it is tentative at this point. It depends on when it gets final approval from PC and City Council.

B. Updates to LMC Chapter 19.16, Residential Mixed Density Zone

D. Veltkamp gave a quick introduction on the RMD as it has been used in the past and described that the Pepin Creek Subarea work has been an opportunity to look at this zone as well.

This zoning category is one that already exists within the City of Lynden. It is meant to blend detached single-family housing with attached single-family homes (also known as paired housing) and duplex units. Some amendments have been proposed to the existing development standards of RMD which would eliminate the opportunity to construct triplex units but allows for smaller minimum lot sizes.

“Desirous” in the subdivision section – page 8. Is that a strong enough word? Is there another way to state that to make it stronger. Use the word “recommended”.

Public Comment: Veltkamp opened the meeting to the audience. No comment

C. Proposed overlays: Senior and Commercial.

These are overlays that a developer, property owner could activate within the Pepin Creek Subarea.

D. Revisions to Title 17, Title 18 and Title 19 of the LMC

The zoning addition of Chapter 19.18 as proposed also warranted changes and improvements to other existing sections of code including sections in Chapters 17 and 18, and other sections of Chapter 19. The most significant change may be the revision to measure setbacks from property line to foundation. Also duplexes would go to the Design Review Board for review. Adjustments have been noted in each affected section to accommodate this change but with little to no change in the currently permitted building envelope.

Public Comment: Veltkamp opened the meeting to the audience.

Commission to go through the related Code Sections document.

Gudde described how we got to the Maximum Impervious Coverage percentages. Compared to other jurisdictions, some discussion on the current allowance for building envelope, and enforcement.

G. Veltkamp asked for a definition of Impervious Surface to be included in the definition section. Staff will add that.

Faber: Add the description “cantilevered” to bay windows on page 15. E.

Landscaping bed. Faber asked about the averaging. Required minimum of 4 ft but allowed to average as long as the overall square footage requirement is met.

Pg 22 Scribner’s error on “Notice requirements”

Design Review – some clarification on application process, certified mailings, allowance for variances.

Templeton asked about “carports” at last meeting. Where did that go?

Gudde explained that the Design Standards are generally

Darryl Roosendaal, Shoreline, WA – Asked if we could clarify what “additional fire protection” means? Gudde described that we deferred to the Building Code requirements for fire protection – no vents, wall protection. Faber described that we have set up the code to prevent buildings from being within 10 ft so they wouldn’t be required. Detached buildings can be within 6 ft of each other as is currently allowed and building code would be in effect.

Scott motioned to close the public portion of the meeting and take a quick recess. Second by Templeton.

3 Separate Motions:

RM-PC: Faber Motion to recommend approval of Chapt 19.18 Pepin Creek Subareas zones as present with one clarification on “cantilevered” bay windows. Second by Scott and passed unanimously.

RMD: Faber Motion to recommend approval of amendments to RMD with following changes: “Cantilevered” bay windows. 19.16.5 a the word desirous to be changed to “recommended”.

Templeton second and pass unanimously.

Other Related Code Sections: Faber motion to recommend approval of proposed changes of Chapt 17, 18, 19 with the following: Cantilvered windows and add the definition of Impervious Surface to definition section. Second by Templeton and passed unanimously.

6. COMMISSIONERS CORNER

Gudde described upcoming schedule:

CDC with Planning Commission members – February 20 to discuss design standards.

No February meetings. Next meeting March 14.

7. ADJOURNMENT

Motion to adjourn by Scott / Second by Faber. Meeting adjourned at 9:07 pm.

DRAFT

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Planning Department	
Contact Name/Phone:	Heidi Gudde (360)354-5532	
Council Committee Review:		
<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		
Attachments:		
Draft Ordinance 1575, Staff memo, and Planning Commission Minutes from 1-24-19		
Name of Agenda Item:		
Set the Public Hearing Date for Ord 1575		
Summary Statement:		
<p>The planning of the Pepin Creek Sub-area represents a significant multi-step project. One aspect of the project is to create zoning categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.</p> <p>The proposed zoning text amendments will come forward to the City Council in three separate ordinances.</p> <p>-Ordinance 1575 addresses the Pepin Creek Sub-area specifically, -Ordinance 1576 proposes revisions to the Residential Mixed Density (RMD) zoning category which is anticipated to be used within the Pepin Creek Sub-area, and -Ordinance 1574 proposes amendments within the three land development chapters which accommodate the proposed code and promote consistency throughout zoning categories.</p> <p>The proposed amendments and new zoning categories are summarized in a staff memo attached.</p> <p>The current proposals come forward after careful review that has included public survey results, input from local real estate agents and builders, detailed work sessions with the Planning Commission and Community Development Committee.</p> <p>On January 24, 2019 the Planning Commission held a public hearing and recommended approval of the amendments described in Ordinance 1574, 1575, and 1576.</p> <p>It should be noted that while these ordinances create the zoning categories they do not assign them to properties within the sub-area. These assignments will be subsequently adopted through the sub-area plan later this year. A draft of this plan was released on September 12, 2018 and is available on the City's website.</p> <p>At this time staff would like to request that the City Council set a public hearing date of March 4, 2019 to consider the approval of these amendments to Chapters 17, 18, and 19 of the land development code for the accommodation of the Pepin Creek Sub-area.</p>		
Recommended Action:		
Motion to set a public hearing date of March 4, 2019 to consider Ordinance 1575 which amends Chapter 19 of the Lynden Municipal Code to add the Pepin Creek Sub-area zoning categories and overlays.		

CITY OF LYNDEN



PLANNING DEPARTMENT
Heidi Gudde, Planning Director
(360) 354 - 5532

Planning Department Memorandum

To: City Council
From: Heidi Gudde, Planning Director
Date: February 8, 2019
Re: Zoning Amendments to Accommodate Pepin Creek

The Pepin Creek Sub-area represents a significant planning project. Although the sub-area will utilize some zoning categories with already exist, the planning effort has also included the creation of new categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.

The change is not considered lightly. The proposed zoning text amendment comes forward after careful review that has included public survey results, input from local real estate agents and builders, as well as six workshops with the Planning Commission, four joint meetings with the Community Development Committee, and one joint workshop with the City Council. A number of these meetings have included opportunities for public input.

The proposed amendments and new zoning categories are summarized briefly below. Zoning regulations including primary, accessory and secondary uses, were written to resemble, as closely as possible, the City's existing regulations.

Proposed Zoning Amendments and Pepin Creek Zoning Categories and Overlays

Residential Multi-Family-Pepin Creek (RM-PC): This multi-family zoning category resembles the existing RM-2 zoning as it permits up to 4 units per building and, in larger developments up to 8 units per building. It differs from RM-2 in that it allows for smaller lots, smaller setbacks, and encourages fee simple attached single-family housing. The most familiar form of this housing type is the row house or townhome. Other creative housing arrangements could be accommodated in this zoning including clusters of cottages and shared garage layouts. The permitted density of the RM-PC is higher than the RM-2 zoning. The goal of this housing type is to create attached product that promotes home ownership at more affordable rates than detached single family homes.

Residential Mixed Density (RMD): This zoning category is one that already exists within the City of Lynden. It is meant to blend detached single-family housing with attached single-family homes (also known as paired housing) and duplex units. Some amendments have been proposed to the

CITY OF LYNDEN



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
(360) 354 - 5532

existing development standards of RMD which would eliminate the opportunity to construct triplex units but allows for smaller minimum lot sizes.

Senior Overlay: This zoning overlay allows a developer to activate additional density if specific criteria are met. In this case the criteria relate to providing housing for seniors. This may take the form of age restricted neighborhoods, assisted living, or full-time care facilities. The underlying zoning category dictates if this criterion is not met.

Commercial Overlay: This zoning overlay encourages small neighborhood commercial establishments to be developed at high visible intersections. The uses permitted here are intended to serve the adjacent neighborhoods. Commercial establishments in these areas are subject to design standards. The underlying zoning category dictates if the commercial overlay is not utilized.

Other Sections: The zoning addition of Chapter 19.18 proposed above also warranted changes and improvements to other existing sections of code including sections in Chapters 17 and 18, and other sections of Chapter 19. The most significant change may be the revision to measure setbacks from property line to foundation rather than the farthest projection of the building. Adjustments have been noted in each affected section to accommodate this change but with little to no change in the currently permitted building envelope.

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review:
Department:	Planning Department	<input type="checkbox"/> Yes - Reviewed
Contact Name/Phone:	Heidi Gudde (360)354-5532	<input type="checkbox"/> No - Not Reviewed
Council Committee Review:		<input checked="" type="checkbox"/> Review Not Required
<input checked="" type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	
Attachments:		
Draft Ordinance 1576, Staff memo, and Planning Commission Minutes from 1-24-19		
Name of Agenda Item:		
Set the Public Hearing Date for Ord 1576		
Summary Statement:		
<p>The planning of the Pepin Creek Sub-area represents a significant multi-step project. One aspect of the project is to create zoning categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.</p> <p>The proposed zoning text amendments will come forward to the City Council in three separate ordinances.</p> <ul style="list-style-type: none"> -Ordinance 1575 addresses the Pepin Creek Sub-area specifically, -Ordinance 1576 proposes revisions to the Residential Mixed Density (RMD) zoning category which is anticipated to be used within the Pepin Creek Sub-area, and -Ordinance 1574 proposes amendments within the three land development chapters which accommodate the proposed code and promote consistency throughout zoning categories. <p>The proposed amendments and new zoning categories are summarized in a staff memo attached.</p> <p>The current proposals come forward after careful review that has included public survey results, input from local real estate agents and builders, detailed work sessions with the Planning Commission and Community Development Committee.</p> <p>On January 24, 2019 the Planning Commission held a public hearing and recommended approval of the amendments described in Ordinance 1574, 1575, and 1576.</p> <p>It should be noted that while these ordinances create the zoning categories they do not assign them to properties within the sub-area. These assignments will be subsequently adopted through the sub-area plan later this year. A draft of this plan was released on September 12, 2018 and is available on the City's website.</p> <p>At this time staff would like to request that the City Council set a public hearing date of March 4, 2019 to consider the approval of these amendments to Chapters 17, 18, and 19 of the land development code for the accommodation of the Pepin Creek Sub-area.</p>		
Recommended Action:		
Motion to set a public hearing date of March 4, 2019 to consider Ordinance 1576 which amends Chapter 19.16 of the Lynden Municipal Code to revise the standards associated with the Residential Mixed Density (RMD) zoning category in anticipation of the development of the Pepin Creek Sub-area.		



PLANNING DEPARTMENT
Heidi Gudde, Planning Director
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The change is not considered lightly. The proposed zoning text amendment comes forward after careful review that has included public survey results, input from local real estate agents and builders, as well as six workshops with the Planning Commission, four joint meetings with the Community Development Committee, and one joint workshop with the City Council. A number of these meetings have included opportunities for public input.

The proposed amendments and new zoning categories are summarized briefly below. Zoning regulations including primary, accessory and secondary uses, were written to resemble, as closely as possible, the City’s existing regulations.

Proposed Zoning Amendments and Pepin Creek Zoning Categories and Overlays

Residential Multi-Family-Pepin Creek (RM-PC): This multi-family zoning category resembles the existing RM-2 zoning as it permits up to 4 units per building and, in larger developments up to 8 units per building. It differs from RM-2 in that it allows for smaller lots, smaller setbacks, and encourages fee simple attached single-family housing. The most familiar form of this housing type is the row house or townhome. Other creative housing arrangements could be accommodated in this zoning including clusters of cottages and shared garage layouts. The permitted density of the RM-PC is higher than the RM-2 zoning. The goal of this housing type is to create attached product that promotes home ownership at more affordable rates than detached single family homes.

Residential Mixed Density (RMD): This zoning category is one that already exists within the City of Lynden. It is meant to blend detached single-family housing with attached single-family homes (also known as paired housing) and duplex units. Some amendments have been proposed to the

CITY OF LYNDEN



PLANNING DEPARTMENT

Heidi Gudde, Planning Director
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existing development standards of RMD which would eliminate the opportunity to construct triplex units but allows for smaller minimum lot sizes.

Senior Overlay: This zoning overlay allows a developer to activate additional density if specific criteria are met. In this case the criteria relate to providing housing for seniors. This may take the form of age restricted neighborhoods, assisted living, or full-time care facilities. The underlying zoning category dictates if this criterion is not met.

Commercial Overlay: This zoning overlay encourages small neighborhood commercial establishments to be developed at high visible intersections. The uses permitted here are intended to serve the adjacent neighborhoods. Commercial establishments in these areas are subject to design standards. The underlying zoning category dictates if the commercial overlay is not utilized.

Other Sections: The zoning addition of Chapter 19.18 proposed above also warranted changes and improvements to other existing sections of code including sections in Chapters 17 and 18, and other sections of Chapter 19. The most significant change may be the revision to measure setbacks from property line to foundation rather than the farthest projection of the building. Adjustments have been noted in each affected section to accommodate this change but with little to no change in the currently permitted building envelope.

ORDINANCE NO. 1576

AN ORDINANCE OF THE CITY OF LYNDEN TO REPEAL AND REPLACE CHAPTER 19.16, RESIDENTIAL MIXED DENSITY ZONE OF THE LYNDEN MUNICIPAL CODE

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

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

WHEREAS, the purpose of the residential mixed density zone (RMD) is to meet the stated goals of the Comprehensive Plan by allowing increased residential density to be integrated within single family neighborhoods within the community.

WHEREAS, on January 25, 2019, the City issued a SEPA Determination of Non-Significance related to this Ordinance; and

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

WHEREAS, the Lynden Planning Commission held a public hearing on January 24, 2019, on the proposed repeal and replacement of Chapter 19.16 of the Lynden Municipal Code regarding the Residential Mixed Density Zone; and

WHEREAS, on January 25, 2019, the City provided notification to the state pursuant to RCW 36.70A.106 regarding the proposed repeal and replace of Chapter 19.16 of the Lynden Municipal Code and requested expedited review thereof, and said request for expedited review having been subsequently granted; and

WHEREAS, on March 4, 2019, the Lynden City Council held a public hearing to consider the Planning Commissions recommendation and to hear additional public input regarding the changes to Chapter 19.16, Residential Mixed Density Zone; and

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

SECTION A. Chapter 19.16 of the Lynden Municipal Code is hereby repealed in its entirety.

SECTION B. A new chapter 19.16 of the Lynden Municipal Code is hereby adopted as follows:

Sections:

- 19.16.010 Purpose and Intent
- 19.16.020 Permitted Uses
- 19.16.030 Accessory Permitted Uses
- 19.16.040 Secondary Permitted Uses
- 19.16.050 Conditional Property Uses
- 19.16.060 Development Standards – Density, Lot, Height, Setbacks
- 19.16.070 Additional Development Standards
- 19.16.080 Residential Design Requirements
- 19.16.085 Subdivision Design Guidelines
- 19.16.090 Fences
- 19.16.100 Front Yard Uses

19.16.010 - Purpose and intent.

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

The intent in the creation of this zone is to allow a creative mixture of single-family and duplex housing styles and types. Development of this area should focus on maintaining the aesthetic quality of the city in general and the neighborhood in particular by providing for architectural diversity, adequate landscaping and open space and making low impact development (LID) the preferred and commonly used approach to site development.

19.16.020 - Permitted uses.

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

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

19.16.030 - Accessory permitted uses.

Accessory permitted uses are as follows:

- A. Private garages. No detached garage or accessory building shall exceed one thousand square feet of inside floor area or ten percent of the lot area, whichever is greater; provided however, that the floor area of the accessory building does not exceed the floor area of the primary residence or three thousand square feet, whichever is greater.
- B. Lots greater than or equal to ten thousand square feet may store up to two recreational vehicles on the lot; provided however, they are not stored in the front yard.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Mobile storage units or shipping containers are permitted for use during construction but must be removed within thirty days of final occupancy of the primary residence. No units greater than eight feet by ten feet are permitted in residential zones, other than during construction or for a period of up to thirty consecutive days within a six month period to facilitate the moving in or moving out of a residence. Units eight feet by ten feet or smaller may be placed on a lot for not more than six months during any two year period and must be located in the rear yard.
- E. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC 19.37.090.
- F. Accessory dwelling unit (ADU) per LMC Chapter 19.20.

19.16.040 - Secondary permitted uses.

Secondary permitted uses are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.

- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.
- H. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).

19.16.050 - Conditional property uses.

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

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Churches, provided that the lot coverage does not exceed thirty-five percent, the front yard be landscaped and all other parking and landscaping requirements are met.
- E. Schools.
- F. Bed and breakfast establishments. (Refer to Section 19.49.030)
- G. Manufactured home parks or subdivisions subject to the development objectives of the applicable sub-area plan.

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

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

Table Notes:

- a. For the purpose of this section net land area means the gross acreage within a parcel minus all development requirements, designated critical areas and their buffers.
- b. Lots developed immediately adjoining a different single family residential zone shall not be less than 80% of the minimum lot size of that adjoining zone. For the purpose of this section properties that are separated from another single family residential zone by a street are not immediately adjoining said zone.
- c. A minimum of 40% of the net land area within a development shall be divided into lots with a minimum size of 7200 square feet or larger
- d. On corner lots one of the corners may be considered as a side yard, provided that the yard considered as a side yard shall not be less than 10 feet.

19.16.070 - Additional Development Standards

- A. All setbacks are measured from the property line to the foundation. Eaves and cantilever bay windows may encroach into the setback a maximum of two feet. Structures covering decks and patios may encroach into rear setbacks as described in LMC 19.16.070. Additional fire protection may be required for structures located within 10 feet of each other. It is the property owner's responsibility to have the property lines clearly marked for inspection. Structural permits with setbacks submitted prior to April 1, 2019 are considered conforming and not subject to LMC 19.35.030.
- B. On any lot, the minimum distance between the garage door and the property line or access easement parallel to the garage door must be 25 feet.
- C. An attached garage may be built as close as six feet to the side property line provided the living area setbacks total twenty feet, from the foundation to the property line.
- D. On corner lots, the side yard setback adjacent to the street must be a minimum of ten feet.
- E. On corner lots, the primary pedestrian entrance to the building shall be from the designated front yard. However, the primary pedestrian entrance and address may be oriented to the designated side yard if both side yard setbacks are fifteen feet from property line to living area.
- F. The side yard used for a driveway shall not be less than ten feet in width.
- G. To be considered a "detached" structure, the minimum distance between two structures shall be six feet measured from foundation to foundation with no projections greater than eighteen inches.
- H. A detached accessory structure, or garden shed, which requires a building permit per LMC 15.04, may not be built closer than six feet to the side or rear property line including property lines abutting alleys. Structures which do not require a building permit per LMC 15.04 to be setback a minimum of three feet to the side or rear property line. Accessory structures on corner lots shall not be permitted nearer than ten feet to the side property line adjacent to the street. The maximum height for all accessory structures shall be twelve feet, except for detached garages as noted below.
- I. The maximum height of any detached garage, that is serving as the primary garage shall be eighteen feet, provided however that the setback

shall be a minimum of five feet from the rear and side property lines, the roof pitch and siding shall be consistent with the primary structure on the lot, there is no living space within the building and the height of the accessory building does not exceed the height of the primary structure. Living space and alternative building heights may be permitted as described in LMC 19.20.

- J. The maximum height of any secondary garage or shop shall be eighteen feet, provided however that the structure is set behind the rear line of the house, the roof has a minimum 4:12 pitch, there is no living space within the building and the height of the building does not exceed the height of the primary structure. Living space and alternative building heights may be permitted as described in LMC Chapter 19.20.
- K. The height of any building is measured from the approved average grade level as defined in Section 17.01.030 to the highest point of a structure; provided that appurtenances such as television antennas and chimneys are not considered part of the height.
- L. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum height increase of five feet, or total height of thirty-seven feet.
- M. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line. Deck privacy screening or fencing shall not be higher than eighty-four inches above the lowest grade.
- N. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within eighteen feet of the rear property line; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.
- O. Structures covering decks or patios are permitted within the rear setback provided that the structure: remains open on three sides; does not come within eighteen feet of the rear property line; does not encroach into the side yard setbacks of the underlying zone; and, the addition does not exceed the permitted lot coverage.

19.16.080 - Residential design requirements.

All residential dwelling units must meet the following design criteria unless subject to the Pepin Creek Subarea Residential Design Standards as adopted by the City Council, or unless varied by the design review board as provided under Section 19.45.035:

- A. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
- B. All dwellings shall be oriented on the lot, so that the primary pedestrian entrance faces the street or access easement.
- C. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.
- D. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
- E. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.
- F. The exterior of the home must be finished with a minimum of two types of materials. Exposed fastener metal siding is prohibited on residential buildings.
- G. All units other than a detached single family residence shall be subject to review and approval by the Design Review Board.
- H. No more than fifty percent of the lineal frontage of the building elevation may be occupied by garage doors. For the purposes of this section, a set of garage doors serves one dwelling unit and means one double garage door or two single garage doors separated by less than five feet.
- I. Only one set of garage doors may face the street unless the garage doors are setback from the living area a minimum of ten feet.
- J. All parking requirements of Section 19.51.040 LMC must be met on site.

19.16.085 - Subdivision design guidelines.

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

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

19.16.090 - Fences.

See Chapter 19.63.

19.16.100 - Front yard use.

- A. Front yards shall be used for ornamental purposes only. No storage sheds, portable storage tents, temporary canopies or other similar structures may be located within the front yard; provided however that portable canopies or tent structures may be used during events or yard sales but must be removed within seventy-two hours of the sale or other event.
- B. Front yards may be used for LID infiltration BMPs.
- C. No fences, growth or other obstruction over three feet in height above the curb grade shall be allowed within the clear vision triangle, as defined at LMC 17.01.030.
- D. Front yards setbacks may not be used for the storage of boats, campers, or any recreational vehicle. (Refer to 19.31.020 B).

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

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

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

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

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

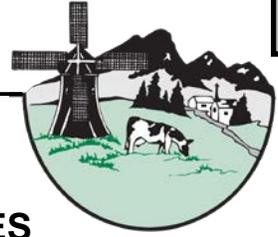
MAYOR (Scott Korthuis)

ATTEST:

CITY CLERK (Pamela Brown)

APPROVED TO AS FORM:

CITY ATTORNEY (Robert Carmichael)



PLANNING COMMISSION MEETING MINUTES

7:30 PM January 24, 2019
City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Gerald Veltkamp, Blair Scott, Diane Veltkamp, Lynn Templeton and Tim Faber.

Absent with notice: Brett Kok.

Staff Present: Gudde, Planning Director; Samec, City Planner and Timmer, City Planner.

3. APPROVAL OF MINUTES

A. January 10, 2019

Minutes approved as presented. Veltkamp motion/ Templeton 2nd. Approved unanimously.

4. Declaration of Conflict

Chairwoman Veltkamp described the process of the public hearing.

Commissioners stated they had no conflict of interest, no ex parte communication and that they can hear and make a decision on this matter fairly.

5. PUBLIC HEARING – Pepin Creek Zoning and Zoning Code Update

Gudde addressed the Commission and stated that the Pepin Creek Sub-area represents a significant planning project. This meeting does not set the locations of these zones within the Pepin Creek Subarea. Although the sub-area will utilize some zoning categories with already exist, the planning effort has also included the creation of new categories and overlays which take into account the City's growth priorities, housing density goals, infrastructure requirements, and community character.

The change is not considered lightly. The proposed zoning text amendment comes forward after careful review that has included public surveys, input from local real estate agents and builders, as well as six workshops with the Planning Commission, four joint

meetings with the Community Development Committee, and one joint workshop with the City Council. A number of these meetings have included opportunities for public input.

This evening Staff would like to review the three proposed amendments separately and as follows:

A. Addition of LMC Chapter 19.18, Pepin Creek, Residential Multi-Family-Pepin Creek (RM-PC)

This multi-family zoning category resembles the existing RM-2 zoning as it permits up to 4 units per building and, in larger developments up to 8 units per building. It differs from RM-2 in that it allows for smaller lots, smaller setbacks, and encourages fee simple attached single-family housing. The most familiar form of this housing type is the row house or townhome. Other creative housing arrangements could be accommodated in this zoning including clusters of cottages and shared garage layouts. The permitted density of the RM-PC is higher than the RM-2 zoning. The goal of this housing type is to create attached product that promotes home ownership at more affordable rates than detached single family homes.

Public Comment: Veltkamp opened the meeting to the audience.

Faber question: Residential Design Requirements. They are in there. Should they be included here as they are still being discussed?

Gudde stated that these are the City's current design standards that are currently included in the code. She left them in there while the discussion is occurring so they are in there. If changes occur, they would be updated at that point.

Number of vehicles allowed: Veltkamp asked if we should maintain the 5 vehicles per lot rule. Some discussion occurred on whether that should be limited.

Detached / attached question:

Daryl Roosenda, property owner within Pepin Creek Subarea, asked when the zoning locations would be determined. Gudde described that those locations have been proposed but it is still up for workshopping details and additional discussions with public, Public Works Dept and the Airport Board. The upcoming scheduled meetings – workshop the zoning locations as part of the overall subarea plan.

G. Veltkamp: Why the March 1, 2019 date highlighted in the document as a “grandfathered-in”?

Gudde responded that it is highlighted because it is tentative at this point. It depends on when it gets final approval from PC and City Council.

B. Updates to LMC Chapter 19.16, Residential Mixed Density Zone

D. Veltkamp gave a quick introduction on the RMD as it has been used in the past and described that the Pepin Creek Subarea work has been an opportunity to look at this zone as well.

This zoning category is one that already exists within the City of Lynden. It is meant to blend detached single-family housing with attached single-family homes (also known as paired housing) and duplex units. Some amendments have been proposed to the existing development standards of RMD which would eliminate the opportunity to construct triplex units but allows for smaller minimum lot sizes.

“Desirous” in the subdivision section – page 8. Is that a strong enough word? Is there another way to state that to make it stronger. Use the word “recommended”.

Public Comment: Veltkamp opened the meeting to the audience. No comment

C. Proposed overlays: Senior and Commercial.

These are overlays that a developer, property owner could activate within the Pepin Creek Subarea.

D. Revisions to Title 17, Title 18 and Title 19 of the LMC

The zoning addition of Chapter 19.18 as proposed also warranted changes and improvements to other existing sections of code including sections in Chapters 17 and 18, and other sections of Chapter 19. The most significant change may be the revision to measure setbacks from property line to foundation. Also duplexes would go to the Design Review Board for review. Adjustments have been noted in each affected section to accommodate this change but with little to no change in the currently permitted building envelope.

Public Comment: Veltkamp opened the meeting to the audience.

Commission to go through the related Code Sections document.

Gudde described how we got to the Maximum Impervious Coverage percentages. Compared to other jurisdictions, some discussion on the current allowance for building envelope, and enforcement.

G. Veltkamp asked for a definition of Impervious Surface to be included in the definition section. Staff will add that.

Faber: Add the description “cantilevered” to bay windows on page 15. E.

Landscaping bed. Faber asked about the averaging. Required minimum of 4 ft but allowed to average as long as the overall square footage requirement is met.

Pg 22 Scribner’s error on “Notice requirements”

Design Review – some clarification on application process, certified mailings, allowance for variances.

Templeton asked about “carports” at last meeting. Where did that go?

Gudde explained that the Design Standards are generally

Darryl Roosendaal, Shoreline, WA – Asked if we could clarify what “additional fire protection” means? Gudde described that we deferred to the Building Code requirements for fire protection – no vents, wall protection. Faber described that we have set up the code to prevent buildings from being within 10 ft so they wouldn’t be required. Detached buildings can be within 6 ft of each other as is currently allowed and building code would be in effect.

Scott motioned to close the public portion of the meeting and take a quick recess. Second by Templeton.

3 Separate Motions:

RM-PC: Faber Motion to recommend approval of Chapt 19.18 Pepin Creek Subareas zones as present with one clarification on “cantilevered” bay windows. Second by Scott and passed unanimously.

RMD: Faber Motion to recommend approval of amendments to RMD with following changes: “Cantilevered” bay windows. 19.16.5 a the word desirous to be changed to “recommended”.

Templeton second and pass unanimously.

Other Related Code Sections: Faber motion to recommend approval of proposed changes of Chapt 17, 18, 19 with the following: Cantilvered windows and add the definition of Impervious Surface to definition section. Second by Templeton and passed unanimously.

6. COMMISSIONERS CORNER

Gudde described upcoming schedule:

CDC with Planning Commission members – February 20 to discuss design standards.

No February meetings. Next meeting March 14.

7. ADJOURNMENT

Motion to adjourn by Scott / Second by Faber. Meeting adjourned at 9:07 pm.

DRAFT

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Department:	Planning Department	
Contact Name/Phone:	Heidi Gudde (360)354-5532	
Council Committee Review:		
<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____		
Attachments:		
Draft Ordinance 1577		
Name of Agenda Item:		
Set the Public Hearing Date for Ord 1577 re Pepin Creek Moratorium Extension		
Summary Statement:		
<p>Planning and engineering efforts regarding the Pepin Creek Subarea are moving forward:</p> <p>In December of 2018 the City Council voted to amend the Comprehensive Plan and establish the Pepin Creek Sub-area.</p> <p>Next month the City Council will consider the adoption of zoning categories created for the sub-area.</p> <p>Later this spring the Sub-area plan, originally released on September 12, 2018, will go to a public hearing before the Planning Commission and City Council. The plan designates zoning categories within the sub-area, addresses known flood hazards and constraints, and presents financial analysis on development in the area.</p> <p>Additional study is required:</p> <p>The subarea plan does not determine the full benefit area of flood protection that the Pepin Creek channel project provides. Nor does it determine the proportionate share of the project that properties within the subarea must contribute. These elements are linked specifically to channel design and both must be determined prior to permitting development in the subarea. Critical to this point, the engineering design team has been exploring alternative channel designs which may decrease the cost of construction and risk. These efforts of determining final channel design and proportionate share are expected to require the duration of the next 6 months.</p> <p>As these final elements are defined and executed, City staff recommends that the moratorium on construction and development within the Pepin Creek area be continued an additional 6 months from the current date of expiration of March 9, 2019.</p> <p>City staff would like to request that the City Council set a public hearing date for March 4, 2019 to consider the approval of Ordinance 1577 regarding the extension of the Pepin Creek Moratorium.</p>		
Recommended Action:		
Motion to set a public hearing date of March 4, 2019 to consider Ordinance 1577 extending the existing moratorium of development on those properties previously identified within the Pepin Creek Sub-area.		

ORDINANCE NO. 1577**INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON SUBDIVISION AND PLANNED RESIDENTIAL DEVELOPMENT APPLICATIONS AND CERTAIN BUILDING PERMIT APPLICATIONS FOR PROPERTY LOCATED WITHIN THE PEPIN CREEK PROJECT AREA**

WHEREAS, on August 19, 2013, the City of Lynden (“City”) adopted the April 2009 Amendment to the January 1992 Stormwater Management Plan identifying the “Pepin Creek” project (“Pepin Creek Project” or “Project”); and

WHEREAS, the Pepin Creek Project includes the relocation and combination of surface water flows from Double Ditch and Benson Ditch between Badger Road and Main Street into one “new” watercourse known as Pepin Creek; and

WHEREAS, the general vicinity of the Pepin Creek Project has experienced instances of extreme flooding in recent years, causing hundreds of thousands of dollars in property damage, closing and damaging public roads and infrastructure, cutting residents off from emergency access, and damaging agricultural land; and

WHEREAS, the Pepin Creek Project is designed to implement a new drainage pattern to protect public roads and public road infrastructure, substantially reduce flooding, facilitate improved storm water control, and provide the ancillary benefit of natural fish and wildlife habitat; and

WHEREAS, the City has completed acquisition of several properties necessary to accommodate the new Pepin Creek corridor; and

WHEREAS, the City must continue to undertake numerous complex and detailed planning, funding, design, permitting, construction and other associated issues to complete the Pepin Creek Project (“Pepin Creek Project Issues”); and

WHEREAS, Pepin Creek Project Issues include without limitation:

- corridor design and permitting for the Pepin Creek Project;
- locating and increasing stormwater capacity and coordinating the associated street and utility infrastructure locations;
- design and permitting options associated with necessary downstream bank stabilization associated with the Pepin Creek Project;
- identifying financing and equitable allocation of system construction costs; and

WHEREAS, the Council has adopted, on October 16, 2017, Resolution No. 975, which is a Resolution of Intent outlining the strategies and corresponding timeline to resolve Pepin Creek Project Issues; and

WHEREAS, that area of the city believed to be affected by Pepin Creek Project Issues at this time and for purposes of this Ordinance include without limitation the area shown on Exhibit A (“Pepin Creek Project Area”), which is incorporated herein; and

WHEREAS, Ordinance No. 1509, *An Ordinance of the City of Lynden to provide Annexation to the City of Lynden* adopted on June 6, 2016 (“Ordinance No. 1509”), annexed property in the Pepin Creek Project Area into the City of Lynden; and

WHEREAS, Ordinance No. 1509 included a clause stating that the “City has identified the need for the completion of the Pepin Creek project prior to development” of the property annexed into the City; and

WHEREAS, except as set forth herein, property development within the Pepin Creek Project Area will likely disrupt the City’s ability to effectively address Pepin Creek Project Issues; and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's regulatory authority and is specifically authorized by RCW 35A.63.100; and

WHEREAS, Ordinance No. 1513, *Ordinance Establishing an Emergency Moratorium on Subdivision and Planned Residential Development Applications and Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on September 19, 2016; and

WHEREAS, Ordinance No. 1514, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on October 17, 2016; and

WHEREAS, Ordinance No. 1525, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on April 17, 2017; and

WHEREAS, Ordinance No. 1538, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on October 16, 2017; and

WHEREAS, Ordinance No. 1555, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building Permit Applications for Property Located Within the Pepin Creek Project Area*, was adopted by the City on May 7, 2018; and

WHEREAS, Ordinance No. 1562, *Interim Ordinance Establishing a 6-month Moratorium on Subdivision and Planned Residential Development Applications and Certain Building*

Permit Applications for Property Located Within the Pepin Creek Project Area, was adopted by the City on September 17, 2018; and

WHEREAS, the City held a public hearing on this proposed Ordinance 1577 on the 4th day of March 2019; and

WHEREAS, a continuation of the moratorium on development in the Pepin Creek Project Area is required to allow for proper planning and implementation of the Pepin Creek Project; and

WHEREAS, adoption of this ordinance extending the moratorium to assure that Pepin Creek Project Issues are resolved consistent with the Project addresses a public emergency and shall qualify as a public emergency ordinance; and

WHEREAS, the public emergency ordinance is necessary to protect the public health, safety, and welfare of the community, and public property; and

WHEREAS, this public emergency moratorium ordinance, as provided in RCW 35.A.12.130, when passed by a majority plus one of the whole membership of the council, is effective upon adoption; and

WHEREAS, the foregoing recitals are a material part of this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN DOES ORDAIN as follows:

Section 1. Findings of Fact. The City Council adopts the above “WHEREAS” recitals as findings of fact in support of this Ordinance. The Council may adopt additional findings in the event that additional evidence is presented to the City Council.

Section 2. Moratorium Established For New Subdivisions. The City shall not accept applications for any new subdivisions (including both short plats and long plats) or for any new planned residential developments for property located in whole or in part in the Pepin Creek Project Area, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Moratorium Established For Certain Building Permit Applications. The City shall not accept building permit applications in the Pepin Creek Project Area for new structures intended for human occupancy or for additions to existing residential structures of more than fifty percent (50%) in square footage, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 4. Resolution of Pepin Creek Project Issues. During the term of this interim ordinance the City shall work on resolving the following issues.

- A. Corridor Design. The Pepin Creek Project Area has demonstrated stormwater capacity deficiencies. The City must complete an analysis and design of a new

stormwater system with adequate capacity to fully accommodate basin flow. This would also include locating the street and utility infrastructure to function with that new system.

- B. Downstream Stabilization. The existing Double Ditch channel downstream from Main Street to the confluence with Fishtrap Creek presently has unstable banks. The City intends to identify corrective options, including necessary design, permitting, and funding, and consider construction implementation of corrective options.
- C. Financial Strategy. The City must develop a financing plan and method for equitable allocation of system construction costs and responsibilities among property owners in the Pepin Creek Project Area.

Section 5. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this Ordinance shall control.

Section 6. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 7. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR on the _____ day of March 2019,

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	2/19/2019	Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Department:	Public Works	
Contact Name/Phone:	Steve Banham / 255-5512	
Council Committee Review:		
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input checked="" type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input type="checkbox"/> Other: _____	
Attachments:		
Latecomer Agreement		
Name of Agenda Item:		
Latecomer Agreement N Prairie 7 Sanitary Sewer Extension		
Summary Statement:		
On February 4, City Council held a Public Hearing for comments on the latecomer's application for N Prairie 7 Sanitary Sewer Extension. After hearing comments, the Council authorized the preparation of the final Latecomer's Agreement (attached).		
Recommended Action:		
Approve Latecomer's Agreement for N Prairie 7 and authorize Mayor's signature on agreement.		

AFTER RECORDING RETURN TO:

CARMICHAEL CLARK, PS
ATTENTION: ROBERT A. CARMICHAEL
P. O. BOX 5226
BELLINGHAM, WASHINGTON 98227

DOCUMENT TITLE:

Latecomer Agreement

REFERENCE NO. OF RELATED DOCUMENT:**GRANTOR(S):**

City of Lynden

GRANTEE(S):

North Prairie LLC

ABBREVIATED LEGAL DESCRIPTION:

Additional Legal Description on page ___ of document

ASSESSOR'S TAX/PARCEL NUMBER(S):

400315 301409
400315 361401
400315 370443

LATECOMER AGREEMENT

THIS LATECOMER AGREEMENT ("Agreement"), made and entered into this _____ day of _____, 2019, between the CITY OF LYNDEN, a Washington municipal corporation ("City") and NORTH PRAIRIE LLC, a Washington limited liability company ("Developer").

RECITALS:

WHEREAS, the City is a municipal corporation under the laws of the State of Washington, and is empowered to furnish water, sewer, and stormwater utility services, and street improvements, among other things, to property owners within and without the City in the manner provided by law; and

WHEREAS, sewer facility improvements were required for the North Prairie Phase 7 Plat pursuant to the City's General Sewer Plan 2016 Update adopted by Resolution 959; and

WHEREAS, the Developer entered into an Agreement to Construct Improvements with the City for the construction and installation of off-site sewer facility improvements extending south in Northwood Road to the "South Kamm Sewer" dated March 28, 2018; and

WHEREAS, the Developer has completed the construction and installation of sewer facilities, ("Facilities") as required in accordance with the plans and specifications approved by the City to provide sewer service to the area of the thirty-four (34) parcels, all as depicted on Exhibit B attached hereto; and

WHEREAS, the Facilities are a benefit to real property within the City identified on Exhibit A as Latecomer Assessment Roll and shown on Exhibit B Latecomer Area Map; and

WHEREAS, the Latecomer Parcels, also hereby designated as the "Assessment Reimbursement Area," have not contributed to the cost of the Facilities extension and will be responsible for latecomer reimbursement pursuant to this Agreement unless otherwise agreed to by Developer; and

WHEREAS, the Developer is entitled to reimbursement from future developers and real property owners seeking connection to such Facilities for the cost of such Facilities in excess of

Developer's fair pro rata share therefor, which costs have been determined as set forth below;
and

WHEREAS, the total cost of the Facilities was six hundred and seven thousand, seven hundred and twenty-six dollars (\$607,726) (including construction administrative costs) and the reimbursable portion of the cost of the sewer facilities is four thousand five hundred ninety-four dollars and 59/100 dollars (\$4,594.59) per acre on each Latecomer Parcel; and

WHEREAS, the City will collect charges from the owner(s) of the Latecomer Parcels and such charges are the sole source of funds from which reimbursement to Developer can and will be made, as and when the same are collected; and

WHEREAS, the City is permitted to enter into a Reimbursement Agreement with Developer under the provisions of Chapter 35.91 RCW and LMC 13.28; and

WHEREAS, the parties desire to enter into a written agreement with reference to the foregoing matter; and

WHEREAS, the foregoing recitals are a material part of this Agreement,

NOW, THEREFORE,

IN CONSIDERATION OF THE FOLLOWING terms and conditions, the City and the Developer agree as follows:

1. **Completion of Facilities.** The installation of the Facilities has been completed by Developer. The City has inspected and approves of the Facilities. Title thereto will be transferred to the City without cost to the City, and the Facilities will be a part of the City sewer system.

2. **Records/Costs.** Developer has obtained and submitted to the City accurate and engineer certified records of the actual cost of installing the Facilities in accordance with the Agreement. The City Public Works Director has reviewed and approved the costs of the Facilities as reasonable costs and the City accepts the reimbursable portion of such costs as eligible for reimbursement. The City agrees to reimburse Developer in the manner and on the terms and conditions set forth in this Agreement, for the Facilities, from funds received by the City from the owner(s) of each of the Latecomer Parcels. The amount of those payments will not exceed

principal amount of \$407,769.58; which is the total shown on Exhibit A less those parcels which have "Paid". Per City Ordinance 1572, all payments shall include interest from the date of recording this Agreement at an annually applied interest rate of % fixed; which is the Federal Reserve for one-year treasury bills on the secondary market as of the date of signing.

3. **Method of Reimbursement.**

A. **Benefited Property.** The properties benefiting from the installation of the Facilities as determined at the sole discretion of the City, and which did not contribute to the original cost thereof, are the parcels identified in Exhibit A as "Latecomer Assessment Roll" and are shown on the map provided Exhibit B.

B. **Charges.** Prior to allowing the Latecomer Parcels or any portion or future division of the Latecomer Parcels to connect to the Facilities or any lateral or branch connected thereto, the City shall collect the total fair pro rata share of the cost of installing such Facilities as a charge plus interest, as set forth in Section 2 herein, from the owner(s) of the Latecomer Parcels. Such reimbursement charges shall be in addition to all other City charges in effect at the time of seeking connection to such Facilities, including without limitation, general facilities fees. The Developer has agreed that the City shall not be required to collect any costs from Latecomer Parcels 12, 13, 14, 15, 32, and 33 listed on Exhibit A as "PAID" which have either already paid Developer or Developer has waived payment from said parcels.

C. **Segregation.** Upon application by affected property owners, the City Public Works Director shall further segregate reimbursement charges attributed to properties benefited by the Facilities for newly created legal parcels. In instances where newly created parcels are part of a development with new sewer facilities constructed to serve the development, the segregation shall occur before the new sewer facilities connect to the City's sewer system. The segregation shall be based upon the same factors applied when the assessments were originally established. All costs of such segregation shall be borne by the party requesting such segregation.

D. **Payment Procedure.** The City shall forward reimbursement funds referenced herein to Developer at Developer's address provided herein or to Developer's agent as authorized by Developer to the City in writing. As a condition of receiving such reimbursement funds, Developer or Developer's agent shall execute a receipt to the City, in a form acceptable to the City, for such reimbursement amounts so paid upon a receipt.

In the event of dispute as to the rightful party to receive such funds, City may pay the same to the Developer referenced herein or interplead such funds to the court; in either event, the City shall thereupon be relieved of any further obligation or of any liability hereunder as to such reimbursement funds so paid. The Developer shall indemnify the City for any costs, including attorney fees, incurred by the City in such interpleader action.

4. **City Authority; Effective Date; and Contract Duration.** The City is authorized to enter into this Agreement by virtue of the provisions of RCW 35.91 *et seq.*; and this Agreement shall remain in full force and effect for a period of twenty (20) years, beginning from the date of this Agreement.

5. **Limit of Reimbursement Right.** All of Developer's rights to reimbursement for sewer facilities shall terminate upon the expiration of the twenty (20) year contract term expressed in Section 4, regardless of the status of reimbursement at that time. Costs for the Facilities are specified in the Recitals and Section 2 of this Agreement.

6. **Extension of Contract and Reimbursement.** If a moratorium, phasing ordinance, concurrency designation, or other similar governmental action prevents making an application for or approval of any new development on or within the Latecomer Parcels for a period of six (6) months or more, this Agreement and the limits of Developer's reimbursement rights may be extended by the same amount of time as the moratorium, phasing ordinance, concurrency designation, or similar governmental action was effective, but only if an extension agreement specifying the amount of time is recorded with the auditor's office and notice is given to property owners who may be affected.

7. **Recording.** This contract shall be recorded in the office of the Whatcom County Auditor, Whatcom County, Washington, immediately upon execution by the City and the Developer.

8. **Agreement Implementation.** The City will use its best efforts to collect and distribute the funds pursuant to the process set forth in this Agreement. However, the City, its officials, employees or agents shall not be held liable or responsible for failure to implement any of the provisions of this Agreement unless such failure was willful or intentional.

9. **General.** This Agreement constitutes the entire agreement between the parties. The exhibits referred to herein are by this reference made a part of this Agreement as though set forth in full. This Agreement is binding upon the heirs, executors, administrators, successors and assigns, of each of the parties hereto.

10. **Assignment.** The Developer shall not assign the whole or any part of this Agreement without the prior written consent of the City, and in the event of such assignment shall notify the City of the name and address of the assignee.

11. **Contact Information.** Pursuant to RCW 35.91.020(6), every two (2) years from the date of this Agreement, Developer or its assign(s) shall provide the City with updated contact information for the Developer, including a contact name, address, and telephone number. If the Developer fails to comply with the notification requirements of this subsection within sixty days (60) of every two year anniversary as indicated above, then the City may collect any reimbursement funds owed to the Developer under this Agreement. The funds collected under this subsection must be deposited in the capital fund of the City.

CITY OF LYNDEN:

By: Scott Korthuis

Its: Mayor

DEVELOPER:

North Prairie LLC

By: Bob Libolt

Its: Managing Member

125 Rosemary Way

Lynden, WA 98264

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of the City of Lynden to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this _____ day of _____, 2019.

Print Name: _____
NOTARY PUBLIC
My commission expires: _____

STATE OF WASHINGTON)
) §
COUNTY OF WHATCOM)

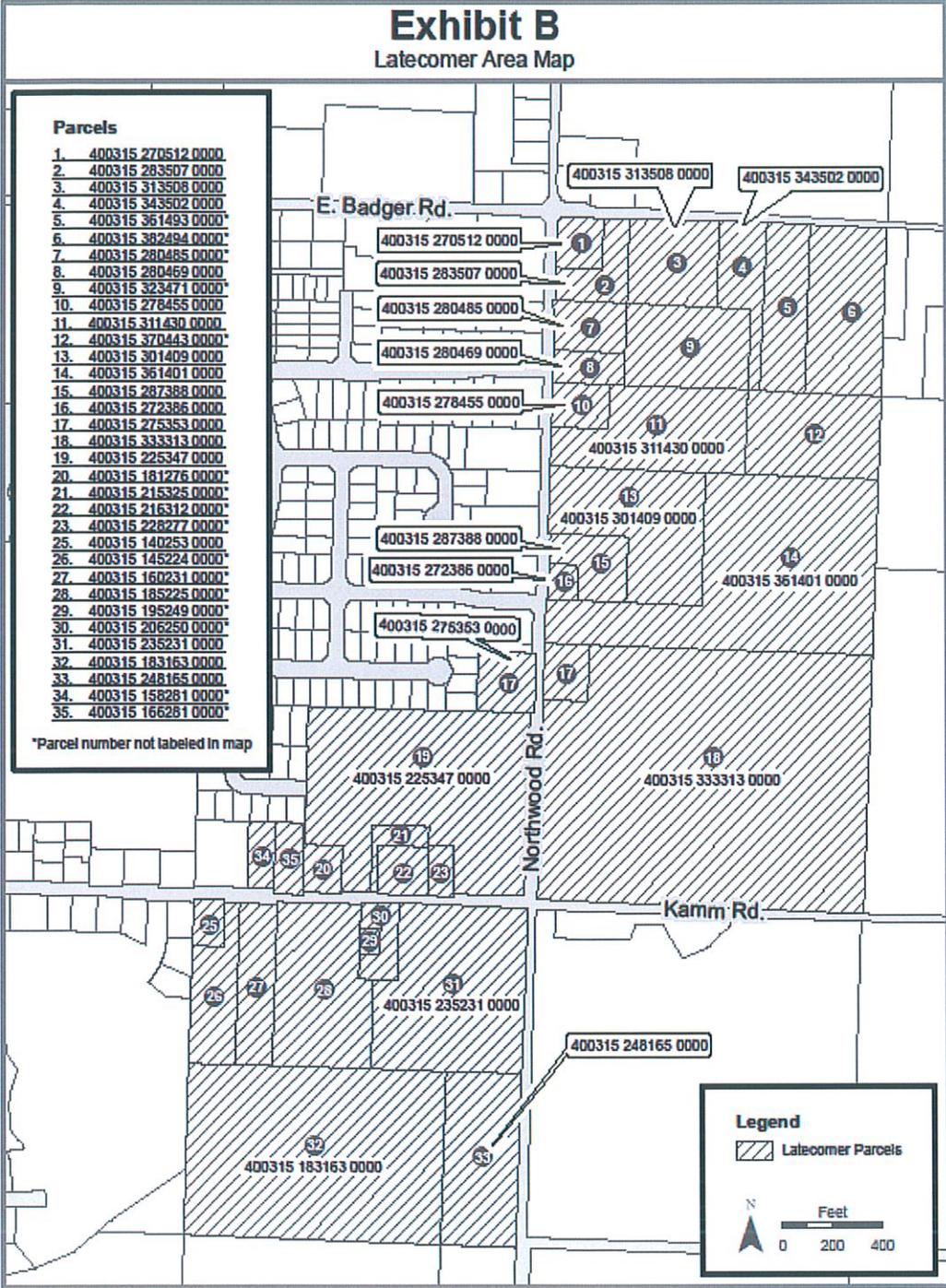
I certify that I know or have satisfactory evidence that _____ signed this instrument, on oath stated that (he/she) was authorized to execute the instrument and acknowledged it as the _____ of the North Prairie LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this _____ day of _____, 2019.

Print Name: _____
NOTARY PUBLIC in and for Washington State.
My commission expires: _____

**EXHIBIT A
LATECOMER ASSESSMENT ROLL**

Parcel #	Tax ID No.	Owner	Address	Parcel Size (acres)	Assessment per Parcel
1	400315 270512	Layne & Lori LLC	1501 Badger Road	0.84	\$ 3,859.45
2	400315 283507	Whatcom County Fire District NO 21	4142 Britton Loop	1.3	\$ 5,972.96
3	400315 313508	Badger Storage LLC	582 Pangborn Road	2.39	\$ 10,981.06
4	400315 343502	Greg Collett	2909 260th Street	2.01	\$ 9,235.12
5	400315 361493	Greg Collett	2909 260th Street	2.42	\$ 11,118.90
6	400315 382494	Tim & Christina Bento, Loretta Davidson	1583 E Badger Road	4.13	\$ 18,975.64
7	400315 280485	American Reformed Church	PO Box 455	0.91	\$ 4,181.07
8	400315 280469	American Reformed Church	PO Box 455	1.13	\$ 5,191.88
9	400315 323471	Cornerstone School Society	8872 Northwood Road	4.65	\$ 21,364.83
10	400315 278455	Derek & Louise Willis	8848 Northwood Road	1	\$ 4,594.59
11	400315 311430	Cornerstone School Society	8872 Northwood Road	3.91	\$ 17,964.83
12	400315 370443	North Prairie LLC	125 Rosemary Way	3.98	\$ 18,286.46 PAID
13	400315 301409	North Prairie LLC	125 Rosemary Way	5.52	\$ 25,362.12 PAID
14	400315 361401	North Prairie LLC	125 Rosemary Way	13.24	\$ 60,832.33 PAID
15	400315 287388	Jason & Danielle Groeneweg	8803 Northwood Road	1.45	\$ 6,662.15 PAID
16	400315 272386	Randal & Nancy Troupe	8794 Northwood Road	0.38	\$ 1,745.94
17	400315 275353	Indian Joe Cemetery	PO Box 157	1	\$ 4,594.59
18	400315 333313	Leroy Lagerwey	8744 Northwood Road	27.84	\$ 127,913.30
19	400315 225347	Harriot Wagter	8747 Northwood Road	12	\$ 55,135.04
20	400315 181276	Arnold & Gretchen Van Dyken	1436 Kamm Road	0.64	\$ 2,940.54
21	400315 215325	Robert Wagter	8747 Northwood Road #B	0.52	\$ 2,389.19
22	400315 216312	Mark & Ginger Jones	1462 Kamm Road	0.87	\$ 3,997.29
23	400315 228277	Thomas & Katie VanWingerden	1472 Kamm Road	0.46	\$ 2,113.51
25	400315 140253	Virginia Bosman	1403 Kamm Road	0.52	\$ 2,389.19
26	400315 145224	Gary & Kalise Hastings	808 South Park Court	2.19	\$ 10,062.15
27	400315 160231	Theodore & Suzanne Linde	1421 Kamm Road	2.09	\$ 9,602.69
28	400315 185225	Joel & Amy Schouten	1429 Kamm Road	4.88	\$ 22,421.58
29	400315 195249	Meadowdale Water Assoc	6951 Hannegan Road Suite 3	0.18	\$ 827.03
30	400315 206250	Shawn & Jannette Van Dyken	1455 Kamm Road	1.19	\$ 5,467.56
31	400315 235231	Theunis & Silvia Van Berkum	1465 Kamm Road	8	\$ 36,756.69
32	400315 183163	James & Bertha Bosman Trust	1503 Liberty Street	14.64	\$ 67,264.75 PAID
33	400315 248165	James & Bertha Bosman Trust	1503 Liberty Street	4.69	\$ 21,548.61 PAID
34	400315 158281	Rachele & William Gorsuch	1420 Kamm Road	0.63	\$ 2,894.59
35	400315 166281	Jack & Wilva Foster	1434 Kamm Road	0.67	\$ 3,078.37
				TOTAL	\$ 607,726.00
				Assessment per Acre:	\$ 4,594.59



CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	2/19/2019	Legal Review:
Department:	Public Works	<input type="checkbox"/> Yes - Reviewed
Contact Name/Phone:	Heather Sytsma / 360-255-5487	<input type="checkbox"/> No - Not Reviewed
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Public Safety <input type="checkbox"/> Finance <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Parks <input type="checkbox"/> Other: _____	<input checked="" type="checkbox"/> Review Not Required
Attachments:		
February 6, 2019 Draft Public Works Committee Meeting Minutes		
Name of Agenda Item:		
Draft Public Works Committee Meeting Minutes – February 6, 2019		
Summary Statement:		
Draft minutes for the February 6, 2019 Public Works Committee meeting		
Recommended Action:		
For Review		



PUBLIC WORKS COMMITTEE MINUTES

4:15 PM February 6, 2019

City Hall 2nd Floor Large Conference Room

1. ROLL CALL

Members Present: Councilors Gary Bode and Ron De Valois

Members Absent: Jerry Kuiken, with notice

Staff Present: Public Works Director Steve Banham; Programs Manager Mark Sandal; and Sr. Admin. Assistant Heather Sytsma

Public Present: Gary Vis, Dick Vandenberg

2. ACTION ITEMS

A. **Approve Minutes from January 9, 2019**

De Valois motioned to approve the minutes, and Bode seconded the motion.

Action

The minutes from January 9, 2019 were approved.

B. **Latecomer's Sanitary Sewer Extension Agreement – North Prairie Phase 7**

Banham explained that Council authorized staff to draft the latecomer agreement. He noted that a draft agreement is included in the Public Works Committee packet. He also noted that page 3 item 2 will be revised to state "...on a per acre basis..." rather than "...on a per parcel basis..." This will be given to the City attorney for further review. The final agreement will be presented at the next (February 19th) City Council meeting for approval.

Action

The Public Works Committee concurred to recommend approval of the Latecomer's Sanitary Sewer Extension Agreement for North Prairie Phase 7.

3. INFORMATION ITEMS

A. **Future Designated Parking in Downtown Lynden – Letter from Ken Stap, President of Downtown Business Association**

Banham stated that staff received a letter from Ken Stap, President of the Downtown Lynden Business Association (DBA), requesting that the City convert the Water Treatment Plant property, once demolished, into a designated parking area for downtown business employees. Sandal stated the DBA has inquired about this for a while.

B. Projects

1. Pepin Creek Value Engineering Follow-Up Work – Reichhardt & Ebe Engineering

Sandal stated that a review of value engineering team recommendations by the Reichhardt & Ebe consultant team has been completed and staff has been presented with some Pepin Creek alternatives and the follow-up work that will be necessary to fully vet them. This proposed work by R & E would include pursuing technical research into two of the alternatives. Sandal stated that one alternative is to look at a bypass system south on Double Ditch Creek and then discharging into Fishtrap Creek using a combination of open ditch and underground pipe for transporting water south from Badger Road. Banham reiterated that some of this effort would be to determine the feasibility and to develop better cost estimates for these alternatives to be used in the process of determining the amount of mitigation that will be required as part of development. The committee concurred this work is a needed step.

2. Industrial Condensate (Riverview Road to River Outfall)

Banham stated that staff has received updated cost estimates for constructing the industrial condensate line from Riverview Road to the river outfall. The new estimate of \$2.5 million is substantially higher than anticipated. Banham stated that, because construction is coming into the river on the shallow side, the pipe must extend into the deepest part of the channel for thorough mixing.

Banham stated that funding for this project is coming from the State Commerce Funds provided in the past but that additional funds (as much as \$1.5 million) would need to come from the water source fund. Staff had hoped to get the project fully funded by Commerce, but there aren't sufficient funds available.

The City is also working closely with Darigold on the construction of a new larger stormwater pipe that will be constructed on the east side of Depot Road to the entrance of the City Park. The plan is to have that project bid in March.

3. 7th Street Revised Plans

Banham presented the 7th Street parking revisions. Bode noted that additional parking was retained by changes made to the configuration of the 7th Street Public Parking Lot. Banham stated that staff and Reichhardt and Ebe Engineering worked very close and think that they have done absolutely as good as they can: some spaces were eliminated due to safety hazards and to facilitate street cleaning, but as many angled parking spaces as possible were retained.

Vis expressed concern about changing the alley to two-way travel to provide parking lot access from 7th Street, between Front and Grover Streets, but one-way access to the same alley from 6th Street (near the post office). Vis suggested bringing this layout to a Downtown Business Association meeting. Banham stated that now that the Committee is generally satisfied with the concept, staff will work with the Downtown Business Association and the Chamber to iron out scheduling details and then begin notifying the public of the proposed project.

Vis re-iterated his requests from previous Public Works Committee meetings that power needs to be supplied to the lot. Bode requested that a meter and power box

be placed in the parking lot. Vis suggested 12, 50-amp outlets for Chamber of Commerce events. Sandal stated that Puget will install the needed vault for the service with their alley project, but they need someone to apply for the service. Vis reminded the Committee that at previous meetings they suggested that the 7th Street power could be paid for through the Public Works Department since the Parks Department already pays for power in the 4th Street lot. Bode agreed. Sandal stated he will direct Puget Sound Energy to initiate the account and send invoices to the City of Lynden Public Works Department for now.

4. Old Water Tank Site Remediation

Sandal stated that the old water tank site remediation at the former Middle School is part of the purchase and sale agreement for the property the City will need along Fishtrap Creek to extend the Kaemingk Trail west from Depot to 8th Street. This Small Works Roster project is estimated to cost \$200,000 and will include a lot of concrete and old pipe removal and restoration.

5. Old Water Treatment Plant Equipment Garage Sale Prior to Demolition

Banham stated that staff is hoping to have an equipment “garage sale” in early March for the old water treatment plant equipment and other surplus items. The sale will be advertised in the Lynden tribune and on the City website. Any remaining equipment will be removed during the demolition project.

6. Darigold Stormwater Pipe Relocation (Industrial Condensate Project Phase)

This was discussed in Item 2.

7. Downtown Alley Repairs

Sandal stated that Puget Sound Energy’s work on moving lines underground has been postponed until the weather improves. Work includes the alley between Front and Grover Streets between 3rd and 4th Street, 5th and 8th Street. Reconstruction will occur between 6th and 7th Streets. The remainder will be ground and overlaid. De Valois asked whether other utilities are being moved underground. Sandal stated that the poles will remain as it is difficult for businesses to convert to underground service. Cascade Natural Gas will upgrade gas lines in the area. The other utilities will stay overhead. Banham noted that a new LED street light will be added in the alley behind the post office near the post office drop box. Sandal added that the crew is going to camera the sewer line to confirm its integrity.

8. West Front Street – EDI Grant / Loan Application

Banham stated that staff is trying to get this project lined up to be able to apply for another EDI grant/loan to widen and improve this street to commercial/industrial all-weather standards for expected truck traffic through this area expected with development.

C. Next Month

1. Six-Year Transportation Improvement Plan (STIP)

Banham stated that the preliminary STIP is included in the packet. He asked that the Committee please review it before the March Public Works Committee meeting. He noted that staff wants to include residential street overlays and improvements.

2. Homestead Sidewalks and Homestead Association Update

3. Wastewater Industrial Treatment Ordinance

4. ITEMS ADDED:

A. PeaceHealth – Dick Vandenberg

Vandenberg asked whether the City has heard anything further from PeaceHealth on plans to construct a new medical facility in Lynden. Bode responded, yes there has been some communication with the City, and an announcement from PeaceHealth is coming.

B. Accident Data: Birch Bay Lynden Road and Berthusen Road Intersection

The Committee discussed lighting in the vicinity of this intersection. Bode noted that it is very difficult to see the turn from Birch Bay Lynden Road, especially during the evening and in inclement weather. Banham stated that staff can request accident data and potentially ask Whatcom County to consider working with Puget Sound Energy to install an area light at this intersection.

C. Tromp Road – Dick Vandenberg

Vandenberg encouraged the City to pursue extending Tromp Road from Front Street to Main Street through Glen Tromp's property. He stated that Glen Tromp might be amenable to granting an easement to the City if his adjacent property remains open space. Banham and Vandenberg discussed the feasibility of obtaining an easement through Tromp's property and talked about the future use of the property and roads.

The meeting was adjourned at 5:15 p.m.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	2/19/2019	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Department:	Administration	
Contact Name/Phone:	Pam Brown 360.255.7085	
Council Committee Review:		
<input type="checkbox"/> Community Development	<input type="checkbox"/> Public Safety	
<input type="checkbox"/> Finance	<input type="checkbox"/> Public Works	
<input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Other: N/A	
Attachments:		
Outlook Calendar		
Name of Agenda Item:		
Calendar		
Summary Statement:		
See next page.		
Recommended Action:		
None.		

February 19, 2019

Tuesday

106

9:00 AM - 11:00 AM

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

9:30 AM - 10:30 AM

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

3:00 PM - 4:00 PM

Finance Committee Meeting -- City Hall 1st Floor Large Conference Room
Visit WWW.LYNDENWA.ORG to view the agenda

4:00 PM - 5:00 PM

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

7:00 PM - 9:00 PM

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

February 20, 2019

Wednesday

4:00 PM - 6:00 PM

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

5:00 PM - 6:30 PM

Board of Adjustment Meeting -- Annex South East Conference Room

7:00 PM - 8:30 PM

Board of Adjustment -- City Hall 2nd Floor Large Conference Room

February 21, 2019

Thursday

9:00 AM - 12:00 PM

Nationwide 1:1 Meetings - Mike Ferguson -- City Hall 1st Floor Large Conference Room

10:00 AM - 12:00 PM

County Fire Operations Committee Meeting -- Annex Council Chamber

10:00 AM - 11:00 AM

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

February 22, 2019

Friday

10:00 AM - 11:00 AM **Check-In Steve/Mike -- Mike's Office**

11:00 AM - 12:00 PM **Check0In Heidi/Mike -- Mike's Office**

February 25, 2019

Monday

9:00 AM - 10:00 AM **Copy: Check-In Vern/Mike -- Mike's Office**

February 26, 2019

Tuesday

8:30 AM - 9:30 AM **LT Meeting -- City Hall 1st Floor Large Conference Room**

4:30 PM - 5:30 PM **Civil Service Meeting -- City Hall 1st Floor Large Conference Room**

February 27, 2019

Wednesday

9:00 AM - 10:00 AM **Check-In Mark/Mike -- Mike's Office**

10:00 AM - 11:00 AM **Check-In Nic/Mike -- Mike's Office**

February 28, 2019

Thursday

9:00 AM - 10:00 AM **Check-In V/Mike -- Mike's Office**

7:30 PM - 9:30 PM **Planning Commission Meeting -- Annex Council Chamber**

March 1, 2019

Friday

108

8:30 AM - 9:30 AM

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

March 4, 2019

Monday

7:00 PM - 9:00 PM

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