

CITY OF LYNDEN

CITY COUNCIL



City Council - Regular Meeting
City Hall - 300 Fourth Street
November 6, 2023

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Summary Reports and Presentations

Approval of Minutes

- [1.](#) Draft Council Minutes – October 16, 2023

Citizen Comment

Consent Agenda

- [2.](#) Approval of Payroll and Claims
- [3.](#) Set the Public Hearing for the 2024 Property Tax Levy
- [4.](#) 2024 State Legislative Agenda
- [5.](#) Contract extension with Gordon Honeywell for State Lobbying services
- [6.](#) Contract Addendum (2024) for CFM Advocates, Federal Lobbyist Services
- [7.](#) ORD-23-1675 – Amend LMC 9.08 (Blake Fix)
- [8.](#) ORD-23-1676 – Amend LMC 9.08 – Remove Statutes Repealed by WA State
- [9.](#) ORD-23-1677 – Amend LMC 9.30 – Concealed Carry of Pistols
- [10.](#) ORD-23-1678 - Amendment to the 2023 Budget

Public Hearing

- [11.](#) Public Hearing for the Preliminary 2024 Budget

Unfinished Business

- [12.](#) Ord 23-1674 - Amendment to LMC 19.22 re Residential Patios and Decks

New Business

Reports

- [13.](#) Community Development Committee Minutes of 10-18-23

Executive Session

Adjournment

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Draft Council Minutes – October 16, 2023	
Section of Agenda:	Approval of Minutes	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: N/A
		Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft Council Minutes – October 16, 2023	
Summary Statement:	Draft Council Minutes for Council review and possible approval.	
Recommended Action:	Review and approve draft minutes.	

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



October 16, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the October 16, 2023 regular session of the Lynden City Council at 7:00 p.m. in the city's council chambers.

PLEDGE OF ALLEGIENCE

ROLL CALL

Members present: Councilors Gary Bode, Ron De Valois, Gerald Kuiken, Brent Lenssen, and Mark Wohlrab.

Members absent: Councilors Laninga and Strengholt absent with notice.

Staff present: Community Dev. & Planning Director Heidi Gudde, Finance Director Anthony Burrows, Fire Chief Mark Billmire, HR Resources Director Kari Heeringa, Police Chief Steve Taylor, Public Works Director Jon Hutchings, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael.

OATH OF OFFICE – None.

SUMMARY REPORTS AND PRESENTATIONS

Briahna Murray – Legislative Update

- 2023-2024 (two-year cycle).
- 2024 session begins January 8th and ends on March 7th (non-budget year).
- All members of the House of Representatives and half the members of the State Senate are up for re-election.
- The State is currently out of compliance with the Trueblood settlement. A significant amount of resources into behavioral health system is required for the State to come into compliance.
- Cap and Trade System (2021) is generating more revenue than initially forecasted. The legislature is considering making policy plans for how the funding will be allocated.
- The current bidding environment that is causing projects to come in much higher than initially allocated. Many of which are transportation projects.

Ms. Murray reviewed the city's draft legislation agenda which is included in the official council file.

CITY OF LYNDEN



CITY COUNCIL
MINUTES OF REGULAR MEETING

APPROVAL OF MINUTES

Councilor De Valois moved, and Councilor Wohlrab seconded to approve the October 2, 2023, regular council meeting minutes. Motion approved on 5-0 vote.

CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

- Spoke in favor of the Lynden Music festival.
- Concern with border security.
- Expressed support of Israel and its people.

Spoke in opposition of adding fluoride to the city’s water supply.

Mary Lou Childs, Benson Rd, Lynden
 Betty Vandyken, Pangborn Rd, Lynden
 Robert Taylor, Golf View Drive, Lynden
 Kush Brar, Elm Street, Lynden
 Becki Taylor, Golf View Drive, Lynden
 Elisha Wyatt, Brookfield Court, Lynden

Spoke in favor of adding fluoride to the city’s water supply.

Lynnette Ondeck, Lakeway Drive, Bellingham
 Emily Furman, Seattle
 Grant McClelland, Aaron Drive, Lynden
 Seth Swanson, Roma Drive, Bellingham
 Jonathon Henry, South BC Avenue, Lynden
 Michael Barrett, Greenfield Lane, Lynden

2. CONSENT AGENDA

Approval of Claims – October 3, 2023

Manual Warrants No.	=	through	=		\$0.00
EFT Payment Pre-Pays					\$0.00
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>28441</u>	through	<u>28534</u>		\$387,653.26
EFT Payments					<u>\$1,831,008.04</u>
				Sub Total	\$2,218,661.30
				Total Accounts Payable	\$2,218,661.30

CITY OF LYNDEN

CITY COUNCIL
MINUTES OF REGULAR MEETING



Payroll Liability to September 24 through October 7, 2023

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$549,915.38
Check Liability	\$0.00
Total Non-L&I Liabilities	\$549,915.38
Quarterly Liabilities	\$13,050.39
Total EFT & Other Liabilities	\$562,965.77

Motion made by Councilor Kuiken, seconded by Councilor Bode to approve Consent Agenda. Motion approved 5-0.

3. PUBLIC HEARING - None

4. UNFINISHED BUSINESS

Notification Plan for Discontinuation of Fluoride in City’s Water Supply – Set Public Hearing

At the September 18, 2023, city council meeting, a motion was passed to “direct city staff to: Develop a schedule, public notice strategy, and date for public hearing before the city council, consistent with state law, on the question of whether the City should consider discontinuing fluoridization of the city’s municipal water supply.” The council packet contains the information necessary to meet the requirements of HB 1251 that went into law July of 2023 requiring a minimum of 90-days’ notice for a public hearing.

Motion made by Councilor Bode to set the public hearing for February 20, 2024 concerning the discontinuation of fluoride in the city of Lynden’s water supply. Motion failed due to lack of a second.

Motion made by Councilor Lenssen to table the issue until the January 2, 2024 council meeting when the new council members are seated, seconded by Councilor De Valois. Motion approved 5-0.

Councilor Lenssen asked staff for clarification on the signs concerning the fluoride issue that have been posted around Lynden. Director Gudde discussed what the LMC currently says about signs.

Gary Vis, Chamber Director suggested that the signs remain posted until the date of the public hearing set to consider the fluoride matter.

CITY OF LYNDEN

CITY COUNCIL MINUTES OF REGULAR MEETING



5. NEW BUSINESS

Introduction of the 2024 Preliminary Budget and the Mayor's Budget Message

The Mayor will read his 2024 Budget message to the Council and present the Council with a copy of this message and the 2024 Preliminary Budget. All supporting documentation will be provided at the time of the meeting.

Mayor Korthuis stated that the mayor's budget letter will not be read aloud but will be included in the official council file.

6. REPORTS

Councilor Bode, Public Works Committee, reported discussion of the following:

- Downtown area parking issues.
- Lead line inventory requested by EPA.
- Evergreen Street parking problems.

Gary Vis, Chamber Director

- Downtown parking issues, residential parking, and parking enforcement.

Councilor De Valois, Parks Committee, reported discussion of the following:

- SHKS work on the Benson barn has not progressed, the city is considering dropping that project. That barn is currently used for storage.
- Schoolyard Park awaiting architectural plans. A water meter is ready to be installed.
- Trail project is moving forward, awaiting VanderGriend Lumber signature.
- Developing a dog park at Patterson Park.
- Bender shop office extension plans.

7. EXECUTIVE SESSION

The council did not hold an executive session.

8. ADJOURNMENT

October 16, 2023, regular session of the Lynden city council adjourned at 8:20 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Approval of Payroll and Claims	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	None	
Summary Statement:	Approval of Payroll and Claims	
Recommended Action:	Approval of Payroll and Claims	

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Set the Public Hearing for the 2024 Property Tax Levy	
Section of Agenda:	Consent	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	None	
Summary Statement:	<p>On Monday, October 16, 2023 the Mayor introduced the 2024 Preliminary Budget to the City Council and the Public. As required by the budget process, in order to receive public comments before adoption, a public hearing is required for consideration of any public commentary regarding the property tax levy.</p> <p>At this time, the request is to set the property tax levy on Monday, November 20, 2023 at 7:00PM.</p>	
Recommended Action:	For Council to set a public hearing on Monday, November 20, 2023 to hear and consider from the public, testimony regarding the property tax rate.	

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	2024 State Legislative Agenda	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input checked="" type="checkbox"/> Other: 10/16 Council Meeting
Legal Review:	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:	2024 State Legislative Agenda	
Summary Statement:	<p>Briahna Murray of Gordon Honeywell, our state lobbyist, presented the draft agenda to Council at the October 16, 2023, City Council Meeting. With 2024 being a short session there will be limited funding sources, however, the City and our lobbyist will continue to work on our requests for funding and policy issues.</p>	
Recommended Action:	<p>It is recommended that Council make a motion to approve the 2024 State Legislative Agenda.</p>	

CITY OF LYNDEN

Mayor Scott Korthuis
360-354-1170



City of Lynden 2024 Funding Requests

Thank you for investing in the City of Lynden!

- Thank you for ensuring that the **Bradley Road Bike and Pedestrian Project** can proceed forward prior to construction of the nearby high school. The City plans to go out to bid in 2024 and expects the project to be completed by the end of 2025.
- The City of Lynden greatly appreciates that the state allocated funding to the **Senior and Community Center** to replace the facility's HVAC system. The City has secured \$600,000 in additional funding to complete the replacement in 2024.

Pepin Creek

The Pepin Creek Realignment Project is a multi-year effort to improve fish habitat, water quality and road safety while controlling flooding in Lynden's Urban Growth Area (UGA) and making developable land available for the construction of housing. It will do this by moving deep ditches beside two substandard arterial roads to a new wider channel that will improve water quality and prevent flooding in that area. The City requests \$1 million to get the project construction ready and to increase the likelihood that the project will compete well for potential federal funds. The project can be phased, and any amount of funding can allow a project component to proceed forward.

Local Culvert Replacements to Align with WSDOT to Avoid Downstream Impacts

Under a recent Washington Supreme Court decision, WSDOT must replace all state-owned culverts. To maximize these investments and ensure that the state culvert replacements improve fish habitat, locally owned culverts downstream of the WSDOT culverts also need to be addressed. In Lynden, on Duffner Ditch, WSDOT has replaced one culvert in 2022 on SR-546 (Badger Road) and replaced an additional culvert on SR-539 (Guide Meridian) in 2023. Downstream of these two improvements is a city-owned culvert at Baylyn Drive (Site ID 1280095) that is the smallest culvert in the watershed and is not fish passable. The City requests \$700,000 to replace this culvert and improve habitat to support chum, coho, steelhead, cutthroat, and resident trout. The City will contribute an additional \$500,000 to the project.

Schoolyard Park Funding Request (Support the Recreation and Conservation Office)

Community advocates and the City of Lynden joined together to purchase a 3.9-acre property near downtown Lynden to become Schoolyard Park. Community members have since developed a plan to add a spray park, restrooms, amphitheater, green space, sports courts, walking trails and more to Schoolyard Park. The community has launched a capital fundraising campaign to raise the needed \$4.3 million for the improvements. The City plans to apply for a grant through the state Recreation and Conservation Office to fund this project.

City of Lynden 2024 Policy Statements

Public Safety: Lynden requests that the Legislature make the necessary investments in public defense, prosecution, alternative court programs, and treatment programs to ensure that the newly adopted state policy related to possession of controlled substances can be successfully implemented. Additionally, the City encourages the state to address the growing fentanyl crisis impacting the region.

Behavioral Health: Lynden supports state investments in behavioral health facilities and services throughout Washington state, and especially within Whatcom County.

Grant Resources and Assistance: As a small City, Lynden requests increased resources and assistance to help jurisdictions access the growing number of state and federal grant programs.

Local Control: Lynden urges the Legislature to honor local decision-making authority. The City serves as the government closest to the people and is most responsive to the community in meeting its needs.

Unfunded Mandates: Lynden urges the Legislature to refrain from creating new local obligations without corresponding funding to carry out those obligations.

Affordable Housing: Lynden is very aware of the rising cost of homes and is concerned that affordable housing will no longer be available to its residents, and its future generations. The City asks that the Legislature remove regulations that increase the cost of housing construction, including state-driven growth management policies that limit land availability, building and energy code requirements, and other regulations driving up the costs of housing development.

Managed Aquifer Recharge: Lynden received a \$4.7 million grant from the Department of Ecology to conduct an innovative pilot program to recharge the Nooksack River's aquifer. This project will not only increase minimum water flows in the Nooksack during critical low time periods but will at the same time grant Lynden more municipal water.

Nooksack Basin Water Rights: The Washington State Department of Ecology has initiated the Nooksack Adjudication process. Lynden encourages the adjudication to be as efficient and cost-effective as possible. As part of this, the City supports the State authorizing additional judicial resources to Whatcom County.

Growth Management Act: Lynden will monitor legislative proposals that propose reforms to the Growth Management Act (GMA) and will support reform proposals that address the impacts that the GMA has had on smaller communities. Lynden has experienced a significant amount of growth as people leave Bellingham and other urbanized areas to live in a setting with single-family homes. Meanwhile, areas of the City's UGA are in environmentally sensitive flood-prone areas that are challenging and costly to develop.

Public Records: Lynden will monitor proposals to amend the Public Records Act and will support proposals that prevent malicious requests and increase cost recovery to the City while maintaining transparency.

State-Shared Revenues: Lynden supports ongoing and enhanced funding for state-shared revenues. The state has approved several unfunded mandates resulting in increased costs at the local level, including stormwater requirements, planning obligations, building code requirements, and more.

Broadband: Lynden encourages the state to explore cost-effective solutions to provide broadband throughout the state, especially to the last mile where there may be limited customers.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Contract extension with Gordon Honeywell for State Lobbying services	
Section of Agenda:	Consent	
Department:	Administration	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks <input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Contract Addendum	
Summary Statement:	<p>Briahna Murray, Vice-President of Gordon Thomas Honeywell Governmental Affairs, has been Lynden’s State advocate advocated since 2015. That advocacy has resulted in more than \$9.0 million worth of capital earmarks for important City projects. Additional 2023 work resulted in successfully moving the \$3M in funding for Bradley Road forward and \$300,000.00 for community center repairs. The attached addendum is identical to is predecessors and continues the relationship with Ms. Murray and her firm. It includes a range of duties required to advance the City’s 2024 Legislative Agenda. The cost is included in the proposed 2024 budget.</p>	
Recommended Action:	<p>Approve the extension between the City and Gordon Thomas Honeywell for state-level legislative advocacy in the 2024 legislative session and authorize the Mayor to sign the addendum.</p>	

CONTRACT AMENDMENT FOR THE AGREEMENT BETWEEN THE CITY OF LYNDEN AND GORDON THOMAS HONEYWELL GOVERNMENT RELATIONS

This Amendment is for the Contract entered into by and between City of Lynden, a Washington Municipal Corporation ("City"), and Gordon Thomas Honeywell Government Relations (hereinafter referred to as "Consultant"), executed by Parties on November 22, 2022, and which terminates on December 31, 2023 (Original Contract).

The Parties agree to continue to abide by those terms and conditions of the original contract, dated November 22, 2022, and any amendments thereto, which are not specifically modified by this agreement.

This Amendment is subject to the following amended provisions, below. All such amendment provisions are hereby incorporated by reference herein and shall control over any conflicting provisions of the Original Contract, including any previous amendments thereto.

Pursuant to Section D of Attachment A of the Original Contract, the Parties agree to extend the contract by an additional one-year term, making the new expiration date December 31, 2024.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year last written below which shall also be the effective date of this Agreement.

Consultant:
Gordon Thomas Honeywell
Government Relations

City of Lynden:



Briahna Murray, State Lobbyist, Partner

Scott Korthuis, Mayor

Date: October 24, 2023

Date: November 6, 2023

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Contract Addendum (2024) for CFM Advocates, Federal Lobbyist Services	
Section of Agenda:	Consent	
Department:	Administration	
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: _____	Legal Review:
		<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:		
Addendum to contract for CFM Advocates .		
Summary Statement:		
<p>The City engaged a federal lobbyist for the first time in 2023. In 2023, applications for funding were submitted for the Pepin FASST project (Pepin Subarea), appropriation requests for Bradley Road and Pepin sewer extension, and several other grant opportunities.</p> <p>While we did not receive the RAISE grant for Pepin in 2023, it did receive the highest possible score and a recommendation "Highly Recommended"; however, only 8 of the 15 that received that rating were funded. The city also received a recommendation to resubmit in the next cycle.</p> <p>Currently Bradley Road is on the appropriation list with Representative Larson to receive \$1M; this funding is pending final congressional approval. CFM also worked with our legislative offices to get the permit from the Corp for the trail project approved. A representative from CFM is scheduled to attend the December 4 council meeting to discuss the 2024 federal legislative agenda.</p>		
Recommended Action:		
Staff recommends that City Council authorize the Mayor to sign the addendum to the contract with CFM Advocates for federal lobbying services.		



November 6, 2023

AMENDMENT NO. 1

CONSULTING SERVICES CONTRACT

for

Federal Government Relations Services

On August 23, 2022, the City of Lynden entered into a contract with CFM Advocates to provide Federal Government Relations Services to the City of Lynden for a period ending December 31, 2023.

This amendment authorizes a one-year renewal with two more renewals allowable under the original Agreement. Renewal period to begin January 1, 2024, through December 31, 2024.

NOW, THEREFORE, the parties would like to amend the original agreement and extend to December 31, 2024. Except as expressly amended herein, the terms and conditions of the Agreement shall remain in full force and effect.

Dated as of October 18, 2023 by the undersigned duly authorized representatives of Client and CFM.

City of Lynden

CFM Advocates

Scott Korthuis
Mayor

Joel Rubin

Joel Rubin
Partner

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	11/06/2023	
Name of Agenda Item:	ORD-23-1675 – Amend LMC 9.08 (Blake Fix)	
Section of Agenda:	Consent Agenda	
Department:	Lynden Police Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	ORD-23-1675	
Summary Statement:	To adopt provisions of SB 5536 (“Blake Fix”), amending the title of RCW 69-50.412 as it appears in the code, and repealing 69.50.425 pursuant to legislative changes.	
Recommended Action:	We request that the ordinances which adopt the RCWs be approved.	

ORDINANCE NO. 23-1675

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING LYNDEN MUNICIPAL CODE CHAPTER 9.08 TO ADOPT PROVISIONS OF SB 5536 (“BLAKE FIX”), AMENDING THE TITLE OF RCW 69.50.412 AS IT APPEARS IN THE CODE, AND REPEALING 69.50.425 PURSUANT TO LEGISLATIVE CHANGES.

WHEREAS, In *State v. Blake*, 197 Wn. 2d 170 (2021), the Washington State Supreme Court found former RCW 69.50.4013 unconstitutional as a strict liability criminal offense;

WHEREAS, the “Blake Fix”, SB 5536, corrected presumed errors in the statute and was signed into law in May of 2023;

WHEREAS, the City of Lynden believes it is in the best interest of the citizens of the City of Lynden to adopt provisions of SB 5536 and allow local jurisdiction matters relating to prohibited drug possession to be prosecuted in the Municipal Court;

WHEREAS, RCW 69.50.412 was amended by the legislature in 2013 to provide exceptions for drug paraphernalia related to cannabis following its legalization;

WHEREAS, RCW 69.50.425 was repealed in 2015; and

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

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

Section 1: Lynden Municipal Code Section 9.08.005 is hereby amended as follows:

9.08.005 - Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 66.04.010 Definitions.

RCW 66.44.090 Acting without a license.

RCW 66.44.175 Violations of law.

RCW 66.44.180 General penalties—Jurisdiction for violations.

RCW 66.44.200 Sales to persons apparently under the influence of liquor.

- RCW 66.44.240 Drinking in public conveyance—Penalty against carrier.
- RCW 66.44.250 Drinking in public conveyance—Penalty against individual.
- RCW 66.44.270 Furnishing liquor to minors—Possession, use—Penalties—Exhibition of effects—Exceptions.
- RCW 66.44.290 Minors purchasing or attempting to purchase liquor.
- RCW 66.44.310 Minor frequenting off-limits area—Misrepresentation of age.
- RCW 66.28.200 Keg registration—Requirements of seller.
- RCW 66.28.210 Keg registration—Requirements of purchaser.
- RCW 66.28.230 Keg registration—Furnishing to minors—Penalties.
- RCW 69.50.101 Definitions.
- RCW 69.50.102 Drug paraphernalia—Definitions.
- RCW 69.50.4013 Possession of a controlled substance.
- RCW 69.50.4014 Possession of forty grams or less of marijuana—Penalty.
- RCW 69.50.412 Unlawful use of drug paraphernalia.
- RCW 9.47A.010 Inhaling Toxic Fumes—Definitions.
- RCW 9.47A.020 Unlawful inhalation—Exception.
- RCW 9.47A.030 Possession of certain substances prohibited, when.
- RCW 9.47A.040 Sale of certain substances prohibited, when.
- RCW 9.47A.050 Penalties.

Section 2. 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 3. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

PASSED BY THE LYNDEN CITY COUNCIL THIS 6TH DAY OF NOVEMBER, 2023 BY A VOTE OF ___ IN FAVOR AND ___ AGAINST, AND SIGNED BY THE MAYOR THIS ___ DAY OF _____ 2023.

SCOTT KORTHUIS, MAYOR

ATTEST:

Pamela D. Brown, CITY CLERK

APPROVED AS TO FORM:

Robert A. Carmichael, CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	11/06/2023	
Name of Agenda Item:	ORD-23-1676 – Amend LMC 9.08 – Remove Statutes Repealed by WA State	
Section of Agenda:	Consent Agenda	
Department:	Lynden Police Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input checked="" type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	ORD-23-1676	
Summary Statement:	To remove statutes repealed by the State and to adopt by reference recently consolidated equivalents.	
Recommended Action:	We request that the ordinances which adopt the RCWs be approved.	

ORDINANCE NO. 23-1676

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING LYNDEN MUNICIPAL CODE CHAPTER 9.08 TO REMOVE STATUTES REPEALED BY THE STATE AND TO ADOPT BY REFERENCE RECENTLY CONSOLIDATED EQUIVALENTS

WHEREAS, the State Legislature repealed RCW 10.14.170 and RCW 26.50.110, statutes regarding penalties for violations of protection and antiharassment orders, and consolidated all such orders in a new chapter, RCW 7.105;

WHEREAS, the City of Lynden Police Department enforces protective orders and antiharassment orders within the City of Lynden, the prosecution of which occurs in Lynden Municipal Court;

WHEREAS, violations of protective orders cause great distress for victims of crime and can put victims in danger of future violence, further harassment, and undermine the administration of justice;

WHEREAS, prosecution of protection order violations is vital for the purposes of holding perpetrators of domestic violence accountable and protecting the community against those individuals that are violating court orders;

WHEREAS, this ordinance promotes the public good and is necessary for the protection of public health, property, safety, and welfare of citizens of the City of Lynden; and

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

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

Section 1: Lynden Municipal Code Section 9.14.005 is hereby amended as follows:

9.14.005 - Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 7.105.010 Definitions.

RCW 7.105.450 Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.

RCW 7.105.455 Enforcement and penalties—Antiharassment protection orders.

- RCW 7.105.460 Enforcement and penalties—Extreme risk protection orders—False petitions.
- RCW 7.105.465 Enforcement and penalties—Knowledge of order.
- RCW 10.99.020 Definitions.
- RCW 10.99.030 Law enforcement officers—Training, powers, duties—Domestic violence reports.
- RCW 10.99.040 Restrictions upon and duties of court.
- RCW 10.99.045 Appearances by defendant—No-contact order.
- RCW 10.99.050 Victim contact—Restriction, prohibition—Violation, penalties—Written orders—Procedures.
- RCW 10.99.055 Enforcement of orders.
- RCW 10.99.070 Liability of peace officers.
- RCW 26.09.300 Restraining orders—Notice—Refusal to Comply—Arrest—Penalty—Defense.
- RCW 9.41.040 Unlawful possession of firearms—Ownership, possession by certain persons.
- RCW 9A.40.010 Definitions.
- RCW 9A.40.070 Custodial interference in the second degree.
- RCW 9A.40.080 Custodial interference—Assessment of costs—Defense—Consent defense, restricted.

Section 2. 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 3. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

PASSED BY THE LYNDEN CITY COUNCIL THIS 6TH DAY OF NOVEMBER, 2023 BY A VOTE OF ___ IN FAVOR AND ___ AGAINST, AND SIGNED BY THE MAYOR THIS ___ DAY OF _____ 2023.

SCOTT KORTHUIS, MAYOR

ATTEST:

Pamela D. Brown, CITY CLERK

APPROVED AS TO FORM:

Robert A. Carmichael, CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	11/06/2023	
Name of Agenda Item:	ORD-23-1677 – Amend LMC 9.30 – Concealed Carry of Pistols	
Section of Agenda:	Consent Agenda	
Department:	Lynden Police Department	
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: _____	Legal Review:
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	ORD-23-1677	
Summary Statement:	To amend Lynden Municipal Code Chapter 9.30 regarding concealed carry of pistols.	
Recommended Action:	We request that the ordinances which adopt the RCWs be approved.	

ORDINANCE NO. 23-1677

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING LYNDEN MUNICIPAL CODE CHAPTER 9.30

WHEREAS, the City of Lynden (“City”) last addressed firearm control in 2002, at which time the City did not adopt provisions relating to the concealed carry of pistols;

WHEREAS, the City desires to amend the Lynden Municipal Code to incorporate by reference firearm regulations related to concealed pistols and their presence in vehicles;

WHEREAS, the City believes adopting these provisions to update the City’s code will add clarity and reflect the present state of the law while promoting the health, safety, and wellness of the community;

WHEREAS, this ordinance is declared to be an exercise of the police power of the City of Lynden, and its provisions shall be liberally construed for the preservation and protection of the natural environment, public peace, safety and welfare of its citizens; and

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

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

Section 1: Lynden Municipal Code Section 9.30.005 is hereby amended as follows:

9.30.005 - Adoption by reference.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

- RCW 9.91.160 Personal protection spray device.
- RCW 9.41.050 Carrying firearms.
- RCW 9.41.230 Aiming or discharging firearms or dangerous weapons.
- RCW 9.41.250 Dangerous weapons—Penalty.
- RCW 9.41.270 Weapons apparently capable of producing bodily harm—Unlawful carrying or handling Penalty—Exceptions.
- RCW 9.41.280 Dangerous weapon on school facilities—Penalty—Exceptions.

Section 2. 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 3. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

**PASSED BY THE LYNDEN CITY COUNCIL THIS 6TH DAY OF NOVEMBER, 2023
BY A VOTE OF ___ IN FAVOR AND ___ AGAINST, AND SIGNED BY THE MAYOR
THIS ___ DAY OF _____ 2023.**

SCOTT KORTHUIS, MAYOR

ATTEST:

Pamela D. Brown, CITY CLERK

APPROVED AS TO FORM:

Robert A. Carmichael, CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY - FINANCE



Meeting Date:	November 6, 2023														
Name of Agenda Item:	ORD-23-1678 Amendment to the 2023 Budget														
Section of Agenda:	Consent														
Department:	Finance														
Council Committee Review:	Legal 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: _____	<input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required														
Attachments:															
ORD-23-1678 Amendment to the 2023 Budget															
Summary Statement:															
<p>2023 Budget Amendment:</p> <p>As required by State regulations, the Finance Department is proposing an amendment to the 2023 Budget. Additional transfers out of these funds have resulted in expenditures requiring an increase to the budget in Funds 001, and 221.</p> <p>The amendment reflects Council authorized transactions. The following Funds need to be modified:</p> <table border="1"> <thead> <tr> <th></th> <th>Adopted Budget</th> <th>Amended Budget</th> <th>Variance</th> </tr> </thead> <tbody> <tr> <td>Fund 001 General Funds</td> <td>\$20,616,242</td> <td>\$22,616,242</td> <td>\$2,000,000</td> </tr> <tr> <td>Fund 221 Line of Credit Note A</td> <td>\$1,495,638</td> <td>\$1,895,638</td> <td>\$400,000</td> </tr> </tbody> </table>					Adopted Budget	Amended Budget	Variance	Fund 001 General Funds	\$20,616,242	\$22,616,242	\$2,000,000	Fund 221 Line of Credit Note A	\$1,495,638	\$1,895,638	\$400,000
	Adopted Budget	Amended Budget	Variance												
Fund 001 General Funds	\$20,616,242	\$22,616,242	\$2,000,000												
Fund 221 Line of Credit Note A	\$1,495,638	\$1,895,638	\$400,000												
Recommended Action:															
To approve ORD-23-1678 as written and authorize the Mayor's signature.															

ORDINANCE NO. ORD-23-1678

**AN ORDINANCE FOR THE CITY OF LYNDEN, WASHINGTON
AMENDING THE 2023 BUDGET
FOR THE CITY OF LYNDEN, WASHINGTON**

WHEREAS, the budget of the City of Lynden for the year 2023 has been heretofore adopted by the City Council of the City of Lynden ("City"); and

WHEREAS, certain funds have been received, and expenses incurred, which were not included when the budget was adopted; and

WHEREAS, the City Council of the City of Lynden has considered this change and has fixed and determined the separate items thereof,

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

Section A. That the final 2023 budget be and the same is hereby amended and that the appropriation totals of the 2023 Budget are changed as follows:

	Adopted Budget	Amended Budget	Variance
Fund 001 General Fund	\$20,616,242	\$22,616,242	\$2,000,000
Fund 221 Line of Credit Note A	\$1,495,638	\$1,895,638	\$400,000

Section B. If any section, subsection, sentence, clause of 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.

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

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

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, _____ IN FAVOR
_____ AGAINST AND SIGNED BY THE MAYOR THIS _____ DAY OF NOVEMBER, 2023.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Public Hearing for the 2024 Budget	
Section of Agenda:	Public Hearing	
Department:	Finance	
Council Committee Review:	<input type="checkbox"/> Community Development <input checked="" type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required	
Attachments:		
None		
Summary Statement:		
As published, 7:00PM on November 6, 2023 is the time and date set for the first Public Hearing on the 2024 Preliminary Budget as presented to the City Council by Mayor Korthuis at the October 16, 2023 City Council meeting.		
Recommended Action:		
Conduct the required Public Hearing and consider any commentary by the public regarding the 2024 Preliminary Budget.		

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Ord 23-1674 Amendment to LMC 19.22 re Residential Patios and Decks	
Section of Agenda:	Unfinished Business	
Department:	Planning & Community Development Department	
Council Committee Review:	<input checked="" type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
	Legal Review: <input type="checkbox"/> Yes - Reviewed <input checked="" type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:	Draft Ord 23-1674, Reso 23-1076, Planning Commission Reso 23-04	
Summary Statement:	<p>At the June 19 meeting the City Council heard but did not take action on an amendment to LMC 19.22 regarding the screening of covered patios. The Council indicated that additional review may be needed to reach a solution which would allow for a higher degree of enclosure while ensuring adequate ventilation. The Council voted to have the item reconsidered by the Community Development Committee (CDC) and passed Resolution 23-1076.</p> <p>Based on CDC feedback, revisions have been made to the section of code related to enclosure of patios and staff has also taken the opportunity to clarify other portions of this code to be consistent with current enforcement. Revisions, as recommended by the CDC, are reflected in Ord 23-1674.</p>	
Recommended Action:	Motion to approve Ordinance 23-1674 amending LMC 19.23.030(E) to clarify the development standards associated with residential porches, stoops, decks and patios; to allow for a greater degree of enclosure of decks and patios that encroach into rear yard setbacks; and to authorize the Mayor's signature on the document.	

Ordinance No. 23-1674

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING TITLE 19 OF THE LYNDEN MUNICIPAL CODE REGARDING PORCHES, STOOPS, DECKS AND PATIOS

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 to ensure orderly review of zoning regulations within the City; and

WHEREAS, a proposal was brought forward to amend Lynden Municipal Code (LMC) Title 19, Section 19.22 regarding patio enclosures and screening; and

WHEREAS, a proposal was simultaneously brought forward to amend LMC Title 19, Section 19.23 regarding Small Scale Mixed-Use Provisions for the South Historic Business District; and

WHEREAS, the Lynden Planning Commission held an open record public hearing on May 11, 2023, to accept public comments on the proposed amendments to LMC Chapters 19.22 and LMC 19.23; and

WHEREAS, the Planning Commission recommended adoption of the amendments as presented to the City Council in Resolution 23-03 and 23-04; and

WHEREAS, on June 19, 2023, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments to LMC 19.22 and LMC 19.23 and to consider the matters of record to that date; and

WHEREAS, the City Council did approved the proposed amendment to LMC Chapter 19.23.110(B) under Ordinance 23-1669 making applicable properties with commercial zoning in the SHBD eligible for small-scale mixed-use provisions; and

WHEREAS, the City Council did not approve the amendment to LMC 19.22 regarding screening of patios but instead passed Resolution 23-1076 on August 21, 2023 which required the issue be reconsidered by the Community Development Committee; and

WHEREAS, the Community Development Committee discussed this amendment to LMC 19.22 at the September 20th and October 18th meetings, made edits to the original proposal which now includes clarifications as to the use of decks and patios in front yards, the height of side and rear decks, and regulations regarding the enclosure and ventilation of decks and

patios in order to provide options for securing covered patios with railings or sheltering from sun, wind or visibility; and

WHEREAS, the Community Development Committee concluded its discussion on October 18th with a recommendation to approve the revised amendment as attached in Exhibit A.

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

SECTION A Title 19 Amended as follows and as detailed in Exhibit A attached.

Repeal and replace LMC 19.22.030(E) in its entirety to incorporate minor updates and clarifications related to the standards associated with residential porches, stoops, decks and patios including provisions which allow for additional enclosure of patios and decks which encroach into rear yard setbacks.

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

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

SECTION D Effective Date. This ordinance shall 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 6th day of November, 2023. Signed by the Mayor on this _____ day of _____ 2023.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED TO AS FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

EXHIBIT A
ORD 23-1674

E. Porches, Stoops, Decks, and Patios.

1. General Provisions for Porches, ~~and~~ Stoops, Decks, and Patios.

- a. All decks, porches, and patios must be included in calculations of maximum impervious lot coverage, as established in LMC 19.11.020.
- b. All decks, patios, porches, or similar must be designed so as not to drain to surrounding properties.
- c. No element of the deck or patio including footings may encroach into a neighboring property or an existing easement.

2. Front Entries and Front Yards

- a. ~~Architecture of the pP~~ Primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
- b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
- c. Stairs with open risers are not permitted on front porches or stoops.
- d. Front yard porches, decks and patios.
 - i. Uncovered porches, decks, and patios may encroach into a front yard but must maintain a minimum setback of ten (10) feet and shall not exceed eighteen (18) inches above the natural grade.
 - ii. Porches, decks, and patios that are covered or those that are uncovered but exceed eighteen (18) inches above the natural grade must meet the front setback assigned to the primary structure.

2.3. Uncovered Decks and Patios in Rear and Side Yards.

- a. Uncovered wood decks and ~~raised concrete~~ patios are permitted within side and rear setbacks. Uncovered decks and patios not over twenty-four (24) inches in height above grade at any point may be are permitted within ~~eighteen feet of the rear property line and five~~ six (6) feet of the rear and side property lines.
- b. Patios and decks more than twenty-four (24) inches above the natural grade must maintain a rear setback of eighteen (18) feet and side setback of six (6) feet.

3.4. Covered decks and patios are subject to general provisions as well as the following standards described here. Covered decks and patios which are detached from a primary residence by six (6) or more feet are regulated as accessory structures per LMC 19.22.040.

- a. Setbacks. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - ~~i. Remains open on three sides and is not enclosed in any way;~~
 - ~~ii. Does not come within eighteen feet of the rear property line;~~
 - ~~iii. Does not encroach more than two feet into the side yard setbacks of the underlying zone; and,~~
 - ~~iv. The addition does not exceed the permitted lot coverage.~~
 - i. Covered decks and patios may encroach into a rear yard but a minimum rear setback of eighteen (18) feet must be maintained. This setback is measured from the property line to the farthest extent of the roof structure.
 - ii. Roof structures may encroach into side yard setback as much as two (2) feet.

- b. Enclosure. Deck or patio privacy screening or fencing which is located more than six feet from the property line, may be up to eighty four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six feet above grade. Covered decks and patios attached to a residence may be screened, secured, or enclosed to extend the usefulness of these outdoor spaces however, enclosures, whether conditioned or unconditioned, are not intended to become extensions of indoor living space unless the enclosure meets all setbacks applicable to the primary residence. Screening and enclosure of covered decks and patios encroaching into a rear yard setback is subject to the following regulations:
 - i. Ventilation. Exterior edges of a covered deck or patio must include air gaps or screened openings that remain vented to the outdoors at all times. Walls, windows, and doors which can be made to seal the space are not permitted on any exterior edge. Vented openings must be present at the top and bottom of rigid enclosure walls. At a minimum, venting must include a gap equal to three and one half (3.5) inches at floor level, horizontally running the full perimeter of the patio's exterior between vertical supports. Additionally, an area equivalent to this floor level ventilation must be provided at the top of rigid enclosure walls. Venting an enclosed attic (such as when a ceiling is present on a patio) will not be counted toward the ventilation required for the enclosed patio / deck space.
 - ii. The portion of patio or deck enclosed with rigid and opaque screening materials may not occupy more than sixty (60) percent of the total linear length of the rear façade.
 - iii. Materials used to enclose or screen patios and decks that encroach into a rear yard may vary but the design must maintain the intent to provide ventilated outdoor, rather than indoor, living space. Examples of methods and materials include flexible and retractable

opaque or transparent patio screens or sunshades; framed insect screening; railings, louvered or rigid windscreens, or privacy panels which are mounted with brackets to the floor, ceiling, or vertical supports; tinted or transparent glass or plexiglass may be used except that highly reflective or mirrored glazing is not permitted.

CITY OF LYNDEN
CITY COUNCIL RESOLUTION NO. 23-1076

**A resolution of the Council of the City of Lynden, Washington,
requesting Planning Staff and the Community Development Committee
to reconsider a proposed amendment to LMC 19.22 regarding
enclosure and screening of patios.**

WHEREAS, the City of Lynden finds it necessary to amend development regulations from time to time to ensure orderly review of zoning regulations within the City; and

WHEREAS, a proposal was brought forward to amend Lynden Municipal Code (LMC) Title 19, Section 19.22 regarding patio enclosures and screening in order to provide better clarification on the options for securing covered patios with railings or sheltering from sun, wind or visibility; and

WHEREAS, the Lynden Planning Commission held an open record public hearing on May 11, 2023, to accept public comments on the proposed amendment; and

WHEREAS, the Planning Commission recommended adoption of the amendment as described in Resolution No. 23-04; and

WHEREAS, on June 19, 2023, the Lynden City Council held a public hearing to accept public testimony on the proposed amendment to LMC 19.22 and to consider the matters of record to that date; and

WHEREAS, following the public hearing, the City Council did not approve the recommended amendment to LMC 19.22 regarding enclosure and screening of patios0 but requested that the Planning Commission reconsider the amendment to allow options by which residents can achieve a higher degree of enclosure for patios; And

WHEREAS, on June 21, 2023, the Community Development Committee discussed the potential edits to the code to allow for additional enclosure while still providing substantial ventilation; and

WHEREAS, the Committee clarified that the edits be reconsidered by Planning, Fire, and Building Staff rather than the Planning Commission and that, upon concluding edits to the language of LMC 19.22 the item would be returned to the Community Development Committee at their September meeting and, if appropriate, slated for return to the City Council for a final decision.

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

- 1) The proposed amendment to LMC 19.22 regarding the screening and enclosing of outdoor patios which was removed from Ord 23-1669 by Council action on June 19,

2023, shall be returned to the Community Development Committee (CDC) for reconsideration within 60 days of the date this resolution.

- 2) The CDC meeting must be open to the public. The CDC may consider additional public comment but is not required to do so for this reconsideration.
- 3) Planning Staff is asked to draft, and the CDC is asked to consider additional options by which residents can achieve a higher degree of enclosure while still allowing for substantial ventilation for patios than allowed in current code or under the prior proposed amendment to LMC 19.22. These standards would then apply to patios that meet the minimum rear setback required for covered patios as described in LMC 19.22.030(E).

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE OF 7 IN FAVOR, 0 AGAINST, SIGNED THIS 21ST DAY OF AUGUST 2023.

MAYOR

Scott Korthuis
Scott Korthuis

ATTEST:

Pamela D. Brown
Pam Brown, City Clerk

APPROVED AS TO FORM:

Bob Carmichael
Bob Carmichael, City Attorney

CITY OF LYNDEN
PLANNING COMMISSION RESOLUTION #23-04

A resolution of recommendation for approval of an amendment to Lynden Municipal Code 19.22 regarding patio enclosures and screening.

WHEREAS, in 2019, in recognition of the desire for covered outdoor spaces, the City Council passed an ordinance which amended the residential code to allow roof structures to extend from the home and encroach into the rear yard setback provided that the structure remained open on three sides and maintained an 18-foot rear setback; and

WHEREAS, these conditions of construction are meant to preserve outdoor yard spaces on residential lots and to prevent ad-hoc home additions that may become unsafe living spaces that lack ventilation, fail to meet energy code, or pose a fire danger; and

WHEREAS, since adoption, many homes, both existing and new, have taken advantage of the amendment and have added roofs over outdoor living spaces; and

WHEREAS, the screening or sheltering of patio areas can also add to the usability of an outdoor space which has led to the discussion about what sort of screening or enclosure is permitted; and

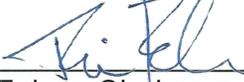
WHEREAS, after discussion with the Community Development Committee, the City Council as a whole asked that Planning staff propose an amendment to the code which would better clarify the options for securing covered patios with railings or shelter from sun, wind, or visibility but confirmed that these spaces remain open and outdoor in nature; and

WHEREAS, the Lynden Planning Commission held a public hearing on May 11, 2023, to accept public testimony on the proposed Code Amendment to Lynden Municipal Code (LMC) 19.22, and that meeting was duly recorded;

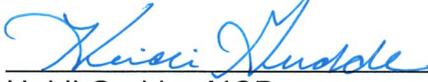
WHEREAS, LMC 19.22 Design Standards, Section 19.22.030(E)(1, 2 and 3) have been updated to better clarify the proposed changes as shown in **Exhibit A**.

NOW THEREFORE, BE IT RESOLVED by the Lynden Planning Commission to recommend approval of the amended language shown in Exhibit A by a vote of 4-0, to the City Council of the amendment to LMC 19.22 regarding patio enclosures and screening.

PASSED by the Planning Commission of the City of Lynden, Whatcom County, at their meeting held the 11th day of May 2023.



Tim Faber, Chairperson,
Lynden Planning Commission



Heidi Gudde, AICP
Planning Director

19.22.030 Residential architecture and attached garages.

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

A. Residential Structure.

1. All dwellings must be placed on a permanent foundation and the space between the foundation and the bottom of the home must be enclosed by concrete or approved concrete products.
2. Eaves and gable ends must be a minimum of twelve inches. This is not applicable to re-roofing or additions to existing structures.

B. Building Height.

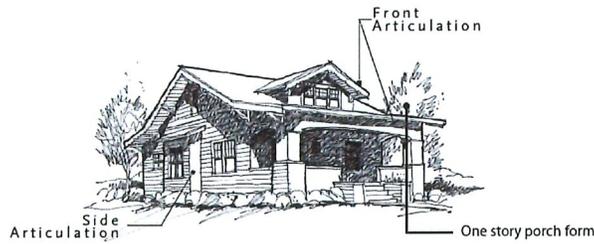
1. Building height is regulated by zoning category.
2. On lots greater than ten thousand square feet in size, the height of a residential structure may be increased one foot for every two feet in increased setback distance beyond the minimum setback on both side yards and the front yard, to a maximum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

C. Roofs.

1. Roofing materials shall be wood shingle or shake, composition, asphalt laminate, clay or architectural metal.
2. Exposed fastener corrugated metal or corrugated fiberglass roofing is not permitted.
3. Using a membrane roof or built-up roofing (BUR) for the primary roofing material is not permitted.
4. The primary roof line must have a minimum of a 4:12 pitch. This is not applicable to re-roofing or additions to existing structures.

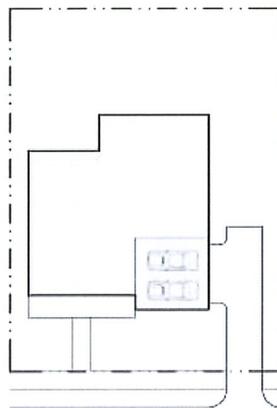
D. Building Elevations and Finishes.

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



- 2. Garage Elevations. To promote an attractive, pedestrian-friendly streetscape, attached garages accessed from the front, with garage doors oriented toward the street are subject to the following standards:
 - a. At the ground level, the garage façade shall not extend forward of the home's living space by more than twelve feet.
 - b. The lineal frontage of the building elevation which can be occupied by garage doors is limited.
 - c. In RS zones, no more than fifty percent of the building elevation can be garage doors.
 - d. In RMD and RM zones, no more than sixty percent of the total first floor building elevation length can be garage doors.

- 3. Exterior Finishes.
 - a. The exterior of the home must be finished with a minimum of two types of materials or variation in reveals.
 - b. Exposed fastener metal siding is prohibited on residential buildings.
 - c. Exposed ends of stone and masonry façades are not permitted and must be finished with trim or end caps.
 - d. All garage sides that are visible from streets or shared access easements shall provide architectural details and trim consistent with the design of the home. (graphic)



Side Loaded Garage

- e. In RS zones, attached garages or attached carports which provide a third covered or enclosed space must be offset a minimum of two feet from the first two covered or enclosed spaces.

E. Porches, Stoops, Decks, and Patios.

1. Definitions.

- a. Covered Patio means a single-story shade structure covering a patio or deck area consisting of a solid or open roof and structural supports, attached to or detached from the primary dwelling. Covered patios must serve exclusively for recreational purposes, never used as a carport, garage, storage room, or habitable living space.
- b. Patio Screen is a structure or material used to protect a recreational area from sun, insects, wind, or visual intrusion. A patio screen differs from a window covering in that it is exposed to outdoor elements like heat or cold.

2. Porches and stoops.

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

3. Decks and patios.

- a. Uncovered wood decks and raised concrete patios not over twenty-four inches above grade at any point may be permitted within eighteen feet of the rear property line and five feet of the side property line.
- b. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
 - i. Remains open on three sides and may not be enclosed in any way;
 - ii. Does not come within eighteen feet of the rear property line;
 - iii. Does not encroach more than two feet into the side yard setbacks of the underlying zone; and,
 - iv. The addition does not exceed the permitted lot coverage.
 - v. Safety railings may enclose a patio or deck on all three sides. Railings are limited to a maximum height of 36 inches measured from the patio floor to the top of the railing.
- c. Patio screening that is attached to the patio structure may include insect screens, sunshades, and windscreens that:
 - i. Are not structurally framed in or sealed;
 - ii. Are not load bearing;

- iii. Do not include rigid framed window or doors of any kind;
 - iv. Are easily removable.
 - v. Utilize materials that are air permeable to allow for ventilation of the space.
- d. Freestanding deck or patio privacy screening or fencing which is located more than 6 feet from the property line and not attached to the primary structure, may be up to eighty-four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six feet above grade.

(Ord. No. 1582, § A, 6-3-2019)

EXHIBIT A
ORD 23-1674

E. Porches, Stoops, Decks, and Patios.

1. General Provisions for Porches, Stoops, Decks, and Patios.
 - a. All decks, porches, and patios must be included in calculations of maximum impervious lot coverage, as established in LMC 19.11.020.
 - b. All decks, patios, porches, or similar must be designed so as not to drain to surrounding properties.
 - c. No element of the deck or patio including footings may encroach into a neighboring property or an existing easement.
2. Front Entries and Front Yards
 - a. Primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
 - b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
 - c. Stairs with open risers are not permitted on front porches or stoops.
 - d. Front yard porches, decks and patios.
 - i. Uncovered porches, decks, and patios may encroach into a front yard but must maintain a minimum setback of ten (10) feet and shall not exceed eighteen (18) inches above the natural grade.
 - ii. Porches, decks, and patios that are covered or those that are uncovered but exceed eighteen (18) inches above the natural grade must meet the front setback assigned to the primary structure.
3. Uncovered Decks and Patios in Rear and Side Yards.
 - a. Uncovered wood decks and patios are permitted within side and rear setbacks. Uncovered decks and patios not over twenty-four (24) inches in height are permitted within six (6) feet of the rear and side property lines.
 - b. Patios and decks more than twenty-four (24) inches above the natural grade must maintain a rear setback of eighteen (18) feet and side setback of six (6) feet.
4. Covered decks and patios are subject to general provisions as well as the following standards described here. Covered decks and patios which are detached from a primary residence by six (6) or more feet are regulated as accessory structures per LMC 19.22.040.

- a. Setbacks.
 - i. Covered decks and patios may encroach into a rear yard but a minimum rear setback of eighteen (18) feet must be maintained. This setback is measured from the property line to the farthest extent of the roof structure.
 - ii. Roof structures may encroach into side yard setback as much as two (2) feet.

- b. Enclosure. Covered decks and patios attached to a residence may be screened, secured, or enclosed to extend the usefulness of these outdoor spaces however, enclosures, whether conditioned or unconditioned, are not intended to become extensions of indoor living space unless the enclosure meets all setbacks applicable to the primary residence. Screening and enclosure of covered decks and patios encroaching into a rear yard setback is subject to the following regulations:
 - i. Ventilation. Exterior edges of a covered deck or patio must include air gaps or screened openings that remain vented to the outdoors at all times. Walls, windows, and doors which can be made to seal the space are not permitted on any exterior edge. Vented openings must be present at the top and bottom of rigid enclosure walls. At a minimum, venting must include a gap equal to three and one half (3.5) inches at floor level, horizontally running the full perimeter of the patio's exterior between vertical supports. Additionally, an area equivalent to this floor level ventilation must be provided at the top of rigid enclosure walls. Venting an enclosed attic (such as when a ceiling is present on a patio) will not be counted toward the ventilation required for the enclosed patio / deck space.
 - ii. The portion of patio or deck enclosed with rigid and opaque screening materials may not occupy more than sixty (60) percent of the total linear length of the rear façade.
 - iii. Materials used to enclose or screen patios and decks that encroach into a rear yard may vary but the design must maintain the intent to provide ventilated outdoor, rather than indoor, living space. Examples of methods and materials include flexible and retractable opaque or transparent patio screens or sunshades; framed insect screening; railings, louvered or rigid windscreens, or privacy panels which are mounted with brackets to the floor, ceiling, or vertical supports; tinted or transparent glass or plexiglass may be used except that highly reflective or mirrored glazing is not permitted.

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	November 6, 2023	
Name of Agenda Item:	Community Development Committee Minutes of 10-18-23	
Section of Agenda:	Other	
Department:	Community Development Department	
Council Committee Review:	<input type="checkbox"/> Community Development <input type="checkbox"/> Finance <input type="checkbox"/> Parks	<input type="checkbox"/> Public Safety <input type="checkbox"/> Public Works <input type="checkbox"/> Other: _____
		Legal Review: <input type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input checked="" type="checkbox"/> Review Not Required
Attachments:	Draft CDC Minutes of 10-18-23	
Summary Statement:	Draft CDC minutes attached for review.	
Recommended Action:	Council review.	



COMMUNITY DEVELOPMENT COMMITTEE

MINUTES

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

1. ROLL CALL

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

2. APPROVAL OF MINUTES

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

3. DISCUSSION ITEMS

- a. LMC Text Amendment – Patio Screening and Enclosure

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

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

- b. November CDC Meeting Date

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

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

4. INFORMATIONAL ITEMS

- a. Special Events – Amending LMC 5 and LMC 9

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

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

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

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

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

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

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

b. Comprehensive Plan – HB 1181 Climate Planning Strategy

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

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

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

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

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

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

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

c. 2023 Development Report – July through September

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

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

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