

ORDINANCE NO. 1640

INTERIM ORDINANCE ESTABLISHING A MORATORIUM ON RESIDENTIAL DEVELOPMENT WITHIN
THE COMMERCIAL SERVICES – LOCAL (CSL) ZONE

WHEREAS, the 2016 City of Lynden Comprehensive Plan Section 3.7 includes Housing Goal H-2 which states that the City will strive to:

“Provide a mix of single-family and multi-family homes that achieves the density necessary to accommodate projected population growth over the 20-year planning period.”

and;

WHEREAS, the policy associated with Goal H-2 states:

“Zoning should be applied to ensure that future residential development over the planning period is composed of approximately 60% single-family units and 40% multi-family units.”

and;

WHEREAS, community feedback collected in the writing of the 2016 Comprehensive Plan, appearing as Community Value Statement 4C, indicated a preference for an even higher ratio of single-family housing, calling for a ratio of 75% single-family units to 25% percent multi-family units; and

WHEREAS, the purpose of the Commercial Services – Local (CSL) zone stated in the 2016 Comprehensive Plan is “to provide a location for local scale retail development (stores less than 65,000 square feet), medical, professional and financial services;” and

WHEREAS, per the permitted uses listed in Lynden Municipal Code (LMC) 19.23.020, properties within the Commercial Services – Local (CSL) zone may construct multi-family development; and

WHEREAS, the North Lynden Sub-area made additional provisions for residential development within the CSL zone, requiring only development with 200 feet of the intersection of Badger Road and Depot Road be commercial in nature; and

WHEREAS, since 2013, the City has approved construction of 276 multi-family dwelling units within the CSL zone; and

WHEREAS, these projects have typically been at a density of 14 to 21 units per acre, consistent with the permitted densities for the Residential Multifamily 3 and 4 zones, which is where dense multifamily development was intended to be concentrated; and

WHEREAS, the residential development occurring within the CSL zone at such high densities may be frustrating the purpose of the CSL zone, Comprehensive Goal H-2, Community Value Statement 4C, and other goals and policies in the Comprehensive Plan; and

WHEREAS, because the zone was intended for community-scale commercial use, residential development within CSL zones may not be located in areas which provide adequate amenities to future residents of these developments; and

WHEREAS, tracking land uses and residential densities can be done more accurately and consistently if land use and zoning categories align with how properties are actually developed; and

WHEREAS, the City Council has granted an approval to a petition for the annexation of 277 acres within the city's southwest Urban Growth Area; and

WHEREAS, the area of potential annex includes a number of parcels south of Birch Bay Lynden Road which are slated for commercial land use designations, possibly including CSL; and

WHEREAS, the City will shortly begin reviewing commercial land use with the City limits and its Urban Growth Areas in light of the Comprehensive Plan Goal H-2 and the existing and future impact that residential development on CSL properties; and

WHEREAS, this review and any necessary subsequent actions, which are outlined in Section 3 below, will require significant staff time, and possibly one or more public hearings; and

WHEREAS, to assure that the issue of residential development in the CSL zone is addressed consistently with the objectives of the Comprehensive Plan and zoning code, and with the public health, safety, and welfare of the community, a moratorium on residential development in the CSL zone is required; and

WHEREAS, the City duly noticed the public hearing by publicly setting the public hearing on December 6, 2021 and publishing the notice of hearing in the Lynden Tribune; and

WHEREAS, the City held a public hearing on this proposed Ordinance on the 20th day of December 2021; 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 Certain Building Permit Applications. The City shall not accept design review applications or building permit applications for new residential structures intended for human occupancy, or for additions to existing residential structures of more than fifty percent (50%) of the existing square footage, on any CSL zoned property, for a period of one hundred eighty (180) days, or until the City adopts a replacement ordinance, or unless extended, whichever comes first, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 3. Resolution of Issues related to Residential Development within CSL Zones. During the term of this interim ordinance the City shall work on resolving the following issues.

- A. Analysis. City staff will analyze the latest housing and permit data, including the pending 2020 Census data, to determine the existing ratio of single-family to multi-family housing units within the City of Lynden.
- B. Code Amendment. In response to data analysis, LMC 19.23 and other areas of the code may be revised as they relate to the development of residential units on commercially zoned properties.
- C. Additional Recommendations and Land Use Actions. If warranted, a Comprehensive Plan Amendment may be needed to create alignment between Land Use Designations and actual land use.

Section 4. Emergency Situation. Based on the findings herein, the City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the Council as required by RCW 35A.13.190.

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 not be construed as a moratorium on repair or reconstruction of single-family homes existing prior to 1992 which are permitted per LMC 19.23.020.

Section 8. 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 December 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY