

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
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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