

ORDINANCE XXXX

**AN ORDINANCE OF THE CITY OF LYNDEN, ADDING CHAPTER 15.26,
THIRD-PARTY REVIEW FEE POLICY, TO TITLE 15,
OF THE LYNDEN MUNICIPAL CODE**

WHEREAS, the City of Lynden has the authority to set building permit fees pursuant to Lynden Municipal Code 15.02.060.B; and

WHEREAS, the City of Lynden's Planning and Community Development Department (the "Department") has seen a significant increase in applications for building permits in recent years, which has put increasing pressure on the Department to review the number of applications; and

WHEREAS, the Department has contracted with a third-party consultant to review some building permit applications, including the required plans and reports, to ensure a timely review and response to applicants; and

WHEREAS, building permit applications are referred for outside third-party consultant review based on a variety of factors including without limitation complexity of application and staff availability; and

WHEREAS, to ensure timely review of building permits now and into the future, the Department must have the ability to contract with outside consultants to carry out third-party review, as deemed necessary by the Department; and

WHEREAS, the term "Third Party Review Fee" defines the fee(s) required when outside consultant review is necessary for certain building permits, whether that is based on the complexity of the permit application or the number of permits currently pending before the Department; and

WHEREAS, in cases where third-party review is required, the applicant shall be fully responsible for all fees associated with the additional review, reflecting the actual cost of the review; and

WHEREAS, the public interest will be served by amending the Lynden Municipal Code to include the Third-Party Review Fee policy to ensure transparency and efficiency throughout the review process; and

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

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

Section 1. Title 15, Building and Construction, of the Lynden Municipal Code is hereby amended to include a new Chapter 15.26, Third-Party Review Fee Policy, which reads as follows:

15.26 Third-Party Review Fee Policy

15.26.010 Purpose.

The City of Lynden may, at the discretion of the Planning Director, require a third-party review of any building permit application submitted under Title 15 by an outside consultant.

15.26.020 Procedure for determining if third-party review is required.

The Planning Director may determine that third-party review is required to ensure timely review of an application, to best achieve compliance with the standards and guidelines of the code or other appropriate rules and regulations, or for any other reason in the best interest of the City.

15.26.030 Selection of Third-Party Consultant.

When third-party review is initiated, the Planning Director may select an outside consultant under contract with the City for providing review of building permit applications.

15.26.040 Fees and Costs.

All cost incurred from an outside third-party consultant reviewing a building permit application shall be the sole responsibility of the applicant. The cost incurred shall be based on the actual cost to the City for review services provided by such outside consultant, consistent with council resolution.

15.26.050 Notice and Deposit for Third-Party Consultant Review.

Once the need for third-party review is determined, the City shall send by registered U.S. mail or deliver in person, written notice thereof to applicant, including a statement of the total estimated actual cost of review, to be required as a deposit. The City shall require full payment from the applicant of said deposit prior to commencement of third-party review. Upon exhaustion of any deposit, the City may cease work on the application and require the applicant to remit an additional deposit to recommence third-party review. Any funds remaining in an applicant's deposit account following completion or termination of review shall be refunded to applicant.

Section 2. 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 3. This Ordinance shall be in force and effect five (5) days from and after its passage, approval, and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN BY AN AFFIRMATIVE VOTE, _____ IN FAVOR _____ AGAINST AND SIGNED BY THE MAYOR THIS _____ DAY OF _____ 2022.

MAYOR

SCOTT KORTHUIS

ATTEST:

CITY CLERK Pamela D. Brown

APPROVED AS TO FORM:

CITY ATTORNEY Robert A. Carmichael