

CITY OF LYNDEN



Mayor
Scott Korthuis

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

City Council - Regular Meeting
Annex - 205 Fourth Street
March 06, 2023

Call to Order

Pledge of Allegiance

Roll Call

Oath of Office

Approval of Minutes

1. Draft Council Minutes – February 21, 2023

Citizen Comment

Summary Reports and Presentations

Consent Agenda

2. Approval of Payroll and Claims
3. Ratification of City Participation in State Opioid Settlement

Public Hearing

4. Ord-23-1665 (previously advertised as Ord 1654) – Amending LMC 17 and 19 re Community Residential Facilities, CUPs, and STRs

Unfinished Business

New Business

5. Ord-23-1664 Tops Condemnation
6. Ord-23-1666 –Emergency Interim Zoning Ordinance regarding Community Residential Facilities (Substitute to Ord 1661)

Other Business

7. Community Development Committee Minutes of 2-22-23
8. Calendar

Executive Session

Adjournment

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EXECUTIVE SUMMARY



Meeting Date:	March 6, 2023	
Name of Agenda Item:	Draft Council Minutes – February 21, 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 – February 21, 2023	
Summary Statement:	Draft Council Minutes for Council review and possible approval.	
Recommended Action:	Review and approve draft minutes.	

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CITY COUNCIL MINUTES OF REGULAR MEETING



February 21, 2023

1. CALL TO ORDER

Mayor Korthuis called to order the February 21, 2023 regular session of the Lynden City Council at 7:00 p.m. which was held in the city's council chambers.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

Members absent: None.

Staff present: Finance Director Anthony Burrows, Parks Director Brent DeRuyter, Planning Director Heidi Gudde, Public Works Director Steve Banham, City Clerk Pam Brown, City Administrator John Williams, and City Attorney Bob Carmichael.

OATH OF OFFICE – None

SUMMARY REPORTS AND PRESENTATIONS - None

APPROVAL OF MINUTES

Councilor Strengtholt moved, and Councilor De Valois seconded to approve the February 6, 2023, regular meeting minutes. Motion approved on 7-0 vote.

CITIZEN COMMENT

Cynthia Ripke-Kutsagoitz, Guide Meridian, Lynden

Cynthia commented on:

- Sumas library dedication
- The rodeo held at the NW WA fairgrounds.
- The VFW
- Fluoride

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2. CONSENT AGENDA

Payroll Liability to January 29 through February 11, 2023

EFT & Other Liabilities

Non-L&I Liabilities

Monthly EFT	\$417,132.23
Check Liability	\$0.00
Total Non-L&I Liabilities	\$417,132.23
Quarterly Liabilities	\$12,896.75
Total EFT & Other Liabilities	\$430,028.98

Approval of Claims – February 7, 2023

Manual Warrants No.	=	through	=		\$-
EFT Payment Pre-Pays					\$-
				Sub Total Pre-Pays	\$0.00
Voucher Warrants No.	<u>26667</u>	through	<u>26792</u>		\$1,315,532.19
EFT Payments					<u>\$230,687.65</u>
				Sub Total	\$1,546,219.84
				Total Accts. Payable	\$1,546,219.84

Agreement with Lynden Youth Sports

This agreement allows for the use of staff time in working with Lynden Youth Sports. Staff provides support for developing game schedules and coordinating the use of city fields and facilities.

Approval of the Dell Vectra A.I. Contract

Vectra AI is a cybersecurity technology that uses artificial intelligence and machine learning to detect and respond to cyber attacks in real time. It can identify and prioritize the most critical threats, ensuring that our city's limited resources are focused on the most pressing issues.

By implementing Vectra AI, the city will be able to detect and respond to cyber threats before they can cause damage. This will not only protect our city's sensitive information,

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but also prevent downtime and data breaches. Additionally, the technology works with our existing systems, which will minimize the setup and configuration to integrate without existing city infrastructure.

There are other cybersecurity technologies available in the market, and we have evaluated them in terms of the effectiveness, ease of use and pricing, and Vectra AI came out as the most suitable solution for the city's needs.

The lease term is for three years, and the city will own the hardware at the end of the term.

Reappointment of Historic Preservation Commission members

The Lynden Historic Preservation Commission (LHPC) terms for Denny DeMeyer, Patricia Leach and Troy Luginbill have recently expired. However, all have expressed a willingness to serve another term. These three members were appointed to the original LHPC in 2016 and have contributed valuable architectural and historical expertise to the Commission as Lynden's historic preservation program was becoming established. Their value continues.

Appointments to the LHPC are made by the Mayor and confirmed by the City Council. It is the Mayor's recommendation that Denny DeMeyer, Patricia Leach and Troy Luginbill be re-appointed to another three-year term.

Set Public Hearing to consider taking final action to authorize commencement of eminent domain proceedings (March 6, 2023)

Motion made by Councilor De Valois seconded by Councilor Kuiken to approve the consent agenda as presented. Motion approved 7-0.

3. PUBLIC HEARING

Termination of Skyview Development Agreement

On August 2nd, 2021, the City Council approved a development agreement with HALO Holdings, LLC and TMI Holdings, LLC, a group developing Skyview Townhomes, a multi-family project located east of Northwood Road with the northern edge Badger Road frontage.

The agreement outlined the developer obligations and timeline for a mixed-use portion of the Skyview Townhome project located on commercially zoned (CSL) property. The

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agreement allowed the residential portion of the mixed-use development to proceed prior to the establishment of a commercial use with a portion of commercially zoned property reserved to accommodate the commercial component at a later date. More recently, with the support of the landowners, a city-led Comprehensive Plan Amendment (CPA 22-01) and rezone shifted this commercially zoned parcel to a residential use with an RM-3 zoning assignment. This became effective January 1, 2023, and has made the 2021 agreement unnecessary.

Mayor Korthuis opened the public hearing at 7:08. There were not comments. Mayor Korthuis closed the public hearing at 7:08.

Motion made by Councilor Lenssen seconded by Councilor Strengholt to approve the termination of the Skyview Development Agreement and authorize the Mayor's signature on the document. Motion approved 7-0.

Mountain Summit Ventures Development Agreement

Although advertised to occur at this meeting, staff is requesting a delay of this public hearing to a later date. The entity of Mountain Summit Ventures, LLC has been working with City staff and legal counsel to draft a development agreement which would secure a portion of the right-of-way for the future construction of Pepin Parkway as it connects to Sunrise Drive. However, at this time the group is not yet prepared to bring the development agreement to public hearing as additional aspect of development are being considered. No future date for this hearing has been established and, as such, it will be appropriately advertised when a date is set.

Mayor Korthuis opened the public hearing at 7:10. There were not comments. Mayor Korthuis closed the public hearing at 7:10.

Motion made by Councilor Lenssen seconded by Councilor Bode to delay the public hearing for the Mountain Summit Ventures Development Agreement with appropriate notification of the new date and time of the hearing when it is established. Motion approved 7-0.

4. UNFINISHED BUSINESS - None

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5. NEW BUSINESS

Res-23-1061 Approving Use of Stormwater Financial Assistance Program Grant

Staff has applied for and received Department of Ecology approval for a Stormwater Financial Assistance Program Grant and Clean Water State Revolving Fund Loan to construct stormwater improvements on 9th Street from Judson Street to Front Street and the adjacent midblock east-west alleys. This is the second phase of planned street and stormwater improvements in the Judson area bounded by 7th and 10th Streets on the east and west, and Front Street to the north.

Included in this funding package is a grant in the amount of \$537,991.00 and a loan in the amount of \$179,330 (including \$44,832.00 forgivable principal) with terms of 20 years and a 0.8% interest rate plus 0.3% administrative charge. Staff is planning to use TBD funds for repayment of the loan and provide sewer and water funds for needed utility upgrades under the streets.

This was discussed at the February 8, 2023, Public Works Committee meeting.

Councilor Bode moved, and Councilor Strengholt seconded to approve Resolution No. 23-1061, Approving City Use of Stormwater Financial Assistance Program Grant and Clean Water State Revolving Fund Loan for Judson Area Stormwater Low Impact Development- Phase 2 and authorize the Mayor's signature on the applicable agreement with the Department of Ecology. Motion approved on 7-0 vote.

Accept Public Works Trust Fund Loan for Pine Street Bridge

Staff has applied for and received approval for a Public Works Trust Fund loan in the amount of \$5.5 Million for the Pine Street Bridge over Pepin Creek project. The term of the loan is 20 years with a 1.39% interest rate. Staff is recommending using the following funds for repayment: TBD, Traffic Impact Fees, General Fund/Street Fund, and utility funds (for the utility improvements only).

The Pine Street Bridge over Pepin Creek project will include the construction of a new 80-foot-long by 58-foot-wide span over Pine Street. This bridge/box culvert will allow for the future diversion of the two ditches of Pepin Creek away from Double Ditch Road into a single wider channel. The Pepin Creek channel under the bridge will be extended from about 1,000 feet north of Pine Street south to match the channel currently being constructed with the new bridge at Main Street. The new bridge and creek channel are designed to accommodate the 100-year flood and provide greater habitat value for fish than the current undersized ditches along Double Ditch Road.

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The Public Works Committee discussed this at their February 8, 2023, meeting and concurred to recommended approval by City Council. The Finance Committee will review on February 21, 2023 at their committee meeting.

Councilor Bode moved, and Councilor De Valois seconded to accept the Public Works Trust Fund on the amount of \$5,500,000.00 to fund the Pine Street Bridge over Pepin Creek project and authorize the Mayor's signature on the agreement. Motion approved on 7-0 vote.

Request to Petition for Weg Annexation

Property owners Rick and Carol Weg have submitted a request to petition for the annexation of their property which lies within the City's Pepin Creek Sub-Area with a current address of 8634 Double Ditch Road. Rick and Carol Weg are the sole owners of the subject property which is approximately forty-five acres.

This parcel is contiguous and adjacent to incorporated portions of the City of Lynden including the recently annexed Benson Park property.

In the next stage of the annexation process, the owners will submit signatures on a petition indicating support of annexation and an application to annex. This application will be reviewed by the Technical Review Committee, the Planning Commission, and the Boundary Review Board before returning to the City Council for a final decision. The Weg property is associated with infrastructure of the Pepin Lite plan. It also represents the capacity for approximately 200-225 new housing units as, per the sub-area plan, it would join the city with a Residential Mixed Density zoning assignment.

Councilor Lenssen moved, and Councilor Strengholt seconded to approve the request to petition for the annexation of the Rick and Carol Weg property. Motion approved on 7-0 vote.

6. OTHER BUSINESS

Councilor Bode reporting for the Public Works Committee involving discussion of:

- Ecology funding for Judson Street and (8th, 9th, and 10th).
- Design phase with E Cedar Street.
- Fire Department will conduct a practice burn on the house on Benson and Sunrise.
- W Front Street reconstruction.
- Near future paving projects on city streets.
- Airport tree trimming arrangement.
- Duffner mobile home park- adding a few more spaces.

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Councilor Lenssen reporting for Public Safety Committee involving discussion of:

- ORV discussion to continue at March public safety committee.
- Civil service rule change for creation of an ongoing hiring list for interviewing of candidates as they present themselves.

Councilor Strengholt reporting for Finance Committee involving discussion of:

- Review payroll and claims.
- Review of sales tax revenue remains strong but lowest in the last six months.
- Briefed by IT staff for Dell Vectra AI 3-year contract.
- PW trust fund for Pine Street bridge.
- Review PW request for seasonal labor to replace water meters, due to water loss.
- Reviewed monthly financial report.
- Consider commercial loan to move the interfund loan with what was used to pay for fire station due to current interest rates.

Councilor De Valois reporting for Parks Committee involving discussion of:

- City's agreement with Lynden Youth Sports (LYS).
- Benson barn and the necessary upgrades.
- Benson Park masterplan.
- Schoolyard Park fencing and backstop materials have been sold.
- Gate at Berthusen Park.
- Trail from Depot to 8th Street is progressing.

7. EXECUTIVE SESSION

Council recessed into executive session at 7:34 p.m. to discuss with legal counsel representing the city, a matter related to potential litigation, under RCW 42.30.110(1)(i). Council expected to return from executive session at 7:44 p.m. without a decision. Council reconvened at 7:44 p.m.

8. ADJOURNMENT

The February 21, 2023, regular session of the Lynden City Council adjourned at 7:44 p.m.

Pamela D. Brown, City Clerk

Scott Korthuis, Mayor

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EXECUTIVE SUMMARY



Meeting Date:	March 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	

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EXECUTIVE SUMMARY



Meeting Date:	March 6, 2023	
Name of Agenda Item:	Ratification of City Participation in State Opioid Settlement	
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 checked="" type="checkbox"/> Other: <u>_Legal_</u>	Legal Review:
		<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Not included as complete document is approximately 100 pages. Document can be reviewed at the City Clerk's office or is available on the Attorney General's website.	
Summary Statement:	<p>The Washington State Attorney General office reached a settlement agreement with prescription drug manufacturers regarding opioid distribution and the impacts on citizens for their distribution and potential addictive issues associated with its manufacture. As before, counties and cities in the state will receive a proportionate share based on population. These funds are restricted as to how they can be used; however, the City feels there is benefit to the citizens by funding education programs. The State has now settled with five (5) retailers and participation in the settlement share approximately \$215M statewide. Lynden's share will be determined by the number of entities that sign on and the city population.</p>	
Recommended Action:	Staff recommends City Council make a motion to approve the agreement and authorize signatures on the documents for the City's participation in the settlement.	

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EXECUTIVE SUMMARY

Meeting Date:	March 6, 2023	
Name of Agenda Item:	Ord 23-1665 (previously advertised as Ord 1654) – Amending LMC 17 and 19 re Community Residential Facilities, CUPs, and STRs	
Section of Agenda:	Public Hearing	
Department:	Planning 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 checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:	Draft Ord 23-1665, Redline versions, Summary of changes between PC recommendation and CDC recommendation, School buffer map, Planning Commission meeting minutes of 12/15/22	
Summary Statement:	<p>Important: This ordinance was advertised as number 1654 but has been reassigned to 23-1665. The City Council is considering the adoption of comprehensive zoning regulations governing Community Residential Facilities. In this case the term “Community Residential Facility” broadly means a residence or facility where unrelated individuals live together temporarily or permanently while utilizing common support and services. Several actions have led the City to examine this issue. In 2021 the State passed House Bill 1220 that affects how the city is allowed to regulate certain housing types that aim to address homelessness. In 2022, the issue came into sharper focus when proposed actions by a non-profit would have placed 2 group homes for men leaving prisons within close proximity of elementary schools. Research and review into this issue has been extensive. In the meantime, the City Council adopted interim zoning regulations that limited proximity to schools and similar residential facilities.</p> <p>Staff is now presenting the final ordinance on this issue. It should be noted that in addition to regulations for residential facilities, the proposal updates code pertaining to Conditional Use and Home Occupation Permits, and Short-term Rentals. Also, work on housing issues will continue. Staff is currently coordinating with Whatcom County to assess the regional housing need, including the need for emergency housing and shelters. Results will be reflected in the City’s Comprehensive Plan.</p> <p>On December 15, 2022, the Planning Commission held a public hearing on the ordinance and recommended approval with the condition that length of stay at bed and breakfasts be treated equally to length of stays at short-term rentals. Following this conclusion, the Community Development Committee drafted alternate recommendations that did not alter language related to Community Residential Facilities but tightened regulations on short-term rentals. Details of these alternate regulations have been included in the agenda packet for discussion.</p>	
Recommended Action:	Motion to approve Ord 23-1665 as recommended by the Community Development Committee and authorize the Mayor’s signature on the document.	

ORDINANCE NO. 23-1665

ORDINANCE OF THE CITY OF LYNDEN REASSIGNING THE PROVISIONS OF LYNDEN MUNICIPAL CODE CHAPTER 19.49, “CONDITIONAL USE PERMITS” TO CHAPTER 19.57, ADOPTING COMPREHENSIVE ZONING REGULATIONS GOVERNING COMMUNITY RESIDENTIAL FACILITIES TO BE CODIFIED AT CHAPTER 19.49, AND AMENDING APPLICABLE DEFINITIONS IN CHAPTER 17.01.030

WHEREAS, the City of Lynden (“City”) notes that House Bill 1220 (“E2SHB 1220”), passed by the Washington State Legislature in May 2021, compels municipalities to support efforts to provide indoor emergency housing, indoor emergency shelters, transitional housing, and permanent supportive housing consistent with Chapters 35.21 and 35A.21 RCW; and

WHEREAS, the Lynden City Council (“City Council”) desires to establish reasonable standards for the safe operation and appropriate siting of such facilities and other group living arrangements such as adult family homes and group homes (defined collectively herein as Community Residential Facilities or “CRFs”) within the City so as to protect public health and safety for both facility residents and the broader community; and

WHEREAS, this CRF-Zoning Ordinance (“Ordinance”) is intended to provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220 and other applicable state and federal laws; and

WHEREAS, E2SHB 1220 also states that reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance to protect public health and safety as it relates to CRFs; and

WHEREAS, ensuring compliance with existing City development standards and promoting a safe, calm, and focused atmosphere on and near the grounds of City schools are important priorities for the City; and

WHEREAS, populations served by CRFs often have higher instances of substance abuse disorders, mental health conditions, and criminal histories, which can result in disruptive behavior and emergency response activity in and around facilities which is not compatible with the atmosphere the City seeks to promote around City schools; and

WHEREAS, the City’s development of reasonable comprehensive zoning regulations pertaining to CRF occupancy, spacing, and intensity of use is necessary prior to establishment of new CRFs in order to protect the public health, safety, welfare, property, and peace in the City; and

WHEREAS, minor amendments to existing code language pertaining to Conditional Use Permits, Home Occupation Permits, Bed and Breakfast Establishments, and Short-Term Rentals are also included as these sections of code are being assigned new chapter numbers; and

WHEREAS, this Ordinance is declared to be an exercise of the police power of the City, 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 a material part of this Ordinance;

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

Section 1. Amendment to LMC Chapter 17.01.030. The following definitions codified at LMC 17.01.030 are revised for consistency with this Ordinance.

CHAPTER 17.01
GENERAL PROVISIONS

17.01.030 Definitions

"Adult Family Home" has the same meaning as in LMC 19.49.020.

"Bed and Breakfast" means a dwelling unit with rooms to let as transient accommodations, conducted within a single dwelling unit. Accommodations may include limited food service for guests in accordance with WAC 246-215 and stays are less than (30) days.

"Boardinghouse" or "rooming house" means a structure used for the purpose of providing lodging or lodging and meals. This term includes dormitories, cooperative housing and similar establishments but does not include Hotels, Motels, Community Residential Facilities, Short-Term Rentals, medical care facilities, Bed and Breakfast facilities or multifamily units. These facilities do not have cooking facilities in the sleeping rooms.

"Community Residential Facility" or "CRF" has the same meaning as in LMC 19.49.020.

"Dwelling Unit" means a single residential living unit providing complete, independent living facilities for one or more persons living as a single housekeeping unit. A dwelling unit includes permanent provisions for living, sleeping, eating, cooking, and sanitation. A mobile or manufactured home, apartment, condominium, townhouse, single-family detached home or accessory dwelling unit is considered to be a dwelling unit.

"Family" means an individual or two or more persons related by blood, marriage, or adoption, or a group of unrelated persons living together as a single housekeeping unit.

"Group Care Facility" see "Group Home."

"Group Home" has the same meaning as in LMC 19.49.020.

"Short-Term Rental" means a lodging use, that is not a hotel or motel, in which a short-term rental operator offers or provides a dwelling unit, or a portion thereof, to a guest or guests for a fee for fewer than thirty (30) consecutive nights.

"Transient Accommodation" has the same meaning as in LMC 19.49.020.

Section 2. Amendments to LMC Chapters 19.15, 19.16, 19.17, 19.18, 19.19, and 19.23.
The following existing code sections are amended for consistency with this Ordinance.

**CHAPTER 19.15
RS – SINGLE-FAMILY BUILDING ZONES**

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 designated 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 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.
- G. Certain Community Residential Facilities pursuant to LMC 19.49.

**CHAPTER 19.16
RESIDENTIAL MIXED DENSITY (RMD) ZONES**

19.16.020 Permitted uses.

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

- A. Single-family dwelling units, including detached site built single-family dwellings, and new designated manufactured homes as defined in LMC Section 17.01.030. This includes types such as large lot single-family and small lot single-family units. Mobile homes as defined in LMC Section 17.01.030 are prohibited.
- B. Two single-family attached dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.
- D. Certain Community Residential Facilities pursuant to LMC 19.49.

**CHAPTER 19.17
RM – MULTIFAMILY BUILDING ZONES**

19.17.020 Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE				
	RM-1	RM-2	RM-3	RM-4	RM-PC
Single-Family Dwelling Unit	P	P	P	P	P
Duplex Units	P	P	P	P	P
Three or Four units per building	N	P	P	P	P
More than four units per building	N	N	P	P	P*
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	P
Mobile homes as defined in LMC Section 17.01.030	N	N	N	N	P
Adult Family Home	P	P	P	P	P
Permanent Supportive Housing Facilities	P	P	P	P	P
Residential Reentry Facilities – Small Scale	P	P	P	P	P
Residential Reentry Facilities – Large Scale	N	N	C	C	N
Transitional Housing Facilities – Small Scale	P	P	P	P	P
Transitional Housing Facilities – Large Scale	N	N	P	P	N

P = Permitted Use; N = Not Allowed; P* = Permitted with conditions; C = Conditional Use

19.17.030 Accessory permitted uses.

Accessory permitted uses in the multi-family zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC Section 19.37.090.
- E. Accessory dwelling unit (ADU), per Chapter 19.20 LMC,
- F. Recreation areas for occupants.
- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

19.17.040 Secondary permitted uses.

Secondary permitted uses in the multi family zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.
- H. Certain Community Residential Facilities pursuant to LMC 19.49.

19.17.050 Conditional property uses.

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the planning commission and approved by the city council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
- E. Bed and breakfast establishments and Short-Term Rentals (See Section 19.57.300).
- F. House of worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.
- H. Certain Community Residential Facilities pursuant to LMC 19.49.

**CHAPTER 19.18
PEPIN CREEK SUB-AREA ZONES**

19.18.020 Primary permitted uses within the Pepin Creek Subarea.

The primary permitted uses in the Pepin Creek Subarea are as follows. See Figure 19.18.010-1 to reference the location of applicable secondary, accessory, and conditional uses as well as development standards specific to each zoning category.

- A. Single-family dwelling units, including detached site built single-family dwellings and new manufactured homes. This includes types such as large lot single-family, small lot single-family and cottages.
- B. Single-family attached dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex dwelling units.
- D. Multi-family dwelling units typically limited to a maximum of four to eight units per building.
- E. The neighborhood commercial overlay provides an opportunity for a variety of primary permitted uses in key locations. These include personal services, sales of consumer goods, restaurants and cafes, banks and financial institutions, and upper story residential uses as further described in LMC Section 19.18.050.
- F. Certain Community Residential Facilities pursuant to LMC 19.49.

**CHAPTER 19.19
MH – MANUFACTURED HOME ZONE**

19.19.030 Primary permitted uses.

- A. The primary uses permitted in the MH manufactured home zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single-family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site-built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in LMC Section 17.01.030 are prohibited.
- D. Certain Community Residential Facilities (CRF) pursuant to LMC 19.49. For the purposes of this section, CRFs permitted within SF-Single Family zones are also permitted in the MH zone.

**CHAPTER 19.23
COMMERCIAL ZONING**

19.23.020 Permitted Uses

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CRS
Emergency Housing, Indoor; Emergency Shelters – Small Scale	P	P	P
Emergency Housing, Indoor; Emergency Shelters – Large Scale	C	C	C
Permanent Supportive Housing	C	C	C
Residential Reentry Facilities – Small Scale	P	P	P
Residential Reentry Facilities – Large Scale	C	C	C
Transitional Housing Facilities	P	P	P

Section 3. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety, with minor amendments, to a new LMC Chapter 19.57.

**CHAPTER 19.57
HOME OCCUPATION PERMITS,
CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS**

- 19.57.100 Home Occupation Permit Purpose
- 19.57.110 Home Occupation Permit Applicability
- 19.57.120 Home Occupation Permit Exemptions
- 19.57.130 Home Occupation Permit Ineligible Activities
- 19.57.140 Home Occupation Permit Conditions
- 19.57.150 Home Occupation Permit Procedure
- 19.57.160 Home Occupation Permit Violations
- 19.57.200 Conditional Use Permit Purpose
- 19.57.210 Conditional Use Permit Process and Criteria for Approval
- 19.57.220 Conditional Use Permit Development Standards
- 19.57.230 Conditional Use Permit Expiration
- 19.57.240 Conditional Use Permit Modifications
- 19.57.250 Conditional Use Permit Violations
- 19.57.300 Bed and Breakfast Establishments and Short-Term Rentals Purpose
- 19.57.310 Bed and Breakfast and Short-Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short-Term Rental Conditions and Criteria

This chapter addresses uses which may be suitable only under certain conditions in specific locations or when the site is regulated in a particular manner. These uses may require permits that allow for public input as well as City review.

19.57.100 Purpose - Home Occupation Permits

Home Occupation Permits allow visible commercial activity within residences, such as customers or clients visiting the location, while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood.

Home Occupation Permits are not equivalent to a Home Occupation License which is reviewed by the City and issued through the State of Washington Department of Revenue.

Home Occupation Permits specific to Bed and breakfast establishments (B&Bs) and Short-Term Rentals (STRs), also known as vacation rentals, are addressed in LMC 19.57.300.

19.57.110 Applicability.

- A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.
- B. Home occupations shall be permitted as an accessory use to residential single family and residential multi-family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.
- C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.
- D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.

19.57.120 Exemptions.

The following activities are exempt from the permit requirements of this chapter and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.

- A. Those activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.
- B. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.

19.57.130 Ineligible Activities

The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.

- A. Retail store fronts with set hours.
- B. Rental of products;
- C. Vehicle repair, automobile detailing or automobile servicing activities;
- D. Medical or professional clinics;
- E. Hospitals and mortuaries;
- F. Eating and/or drinking establishments;
- G. Stables and kennels;

19.57.140 Permit Conditions

The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.

- A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.
- B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.
- C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.
- D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.
- E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.
- F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.
- G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.
- H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.

Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.

19.57.150 Permit Procedure.

- A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:
 - 1. Permit Process

- a. An application may be filed on forms provided by the Planning Department for a home occupation permit. A fee as established by resolution of the City Council shall accompany the application.

A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.
 - b. When the application has been found to be complete it will be reviewed by the Technical Review Committee (TRC). The TRC will create a report which may include recommended conditions of approval.
 - c. Once a final TRC report has been issued the applicant will be required to send a notice, by certified mail, to the list of property owners within three hundred (300) feet. The notice shall state:
 - i. A description of the proposed action;
 - ii. Any conditions of approval recommended by the TRC;
 - iii. Dates and contact information outlining a 14-day public comment period.
 - d. The Planning Director will accept comments and document parties of record during a 14 day comment period. The Director may then adjust final recommendations, if appropriate, to mitigate neighborhood concerns, and make a final determination. Parties of record, who have inquired or commented regarding the application during the prescribed comment period, must be notified of the final decision. This notice must include a deadline for appeal of the decision consistent with LMC 17.11.
 - e. The Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may arise from the proposed use. In approving the application, the Planning Director shall find:
 - i. The application is consistent with the conditions of section 19.57.140 above, and
 - ii. The application meets the standards and criteria listed in Lynden Municipal Code 19.57.210 and the request includes mitigation of any detrimental effects to the surrounding neighborhood.
 - f. An appeal of the Planning Director's decision can be made according to LMC 17.11.
2. Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.

19.57.160 Violations.

- A. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated.

- B. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of a revocation notice. Should no hearing be requested, the Planning Director's decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.

19.57.200 Conditional Use Permits - Purpose

Conditional Use Permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike Home Occupation Permits, Conditional Use Permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Conditional Use Process and Criteria for Approval

- A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.
- C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
 - 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
 - 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

19.57.220 Conditional Use Development Standards

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000
Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

19.57.230 Conditional Use Expiration.

- A. Conditional use permits shall expire twelve (12) months after issuance unless construction or the establishment of the use has commenced. The Planning Director may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

19.57.240 Conditional Use Permit Modifications

Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit. The Planning Director may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:

- A. The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and
- B. The addition or modification is determined by the Planning Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.
- C. The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.
- D. Such additions or modifications approved administratively shall be recorded by the Planning Director on the CUP record.

19.57.250 Violations

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed, and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planning Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.

Remedies of the city may include civil, or criminal enforcement and/or revocation of the conditional use permit.

19.57.300 Bed and Breakfast Establishments and Short-Term Rentals - Purpose

Bed and Breakfast Establishments and Short-Term Rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.

19.57.310 Applicability.

- A. The Planning Director is authorized to approve Bed and Breakfast (B&B) Establishments and Short-Term Rentals (STRs) consistent with the regulations of this chapter.
- B. Establishments meeting the conditions and criteria outlined in LMC 19.57.320 are permitted as follows:
 - 1. B&Bs and STRs are permitted in detached homes or an ADU associated with a single-family home that is located on residentially or commercially zoned properties.
 - 2. STRs are permitted in attached housing types such as townhomes or apartments under the following conditions;
 - a. The underlying zoning category is RM-4; and
 - b. No more than 10% of units within the complex be offered as STRs; and
 - c. Local management is available to all units in the complex 24 hours a day, 7 days a week to address noise complaints, inappropriate behavior, or maintenance issues that may arise related to the STRs.
 - d. The fee associated with a City of Lynden home occupation permit is required for each unit rented as an STR but may be filed together under one application.

19.57.320 - Conditions and Criteria

- A. B&B and STR establishments located in residential zones require a Home Occupation Permit which is reviewed according to the process outlined in LMC 19.57.150 and the criteria outlined in this section.
- B. B&Bs and STRs shall be required to show compliance with the standards listed below before a City of Lynden Home Occupation Permit is issued, if one is required, and before a business license for the lodging accommodations will be endorsed by the City through the Washington State Department of Revenue.
- A. STRs located in residential zones are not permitted to offer lodging to more than one guest group at a time. B&B establishments, or STRs in commercial zones, that offer three or more lodging units to travelers and transient guests for periods of less than

30 days shall be considered transient accommodations and will be subject to regulation of RCW 70.62.

- B. In detached housing units located on residential zoning categories the operator of a B&B or a STR must reside on the premises. In STRs located in attached housing, local management must be available to all units in the complex 24 hours a day, 7 days a week. This information must be posted in common areas and within the STR units.
- C. No other business, service or commercial activity beyond lodging may be conducted on the premises. For B&B establishments, only morning food service may be offered, and no meals may be served to the general public.
- D. A B&B or STR shall appear as any other residence within the surrounding area.
- E. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building is permitted. In addition, B&B's may utilize a single monument sign if it meets the requirements for monument signs within Chapter 19.33.
- F. If an establishment has a separate entrance for guests, it must not be obvious from the street so as not to detract from the primary entrance of the home. All entrances must be lit to ensure pedestrian safety.
- G. The property's address numerals must be obviously displayed and mounted in an illuminated area so as to assist guests and emergency responders with locating the property.
- H. The establishment shall meet all requirements for off-street parking related to the residential use as well as guest parking. Because lodging creates more activity and potentially larger parking areas than a typical residential home, the establishment may be required to mitigate impacts of parking areas. This could be accomplished with enhancements such as landscaping, decorative or privacy fencing, pergola structures, or attractive paving patterns.
- I. Outdoor activity areas such as grills, fire pits, hot tubs, or playground equipment that are available for guest use must be screened from neighboring properties unless they are shared amenities within a multi-family complex. This may be accomplished using landscape, fencing, screening or by using on site structures.
- J. Prior to hosting guests, the establishment is subject to an inspection to ensure that it complies with local fire and building codes and any other precautions deemed necessary by the City Fire Chief or Building Inspector, including, but not limited to adequate exits as required by the Uniform Building Code, fire and carbon monoxide alarm systems, and the presence of fire extinguishers as appropriate.
- K. A land line telephone or free wi-fi shall be available for occupant use with emergency numbers and the address of the establishment posted in an obvious location.
- L. Quiet hours that, at a minimum, include the time between 10pm and 7am, must be prominently displayed within guest accommodations.
- M. Proprietors of a B&B or STR shall follow applicable health regulations of the Whatcom County Department of Health and Washington State regulations and may need to demonstrate compliance to City of Lynden officials.

- N. A business license filed through the State’s Department of Revenue is required and must remain active as long as the establishment is hosting guests.
- O. If an annual re-inspection is deemed necessary by the Fire Chief, the Building Official, or the Planning or Public Works Director to ensure compliance with the conditions of the Home Occupation Permit, an inspection fee, in an amount set by resolution of the Lynden City Council, shall be billed to the establishment. Re-inspection fees may apply if needed to achieve compliance.
- C. In addition to the conditions above, B&B establishments or STRs proposed within an area requiring a Home Occupation Permit will be required to meet the criteria listed in Section 19.57.210.

Section 4. Adoption of LMC Chapter 19.49 “Community Residential Facilities”. The following new code sections shall entirely replace the existing contents of LMC Chapter 19.49.

CHAPTER 19.49
COMMUNITY RESIDENTIAL FACILITIES

19.49.010 Purpose.

The purpose of this chapter is to establish reasonable standards for the safe operation and appropriate siting of a wide range of Community Residential Facilities (“CRFs”) within the City of Lynden, so as to protect public health and safety for both facility residents and the broader community. Many but not all CRFs regulated under Chapter 19.49 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. Housing types include single-family homes used for cooperative living, very short-term housing such as emergency shelters, transitional housing that provides support for up to two (2) years, or permanent supportive housing in apartment, detached home, or group settings. Other CRFs may focus on aiding with basic personal needs for adults or children through adult family homes or Group Homes. This chapter does not include regulations related to camping on public property (see LMC Chapter 12.40).

19.49.020 Definitions.

- A. “Adult” means a person who has attained the age of eighteen (18) years.
- B. “Adult Family Home” means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services. Adult Family Homes may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services pursuant to the requirements of RCW 70.128.066.
- C. “Child” means a person who has not yet attained the age of eighteen (18) years.
- D. “City” means the City of Lynden unless some other meaning is apparent from context.
- E. “Community Residential Facility” or “CRF” is a collective term for the housing categories regulated under this chapter. This includes a wide variety of group living arrangements including Adult Family Homes; Group Homes; Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. Many but not all CRFs regulated under this chapter are forms of supportive housing intended to address the needs of persons

who are or were experiencing homelessness or who are or were at risk of imminent homelessness.

- F. “Community School” means any elementary school, middle school, or high school located within the City of Lynden.
- G. “Emergency Housing, Indoor” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Such facilities may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.
- H. “Emergency Housing, Outdoor” means temporary outdoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.
- I. “Emergency Shelter” means an indoor or outdoor facility that provides a temporary shelter for individuals or families who are currently homeless. Such facilities may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may include day cooling and warming centers that do not provide overnight accommodations.
- J. “Evacuation Center” means an indoor or outdoor facility identified in the *Whatcom County Natural Hazards Mitigation Plan* that provides temporary disaster-relief shelter, accommodations or emergency services for individuals or families displaced by disaster during an official City of Lynden Emergency State of Emergency. For the purposes of this chapter, Evacuation Center includes facilities identified in the *Whatcom County Natural Hazards Mitigation Plan* as “Emergency Services” locations.
- K. “Group Home” means a community-based, cooperative residential facility that typically serves five (5) to twelve (12) individuals and may provide 24-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. Groups Homes may function as Transitional Housing or Permanent Supportive Housing. When assisting individuals exiting correctional facilities or under court supervision, refer to Residential Reentry Facilities.
- L. “LMC” means the Lynden Municipal Code.

- M. “Permanent Supportive Housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent Supportive Housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident with community-based health care, treatment, or employment services. Permanent Supportive Housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

- N. “Provider” means the owner, sponsor, or managing agency (as context requires) of a particular Community Residential Facility.

- O. “Residential Reentry Facilities” means a type of Transitional Housing that provides temporary living accommodations for children or adults exiting correctional facilities (including persons who remain under correctional supervision such as probation or parole). Such facilities are meant to provide housing until such persons can move on to permanent housing. For the purposes of this chapter, “halfway homes” and other like reentry facilities shall be classified as Residential Reentry Facilities if such facilities provide essentially the same services and operate with essentially the same intent as Residential Reentry Facilities.

- P. “Transient Accommodation” means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than 30 days.

- Q. “Transitional Housing” means a facility that provides temporary housing and supportive services to persons experiencing homelessness or at imminent risk of homelessness for up 24 months and that has as its purpose facilitating the movement of such persons into independent living and permanent housing. Temporary housing for those exiting correctional facilities or under court supervision is a subset of Transitional Housing regulated separately within this chapter (refer to Residential Reentry Facilities for the applicable provisions).

19.49.030 Community Residential Facilities established.

Community Residential Facility Classification Type	Demographic Served	Maximum Scale of the Facility	Permitted Zoning Categories	Reference to Applicable Development Standards
Adult Family Home	Persons in need of permanent housing providing personal care and room and board.	Six (6) adults, up to eight (8) adults with special approval.	All zoning categories permitting residential dwelling units.	LMC 19.49.050 RCW 35A.21.430 70.128
Emergency Housing, Indoor; Emergency Shelter	Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.	Small scale facility: six (6) beds. Large scale facility: up to 80 beds.	Unless sited on a facility identified as an Evacuation Center in the <i>Whatcom County Natural Hazards Mitigations Plan</i> , permitted only in HBD, CSL, CSR.	LMC 19.49.060 RCW 35A.21.430 43.185C
Emergency Housing, Outdoor	Individuals or families requiring shelter due to disaster during an official City of Lynden State of Emergency.	Up to 200 beds.	Must be sited on a facility identified as an Evacuation Center in the <i>Whatcom County Natural Hazards Mitigation Plan</i> .	LMC 19.49.070 RCW 35A.21.430 43.185C

Group Homes	Persons in need of permanent housing in a cooperative living environment.	Maximum occupancy determined per 19.49.080 (C).	All zoning categories permitting residential dwelling units including SF and RMD categories.	LMC 19.49.080
Permanent Supportive Housing	Persons experiencing homelessness or at imminent risk of homelessness in need of subsidized, leased housing with no limit on length of stay.	Maximum density permitted per the underlying zoning category and LMC 19.47.110.	All zoning categories permitting residential dwelling units. Conditional Use in CSR, CSL, and HBD.	LMC 19.49.110 RCW 35A.21.430
Residential Reentry Facilities	Individuals exiting the adult or juvenile correctional system or under court supervision.	Small scale facility: three (3) beds.	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.090 RCW 35A.21.430
		Large scale facility: up to twelve (12) beds.	Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	
Transitional Housing Facilities	Persons experiencing homelessness or at imminent risk of homelessness in need of assistance	Six (6) individuals	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.100 RCW 35A.21.430

	transitioning into independent living and permanent housing.	Thirty (30) individuals	Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	
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19.49.040 General provisions for all Community Residential Facilities.

A. General Requirements.

1. When more than one (1) CRF definition could apply to a subject facility, the subject facility shall adhere to the more restrictive requirements of this chapter.
2. The Provider shall comply with all federal, state, and local laws and regulations, including Whatcom County Department of Health regulations. The Provider shall be subject to inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.
3. All subject facilities must comply with the provisions of the City of Lynden Building and Construction Code (LMC Title 15).
4. Managing agencies and the Lynden Police Department (LPD) or Lynden Fire Department (LFD) shall establish reasonable requirements for appropriate access and coordination for the subject facility and its residents through the CRF approval process.
5. Maximum capacities for a subject facility does not include on-site staff who may also live temporarily or permanently within the subject facility.
6. Business licensing with the City of Lynden through the Washington State Department of Revenue is required for all subject facilities.
7. Subject facilities providing Transient Accommodations are not permitted within residential single-family zoning categories. This includes all RS zones as well as RMD and Planned Residential Districts where the underlying zoning category is RS or RMD.
8. All subject facilities must meet applicable residential or commercial design standards depending on the underlying zoning category. Per LMC 19.17.100 and 19.23.060, Design Review Board approval is required for facilities

constructed with multiple units or those that are located within a commercial zoning category.

B. Registration with the City of Lynden.

1. All subject facilities are required to apply for registration on the Community Residential Facilities Registry (“Registry”) maintained by the City of Lynden. Every subject facility is subject to review and approval depending on the type and scale proposed before it can be included on the Registry.
2. The Registry will be publicly available although the location of a subject facility may be withheld if disclosure would jeopardize the safety of the persons housed therein.
3. The Provider must provide an operation plan at the time of registration that addresses the following elements:
 - a. Name and contact information for key staff.
 - b. Roles and responsibilities of key staff.
 - c. Site and facility management, including security policies and an emergency management plan.
 - d. Site and facility maintenance.
 - e. Applicable licensing from Washington State Department of Social and Health Services or other governing agency.
 - f. Occupancy policies, including resident responsibilities and a code of conduct that addresses, at a minimum, the use or sale of alcohol and illegal drugs, threatening or unsafe behavior, and weapon possession.
 - g. Provisions for human and social services, including staffing plan, credentials or certification, and outcome measures.
 - h. Procedures for maintaining accurate and complete records.
 - i. Coordination with the Lynden Police Department and Lynden Fire Department.
4. Approval process. Refer to the specified code section associated with CRF type to determine the required review and approval process. This may include, but is not limited to, additional application processes beyond the application to the Registry.

19.49.050 Adult Family Homes.

- A. Applicability.
 - 1. The subject Adult Family Home (“AFH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
 - 2. Adult Family Homes are regulated by this chapter as well as by State Law under RCW Chapter 70.128. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.

- B. Approval process.
 - 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
 - 2. Review of AFHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

- C. Development standards.
 - 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
 - 2. Scale. A maximum of six (6) adults unrelated by blood or marriage to the person or persons providing services are permitted. However, the subject AFH may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services pursuant to RCW 70.128.066.
 - 3. Zoning. AFHs are permitted in all residential zoning categories.
 - 4. Construction and appearance. New construction or modification of an AFH must be made consistent with the development standards associated with the underlying zoning category.

19.49.060 Emergency Housing, Indoor; Emergency Shelter.

A. Applicability.

- 1. The subject Emergency Housing, Indoor facility (“EHIF”) or Emergency Shelter facility (“ESF”) must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. EHIF and ESF facilities are regulated by this chapter as well as by State Law under RCW Chapter 43.185C. In the event of a conflict between the LMC regulations and State regulations, the State regulations shall prevail.
- 3. This section includes regulations related to two sub-types of EHIF and ESF facilities: Small Scale facilities (six (6) or few beds) and Large Scale facilities (more than six (6) beds).
- 4. The approval process and development standards for EHIFs are identical to ESFs unless otherwise indicated.
- 5. Note Regarding Evacuation Centers.
 - a. Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan*.
 - b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.
 - c. EHIF and ESF facilities sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan* are not subject to the zoning restrictions otherwise applicable to such facilities within this chapter.

B. Approval process.

- 1. Small Scale Emergency Housing, Indoor Facility (“EHIF”).
 - a. A subject Small Scale EHIF must apply to the City Planning Department for registration on the Community Residential Facilities Registry.
 - b. Small Scale EHIFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
 - c. The Provider of a subject Small Scale EHIF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300

feet of the subject Small Scale EHIF’s property line. The Notice of Decision must provide steps for accessing the subject Small Scale EHIF’s information as recorded on the Community Residential Facilities Registry.

- 2. Large Scale Emergency Housing, Indoor Facilities (“EHIF”).
 - a. A subject Large Scale EHIF is considered a conditional use and must secure a Conditional Use Permit.
 - b. A subject Large Scale EHIF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to Large Scale EHIFs set out in this chapter.
 - c. Large Scale EHIFs are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

- 1. EHIFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
- 2. Scale.
 - a. A subject Small Scale EHIF shall include no more than six (6) beds.
 - b. A subject Large Scale EHIF shall include no more than 80 beds at any one location and there must be a minimum of 35 square feet of floor area per individual.
- 3. Zoning.
 - a. EHIFs are permitted in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. EHIFs are not permitted in any residential, public use, or industrial zoning categories.
 - c. Notwithstanding the foregoing, a subject EHIF may be sited on a location identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.
- 4. Spacing.

- a. A subject EHIF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
5. Construction and appearance.
- a. All EHIFs must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, and the additional standards set out herein.
 - b. A subject EHIF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of a subject EHIF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - c. Exterior lighting of a subject EHIF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject EHI facility site in order to limit the impact on neighboring properties.
 - d. A subject EHIF must provide off-street parking in accordance with LMC Chapter 19.51.
 - e. A description of transit, pedestrian, and bicycle access from the subject EHIF site to services must be provided at time of application by the Provider.
6. Facility operations. The following standards are required of all EHIFs and must be included in a subject EHIF's written procedures.
- a. Trash receptacles must be provided in multiple locations throughout the subject EHIF and site. A regular trash-cleanup patrol in the immediate vicinity of the EHIF site must be conducted.
 - b. Residents and staff of a subject EHIF must comply with all Whatcom County Health Department regulations applicable to food donations.
 - c. No children are allowed to stay overnight in a subject EHIF, unless accompanied by a parent or legal guardian, or unless the subject EHIF is licensed to provide services to children. If a child without a parent or legal guardian present attempts to stay in a subject EHIF not specifically licensed for providing housing to children, the Provider shall immediately contact the Child Protective Services division of the Washington State Department of Children, Youth & Families and actively endeavor to find alternative housing for the child.

- d. No person under court supervision or under sex offender registration requirements is allowed to receive services from a subject EHIF, unless providing such services is consistent with the laws, regulations, and supervisory requirements applicable to such person.
7. Required services for Large Scale EHIFs. In addition to the other applicable standards set out in this chapter, Large Scale EHIFs must provide the services set out below and the Conditional Use Permit application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - i. Medical services, including mental and behavioral health counseling.
 - ii. Access to resources on obtaining permanent housing and access to employment and education assistance. (Applicable to EHIFs but not ESFs).
 - iii. Substance abuse assistance. (Applicable to ESFs but not EHIFs).
 - b. All functions associated with a subject EHIF, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject EHIF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject EHIF shall have dedicated spaces for residents to meet with service providers
 - e. In order to encourage access to all appropriate services for residents, the Provider of a subject EHIF shall coordinate with other homelessness service providers for referrals to their programs and with other providers of facilities and services for people experiencing homelessness.

19.49.070 Emergency Housing, Outdoor.

A. Applicability.

- 1. An Emergency Housing, Outdoor facility (“EHOF”), such as a tent city or the collective use of recreational vehicles to provide shelter to disaster victims, is only permitted in situations when the City Council has declared a state of emergency.
- 2. The subject EHOF must fit within the definition of such facilities set out in LMC 19.49.020.
- 3. EHOFs may be established for up to sixty (60) days to provide housing and services to address basic health, food, clothing, and personal hygiene needs of individuals or families as a form of disaster relief.
- 4. The City Council may extend the approved time frame for a subject EHOF beyond sixty (60) days if deemed necessary due to an extended state of emergency.
- 5. Note Regarding Evacuation Centers.
 - a. Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan (NHMP)*.
 - b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County NHMP*
 - c. EHOF facilities must be sited on locations identified as Evacuation Centers in the *Whatcom County NHMP*

B. Approval process.

- 1. The Whatcom County Natural Hazards Mitigation Plan (NHMP) is a countywide plan managed by the Whatcom County Sheriffs Office’s Division of Emergency Management. The plan must be updated every five years and approved by the Federal Emergency Management Agency (FEMA) to remain eligible for federal funding for hazard mitigation projects.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale. A subject EHOF shall include no more than 200 beds.
- 3. Zoning. EHOFs may only be sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.
- 4. Construction and appearance.

- a. Design and organization of EHOs is within the purview of the Whatcom County Sheriff's Office Division of Emergency Management, the City Fire Chief, City Administrator, City Chief of Police, and City Public Works Director.
- b. EHOs must be organized in such a way as to minimize impacts to surrounding neighborhoods. These impacts may include, but are not limited to, disruptions related to traffic, noise, and light.

19.49.080 Group Homes.

A. Applicability.

- 1. The subject Group Home (“GH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. The Provider of a subject GH facility may provide 24-hour on-site support services.

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of GHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- 3. When a subject GH facility is functioning as Transitional Housing or Permanent Supportive Housing the Provider is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject GH’s property line. The Notice of Decision must provide steps for accessing the subject GH’s information as recorded on the Community Residential Facilities Registry.
 - a. Mailing of a Notice of Decision is not required when a subject GH facility is affiliated with and adjacent to the facilities of an existing house of worship.
 - b. Mailing of a Notice of Decision may also be waived by the Planning Director if such a notice would jeopardize the safety and security of a subject GH facility’s residents or expose victims of crime or abuse to emotional harm.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale.
 - a. All bedrooms with one (1) occupant must have at least 70 square feet.
 - b. Shared bedrooms must have at least 50 square feet per occupant.
 - c. Kitchens and other non-habitable rooms cannot be used as a bedroom.
 - d. In addition to bedroom space, every GH facility shall provide shared living and dining areas as follows: 120 square feet of living room for GH

facilities with two (2) or fewer occupants; 120 square feet of living room and 80 square feet of dining room for GH facilities with three (3) to five (5) occupants; and 150 square feet of living room and 100 square feet of dining room for GH facilities with six (6) or more occupants.

3. Zoning. GHs are permitted in all residential zoning categories (including SF and RMD).
4. Spacing. A subject GH that is functioning as a Transitional Housing or Permanent Supportive Housing shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
5. Construction and appearance. New construction or modification of a GH must be made consistent with the development standards associated with the underlying zoning category.

19.49.090 Residential Reentry Facilities.

- A. Applicability.
 - 1. The subject Residential Reentry Facility (“ResRF”) must fit within the applicable definition of such facilities set out in LMC 19.49.020.
 - 2. ResRFs are regulated by this chapter as well as by State Law. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.
 - 3. This chapter includes regulations related to two sub-types of ResRF facilities: Small Scale Facilities (six (6) or fewer beds) and Large Scale Facilities (more than six (6) beds but no more than twelve (12) beds).

- B. Approval process.
 - 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
 - 2. Small Scale Residential Reentry Facilities.
 - a. Small Scale ResRFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
 - b. The Provider of a subject Small Scale ResRF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale ResRF’s property line. The Notice of Decision must provide steps for accessing the subject ResRF’s information as recorded on the Community Residential Facilities Registry.
 - 3. Large Scale Residential Reentry Facilities.
 - a. Large Scale ResRFs are considered a conditional use and must secure a Conditional Use Permit.
 - b. A subject Large Scale ResRF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to Large Scale ResRFs set out in this chapter.

- c. Large Scale ResRFs are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

- 1. All ResRFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
- 2. Scale.
 - a. A subject Small Scale ResRF shall include no more than six (6) beds.
 - b. A subject Large Scale ResRF shall include more than six (6) beds but no more than twelve (12) beds at any one location.
 - c. All ResRFs shall provide a minimum of 350 square feet of floor area per adult resident.
- 3. Zoning.
 - a. Small Scale ResRFs permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. Large Scale ResRFs are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
- 4. Spacing.
 - a. A subject ResRF (whether small scale or large scale) shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
- 5. Construction and appearance. All Large Scale ResRFs are subject to approval by the City Design Review Board. New construction or modification of such facilities must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit, and the additional standards set out herein.
 - a. A subject facility shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.

- b. Exterior lighting of a subject facility must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject facility must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject facility site to services must be provided at time of application by the Provider.
6. Required services for Large Scale ResRFs. In addition to the other applicable standards set out in this chapter, Large Scale ResRFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - 1. For all facilities, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject facility, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject facility shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject facility shall have dedicated spaces for residents to meet with service providers
 - e. In order to encourage access to all appropriate services for residents, the Provider of a subject facility shall coordinate with other providers of facilities and services for people exiting the correctional system for referrals to their programs.

19.49.100 Transitional Housing Facilities.

A. Applicability.

- 1. The subject Transitional Housing facility (“THF”) must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. This chapter includes regulations related to two sub-types of THFs: Small Scale Facilities (six (6) or fewer individuals) and Large Scale Facilities (up to thirty (30) individuals).

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of THFs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- 3. The Provider of a subject THF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject THF’s property line. The Notice of Decision must provide steps for accessing the subject THF’s information as recorded on the Community Residential Facilities Registry.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale.
 - a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.
 - b. A subject Small Scale THF shall house a maximum of six (6) individuals (unless a group larger than six is a single family unit).
 - c. A subject Large Scale THF shall house a maximum of thirty (30) individuals.
 - d. For the purposes of calculating the total number of individuals within a subject THF, children are not included.
- 3. Zoning.
 - a. Small Scale THFs are permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.

- b. Large Scale THFs are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
- 4. Spacing.
 - a. A subject THF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
- 5. Construction and appearance. All THFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a THF must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, and the additional standards set out herein.
 - a. A subject THF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject THF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject THF must comply with requirements of the City’s Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject THF site in order to limit the impact on neighboring properties.
 - c. A subject THF must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject THF site to services must be provided at time of application by the Provider.
- 6. Required services for THFs. In addition to the other applicable standards set out in this chapter, THFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
 - a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided: medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject THF, including adequate waiting space, must take place on site.

- c. The number of toilets and other hygiene facilities required for a subject THF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject THF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject THF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.110 Permanent Supportive Housing

- A. Applicability.
 - 1. The subject Permanent Supportive Housing facility (“PSHF”) must fit within the definition of such facilities set out in LMC 19.49.020.

- B. Approval process.
 - 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.

 - 2. PSHFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

 - 3. The Provider of a subject PSHF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject PSHF’s property line. The Notice of Decision must provide steps for accessing the subject PSHF’s information as recorded on the Community Residential Facilities Registry.

 - 4. Notwithstanding the foregoing, PSHFs located where lodging and hotel accommodations are permitted are considered a conditional use and must secure a Conditional Use Permit. A subject PSHF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to PSFHs set out in this chapter. A subject PSHF is to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

- C. Development standards.
 - 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required. This information can be combined with a Conditional Use Permit application if one is required.

 - 2. Scale
 - a. All PSHFs shall provide a minimum of 500 square feet of floor area per dwelling unit and maximum occupancy shall not exceed 350 square feet per adult resident.

 - 3. Zoning.

- a. PSFHs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.
 - b. PSHFs are permitted where lodging and hotel accommodations are permitted (this includes the CSL, CSR, and the HBD zoning categories) subject to a Conditional Use Permit.
- 4. Spacing.
 - a. A subject PSHF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
- 5. Construction and appearance. All PSHFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit (if applicable), and the additional standards set out herein.
 - a. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject PSHF must comply with requirements of the City’s Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject PSHF must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the Provider.
- 6. Required services for PSHFs. In addition to the other applicable standards set out in this chapter, PSHFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
 - a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided: medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.

- b. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject PSHF shall have dedicated spaces for residents to meet with service providers.
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.120 Construction.

- A. Measurement standard.
 - 1. For the purposes of the spacing requirements established in this chapter, distance shall be measured in a straight line between the closest property line of the subject facility and the closest property line of the Community School or other approved CRF.

19.49.130 Exceptions.

- A. Reasonable accommodations.
- B. The Fair Housing Act (“FHA”), 42 U.S.C. 3604(f)(3)(B), requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The Planning Director is therefore authorized to make accommodations in the provisions of this chapter as applied to CRFs occupied or to be occupied by persons with disabilities as defined in the FHA, when the Planning Director determines that such accommodations reasonably may be necessary in order to comply with the requirements of the FHA.
- C. Religious organizations.
- D. Nothing in this chapter shall be applied to the extent it would infringe upon a religious organization’s ability to serve the homeless consistent with a sincere religious belief as protected under the First Amendment of the United States Constitution, Article I § 11 of the Washington State Constitution, the Religious Land Use and Institutionalized

Persons Act (42 U.S.C. 2000cc et seq.), and RCW 35.21.915 (Hosting the homeless by religious organizations).

Section 5. Conflict with Other LMC Provisions. 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. Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, subsection, clause, or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR ON THIS ___ DAY OF _____, 2023.

Scott Korthuis, Mayor

ATTEST:

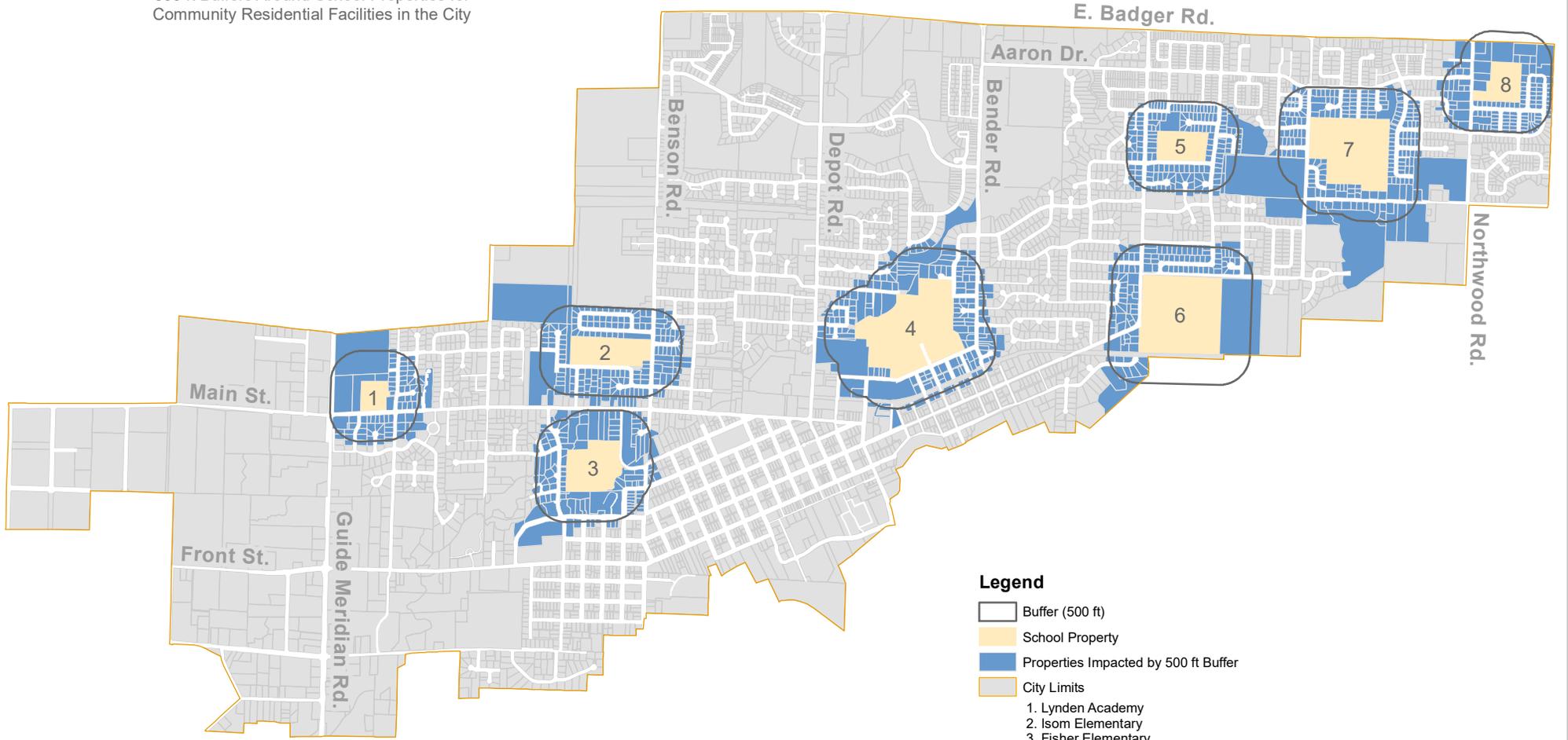
Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

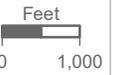
Ordinance 1650

500 ft Buffers Around School Properties for
Community Residential Facilities in the City



Legend

-  Buffer (500 ft)
 -  School Property
 -  Properties Impacted by 500 ft Buffer
 -  City Limits
1. Lynden Academy
 2. Isom Elementary
 3. Fisher Elementary
 4. Lynden Christian
 5. Bernice Vossbeck Elementary
 6. Lynden High
 7. Lynden Middle
 8. Cornerstone Christian





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

COMMUNITY DEVELOPMENT COMMITTEE (CDC)

RECOMMENDATIONS FOR ORD 23-1665

February 22, 2023

On December 15, 2022, the Planning Commission recommended approval of the proposed ordinance pertaining to comprehensive standards for Community Residential Facilities and updates to the code sections on Conditional Use Permits, Home Occupation Permits, Bed & Breakfasts, and Short-term (vacation) Rentals.

Following the Planning Commission recommendation, the Community Development Committee (CDC) reviewed the ordinance and developed alternate recommendations on short-term rentals and home occupation permits. These recommendations stem from concerns that short-term (vacation) rentals (STRs) could have on the City’s housing supply and neighborhood character. These are summarized below:

1. Maintain, rather than delete, the requirement that an on-site host be present on the property. This would prohibit the renting of entire homes for vacation rentals.
2. Prohibit STRs in attached housing types except under certain conditions in the RM-4 zoning category while the Planning Commission recommendation had provisions that permitted STRs, outright, in RM zones.
3. Criteria list for the approval of STRs was expanded and refined to give prospective hosts and surrounding neighbors clear, objective standards for approval.
4. The home occupation permit process was updated to outline a more specific administrative review, public notice of application, and opportunity to appeal.

CDC Recommended 2/22/23

ORDINANCE NO. ~~1654~~ 1665

ORDINANCE OF THE CITY OF LYNDEN REASSIGNING THE PROVISIONS OF LYNDEN MUNICIPAL CODE CHAPTER 19.49, "CONDITIONAL USE PERMITS" TO CHAPTER 19.57, ADOPTING COMPREHENSIVE ZONING REGULATIONS GOVERNING COMMUNITY RESIDENTIAL FACILITIES AND OTHER GROUP LIVING ARRANGEMENTS TO BE CODIFIED AT CHAPTER 19.49, AND AMENDING APPLICABLE DEFINITIONS IN CHAPTER 17.01.030

WHEREAS, the City of Lynden ("City") notes that House Bill 1220 ("E2SHB 1220"), passed by the Washington State Legislature in May 2021, compels municipalities to support efforts to provide indoor emergency housing, indoor emergency shelters, transitional housing, and permanent supportive housing consistent with Chapters 35.21 and 35A.21 RCW; and

WHEREAS, the Lynden City Council ("City Council") desires to establish reasonable standards for the safe operation and appropriate siting of such facilities and other group living arrangements such as adult family homes and group homes (defined collectively herein as Community Residential Facilities or "CRFs") within the City so as to protect public health and safety for both facility residents and the broader community; and

WHEREAS, this CRF-Zoning Ordinance ("Ordinance") ordinance is intended to provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220 and other applicable state and federal laws; and

WHEREAS, E2SHB 1220 also states that reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance to protect public health and safety as it relates to CRFs; and

WHEREAS, ensuring compliance with existing City development standards and promoting a safe, calm, and focused atmosphere on and near the grounds of City schools are important priorities for the City; and

WHEREAS, populations served by CRFs often have higher instances of substance abuse disorders, mental health conditions, and criminal histories, which can result in disruptive behavior and emergency response activity in and around facilities which is not compatible with the atmosphere the City seeks to promote around City schools; and

WHEREAS, the City's development of reasonable comprehensive zoning regulations pertaining to CRF occupancy, spacing, and intensity of use is necessary prior to establishment of new CRFs in order to protect the public health, safety, welfare, property, and peace in the City; and

WHEREAS, minor amendments to existing code language pertaining to Conditional Use Permits, Home Occupation Permits, Bed and Breakfast Establishments, and Short-Term Rentals are also included as ~~a~~ these sections of code are being assigned new chapter numbers; and

WHEREAS, this Ordinance is declared to be an exercise of the police power of the City, 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 a material part of this Ordinance;

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

~~Section 1. Amendment to LMC Chapter 17.01.030. The following content reflect updates to definitions relevant to this ordinance.~~

~~Section 2. Amend LMC Chapters 19.15, 19.16, 19.17, 19.18, 19.19, and 19.23. The amendment reflects the permitted use of Community Residential Facilities as described in the newly proposed LMC 19.49.~~

~~Section 3. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety, with minor amendments, to a new LMC Chapter 19.57.~~

~~Section 4. Adoption of LMC Chapter 19.49 "Community Residential Facilities". The following new code sections shall entirely replace the existing contents of LMC Chapter 19.49.~~

Section 1. Amendment to LMC Chapter 17.01.030. The following definitions codified at LMC 17.01.030 are revised for consistency with this Ordinance.

CHAPTER 17.01
GENERAL PROVISIONS

17.01.030 Definitions

~~"Adult Family Home" has the same meaning as in LMC 19.49.020. means a regular family abode of a person providing personal care, room and board to more than one, but not more than four adults, not related by blood or marriage to the person or persons providing the care. A maximum of six adults may be permitted if the Department of Social and Health Services determines that the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in RCW Chapters 70.128 and WAC Section 388-76. residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services. Adult Family Homes, for the purposes of this chapter are not considered to be a form of Permanent Supportive Housing instead, see "Group Home" or "Permanent Supportive Housing". Adult Family Homes may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services under RCW 70.128.066. Refer to Supportive Housing Group Homes for facilities that provide a cooperative housing environment that does not provide personal care.~~

"Bed and ~~B~~breakfast" means a dwelling unit with rooms to let as transient accommodations, conducted within a single dwelling unit. ~~For the purpose of this section, a transient shall be defined as a person who stays for a period not to exceed two weeks.~~ Accommodations may include limited food service for guests in accordance with WAC 246-215 and stays are less than (30) days.

"Boardinghouse" or "rooming house" means a structure used for the purpose of providing lodging or lodging and meals, ~~for five or more persons other than those under the "family" definition.~~ This term includes dormitories, cooperative housing and similar establishments but does not include ~~H~~hotels, ~~M~~motels, ~~C~~community ~~R~~esidential ~~e~~care ~~F~~acilities, ~~Short-Term Rentals,~~ medical care facilities, ~~B~~bed and ~~B~~breakfast facilities or multifamily units. These facilities do not have cooking facilities in the sleeping rooms.

~~"Community Residential Facility" or "CRF" has the same meaning as in LMC 19.49.020. is a collective term for the housing categories regulated under Chapter 19.47. This includes a wide variety of group living situations including Adult Family Homes, Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. Many, but not all CRFs regulated under Chapter 19.47 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. For the purposes of this LMC 19.47, facilities primarily intended to serve persons with disabilities as defined in the Fair Housing Act, 42 U.S.C. §§ 3601-3631, including without limitation homes for non-using persons recovering from a substance use disorder, are not considered CRFs and are not regulated by LMC 19.47. See LMC 19.49.020 for additional information.~~

"Dwelling ~~U~~nit" means a single residential living unit providing complete, independent living facilities for ~~not more than one family~~ one or more persons living as a single housekeeping unit. ~~or a congregate residence cooperatively living as a single housekeeping unit. for six or less persons;~~ A dwelling unit includes ing permanent provisions for living, sleeping, eating, cooking, and sanitation. A mobile or manufactured home, apartment, condominium, townhouse, single-family detached home or accessory dwelling unit is considered to be a dwelling unit.

"Family" means an individual or two or more persons related by blood, marriage, or adoption, or a group ~~not to exceed six of~~ unrelated persons living together as a single housekeeping unit.

~~"Foster ~~H~~home" means a home licensed and regulated by the state and classified by the state as a foster home, providing to children, or persons age eighteen to twenty-one years who are eligible to receive extended foster care services under RCW 74.13.031, residence, care and assistance in meeting basic needs and accessing medical services, counseling or treatment, and guidance for not more than three unrelated juveniles.~~

"Group ~~C~~are ~~F~~acility" ~~see "Group Home.s" and also "Adult Family Home"~~ means a residential facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.

~~“Group Homes” has the same meaning as in LMC 19.49.020.means community-based, cooperative residential facilities that typically serve five (5) to twelve (12) individuals and may provide 24-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. Groups Homes may be a form of Transitional or Permanent Supportive Housing. When assisting individuals exiting correctional facilities or under court supervision, refer to Residential Reentry Facilities. See LMC 19.49.020 for additional information.~~

~~“Short-Term Rental” means a lodging use, that is not a hotel or motel, in which a short-term rental operator offers or provides a dwelling unit, or a portion thereof, to a guest or guests for a fee for fewer than a residential dwelling unit or a portion thereof, that is not a hotel or motel, that provides lodging to a guest by a short-term rental operator for fewer than thirty (30) consecutive nights.~~

~~"Transient" means a person who stays in an accommodation for a period not to exceed two weeks thirty (30) days.~~

~~“Transient Accommodation” has the same meaning as in LMC 19.49.020.means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than 30 days.~~

~~Section 2. Amendments to LMC Chapters 19.15, 19.16, 19.17, 19.18, 19.19, and 19.23. The following existing code sections are amended for consistency with this Ordinance.~~

**CHAPTER 19.15
RS – SINGLE-FAMILY BUILDING ZONES**

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 designated 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 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.
- G. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.

**CHAPTER 19.16
RESIDENTIAL MIXED DENSITY (RMD) ZONES**

19.16.020 Permitted uses.

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

- A. Single-family dwelling units, including detached site built single-family dwellings, and new designated manufactured homes as defined in LMC Section 17.01.030. This includes types such as large lot single-family and small lot single-family units. Mobile homes as defined in LMC Section 17.01.030 are prohibited.
- B. Two single-family attached dwelling units, which are ground related, fee simple-ownership units that are attached through shared walls or rooflines are allowed. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex units. This includes two attached units on one parcel.
- D. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.

**CHAPTER 19.17
RM – MULTIFAMILY BUILDING ZONES**

19.17.020 Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE				
	RM-1	RM-2	RM-3	RM-4	RM-PC
Single-Family Dwelling Unit	P	P	P	P	P
Duplex Units	P	P	P	P	P
Three or Four units per building	N	P	P	P	P
More than four units per building	N	N	P	P	P*
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	P
Mobile homes as defined in LMC Section 17.01.030	N	N	N	N	P
<u>Adult Family Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Permanent Supportive Housing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Large Scale</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>
<u>Transitional Housing Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Transitional Housing Facilities – Large Scale</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>N</u>

P = Permitted Use; N = Not Allowed; P* = Permitted with conditions; C = Conditional Use

19.17.030 Accessory permitted uses.

Accessory permitted uses in the multi-family zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC Section 19.37.090.
- E. Accessory dwelling unit (ADU), per Chapter 19.20 LMC,
- F. Recreation areas for occupants.
- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

19.17.040 Secondary permitted uses.

Secondary permitted uses in the multi family zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.

~~H. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.~~

~~H. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).~~

19.17.050 Conditional property uses.

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the planning commission and approved by the city council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
- E. Bed and breakfast establishments and ~~S~~short-~~T~~term ~~R~~rentals (See Section 19.~~5749.300030~~).
- F. House of worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.

~~H. Certain ~~large scale~~ Community Residential Facilities as defined in pursuant to LMC 19.49.~~

~~Community service facilities operated by a registered non-profit organization providing services to the community such as food banks, outpatient counseling services, and church related or outreach ministries. This use is subject to the following~~

~~conditions in addition to the conditional use criteria established under Section 19.49.020.~~

- ~~1. The use is limited to the RM-4 zones.~~
- ~~2. This use specifically excludes retail sales and any facilities offering in-patient treatment, inpatient counseling, or inpatient rehabilitation.~~
- ~~3. The maximum lot coverage for the proposed facility shall not exceed thirty percent.~~
- ~~4. All parking and landscaping requirements shall be met.~~

**CHAPTER 19.18
PEPIN CREEK SUB-AREA ZONES**

19.18.020 Primary permitted uses within the Pepin Creek Subarea.

The primary permitted uses in the Pepin Creek Subarea are as follows. See Figure 19.18.010-1 to reference the location of applicable secondary, accessory, and conditional uses as well as development standards specific to each zoning category.

- A. Single-family dwelling units, including detached site built single-family dwellings and new manufactured homes. This includes types such as large lot single-family, small lot single-family and cottages.
- B. Single-family attached dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex dwelling units.
- D. Multi-family dwelling units typically limited to a maximum of four to eight units per building.
- E. The neighborhood commercial overlay provides an opportunity for a variety of primary permitted uses in key locations. These include personal services, sales of consumer goods, restaurants and cafes, banks and financial institutions, and upper story residential uses as further described in LMC Section 19.18.050.
- F. Certain Community Residential Facilities as detailed in pursuant to LMC 19.49.

**CHAPTER 19.19
MH – MANUFACTURED HOME ZONE**

19.19.030 Primary permitted uses.

- A. The primary uses permitted in the MH manufactured home zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single-family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site-built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in LMC Section 17.01.030 are prohibited.
- D. Certain Community Residential Facilities (CRF) as detailed in pursuant to LMC 19.49. For the purposes of this section, CRFs permitted within SF-Single Family zones are also permitted in the MH zone. CRFs are permitted in the MH zone consistent those permitted within SF-Single-Family zones.

**CHAPTER 19.23
COMMERCIAL ZONING**

19.23.020 Permitted Uses

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CRS
<u>Emergency Housing, Indoor; Emergency Shelters – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Emergency Housing, Indoor; Emergency Shelters – Large Scale</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Permanent Supportive Housing</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Residential Reentry Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Large Scale</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Transitional Housing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>

Section 3. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety, with minor amendments, to a new LMC Chapter 19.57.

**CHAPTER 19.57
HOME OCCUPATION PERMITS,
CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS**

- 19.57.100 Home Occupation Permit Purpose
- 19.57.110 Home Occupation Permit Applicability
- 19.57.120 Home Occupation Permit Exemptions
- 19.57.130 Home Occupation Permit Ineligible Activities
- 19.57.140 Home Occupation Permit Conditions
- 19.57.150 Home Occupation Permit Procedure
- 19.57.160 Home Occupation Permit Violations
- 19.57.200 Conditional Use Permit Purpose
- 19.57.210 Conditional Use Permit Process and Criteria for Approval
- 19.57.220 Conditional Use Permit Development Standards
- 19.57.230 Conditional Use Permit Expiration
- 19.57.240 Conditional Use Permit Modifications
- 19.57.250 Conditional Use Permit Violations
- 19.57.300 Bed and Breakfast Establishments and Short-Term Rentals Purpose
- 19.57.310 Bed and Breakfast and Short-Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short-Term Rental Conditions and Criteria

This chapter addresses uses which may be suitable only under certain conditions in specific locations or when the site is regulated in a particular manner. These uses may require permits that allow for public input as well as City review.

19.57.100 Purpose - Home Occupation Permits

Home Occupation Permits allow visible commercial activity within residences, such as customers or clients visiting the location, while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood.

Home Occupation Permits are not equivalent to a Home Occupation License which is reviewed by the City and issued through the State of Washington Department of Revenue.

Home Occupation Permits specific to Bed and breakfast establishments (B&Bs) and Short-Term Rentals (STRs), also known as vacation rentals, are addressed in ~~this section~~ LMC 19.57.300.

19.57.110 Applicability.

- A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.
- B. Home occupations shall be permitted as an accessory use to residential single family and residential multi-family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.
- C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.
- D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.

19.57.120 Exemptions.

The following activities are exempt from the permit requirements of this chapter and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.

- A. Those activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.
- B. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.

19.57.130 Ineligible Activities

The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.

- A. Retail store fronts with set hours.
- B. Rental of products;
- C. Vehicle repair, automobile detailing or automobile servicing activities;
- D. Medical or professional clinics;
- E. Hospitals and mortuaries;
- F. Eating and/or drinking establishments;
- G. Stables and kennels;

19.57.140 Permit Conditions

The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.

- A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.
- B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.
- C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.
- D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.
- E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.
- F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.
- G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.
- H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.

Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.

19.57.150 Permit Procedure.

- A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:
 - 1. ~~1.—Permanent~~ Permit Process
 - a. ~~a)~~—An application may be filed on forms provided by the Planning Department for a ~~permanent~~ home occupation permit. A fee as

established by resolution of the City Council shall accompany the application.

A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.

~~b. b)~~ When the application has been found to be complete it will be reviewed by the Technical Review Committee (TRC). The TRC will create a report which may include recommended conditions of approval.

~~c. Within seven days of the submittal~~ Once a final TRC report has been issued the applicant will be required to send a notice, by certified mail, to the list of property owners within three hundred (300) feet., a copy of the application shall be mailed to the list of property owners, other departments within the City, and any other affected government agency.

The notice shall state:

i. A description of the proposed action;

ii. Any conditions of approval recommended by the TRC;

iii. Dates and contact information outlining a 14-day public comment period. of t

~~d. The Planning Director, comments will~~ accept comments and document parties of record during a 14 day comment period. The Director may then adjust final recommendations, if appropriate, to mitigate neighborhood concerns, be considered and final action taken and make a final determination, within fifteen days of the date of the notice. Parties of record, who have inquired or commented regarding the application during the prescribed comment period, must be notified of the final decision. This notice must include a deadline for appeal of the decision consistent with LMC 17.11.

~~c) Any affected party may request a hearing in front of the Planning Commission to determine if the home occupation will be detrimental to the neighborhood.~~

~~c) If a hearing is requested or required it shall be published and held before the Planning Commission in accordance with Title 17 of the Lynden Municipal Code. In addition, the Planning Commission shall use the standards and criteria found in Lynden Municipal Code 19.49.020 to determine whether the application will be detrimental to the neighborhood for its recommendation on the application. The City Council shall make the decision on the application in accordance with Lynden Municipal Code 19.49.020.~~

~~b.e. d)~~ If no public hearing is required or requested, t The Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may

arise from the proposed use. In approving the application, the Planning Director shall find:

- i. ~~1)~~ The application is consistent with the conditions of section ~~19.57.050-140~~ above, and
- ii. ~~2)~~ The application meets the standards and criteria listed in Lynden Municipal Code ~~19.49.02057.210~~ and the request ~~will not cause~~ includes mitigation of any detrimental effects to the ~~surrounding neighborhood.~~
- f. An appeal of the Planning Director’s decision can be made according to LMC 17.11.

2. Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.

19.57.160 Violations.

- A. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated.
- B. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of a revocation~~the~~ notice. Should no hearing be requested, the Planning Director’s decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director’s decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.

19.57.200 Purpose - Conditional Use Permits

Conditional Use Permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike Home Occupation Permits, Conditional Use Permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Standards and Criteria for granting a CUP. Conditional Use Process and Criteria for Approval

- A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.
- C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
 - 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
 - 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

(Ord. 1112 § C, 2001: Ord. 1080 § E, 1999)

19.49.040 Special conditions for the approval of CUP within West Lynden sub-area.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden sub-area shall also meet the below listed criteria:

A. Multitenant buildings with separate entrances for each tenant shall not be oriented to the guide meridian.

B. Any retail establishment, or combination of retail establishments, in a single building greater than fifteen thousand square feet shall incorporate the following elements in the design:

1. Facades in excess of one hundred horizontal feet shall incorporate recesses and projections.

2. Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.

3. Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured up concrete panels, and prefabricated steel panels are discouraged.

Restaurants, cafes, and service stations within the CS-3 zone must be located within seven hundred feet of the guide meridian and have frontage on West Main Street.

(Ord. 1080 § G, 1999)

19.49.045 Special conditions for approval of CUP for assembly and distribution of products:

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria below:

- A. The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use;
- B. A complete selection of the products assembled must be prominently displayed and offered for retail sale on-site;
- C. All storage of supplies and materials must be enclosed or screened from view;
- D. Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.

(Ord. 1112 § D, 2001).

(Ord. No. 1390, § D, 2-22-2011)

19.57.220 Conditional Use Development Standards

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000
Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

(Ord. 1080 § H, 1999)

19.57.230 One-year validity Conditional Use Expiration.

- A. Conditional use permits shall expire twelve (12) months after issuance unless construction or the establishment of the use has commenced. The **Planning Director planner** may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

(Ord. 1080 § J, 1999).

19.57.240 Conditional Use Permit Modifications of or addition to, existing conditional uses.

Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. ~~Modifications of existing conditional uses, or additions to such uses,~~ Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit. ~~;~~ ~~provided that, in lieu of a new application~~ The Planning Director ~~planner~~ may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:

- A. The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and
- B. The addition or modification is determined by the Planning Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.
- C. The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.
- D. Such additions or modifications approved administratively shall be recorded by the Planning Director on the CUP record.

(Ord. 1080 § K, 1999).

19.57.250 Violations

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed, and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planning Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.

Remedies of the city may include civil, or criminal enforcement and/or revocation of the conditional use permit.

(Ord. 1080 § I, 1999).

19.57.300 Purpose- Bed and Breakfast Establishments and Short-Term Rentals

Bed and Breakfast Establishments and Short-Term Rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.

19.57.310 Applicability.

A. The Planning Director is authorized to approve Bed and Breakfast (B&B) Establishments and Short-Term Rentals (STRs) consistent with the regulations of this chapter.

~~B. Bed and Breakfast Establishments require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted within residential multi-family zones, the Historic Business District, the Local Commercial Services zone and are not permitted in the Commercial Regional Service zone (CSR). require a CUP in all single family, RM-3 and RM-4 zones and are out right permitted within the RM-1, RM-2, HBD and CSL zones.~~

~~CB. Short-Term Rentals Establishments meeting the conditions and criteria outlined in LMC 19.57.320 are permitted as follows:~~

- ~~1. B&Bs and STRs are permitted in detached single-family homes or an ADU associated with a single-family home that is located on residentially or commercially zoned properties. require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright~~
- ~~2. permitted STRs are permitted in attached residential multi-family housing types such as townhomes or apartments under the following conditions; and all commercial zones.~~
 - ~~a. The underlying zoning category is RM-4; and~~
 - ~~b. No more than 10% of units within the complex be offered as STRs; and~~
 - ~~c. Local management is available to all units in the complex 24 hours a day, 7 days a week to address noise complaints, inappropriate behavior, or maintenance issues that may arise related to the STRs.~~
 - ~~a.d. The fee associated with a City of Lynden home occupation permit is required for each unit rented as an STR but may be filed together under one application.~~

19.57.320 - Conditions and Criteria

~~A. B&B and STR establishments located in residential zones require a Home Occupation Permit which is reviewed according to the process outlined in LMC 19.57.150 and the criteria outlined in this section.~~

~~A.B.~~ Regardless of zoning, all proposed Bed and Breakfast B&Bs establishments and Short Term Rentals STRs shall be required to show compliance with the standards listed below before a City of Lynden Home Occupation Permit is issued, if one is required, and before a business license for the lodging accommodations will be endorsed by the City through the Washington State Department of Revenue.

1. STRs located in residential zones are not permitted to offer lodging to more than one guest group at a time. B&B establishments, or STRs in commercial zones, that offer three or more lodging units to travelers and transient guests for periods of less than 30 days shall be considered transient accommodations and will be subject to regulation of RCW 70.62.
2. In detached housing units located on residential zoning categories the operator of a B&B or a STR must reside on the premises. In STRs located in attached housing, local management must be available to all units in the complex 24 hours a day, 7 days a week. This information must be posted in common areas and within the STR units.
3. No other business, service or commercial activity beyond lodging may be conducted on the premises. For B&B establishments, only morning food service may be offered, and no meals may be served to the general public.
- ~~4. 1. A Bed and Breakfast establishment or Short-Term rental~~ A B&B or STR shall appear as any other ~~single-family~~ residence within the surrounding area.
5. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building ~~is will be~~ permitted. In addition, B&B's may utilize a single monument sign ~~may be permitted~~ if it meets the requirements for monument signs within Chapter 19.33.
6. If an establishment has a separate entrance for guests, it must not be obvious from the street so as not to detract from the primary entrance of the home. All entrances must be lit to ensure pedestrian safety.
7. The property's address numerals must be obviously displayed and mounted in an illuminated area so as to assist guests and emergency responders with locating the property.
8. The establishment shall meet all requirements for off-street parking related to the residential use as well as guest parking. Because lodging creates more activity and potentially larger parking areas than a typical residential home, the establishment may be required to mitigate impacts of parking areas. This could be accomplished with enhancements such as landscaping, decorative or privacy fencing, pergola structures, or attractive paving patterns.
- ~~1-9.~~ Outdoor activity areas such as grills, fire pits, hot tubs, or playground equipment that are available for guest use must be screened from neighboring properties unless they are shared amenities within a multi-family complex. This may be accomplished using landscape, fencing, screening or by using on site structures.
- ~~2-10.~~ The applicant Prior to hosting guests, the establishment is subject to an inspection to ensure that it ~~shall comply~~es with local fire and building codes

and ~~any other guidelines fixed~~ precautions deemed necessary by the ~~e~~City ~~f~~Fire ~~e~~Chief ~~and or b~~ Building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes, ~~—A smokefire and carbon monoxide alarm systems, and the presence of a household size fire extinguishers as appropriate, shall be present in each guestroom.~~

~~11.~~ A land line telephone or free wi-fi shall be available for occupant use with emergency numbers and the address of the establishment posted in an obvious location.

~~3-12.~~ Quiet hours that, at a minimum, include the time between 10pm and 7am, must be prominently displayed within guest accommodations.

~~4-13.~~ Proprietors of a B&B or STR the Bed and Breakfast establishment or Short Term Rental shall follow applicable health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations and may need to demonstrate compliance to City of Lynden officials.

~~5.~~ The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.

~~14.~~ An annual business license filed through the State’s Department of Revenue is shall be required and must remain active as long as the establishment is hosting guests.

~~6-15.~~ If an annual re-inspection is deemed necessary by the Fire Chief, the Building Official, or the Planning or Public Works Director to ensure compliance with the conditions of the Home Occupation Permit, and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each application and renewal be billed to the establishment. Re-inspection fees may apply if needed to achieve compliance. The Public Works Director, Building Inspector or, Fire Chief may require inspections.

~~7.~~ Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "TRANSIENT ACCOMMODATIONS."

~~8.~~ The operator of a the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.

~~9.~~ No other business, service or commercial activity may be conducted on the premises. For Bed and Breakfast Establishments: Breakfast only may be served and no meals may be served to the general public.

~~B.C.~~ In addition to the conditions above, Bed and Breakfast B&B establishments or Short Term Rentals STRs proposed within an area requiring a Home Occupation Permit CUP will be required to meet the criteria listed in Section 19.57.210.

Section 4. Adoption of LMC Chapter 19.49 “Community Residential Facilities”. The following new code sections shall entirely replace the existing contents of LMC Chapter 19.49.

CHAPTER 19.49
COMMUNITY RESIDENTIAL FACILITIES

19.49.010 Purpose.

The purpose of this chapter is to establish reasonable standards for the safe operation and appropriate siting of a wide range of Community Residential Facilities (“CRFs”) within the City of Lynden, so as to protect public health and safety for both facility residents and the broader community. Many, but not all, CRFs regulated under Chapter 19.49 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. Housing types include single-family homes used for cooperative living, very short-term housing such as emergency shelters, transitional housing that provides support for up to two (2) years, or permanent supportive housing in apartment, detached home, or group settings. Other CRFs may focus on aiding with basic personal needs for adults or children through aAdult fFamily hHomes or

Foster Homes Group Homes. This chapter does not include regulations related to camping on public property. ~~These are found in~~ (see LMC Chapter 12.40).

19.49.020 Definitions.

- A. “Adult” means a person who has attained the age of eighteen (18) years.
- B. “~~Supportive Housing Adult Family Home~~” means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services. ~~Supportive Housing Adult Family Homes, for the purposes of this Chapter are not considered to be are a form of Permanent Supportive Housing instead see “Group Home” or “Permanent Supportive Housing”. and therefore are intended to address the needs of persons who were experiencing homelessness or who were at risk of imminent homelessness prior to becoming a resident of the facility. Such Adult Ffamily Hhomes facilities~~ may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services under pursuant to the requirements of RCW 70.128.066. ~~Refer to Supportive Housing Group Homes for facilities that provide a cooperative housing environment that does not provide personal care.~~
- C. “Child” means a person who has not yet attained the age of eighteen (18) years.
- D. “City” means the City of Lynden unless some other meaning is apparent from context.
- E. “Community Residential Facility” or “CRF” is a collective term for the housing categories regulated under this chapter.; ~~namely~~ This includes a wide variety of group living situations arrangements including Adult Family Homes, Foster Homes; Group Homes; Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. Many, but not Aall CRFs regulated under this chapter are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. For the purposes of this chapter, facilities primarily intended to serve persons with disabilities as defined in the Fair Housing Act, 42 U.S.C. §§ 3601-3631, including without limitation homes for non-using persons recovering from a substance use disorder, are not considered CRFs and are not regulated under this chapter.
- E. _____
- F. “Community School” means any elementary school, middle school, or high school located within the City of Lynden.

- G. “Emergency Housing, Indoor” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Such facilities may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.

- H. “Emergency Housing, Outdoor” means temporary outdoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.

- I. “Emergency Shelter” means an indoor or outdoor facility that provides a temporary shelter for individuals or families who are currently homeless. Such facilities may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may include day cooling and warming centers that do not provide overnight accommodations.

- ~~I.~~J. “Evacuation Center” means an indoor or outdoor facility identified in the *Whatcom County Natural Hazards Mitigation Plan* that provides temporary disaster-relief shelter, accommodations or emergency services for individuals or families displaced by disaster during an official City of Lynden Emergency State of Emergency. For the purposes of this chapter, Evacuation Center includes facilities identified in the *Whatcom County Natural Hazards Mitigation Plan* as “Emergency Services” locations.

- ~~J.~~K. ~~“Supportive Housing Group Homes”~~ means a community-based, cooperative residential facilities that typically serves five (5) to twelve (12) individuals and may provide 24-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. ~~Supportive Housing Groups Homes~~ ~~are may~~ function as Transitional Housing or be a form of Transitional or Permanent Supportive Housing. When assisting individuals exiting correctional facilities or under court supervision, refer to Residential Reentry Facilities.

- ~~K.~~L. “LMC” means the Lynden Municipal Code.

- ~~L.~~M. “Permanent Supportive Housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors.

Permanent Supportive Housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident with community-based health care, treatment, or employment services. Permanent Supportive Housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

M.N. “Provider” means the owner, sponsor, or managing agency (as context requires) of a particular Community Residential Facility.

N.O. “Residential Reentry Facilities” means a type of Transitional Housing that provides temporary living accommodations for children or adults exiting correctional facilities (including persons who remain under correctional supervision such as probation or parole). Such facilities are meant to provide housing until such persons can move on to permanent housing. For the purposes of this chapter, “halfway homes” and other like reentry facilities shall be classified as Residential Reentry Facilities if such facilities provide essentially the same services and operate with essentially the same intent as Residential Reentry Facilities.

O.P. “Transient Accommodation” means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than 30 days.

Q. “Transitional Housing” means a facility that provides temporary housing and supportive services to persons experiencing homelessness or at imminent risk of homelessness for up 24 months and that has as its purpose facilitating the movement of such persons into independent living and permanent housing. Temporary housing for those exiting correctional facilities or under court supervision is a subset of Transitional Housing regulated separately -within this chapter (refer to Residential Reentry Facilities for the applicable provisions).

19.49.030 Community Residential Facilities established.

<u>Community Residential Facility Classification Type</u>	<u>Demographic Served</u>	<u>Maximum Scale of the Facility</u>	<u>Permitted Zoning Categories</u>	<u>Reference to Applicable Development Standards</u>

<p><u>Supportive Housing Adult Family Home</u></p>	<p><u>Persons in need of permanent housing providing -personal care and room and board. who were experiencing homelessness or were at imminent risk of homelessness</u></p>	<p><u>Six (6) individuals adults, up to eight (8) adults with special approval.</u></p>	<p><u>All zoning categories permitting residential dwelling units.</u></p>	<p><u>LMC 19.49.050</u> <u>RCW 35A.21.430</u> <u>70.128</u></p>
<p><u>Emergency Housing, Indoor; Emergency Shelter</u></p>	<p><u>Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.</u></p>	<p><u>Small scale facility: six (6) beds.</u> <u>Large scale facility: up to 80 beds.</u></p>	<p><u>Unless sited on a facility identified as an Evacuation Center in the Whatcom County Natural Hazards Mitigations Plan, permitted only in HBD, CSL, CSR., and evacuation centers identified in the Whatcom County Natural Hazards Mitigation Plan.</u></p>	<p><u>LMC 19.49.060</u> <u>RCW 35A.21.430</u> <u>43.185C</u></p>
<p><u>Emergency Housing, Outdoor</u></p>	<p><u>Individuals or families requiring shelter due to disaster during an official City of Lynden State of Emergency.</u></p>	<p><u>Up to 200 beds.</u></p>	<p><u>Must be sited on a facility Facilities identified as an Evacuation Center emergency service locations and evacuation centers in the Whatcom</u></p>	<p><u>LMC 19.49.070</u> <u>RCW 35A.21.430</u> <u>43.185C</u></p>

			<u>County Natural Hazards Mitigation Plan.</u>	
<u>Supportive Housing Group Homes</u>	<u>Persons in need of permanent housing in a cooperative living environment, who were experiencing homelessness or were at imminent risk of homelessness.</u>	<u>Six (6) individuals in facilities located in SF or RMD zoning categories. Maximum occupancy determined per 19.49.080 (C).</u> <u>Twelve (12) individuals in all other zoning categories where permitted</u>	<u>All zoning categories permitting hotels and residential dwelling units including SF and RMD categories.</u>	<u>LMC 19.49.080</u> <u>RCW 35A.21.430</u>
<u>Permanent Supportive Housing</u>	<u>Persons experiencing homelessness or at imminent risk of homelessness in need of subsidized, leased housing with no limit on length of stay.</u>	<u>Maximum density permitted per the underlying zoning category and LMC 19.47.110.</u>	<u>All zoning categories permitting residential dwelling units. Conditional Use in CSR, CSL, and HBD.</u>	<u>LMC 19.49.110</u> <u>RCW 35A.21.430</u>
<u>Residential Reentry Facilities</u>	<u>Individuals exiting the adult or juvenile correctional system or under court supervision.</u>	<u>Small scale facility: Three (3) beds.</u>	<u>All zoning categories permitting residential dwelling units or hotels.</u>	<u>LMC 19.49.090</u> <u>RCW 35A.21.430</u>
		<u>Large scale facility: up to Twelve</u>	<u>Conditional Use in RM-3, RM-4 and all</u>	

		<u>twelve (12) beds.</u>	<u>zoning categories permitting hotels.</u>	
<u>Transitional Housing Facilities</u>	<u>Persons experiencing homelessness or at imminent risk of homelessness in need of assistance transitioning into independent living and permanent housing.</u>	<u>Six (6) individuals</u>	<u>All zoning categories permitting residential dwelling units or hotels.</u>	<u>LMC 19.49.100</u>
		<u>Thirty (30) individuals</u>	<u>Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.</u>	<u>RCW 35A.21.430</u>

19.49.040 General provisions for all Community Residential Facilities.

A. General Requirements.

- 1. When the CRF site includes more than one (1) type of housing facility, more than one (1) CRF definition could apply to a subject facility, the subject facility shall adhere to the more restrictive requirements of this chapter ~~shall apply.~~
- 2. The Provider shall comply with all federal, state, and local laws and regulations, including Whatcom County Department of Health regulations. The Provider shall be subject to inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.
- 3. All ~~CRFs~~ subject facilities must comply with the provisions of the City of Lynden Building and Construction Code (LMC Title 15).
- 4. Managing agencies and the Lynden Police Department (LPD) or Lynden Fire Department (LFD) shall establish reasonable requirements for appropriate access and coordination for the subject facility and its residents through the CRF approval process.
- 5. Maximum capacities ~~of each facility~~ for a subject facility -does not include on-site staff who may also live temporarily or permanently within the ~~facility~~ subject facility.
- 6. Business licensing with the City of Lynden through the Washington State Department of Revenue is required for all ~~CRFs~~ subject facilities.
- 7. ~~CRFs~~ Subject facilities providing Transient Accommodations are not permitted within residential single-family zoning categories. This includes all RS zones as well as RMD and Planned Residential Districts where the underlying zoning category is RS or RMD.
- 8. All ~~CRFs~~ subject facilities must meet applicable residential or commercial design standards depending on the underlying zoning category. Per LMC 19.17.100 and 19.23.060, Design Review Board approval is required for facilities constructed with multiple units or those that are located within a commercial zoning category.

B. Registration with the City of Lynden.

- 1. All ~~CRFs~~ subject facilities are required to apply for registration on the Community Residential Facilities Registry (“Registry”) maintained by the City of Lynden. Every ~~CRF~~ subject facility is subject to review and approval depending on the type and scale proposed before it can be included on the Registry.

2. The Registry will be publicly available although the location of a particular CRF subject facility may be withheld if disclosure would jeopardize the safety of the persons housed therein.
3. The Provider must provide an operation plan at the time of registration that addresses the following elements:
 - a. Name and contact information for key staff.
 - b. Roles and responsibilities of key staff.
 - c. Site and facility management, including security policies and an emergency management plan.
 - d. Site and facility maintenance.
 - e. Applicable licensing from Washington State Department of Social and Health Services or other governing agency.
 - f. Occupancy policies, including resident responsibilities and a code of conduct that addresses, at a minimum, the use or sale of alcohol and illegal drugs, threatening or unsafe behavior, and weapon possession.
 - g. Provisions for human and social services, including staffing plan, credentials or certification, and outcome measures.
 - h. Procedures for maintaining accurate and complete records.
 - i. Coordination with the Lynden Police Department and Lynden Fire Department.
4. Approval process. Refer to the specified code section associated with CRF type to determine the required review and approval process. This may include, but is not limited to, additional application processes beyond the application to the Registry.

19.49.050 ~~Supportive Housing~~ Adult Family Homes.

A. Applicability.

- 1. The subject ~~Supportive Housing~~ Adult Family Home (“SHAFH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. SHAFHs Adult Family Homes are regulated by this chapter as well as by State Law under RCW Chapter 70.128. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of SHAFHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- ~~3. The Provider of a subject SHAFH is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject SHAFH’s property line. The Notice of Decision must provide steps for accessing the subject SHAFH’s information as recorded on the Community Residential Facilities Registry.~~

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale. ~~No more than~~A maximum of six (6) individuals-adults unrelated by blood or marriage to the person or persons providing services are permitted ~~unless a group larger than six is a single- family unit.~~ However, the subject SHAFH may provide services to up to eight (8) individuals-adults upon approval from the Washington State Department of Social and Health Services pursuant to RCW 70.128.066.
- 3. Zoning. SHAFHs are permitted in all residential zoning categories. ~~and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.~~
- 4. Construction and appearance. New construction or modification of an SHAFH must be made consistent with the development standards associated with the underlying zoning category.

19.49.060 Emergency Housing, Indoor; Emergency Shelter; ~~Evacuation Centers.~~

A. Applicability.

1. The subject Emergency Housing, Indoor facility (“EHIF”) or ~~or~~ Emergency Shelter facility (“ESF”) -must fit within the definition of such facilities set out in LMC 19.49.020.
2. EHIF and ESF facilities are regulated by this chapter as well as by State Law under RCW Chapter 43.185C. In the event of a conflict between the LMC regulations and State regulations, the State regulations shall prevail.
3. This ~~chapter~~ section includes regulations related to ~~three~~ two sub-types of facilities EHIF and ESF facilities: Small Scale facilities (~~Evacuation Centers, EHIFs (subtyped as either Small Scale or Large Scale), and ESFs (subtyped as either Small Scale or Large Scale).~~ For both EHIFs and ESFs, Small Scale denotes a facility of six (6) or few beds) and Large Scale facilities (~~denotes a facility of more than six (6) beds).~~
4. The approval process and development standards for EHIFs are identical to ESFs unless otherwise indicated.
5. Note Regarding Evacuation Centers.
 - a. -Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan*.
 - b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.
 - a-c. EHIF and ESF facilities sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan* are not subject to the zoning restrictions otherwise applicable to such facilities within this chapter.

B. Approval process.

1. Evacuation Centers.
 - a. Review of evacuation center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.
 - b. Evacuation centers are not subject to the development standards within this chapter.

~~2.1.~~ Small Scale Emergency Housing, Indoor Facility (“EHIF”).

- a. A subject Small Scale EHIF ~~not identified as an evacuation center per the Whatcom County Natural Hazards Mitigation Plan~~ must apply to the City Planning Department for registration on the Community Residential Facilities Registry.
- b. Small Scale EHIFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- c. The Provider of a subject Small Scale EHIF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale EHIF’s property line. The Notice of Decision must provide steps for accessing the subject Small Scale EHIF’s information as recorded on the Community Residential Facilities Registry.

3.2. Large Scale Emergency Housing, Indoor Facilities (“EHIF”).

- a. A subject Large Scale EHIF ~~not identified as an evacuation center per the Whatcom County Natural Hazards Mitigation Plan~~ is considered a conditional use and must secure a Conditional Use Permit.
- b. A subject Large Scale EHIF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to Large Scale EHIFs set out in this chapter.
- c. Large Scale EHIFS are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

- 1. EHIFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
- 2. Scale.

- a. A subject Small Scale EHIF shall include no more than six (6) beds.
 - b. A subject Large Scale EHIF shall include no more than 80 beds at any one location and there must be a minimum of 35 square feet of floor area per individual.
3. Zoning.
- a. EHIFs are permitted in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. EHIFs are not permitted in any residential, public use, or industrial zoning categories.
 - ~~b-c.~~ Notwithstanding the foregoing, a subject EHIF may be sited on a location identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.
4. Spacing.
- a. ~~Unless listed in the *Whatcom County Hazards Mitigation Plan* Aa~~ subject EHIF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
5. Construction and appearance.
- a. ~~AAll EHIFs except those listed as evacuation centers in the *Whatcom County Natural Hazards Mitigation Plan* must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, and the additional standards set out herein.~~
 - b. A subject EHIF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of a subject EHIF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - c. Exterior lighting of a subject EHIF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject EHI facility site in order to limit the impact on neighboring properties.

- d. A subject EHIF must provide off-street parking in accordance with LMC Chapter 19.51.
 - e. A description of transit, pedestrian, and bicycle access from the subject EHIF site to services must be provided at time of application by the Provider.
6. Facility operations. The following standards are required of all EHIFs and must be included in a subject EHIF's written procedures.
- a. Trash receptacles must be provided in multiple locations throughout the subject EHIF and site. A regular trash-cleanup patrol in the immediate vicinity of the EHIF site must be conducted.
 - b. Residents and staff of a subject EHIF must comply with all Whatcom County Health Department regulations applicable to food donations.
 - c. No children are allowed to stay overnight in a subject EHIF, unless accompanied by a parent or legal guardian, or unless the subject EHIF is licensed to provide services to children. If a child without a parent or legal guardian present attempts to stay in a subject EHIF not specifically licensed for providing housing to children, the Provider shall immediately contact the Child Protective Services division of the Washington State Department of Children, Youth & Families and actively endeavor to find alternative housing for the child.
 - d. No person under court supervision or under sex offender registration requirements is allowed to receive services from a subject EHIF, unless providing such services is consistent with the laws, regulations, and supervisory requirements applicable to such person.
7. Required services for Large Scale EHIFs. In addition to the other applicable standards set out in this chapter, Large Scale EHIFs must provide the services set out below and the Conditional Use Permit application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - i. Medical services, including mental and behavioral health counseling.
 - ii. Access to resources on obtaining permanent housing and access to employment and education assistance. (Applicable to EHIFs but not ESFs).

- iii. Substance abuse assistance. (Applicable to ESFs but not EHIFs).
- b. All functions associated with a subject EHIF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject EHIF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject EHIF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject EHIF shall coordinate with other homelessness service providers for referrals to their programs and with other providers of facilities and services for people experiencing homelessness.

19.49.070 Emergency Housing, Outdoor.

A. Applicability.

- 1. An Emergency Housing, Outdoor facility (“EHOF”), such as a tent city or the collective use of recreational vehicles to provide shelter to disaster victims, is only permitted in situations when the City Council has declared a state of emergency.
- 2. The subject EHOF must fit within the definition of such facilities set out in LMC 19.49.020.
- 3. EHOFS may be established for up to sixty (60) days to provide housing and services to address basic health, food, clothing, and personal hygiene needs of individuals or families as a form of disaster relief.
- 4. The City Council may extend the approved time frame for a subject EHOF beyond sixty (60) days if deemed necessary due to an extended state of emergency.
- 5. Note Regarding Evacuation Centers.
 - a. Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan (NHMP)*.
 - b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County NHMP Natural Hazards Mitigation Plan*.
 - a.c. EHOFS facilities must be sited on locations identified as Evacuation Centers in the *Whatcom County NHMP-Natural Hazards Mitigation Plan*.

B. Approval process.

- ~~1. EHOFS may only be sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan* as evacuation centers or emergency services locations.~~
- ~~2. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan* Review of locations for evacuation centers and emergency services locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.~~
- 1. ~~INSERT EXPLANATION OF APPROVAL PROCESS.~~The Whatcom County Natural Hazards Mitigation Plan (NHMP) is a countywide plan managed by the Whatcom County Sheriffs Office’s Division of Emergency Management. The

plan must be updated every five years and approved by the Federal Emergency Management Agency (FEMA) to remain eligible for federal funding for hazard mitigation projects.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.

2. Scale. A subject EHOFF shall include no more than 200 beds.

~~4.3.~~ Zoning. EHOFFs may only be sited on locations ~~are permitted only in locations identified as Evacuation Centers evacuation centers or emergency services locations~~ in the *Whatcom County Natural Hazards Mitigation Plan*.

~~2.4.~~ Construction and appearance.

a. Design and organization of EHOFFs is within the purview of the Whatcom County Sheriff's Office Division of Emergency Management, the City Fire Chief, City Administrator, City Chief of Police, and City Public Works Director.

b. EHOFFs must be organized in such a way as to minimize impacts to surrounding neighborhoods. These impacts may include, but are not limited to, disruptions related to traffic, noise, and light.

19.49.080 Group Homes.

A. Applicability.

- 1. The subject Group Home (“GH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. The Provider of a subject ~~Group Home~~ GH facility may provide 24-hour on-site support services.

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of ~~the Group Home~~GHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- 3. ~~When the a subject GH facility is used as~~functioning as **Transitional Housing or Permanent Supportive Housing** ~~t~~The Provider of a subject ~~Group Home~~ is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject **SHGH**’s property line. The Notice of Decision must provide steps for accessing the subject **SHGH**’s information as recorded on the Community Residential Facilities Registry.
 - a. Mailing of a Notice of Decision is not required when a ~~Group Homes~~subject GH facility is affiliated with and adjacent to the facilities of an existing ~~H~~house of ~~W~~worshiphouse of worship.
 - b. ~~Exception to the~~Mailing of a Notice of Decision may also be waived by the Planning Director if such a notice would jeopardize the safety and security of a subject GH facility’s ~~the facility’s~~ residents or expose victims of crime or abuse to emotional harm.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale. ~~A subject SHGH must meet the occupancy standards set out herein.~~
 - a. All bedrooms with one (1) occupant must have at least 70 square feet.

b. Shared bedrooms must have at least 50 square feet per occupant.

c. Kitchens and other non-habitable rooms cannot be used as a bedroom.

a-d. In addition to bedroom space, every GH facility shall provide shared living and dining areas as follows: 120 square feet of living room for GH facilities with two (2) or fewer occupants; 120 square feet of living room and 80 square feet of dining room for GH facilities with three (3) to five (5) occupants; and 150 square feet of living room and 100 square feet of dining room for GH facilities with six (6) or more occupants.

a. All bedrooms with one (1) occupant must have at least 70 square feet.

b. Shared bedrooms must have at least 50 square feet per occupant.

c. Kitchens and other non-habitable rooms cannot be used as a bedroom.

d. In addition to bedroom space, every facility shall provide shared living and dining area as follows: 120 square feet of living room for facilities with two (2) or fewer occupants; 120 square feet of living room and 80 square feet of dining room for facilities with three (3) to five (5) occupants; and 150 square feet of living room and 100 square feet of dining room for facilities with six (6) or more occupants.

2.3. Zoning. Group HomesGHs are permitted in all residential zoning categories (including SF and RMD).

3.4. Spacing. A subject Group HomeGH that is serving-functioning as a Transitional Housing Facility or Permanent Supportive Housing shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF. See Residential Reentry Facilities in LMC 19.47.090 for cooperative living facilities which serve individuals exiting the correctional system or under court supervision.

4.5. Construction and appearance. New construction or modification of a Group HomeGH must be made consistent with the development standards associated with the underlying zoning category.

19.49.090 Residential Reentry Facilities.

A. Applicability.

- 1. The subject Residential Reentry Facility (“ResRF”) must fit within the applicable definition of such facilities set out in LMC 19.49.020.
- 2. ResRFs are regulated by this chapter as well as by State Law. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.
- 3. This chapter includes regulations related to two sub-types of ResRF facilities: Small Scale Facilities (six (6) or fewer beds) and Large Scale Facilities (more than six (6) beds but no more than twelve (12) beds).

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Small Scale Residential Reentry Facilities (~~“ResRFs”~~).
 - a. Small Scale ResRFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
 - b. The Provider of a subject Small Scale ResRF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale ResRF’s property line. The Notice of Decision must provide steps for accessing the subject ResRF’s information as recorded on the Community Residential Facilities Registry.
- 3. Large Scale Residential Reentry Facilities (~~“ResRFs”~~).
 - a. Large Scale ResRFs are considered a conditional use and must secure a Conditional Use Permit.
 - b. A subject Large Scale ResRF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design

Review Guidelines, and the standards applicable to Large Scale ResRFs set out in this chapter.

- c. Large Scale ResRFs are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

1. All ResRFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
2. Scale.
 - a. A subject Small Scale ResRF shall include no more than six (6) beds.
 - b. A subject Large Scale ResRF shall include more than six (6) beds but no more than twelve (12) beds at any one location.
 - c. All ResRFs shall provide a minimum of 350 square feet of floor area per adult resident.
3. Zoning.
 - a. Small Scale ResRFs permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. Large Scale ResRFs are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
4. Spacing.
 - a. A subject ResRF (whether small scale or large scale) shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
5. Construction and appearance. All Large Scale ResRFs are subject to approval by the City Design Review Board. New construction or modification of such facilities must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit, and the additional standards set out herein.

- a. A subject facility shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject facility must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject facility must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject facility site to services must be provided at time of application by the Provider.
6. Required services for Large Scale ResRFs. In addition to the other applicable standards set out in this chapter, Large Scale ResRFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - 1. For all facilities, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject facility, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject facility shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject facility shall have dedicated spaces for residents to meet with service providers
 - e. In order to encourage access to all appropriate services for residents, the Provider of a subject facility shall coordinate with other providers of

facilities and services for people exiting the correctional system for referrals to their programs.

19.49.100 Transitional Housing Facilities.

A. Applicability.

1. The subject Transitional Housing facility (“THF”) must fit within the definition of such facilities set out in LMC 19.49.020.
- 4.2. This chapter includes regulations related to two sub-types of THFs: Small Scale Facilities (six (6) or fewer individuals) and Large Scale Facilities (up to thirty (30) individuals).

B. Approval process.

1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
2. Review of THFs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
3. The Provider of a subject THF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject THF’s property line. The Notice of Decision must provide steps for accessing the subject THF’s information as recorded on the Community Residential Facilities Registry.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Scale.
 - a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.
 - b. A subject Small Scale THF shall house a maximum of six (6) individuals (unless a group larger than six is a single family unit).
 - c. A subject Large Scale THF shall house a maximum of thirty (30) individuals.
 - d. For the purposes of calculating the total number of individuals within a subject THF, children are not included.

3. and Zoning.

- ~~a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.~~
- ~~b.a. Small Scale THFs with no more than six (6) individuals (unless a group larger than six is a single family unit) are permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.~~
- ~~e.b. Large Scale THFs with up to thirty (30) individuals are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.~~
- ~~d. For the purposes of calculating the total number of individuals within a subject THF, children are not included.~~

~~2.4.~~ Spacing.

- a. A subject THF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

~~3.5.~~ Construction and appearance. All THFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a THF must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, and the additional standards set out herein.

- a. A subject THF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject THF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
- b. Exterior lighting of a subject THF must comply with requirements of the City’s Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject THF site in order to limit the impact on neighboring properties.
- c. A subject THF must provide off-street parking in accordance with LMC Chapter 19.51.

- d. A description of transit, pedestrian, and bicycle access from the subject THF site to services must be provided at time of application by the Provider.

4.6. Required services for THFs. In addition to the other applicable standards set out in this chapter, THFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.

- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - a. For all THFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
- b. All functions associated with a subject THF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject THF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject THF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject THF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.110 Permanent Supportive Housing

A. Applicability.

1. The subject Permanent Supportive Housing facility (“PSHF”) must fit within the definition of such facilities set out in LMC 19.49.020.

B. Approval process.

1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
2. PSHFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said rReview of PSHFs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
3. The Provider of a subject PSHF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject PSHF’s property line. The Notice of Decision must provide steps for accessing the subject PSHF’s information as recorded on the Community Residential Facilities Registry.
4. Notwithstanding the foregoing, PSHFs Facilities locating-located where lodging and hotel accommodations are permitted within a commercial zoning category are considered a conditional use and must secure a Conditional Use Permitmust secure a Conditional Use Permit. A subject PSHF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to PSFHs set out in this chapter. A subject PSHF is to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required. This information can be combined with a Conditional Use Permit application if one is required.

~~2. Construction and design must be consistent with the standards associated with the underlying zoning category.~~

~~3.~~

2. Scale

a. All PSHFs shall provide a minimum of 500 square feet of floor area per dwelling unit and maximum occupancy shall not exceed 350 square feet per adult resident.

3. Zoning.

a. PSFHs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.

b. PSFHs are permitted where lodging and hotel accommodations are permitted (this includes the CSL, CSR, and the HBD zoning categories) subject to a Conditional Use Permit.

4. Spacing.

a. A subject PSHF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

5. Construction and appearance. All PSHFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit (if applicable), and the additional standards set out herein.

a. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.

b. Exterior lighting of a subject PSHF must comply with requirements of the City’s Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.

c. A subject PSHF must provide off-street parking in accordance with LMC Chapter 19.51.

d. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the Provider.

6. Required services for PSHFs. In addition to the other applicable standards set out in this chapter, PSHFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.

a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:

1. For all PSHFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.

b. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.

c. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.

d. A subject PSHF shall have dedicated spaces for residents to meet with service providers.

e. In order to encourage access to all appropriate services for residents, the Provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

4. and Zoning

a.

5. PSHFs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.

1. PSHFs are Conditional Uses where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD zones.

2.

- 3. Occupancy. PSHF shall provide a minimum of 500 square feet of floor area per dwelling unit and maximum occupancy shall not exceed 350 square feet per adult occupant.

D. Spacing.

- 1. A subject PSHF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

E. Construction and appearance. All PSHFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the City’s Design Review Guidelines, and the additional standards set out herein.

- 1. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject PSHF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
- 2. Exterior lighting of a subject PSHF must comply with requirements of the City’s Design Review Guidelines for site lighting. Pedestrian and parking areas must be well lit but light must be directed downward so that glare is contained within the subject PSHF site in order to limit the impact on neighboring properties.
- 3. A subject PSHF must provide off street parking in accordance with LMC Chapter 19.51.
- 4. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the Provider.
- 5. Required services for PSHFs. In addition to the other applicable standards set out in this chapter, PSHFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
- 6. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - a. For all PSHFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.

- ~~F. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.~~
- ~~G. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.~~
- ~~H. A subject PSHF shall have dedicated spaces for residents to meet with service providers~~
- ~~I. In order to encourage access to all appropriate services for residents, the Provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.~~

19.49.120 Construction.

A. Measurement standard.

- 1. For the purposes of the spacing requirements established in this chapter, distance shall be measured in a straight line between the closest property line of the subject CRF facility and the closest property line of the Community School or other approved CRF.

19.49.130 Exceptions.

- 1. Reasonable accommodations.
- 2. The Fair Housing Act (“FHA”), 42 U.S.C. 3604(f)(3)(B), requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The Planning Director is therefore authorized to make accommodations in the provisions of this

chapter as applied to CRFs occupied or to be occupied by persons with disabilities as defined in the FHA, when the Planning Director determines that such accommodations reasonably may be necessary in order to comply with the requirements of the FHA.

- 3. Religious organizations.
- 4. Nothing in this chapter shall be applied to the extent it would infringe upon a religious organization's ability to serve the homeless consistent with a sincere religious belief as protected under the First Amendment of the United States Constitution, Article I § 11 of the Washington State Constitution, the Religious Land Use and Institutionalized Persons Act (42 U.S.C. 2000cc et seq.), and RCW 35.21.915 (Hosting the homeless by religious organizations).

CHAPTER 19.57
HOME OCCUPATION PERMITS,
CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS

- 19.57.100 Home Occupation Permit Purpose
- 19.57.110 Home Occupation Permit Applicability
- 19.57.120 Home Occupation Permit Exemptions
- 19.57.130 Home Occupation Permit Ineligible Activities
- 19.57.140 Home Occupation Permit Conditions
- 19.57.150 Home Occupation Permit Procedure
- 19.57.160 Home Occupation Permit Violations
- 19.57.200 Conditional Use Permit Purpose
- 19.57.210 Conditional Use Permit Process and Criteria for Approval
- 19.57.220 Conditional Use Permit Development Standards
- 19.57.230 Conditional Use Permit Expiration
- 19.57.240 Conditional Use Permit Modifications
- 19.57.250 Conditional Use Permit Violations
- 19.57.300 Bed and Breakfast Establishments and Short-Term Rentals Purpose
- 19.57.310 Bed and Breakfast and Short-Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short-Term Rental Conditions and Criteria

This chapter addresses uses which may be suitable only under certain conditions in specific locations or when the site is regulated in a particular manner. These uses may require permits that allow for public input as well as City review.

19.57.100 Purpose - Home Occupation Permits

Home Occupation Permits allow commercial activity within residences while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood. Bed and breakfast establishments (B&Bs) and Short-Term Rentals (STRs), also known as vacation rentals, are addressed in this section.

19.57.110 Applicability.

- A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.

- ~~B. Home occupations shall be permitted as an accessory use to residential single family and residential multi-family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.~~
- ~~C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.~~
- ~~D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.~~

19.57.120 Exemptions.

~~The following activities are exempt from the permit requirements of this chapter and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.~~

- ~~C. Those activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.~~
- ~~D. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.~~

19.57.130 Ineligible Activities

~~The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.~~

- ~~B. Retail store fronts with set hours.~~
- ~~B. Rental of products;~~
- ~~C. Vehicle repair, automobile detailing or automobile servicing activities;~~
- ~~D. Medical or professional clinics;~~
- ~~E. Hospitals and mortuaries;~~
- ~~F. Eating and/or drinking establishments;~~
- ~~G. Stables and kennels;~~

19.57.140 Permit Conditions

~~The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.~~

- ~~A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.~~
- ~~B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.~~
- ~~C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.~~
- ~~D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.~~
- ~~E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.~~
- ~~F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.~~
- ~~G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.~~
- ~~H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.~~

~~Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.~~

19.57.150 Permit Procedure.

~~A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:~~

~~1. Permanent Permit~~

~~a) An application may be filed on forms provided by the Planning Department for a permanent home occupation permit. A fee as established by resolution of the City Council shall accompany the application.~~

~~— A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.~~

- b) ~~Within seven days of the submittal, a copy of the application shall be mailed to the list of property owners, other departments within the City, and any other affected government agency. The notice shall state the proposed action of the Planning Director, comments will be considered and final action taken within fifteen days of the date of the notice. Any affected party may request a hearing in front of the Planning Commission to determine if the home occupation will be detrimental to the neighborhood.~~
- c) ~~If a hearing is requested or required it shall be published and held before the Planning Commission in accordance with Title 17 of the Lynden Municipal Code. In addition, the Planning Commission shall use the standards and criteria found in Lynden Municipal Code 19.49.020 to determine whether the application will be detrimental to the neighborhood for its recommendation on the application. The City Council shall make the decision on the application in accordance with Lynden Municipal Code 19.49.020.~~
- d) ~~If no public hearing is required or requested, the Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may arise from the proposed use. In approving the application the Planning Director shall find:~~
 - ~~1) The application is consistent with the conditions of section 19.57.050 above, and~~
 - ~~2) The application meets the standards and criteria listed in Lynden Municipal Code 19.49.020 and the request will not cause detrimental effects to the surrounding neighborhood.~~

~~Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.~~

19.57.160 Violations.

~~C. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of the notice. Should no hearing be requested, the Planning Director's decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden~~

Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.

19.57.200 Purpose - Conditional Use Permits

Conditional Use Permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike Home Occupation Permits, Conditional Use Permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Standards and Criteria for granting a CUP. Conditional Use Process and Criteria for Approval

- A. ~~Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.~~
- B. ~~An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.~~
- C. ~~The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.~~
 - 1. ~~The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.~~
 - 2. ~~The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:~~
 - a. ~~Traffic and pedestrian circulation;~~
 - b. ~~Noise, smoke, fumes, glare or odors generated by the proposed use;~~
 - c. ~~Building and site design; and~~
 - d. ~~The physical characteristics of the subject property.~~
 - 3. ~~The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.~~

- 4. ~~The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.~~
- 5. ~~The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.~~
- 6. ~~There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.~~
- 7. ~~The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.~~
- 8. ~~The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.~~

~~(Ord. 1112 § C, 2001; Ord. 1080 § E, 1999)~~

~~19.49.040 Special conditions for the approval of CUP within West Lynden sub-area.~~

~~In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden sub-area shall also meet the below listed criteria:~~

- A. ~~Multitenant buildings with separate entrances for each tenant shall not be oriented to the guide meridian.~~
- B. ~~Any retail establishment, or combination of retail establishments, in a single building greater than fifteen thousand square feet shall incorporate the following elements in the design:~~
 - 1. ~~Facades in excess of one hundred horizontal feet shall incorporate recesses and projections.~~
 - 2. ~~Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.~~
 - 3. ~~Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured up concrete panels, and prefabricated steel panels are discouraged.~~

~~Restaurants, cafes, and service stations within the CS-3 zone must be located within seven hundred feet of the guide meridian and have frontage on West Main Street.~~

~~(Ord. 1080 § G, 1999)~~

~~19.49.045 Special conditions for approval of CUP for assembly and distribution of products.~~

~~In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria below:~~

- ~~A.— The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use;~~
- ~~B.— A complete selection of the products assembled must be prominently displayed and offered for retail sale on-site;~~
- ~~C.— All storage of supplies and materials must be enclosed or screened from view;~~
- ~~D.— Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.~~

~~(Ord. 1112 § D, 2001).~~

~~(Ord. No. 1390, § D, 2-22-2011)~~

19.57.220 Conditional Use Development Standards

~~The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.~~

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000
Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

~~(Ord. 1080 § H, 1999)~~

19.57.230 One-year validity Conditional Use Expiration.

- ~~A.— Conditional use permits shall expire twelve (12) months after issuance unless construction or the establishment of the use has commenced. The planner may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.~~
- ~~D.— An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.~~

(Ord. 1080 § J, 1999).

19.57.240 Conditional Use Permit Modifications of or addition to, existing conditional uses.

~~Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. Modifications of existing conditional uses, or additions to such uses, Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit.; provided that, in lieu of a new application t The Planning Director planner may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:~~

- ~~1. The addition or modification to the building(s) shall constitute less than ten percent of the total floor area originally approved; and~~
- ~~2. The addition or modification is determined by the planner not to have a significant impact beyond the site based on the criteria listed Section 19.49.020 above or the criteria specific to the sub-area.~~

~~— The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and~~

~~— The addition or modification is determined by the Planning Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.~~

~~— The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.~~

~~— Such additions or modifications approved administratively shall be recorded by the Planning Director on the CUP record.~~

(Ord. 1080 § K, 1999).

19.57.250 Violations

~~Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planning Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.~~

~~Remedies of the city may include criminal enforcement and/or revocation of the conditional use permit.~~

(Ord. 1080 § I, 1999).

19.57.300 Purpose- Bed and Breakfast Establishments and Short-Term Rentals

Bed and Breakfast Establishments and Short-Term Rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.

19.57.310 Applicability.

A. The Planning Director is authorized to approve Bed and Breakfast Establishments and Short-Term Rentals consistent with the regulations of this chapter.

B. Bed and Breakfast Establishments require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted within residential multi family zones, the Historic Business District, the Local Commercial Services zone and are not permitted in the Commercial Regional Service zone (CSR). require a CUP in all single family, RM-3 and RM-4 zones and are out right permitted within the RM-1, RM-2, HBD and CSL zones.

C. Short-Term Rentals require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted in residential multi-family and all commercial zones.

19.57.320 - Conditions and Criteria

C. Regardless of zoning, all proposed Bbed and Bbreakfast establishments and Sshort Tterm Rentals shall be required to show compliance with the standards listed below.

1. A Bbed and Bbreakfast establishment or Sshort Tterm rental shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.

1. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.

2. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.

3. Proprietors of the Bbed and Bbreakfast establishment or Sshort Tterm Rental shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.

4. The applicant shall meet all requirements for the provision of off street parking. Parking shall be adequately screened from the neighboring properties.

5. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each

~~application and renewal. The Public Works Director, Building Inspector or, Fire Chief may require inspections.~~

- ~~6. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "TRANSIENT ACCOMMODATIONS."~~
- ~~7. The operator of a the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.~~
- ~~8. No other business, service or commercial activity may be conducted on the premises. For Bed and Breakfast Establishments: Breakfast only may be served and no meals may be served to the general public.~~

~~D. In addition to the conditions above, Bbed and Bbreakfast establishments or Sshort-Tterm Rrentals proposed within an area requiring a Home Occupation Permit CUP will be required to meet the criteria listed in Section 19.57.210.~~

Section 5. Conflict with Other LMC Provisions. 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. Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, subsection, clause, or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR ON THIS ___ DAY OF _____, 20__.

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

CITY OF LYNDEN



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

PLANNING COMMISSION MEETING

7:00 PM December 15, 2022
Lynden City Hall Annex

1. CALL TO ORDER

2. ROLL CALL

Present: Tim Faber, Blair Scott, Bryan Korthuis Jim Kaemingk, Hollie Lyons, and Darren Johnson.

Absent: Khush Brar.

Staff Present: Gudde, Planning Director, Timmer, City Planner, Samec, City Planner

3. APPROVAL OF MINUTES

A. November 17, 2022, Scott / Korthuis 2nd 6-0

4. PUBLIC HEARING

A. **Draft Ord 1654 – Amending LMC 17 and 19 regarding Community Residential Facilities, Conditional Use Permits, Home Occupation Permits, and Short-Term Rentals**

Gudde summarized Draft Ordinance 1654 as well as a flier regarding Community Residential Facilities.

E2SHB 1220 – A city shall not prohibit transitional housing or permanent supportive housing in any zones in which residential dwelling units or hotels are allowed.

The bill addresses different types of housing. Emergency housing, Transitional housing, Permanent supportive housing.

At present time, the City does not have code to really address these types of housing. Ordinance 1654 proposes to create a framework by which the City has a better understanding of how many residential facilities are within the City and what sort of services they are offered to the community. The City will be creating a registry of facilities so that the community and emergency services are aware of the presence and the potential for additional support services. Lynden will also be working with other cities in Whatcom County to understand the need and availability for supportive housing and associated services. The proposed Ordinance also proposes to maintain a 500 foot buffer around K-12 educational uses in the City and a 300 foot spacing between facilities. This is meant to protect

Homelessness and housing affordability are issues challenging both urban and rural communities throughout the State of Washington. The U.S. Department of Housing and Urban Development (HUD) has reported that the State has seen a 6.2% rise in homelessness between 2019 and 2020. Sadly, the 2020 Annual Homeless Assessment Report indicated a 20% increase in family homelessness in this same time period. This issue has risen to crisis levels in some communities and the State of Washington has responded on multiple fronts.

In May of 2021 House Bill 1220 was passed as a means of motivating cities to actively address support services for homelessness. Specifically, it prohibits municipalities from using zoning code to create barriers to the establishment of community residential facilities such as indoor emergency housing, transitional and permanent supportive housing. Although House Bill 1220 reduces a city’s ability to regulate the location of these facilities, it also states that reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance to protect health and safety for both facility residents and the broader community.

In support of creative housing solutions as cooperative or boarding houses, the State has also prohibited cities from defining the character of a household, that is, how many unrelated adults were considered a “family”. Traditionally this number has been limited to 5 or 6 unrelated adults living in a single dwelling unit.

Draft Ordinance 1654 responds to the State’s legislation and strives to establish reasonable standards for the safe operation and appropriate siting of housing facilities within the City of Lynden. Collectively these are called “Community Residential Facilities” (CRF) in the draft ordinance. Beyond the housing types the State has asked the City to address, this ordinance includes other facilities such as group housing and adult care facilities so that it acts as a comprehensive reference for community residential facilities within the City.

The new code language would be assigned to LMC 19.49. Subsequently the existing contents of LMC 19.49 are proposed to shift to be combined with the contents of LMC 19.57. As part of the amendment some updates and additions have also been proposed and are located in the Commissioners packages.

The following is a list of different types of Community Residential Facilities addressed by the proposed ordinance.

19.49.030 Community Residential Facilities Established: Their classifications, Demographic served, Maximum scale of facility, Permitted zoning and Applicable Codes:

Supportive Housing Adult Family Home

- Persons in need of permanent housing providing personal care and room and board who were experiencing homelessness or were at imminent risk of homelessness.
- Six (6) individuals, up to eight (8) with special approval
- All zoning categories permitting residential dwelling units
- LMC 19.49.050, RCW 35A.21.430 and 70.128

- No spacing requirements

Emergency Housing, Indoor; Emergency Shelter

- Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.
- Small scale facility: six (6) beds. Large scale facility: up to 80 beds.
- HBD, CSL, CSR, and evacuation centers identified in the Whatcom County Natural Hazards Mitigation Plan.
- LMC 19.49.060, RCW 35A.21.430, 43.185C
- Spacing: Unless listed in the Whatcom County Hazards Mitigation Plan a subject EHIF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

Emergency Housing, Outdoor

- Individuals or families requiring shelter due to disaster during an official City of Lynden State of Emergency.
- 200 beds
- Facilities identified as emergency service locations and evacuation centers in the Whatcom County Natural Hazards Mitigation Plan.
- LMC 19.49.070, RCW 35A.21.430, 43.185C
- EHOFS may only be sited on locations identified in the Whatcom County Natural Hazards Mitigation Plan as evacuation centers or emergency services locations

Permanent Supportive Housing Group Homes

- Persons in need of permanent housing in a cooperative environment who were experiencing homelessness or were at imminent risk of homelessness.
- Six (6) individuals in facilities located in SF or RMD zoning categories. All zoning categories permitting hotels and residential dwelling units including SF and RMD categories
- Twelve (12) individuals in all other zoning categories where permitted. All zoning categories permitting hotels and all residential dwelling units except SF and RMD categories.
- LMC 19.49.080, RCW 35A.21.430.
- Spacing. A subject SHGH shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF

Residential Reentry Facilities

- Individuals exiting the adult or juvenile correctional system or under court supervision.
- Three (3) beds. All zoning categories permitting residential dwelling units or hotels.
- Twelve (12) beds. Conditional Use in RM-3, RM-4 and all zones permitting hotels.
- LMC 19.49.090, RCW 35A.21.430.
- Spacing Shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

Transitional Housing Facilities

- Persons experiencing homelessness or at imminent risk of homelessness in need of assistance transitioning into independent living and permanent housing.
- Six (6) individuals. All zoning categories permitting residential dwelling units or hotels.
- Thirty (30) individuals. Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.
- LMC 19.49.100, RCW 35A.21.430.
- Spacing: A subject THF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

Ord 1654 establishes buffers around certain types of CRFs from schools and other CRFs. SHGHs, Reentry Facilities.

Commissioner comments and questions:

Chair Faber gives overview of the hearing, and ground rules for audience participation.

Questions or Comments from the Public:

- Cynthia Sue, 7602 Guide Meridian – concerned about divisiveness about this situation. Please keep people safe.
- Nathan Libolt, 405 N 17th St. Recommend approval as written. Thank you for the hard work, recognizes the need. Appreciates the common sense approach of this document.
- Doris, no address given. Has a hard time with this meeting. Feels the city is being forced and cajoled into providing these types of housing. There is a drug and homelessness problem in this country.
- Bev Sterk. 405 Bluebell Drive. Appreciates the research and clarification put into this ordinance. We can do both (keep kids safe, and provide a housing need) as a

community – one where everyone can flourish. It takes a village. Our religious beliefs compel us to act. The marginalized can be served. Encourage the commission to look at the types of housing individually.

- Miles Davis, 1715 Judson St. Look closely at the definitions associated with the types of housing. Understands the concern, and the efforts to provide safety. Appreciates the Ordinance and the guidance it provides at this time. It can be adjusted.

Gudde: Besides the CRFs and how they are regulated. In the code, this chapter will fit into 19.49. which already exists. So, we shifted that chapter (Conditional Use Permits) to a new section. Also, Short term rentals, which had been regulated as Bed and Breakfast establishments, changes it to a Home Occupation Permit situation. Still requires review, and notification. It does not automatically require a public hearing, unless one is requested by the neighbors.

Faber asked the audience if anyone would like to speak on these issues. No one came forward with additional comments or questions.

Scott motioned to close the public portion of the hearing. Seconded by Korthuis and the motion passed 6-0.

Commission reviewed the package and the specific code sections.

Definitions: 17.01 – Appreciate the section of definitions. The terms are often interchangeable so can be difficult to wrap head around them.

19.15 – No comment

19.17 – No comment

19.18 – No comment

19.23 – Faber states the “Large Scale” facilities are conditional use permits. How do we accommodate emergency housing asap if needed? Gudde states the large scale facilities that are identified in the Whatcom County Hazard Plan do not need a CUP.

LMC 19.49 – Notice definitions are also included here, is that necessary? Can be. In this case, it is probably nice to have those listed here as well. Rather than having to search back in Chapter 17 for them.

Can we include or reword a definition for Short Term Rentals / Bed and Breakfast. LMC 19.57.300 states purpose but may rather be a definition of those things.

LMC 17.01.030 update to the definition of Bed and Breakfast to be 30 days to be consistent with 19.57.30.

No more questions or comments.

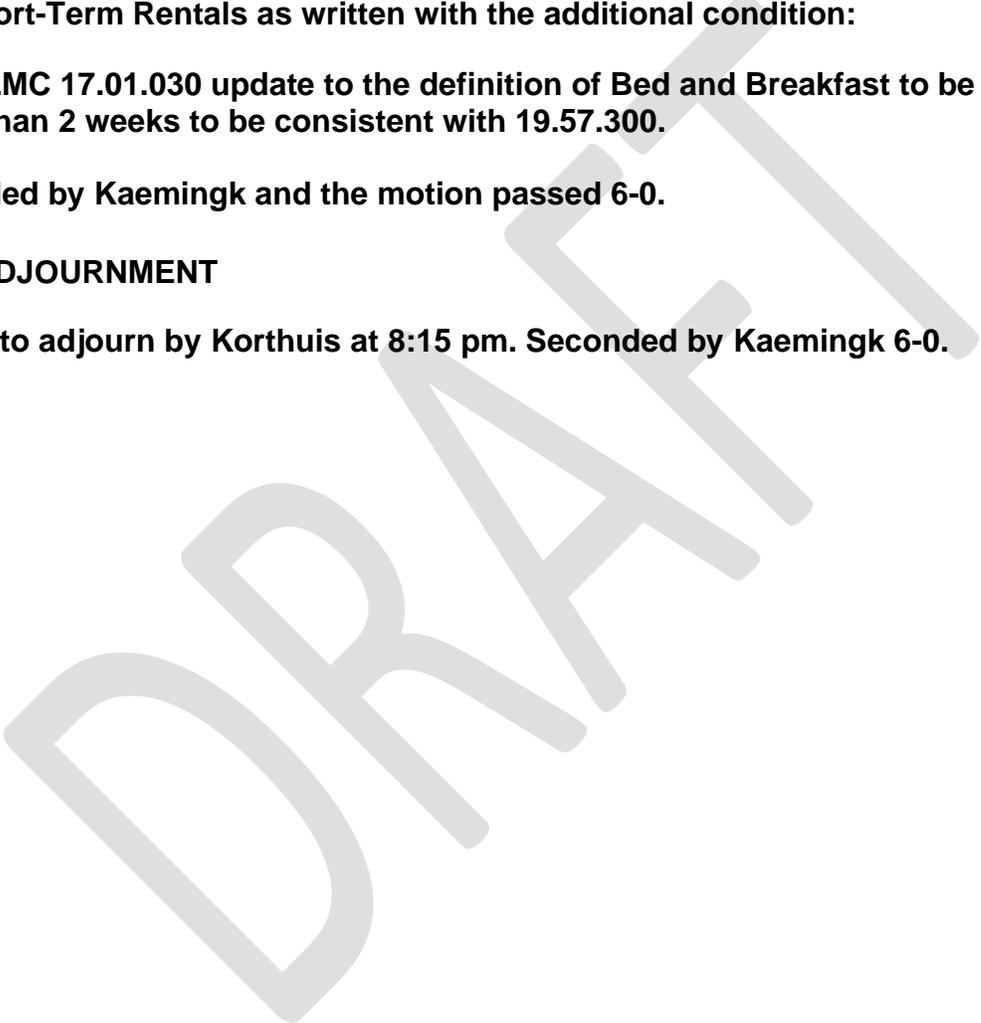
Korthuis made a motion to recommend the approval of Ordinance 1654 regarding Community Residential Facilities, Conditional Use Permits, Home Occupation Permits, and Short-Term Rentals as written with the additional condition:

- **LMC 17.01.030 update to the definition of Bed and Breakfast to be 30 days rather than 2 weeks to be consistent with 19.57.300.**

Seconded by Kaemingk and the motion passed 6-0.

5. ADJOURNMENT

Motion to adjourn by Korthuis at 8:15 pm. Seconded by Kaemingk 6-0.



Planning Commission Recommendation 12/15/23

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ORDINANCE NO. 1654

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ORDINANCE OF THE CITY OF LYNDEN REASSIGNING THE PROVISIONS OF LYNDEN MUNICIPAL CODE CHAPTER 19.49, "CONDITIONAL USE PERMITS" TO CHAPTER 19.57, ADOPTING COMPREHENSIVE ZONING REGULATIONS GOVERNING COMMUNITY RESIDENTIAL FACILITIES AND OTHER GROUP LIVING ARRANGEMENTS TO BE CODIFIED AT CHAPTER 19.49, AND AMENDING APPLICABLE DEFINITIONS IN CHAPTER 17.01.030

WHEREAS, the City of Lynden ("City") notes that House Bill 1220 ("E2SHB 1220"), passed by the Washington State Legislature in May 2021, compels municipalities to support efforts to provide indoor emergency housing, indoor emergency shelters, transitional housing, and permanent supportive housing consistent with Chapters 35.21 and 35A.21 RCW; and

WHEREAS, the Lynden City Council ("City Council") desires to establish reasonable standards for the safe operation and appropriate siting of such facilities and other group living arrangements such as adult family homes and group homes (defined collectively herein as Community Residential Facilities or "CRFs") within the City so as to protect public health and safety for both facility residents and the broader community; and

WHEREAS, this CRF-Zoning Ordinance ("Ordinance") ordinance is intended to provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220 and other applicable state and federal laws; and

WHEREAS, E2SHB 1220 also states that reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance to protect public health and safety as it relates to CRFs; and

WHEREAS, ensuring compliance with existing City development standards and promoting a safe, calm, and focused atmosphere on and near the grounds of City schools are important priorities for the City; and

WHEREAS, populations served by CRFs often have higher instances of substance abuse disorders, mental health conditions, and criminal histories, which can result in disruptive behavior and emergency response activity in and around facilities which is not compatible with the atmosphere the City seeks to promote around City schools; and

WHEREAS, the City's development of reasonable comprehensive zoning regulations pertaining to CRF occupancy, spacing, and intensity of use is necessary prior to establishment of new CRFs in order to protect the public health, safety, welfare, property, and peace in the City; and

WHEREAS, minor amendments to existing code language pertaining to Conditional Use Permits, Home Occupation Permits, Bed and Breakfast Establishments, and Short-Term Rentals are also included as ~~a~~ these sections of code are being assigned new chapter numbers; and

WHEREAS, this Ordinance is declared to be an exercise of the police power of the City, 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 a material part of this Ordinance;

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

~~Section 1. Amendment to LMC Chapter 17.01.030. The following content reflect updates to definitions relevant to this ordinance.~~

~~Section 2. Amend LMC Chapters 19.15, 19.16, 19.17, 19.18, 19.19, and 19.23. The amendment reflects the permitted use of Community Residential Facilities as described in the newly proposed LMC 19.49.~~

~~Section 3. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety, with minor amendments, to a new LMC Chapter 19.57.~~

~~Section 4. Adoption of LMC Chapter 19.49 "Community Residential Facilities". The following new code sections shall entirely replace the existing contents of LMC Chapter 19.49.~~

~~Section 1. Amendment to LMC Chapter 17.01.030. The following definitions codified at LMC 17.01.030 are revised for consistency with this Ordinance.~~

**CHAPTER 17.01
GENERAL PROVISIONS**

17.01.030 Definitions

~~"Adult Family Home" has the same meaning as in LMC 19.49.020. means a regular family abode of a person providing personal care, room and board to more than one, but not more than four adults, not related by blood or marriage to the person or persons providing the care. A maximum of six adults may be permitted if the Department of Social and Health Services determines that the home is of adequate size and the home and provider are capable of meeting standards and qualifications as provided for in RCW Chapters 70.128 and WAC Section 388-76. residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services. Adult Family Homes, for the purposes of this chapter are not considered to be a form of Permanent Supportive Housing instead, see "Group Home" or "Permanent Supportive Housing". Adult Family Homes may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services under RCW 70.128.066. Refer to Supportive Housing Group Homes for facilities that provide a cooperative housing environment that does not provide personal care.~~

"Bed and ~~B~~breakfast" means a dwelling unit with rooms to let as transient accommodations, conducted within a single dwelling unit. ~~For the purpose of this section, a transient shall be defined as a person who stays for a period not to exceed two weeks.~~ Accommodations may include limited food service for guests in accordance with WAC 246-215 and stays are less than (30) days.

"Boardinghouse" or "rooming house" means a structure used for the purpose of providing lodging or lodging and meals, ~~for five or more persons other than those under the "family" definition.~~ This term includes dormitories, cooperative housing and similar establishments but does not include ~~H~~hotels, ~~M~~motels, ~~C~~community ~~R~~esidential ~~c~~are ~~F~~acilities, ~~Short-Term Rentals,~~ medical care facilities, ~~B~~bed and ~~B~~breakfast facilities or multifamily units. These facilities do not have cooking facilities in the sleeping rooms.

~~"Community Residential Facility" or "CRF" has the same meaning as in LMC 19.49.020 is a collective term for the housing categories regulated under Chapter 19.47. This includes a wide variety of group living situations including Adult Family Homes, Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. Many, but not all CRFs regulated under Chapter 19.47 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. For the purposes of this LMC 19.47, facilities primarily intended to serve persons with disabilities as defined in the Fair Housing Act, 42 U.S.C. §§ 3601-3631, including without limitation homes for non-using persons recovering from a substance use disorder, are not considered CRFs and are not regulated by LMC 19.47. See LMC 19.49.020 for additional information.~~

"Dwelling ~~U~~nit" means a single residential living unit providing complete, independent living facilities for ~~not more than one family one or more persons living as a single housekeeping unit. or a congregate residence cooperatively living as a single housekeeping unit, for six or less persons.~~ A dwelling unit includes permanent provisions for living, sleeping, eating, cooking, and sanitation. A mobile or manufactured home, apartment, condominium, townhouse, single-family detached home or accessory dwelling unit is considered to be a dwelling unit.

"Family" means an individual or two or more persons related by blood, marriage, or adoption, or a group ~~not to exceed six~~ of unrelated persons living together as a single housekeeping unit.

~~"Foster ~~H~~ome" means a home licensed and regulated by the state and classified by the state as a foster home, providing to children, or persons age eighteen to twenty-one years who are eligible to receive extended foster care services under RCW 74.13.031, residence, care and assistance in meeting basic needs and accessing medical services, counseling or treatment, and guidance for not more than three unrelated juveniles.~~

"Group ~~C~~are ~~F~~acility" see "Group Home.s" and also ~~"Adult Family Home"~~ means a residential facility, required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes

or those suffering the effects of drugs or alcohol; this does not include day care centers, family day care homes, foster homes, schools, hospitals, jails or prisons.

~~“Group Homes” has the same meaning as in LMC 19.49.020, means community-based, cooperative residential facilities that typically serve five (5) to twelve (12) individuals and may provide 24-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. Groups Homes may be a form of Transitional or Permanent Supportive Housing. When assisting individuals exiting correctional facilities or under court supervision, refer to Residential Reentry Facilities. See LMC 19.49.020 for additional information.~~

~~“Short-Term Rental” means a lodging use, that is not a hotel or motel, in which a short-term rental operator offers or provides a dwelling unit, or a portion thereof, to a guest or guests for a fee for fewer than a residential dwelling unit or a portion thereof, that is not a hotel or motel, that provides lodging to a guest by a short-term rental operator for fewer than thirty (30) consecutive nights.~~

~~“Transient” means a person who stays in an accommodation for a period not to exceed two weeks thirty (30) days.~~

~~“Transient Accommodation” has the same meaning as in LMC 19.49.020, means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than 30 days.~~

Section 2. Amendments to LMC Chapters 19.15, 19.16, 19.17, 19.18, 19.19, and 19.23. The following existing code sections are amended for consistency with this Ordinance.

**CHAPTER 19.15
RS – SINGLE-FAMILY BUILDING ZONES**

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 designated 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 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.
- G. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.

**CHAPTER 19.16
RESIDENTIAL MIXED DENSITY (RMD) ZONES**

19.16.020 Permitted uses.

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

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

D. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.

**CHAPTER 19.17
RM – MULTIFAMILY BUILDING ZONES**

19.17.020 Primary permitted uses.

The primary land uses permitted in the multi-family zones are residential buildings as shown in the table below:

	ZONE				
	RM-1	RM-2	RM-3	RM-4	RM-PC
Single-Family Dwelling Unit	P	P	P	P	P
Duplex Units	P	P	P	P	P
Three or Four units per building	N	P	P	P	P
More than four units per building	N	N	P	P	P*
Designated manufactured homes as defined in Section 17.01.030 of the Lynden Municipal Code	P	P	P	P	P
Mobile homes as defined in LMC Section 17.01.030	N	N	N	N	P
<u>Adult Family Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Permanent Supportive Housing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Large Scale</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>
<u>Transitional Housing Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Transitional Housing Facilities – Large Scale</u>	<u>N</u>	<u>N</u>	<u>P</u>	<u>P</u>	<u>N</u>

P = Permitted Use; N = Not Allowed; P* = Permitted with conditions; C = Conditional Use

19.17.030 Accessory permitted uses.

Accessory permitted uses in the multi-family zones are as follows:

- A. Private Garages.
- B. Carports.
- C. Tool shed, satellite dish, outdoor patios and outdoor fireplaces.
- D. Private swimming pools, as provided in the International Building Code adopted pursuant to Chapter 15.02 of the Lynden Municipal Code and subject to LMC Section 19.37.090.
- E. Accessory dwelling unit (ADU), per Chapter 19.20 LMC,
- F. Recreation areas for occupants.
- G. Mixed uses may be allowed in RM 4 if the use is for the benefit of the occupants only. Such uses include food service or dining room, nursing services, and laundry facilities.

19.17.040 Secondary permitted uses.

Secondary permitted uses in the multi family zones are as follows:

- A. Hobby shops, relating to the hobbies of the occupants of the home and not operated for production and sales purposes.
- B. Greenhouses operated by the occupants, provided the products will not be offered for retail sale on the premises.
- C. Home occupations. See Chapter 19.57.
- D. Gardening and fruit growing not for commercial sale.
- E. General farming, which does not include the commercial feeding of livestock, if the zoning lot is five acres or more in size and meets the requirements outlined in Section 19.39 of this code.
- F. Family day care centers for up to eight individuals, not including the residents of the dwelling unit.
- G. Parks and playgrounds.

~~H. Certain Community Residential Facilities as defined in pursuant to LMC 19.49.~~

~~H. Adult family homes and residential care facilities, up to six adults, when approved by the Washington State Department of Social and Health Services (DSHS).~~

19.17.050 Conditional property uses.

The following property uses may be permitted in multi-family zones by conditional use permit when recommended by the planning commission and approved by the city council.

- A. Public buildings and utility sub-stations.
- B. Club facilities that are directly related to home development such as community swimming pools, privately owned athletic facilities and other similar improvements directly related to residential areas.
- C. Day care facilities for more than eight people with the maximum number of individuals to be determined as part of the conditional use permit process.
- D. Nursing home and assisted living facilities as defined in RCW 74.39A.009.
- E. Bed and breakfast establishments and ~~S~~short-~~T~~term ~~R~~rentals (See Section 19.5749.300030).
- F. House of worship, provided that the lot coverage does not exceed thirty-five percent, the front yard is landscaped and all other parking and landscaping requirements are met.
- G. Schools.

~~H. Certain large scale Community Residential Facilities as defined in pursuant to LMC 19.49.~~

~~Community service facilities operated by a registered non-profit organization providing services to the community such as food banks, outpatient counseling services,~~

~~and church related or outreach ministries. This use is subject to the following conditions in addition to the conditional use criteria established under Section 19.49.020.~~

- ~~1. The use is limited to the RM-4 zones.~~
- ~~2. This use specifically excludes retail sales and any facilities offering in-patient treatment, inpatient counseling, or inpatient rehabilitation.~~
- ~~3. The maximum lot coverage for the proposed facility shall not exceed thirty percent.~~
- ~~4. All parking and landscaping requirements shall be met.~~

**CHAPTER 19.18
PEPIN CREEK SUB-AREA ZONES**

19.18.020 Primary permitted uses within the Pepin Creek Subarea.

The primary permitted uses in the Pepin Creek Subarea are as follows. See Figure 19.18.010-1 to reference the location of applicable secondary, accessory, and conditional uses as well as development standards specific to each zoning category.

- A. Single-family dwelling units, including detached site built single-family dwellings and new manufactured homes. This includes types such as large lot single-family, small lot single-family and cottages.
- B. Single-family attached dwelling units which are ground related, fee simple-ownership units that are attached through shared walls or rooflines. This includes types such as townhomes, units with attached garages, and other innovative types.
- C. Duplex dwelling units.
- D. Multi-family dwelling units typically limited to a maximum of four to eight units per building.
- E. The neighborhood commercial overlay provides an opportunity for a variety of primary permitted uses in key locations. These include personal services, sales of consumer goods, restaurants and cafes, banks and financial institutions, and upper story residential uses as further described in LMC Section 19.18.050.

F. ~~Certain Community Residential Facilities as detailed in~~ pursuant to LMC 19.49.

**CHAPTER 19.19
MH – MANUFACTURED HOME ZONE**

19.19.030 Primary permitted uses.

- A. The primary uses permitted in the MH manufactured home zone is manufactured homes, and manufactured home parks, as provided in this chapter, subject to the minimum standards and conditions set forth in this chapter and within Chapter 18.22.
- B. Site built, detached single-family dwelling units are also considered a permitted use within the MH zone, provided that the total number of site-built houses does not exceed twenty percent of the total units within the manufactured home park or development.
- C. Mobile homes as defined in LMC Section 17.01.030 are prohibited.

D. ~~Certain Community Residential Facilities (CRF) as detailed in~~ pursuant to LMC 19.49. For the purposes of this section, CRFs permitted within SF-Single Family zones are also permitted in the MH zone. ~~CRFs are permitted in the MH zone consistent those permitted within SF-Single Family zones.~~

**CHAPTER 19.23
COMMERCIAL ZONING**

19.23.020 Permitted Uses

The following table shows the uses permitted in each of the zoning areas. Any use that is not listed below is not a permitted use unless it is determined to be comparable to a permitted use by the planning director based on the applicant's statement of use. The applicant shall bear the burden of proof to show how the use is comparable to a listed use.

In the table below, uses are notated as follows: P = Permitted Use; PA = Permitted as an accessory use; N = Not permitted; C = Permitted as a conditional use.

Land Use	HBD	CSL	CRS
<u>Emergency Housing, Indoor; Emergency Shelters – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Emergency Housing, Indoor; Emergency Shelters – Large Scale</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Permanent Supportive Housing</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Residential Reentry Facilities – Small Scale</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential Reentry Facilities – Large Scale</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Transitional Housing Facilities</u>	<u>P</u>	<u>P</u>	<u>P</u>

Section 3. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety, with minor amendments, to a new LMC Chapter 19.57.

CHAPTER 19.57
HOME OCCUPATION PERMITS,
CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS

- 19.57.100 Home Occupation Permit Purpose
- 19.57.110 Home Occupation Permit Applicability
- 19.57.120 Home Occupation Permit Exemptions
- 19.57.130 Home Occupation Permit Ineligible Activities
- 19.57.140 Home Occupation Permit Conditions
- 19.57.150 Home Occupation Permit Procedure
- 19.57.160 Home Occupation Permit Violations
- 19.57.200 Conditional Use Permit Purpose
- 19.57.210 Conditional Use Permit Process and Criteria for Approval
- 19.57.220 Conditional Use Permit Development Standards
- 19.57.230 Conditional Use Permit Expiration
- 19.57.240 Conditional Use Permit Modifications
- 19.57.250 Conditional Use Permit Violations
- 19.57.300 Bed and Breakfast Establishments and Short-Term Rentals Purpose
- 19.57.310 Bed and Breakfast and Short-Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short-Term Rental Conditions and Criteria

This chapter addresses uses which may be suitable only under certain conditions in specific locations or when the site is regulated in a particular manner. These uses may require permits that allow for public input as well as City review.

19.57.100 Purpose - Home Occupation Permits

Home Occupation Permits allow commercial activity within residences while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood. Bed and breakfast establishments (B&Bs) and Short-Term Rentals, also known as vacation rentals, are addressed in this section.

19.57.110 Applicability.

- A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.

B. Home occupations shall be permitted as an accessory use to residential single family and residential multi-family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.

C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.

D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.

19.57.120 Exemptions.

The following activities are exempt from the permit requirements of this chapter and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.

A. Those activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.

B. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.

19.57.130 Ineligible Activities

The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.

A. Retail store fronts with set hours.

B. Rental of products;

C. Vehicle repair, automobile detailing or automobile servicing activities;

D. Medical or professional clinics;

E. Hospitals and mortuaries;

F. Eating and/or drinking establishments;

G. Stables and kennels;

19.57.140 Permit Conditions

The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.

- A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.
- B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.
- C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.
- D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.
- E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.
- F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.
- G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.
- H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.

Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.

19.57.150 Permit Procedure.

- A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:
 - 1. Permanent Permit
 - a) An application may be filed on forms provided by the Planning Department for a permanent home occupation permit. A fee as established by resolution of the City Council shall accompany the application.
 - _____ A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.

- b) Within seven days of the submittal, a copy of the application shall be mailed to the list of property owners, other departments within the City, and any other affected government agency. The notice shall state the proposed action of the Planning Director, comments will be considered and final action taken within fifteen days of the date of the notice. Any affected party may request a hearing in front of the Planning Commission to determine if the home occupation will be detrimental to the neighborhood.
- c) If a hearing is requested or required it shall be published and held before the Planning Commission in accordance with Title 17 of the Lynden Municipal Code. In addition, the Planning Commission shall use the standards and criteria found in Lynden Municipal Code 19.49.020 to determine whether the application will be detrimental to the neighborhood for its recommendation on the application. The City Council shall make the decision on the application in accordance with Lynden Municipal Code 19.49.020.
- d) If no public hearing is required or requested, the Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may arise from the proposed use. In approving the application the Planning Director shall find:
 - 1) The application is consistent with the conditions of section 19.57.050 above, and
 - 2) The application meets the standards and criteria listed in Lynden Municipal Code 19.49.020 and the request will not cause detrimental effects to the surrounding neighborhood.

Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.

19.57.160 Violations.

A. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of the notice. Should no hearing be requested, the Planning Director's decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.

19.57.200 Purpose - Conditional Use Permits

Conditional Use Permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike Home Occupation Permits, Conditional Use Permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Standards and Criteria for granting a CUP. Conditional Use Process and Criteria for Approval

- A. Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.
- B. An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.
- C. The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.
 - 1. The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.
 - 2. The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:
 - a. Traffic and pedestrian circulation;
 - b. Noise, smoke, fumes, glare or odors generated by the proposed use;
 - c. Building and site design; and
 - d. The physical characteristics of the subject property.
 - 3. The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.
 - 4. The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.

- 5. The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.
- 6. There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.
- 7. The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.
- 8. The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.

(Ord. 1112 § C, 2001; Ord. 1080 § E, 1999)

19.49.040 Special conditions for the approval of CUP within West Lynden sub-area.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden sub-area shall also meet the below listed criteria:

- A. Multitenant buildings with separate entrances for each tenant shall not be oriented to the guide meridian.
- B. Any retail establishment, or combination of retail establishments, in a single building greater than fifteen thousand square feet shall incorporate the following elements in the design:
 - 1. Facades in excess of one hundred horizontal feet shall incorporate recesses and projections.
 - 2. Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.
 - 3. Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured up concrete panels, and prefabricated steel panels are discouraged.

Restaurants, cafes, and service stations within the CS-3 zone must be located within seven hundred feet of the guide meridian and have frontage on West Main Street.

(Ord. 1080 § G, 1999)

19.49.045 Special conditions for approval of CUP for assembly and distribution of products.

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria below:

- A. The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use;
- B. A complete selection of the products assembled must be prominently displayed and offered for retail sale on-site;
- C. All storage of supplies and materials must be enclosed or screened from view;
- D. Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.

(Ord. 1112 § D, 2001).

(Ord. No. 1390, § D, 2-22-2011).

19.57.220 Conditional Use Development Standards.

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
<u>Churches</u>	<u>All residential zones</u>	<u>30%</u>	<u>12,000</u>
<u>Schools</u>	<u>Residential</u>	<u>30%</u>	<u>12,000</u>
<u>Schools</u>	<u>Nonresidential</u>	<u>35%</u>	<u>12,000</u>
<u>Utility substations</u>	<u>All zones</u>	<u>35%</u>	<u>8,000</u>
<u>Libraries and post offices</u>	<u>All zones</u>	<u>35%</u>	<u>8,000</u>

(Ord. 1080 § H, 1999).

19.57.230 One-year validity Conditional Use Expiration.

- A. Conditional use permits shall expire twelve (12) months after issuance unless construction or the establishment of the use has commenced. The planner may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.
- B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.

(Ord. 1080 § J, 1999).

19.57.240 Conditional Use Permit Modifications of or addition to, existing conditional uses.

Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. Modifications of existing conditional uses, or additions to such uses. Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit. ; provided that, in lieu of a new application t The Planning Director planner may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:

- A. The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and
- B. The addition or modification is determined by the Planning Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.
- C. The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.
- D. Such additions or modifications approved administratively shall be recorded by the Planning Director on the CUP record.

(Ord. 1080 § K, 1999).

19.57.250 Violations

Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planning Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.

Remedies of the city may include criminal enforcement and/or revocation of the conditional use permit.

(Ord. 1080 § I, 1999).

19.57.300 Purpose- Bed and Breakfast Establishments and Short-Term Rentals

Bed and Breakfast Establishments and Short-Term Rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.

19.57.310 Applicability.

A. The Planning Director is authorized to approve Bed and Breakfast Establishments and Short-Term Rentals consistent with the regulations of this chapter.

B. Bed and Breakfast Establishments require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted within residential multi-family zones, the Historic Business District, the Local Commercial Services zone and are not permitted in the Commercial Regional Service zone (CSR). require a CUP in all single family, RM-3 and RM-4 zones and are out right permitted within the RM-1, RM-2, HBD and CSL zones.

C. Short-Term Rentals require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted in residential multi-family and all commercial zones.

19.57.320 - Conditions and Criteria

A. Regardless of zoning, all proposed Bed and Breakfast establishments and Short Term Rentals shall be required to show compliance with the standards listed below.

1. A Bed and Breakfast establishment or Short-Term rental shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.

1. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.

~~B. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.~~

3. Proprietors of the Bed and Breakfast establishment or Short-Term Rental shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.

4. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.

5. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each application and renewal. The Public Works Director, Building Inspector or, Fire Chief may require inspections.

6. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "TRANSIENT ACCOMMODATIONS."

7. The operator of a the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.

- 8. No other business, service or commercial activity may be conducted on the premises. For Bed and Breakfast Establishments: Breakfast only may be served and no meals may be served to the general public.
- B. In addition to the conditions above, Bed and Breakfast establishments or Short-Term Rentals proposed within an area requiring a Home Occupation Permit CUP will be required to meet the criteria listed in Section 19.57.210.

Section 4. Adoption of LMC Chapter 19.49 "Community Residential Facilities". The following new code sections shall entirely replace the existing contents of LMC Chapter 19.49.

CHAPTER 19.49
COMMUNITY RESIDENTIAL FACILITIES

19.49.010 Purpose.

The purpose of this chapter is to establish reasonable standards for the safe operation and appropriate siting of a wide range of Community Residential Facilities (“CRFs”) within the City of Lynden, so as to protect public health and safety for both facility residents and the broader community. Many, but not all, CRFs regulated under Chapter 19.49 are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. Housing types include single-family homes used for cooperative living, very short-term housing such as emergency shelters, transitional housing that provides support for up to two (2) years, or permanent supportive housing in apartment, detached home, or group settings. Other CRFs may focus on aiding with basic personal needs for adults or children through a Adult Family Homes or Foster Homes Group Homes. This chapter does not include regulations related to camping on public property. These are found in (see LMC Chapter 12.40).

19.49.020 Definitions.

- A. “Adult” means a person who has attained the age of eighteen (18) years.
- B. “~~Supportive Housing~~ Adult Family Home” means a residential home in which a person or persons provide personal care, special care, room, and board to more than one (1) but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services. ~~Supportive Housing Adult Family Homes, for the purposes of this Chapter are not considered to be~~ are a form of Permanent Supportive Housing instead see “Group Home” or “Permanent Supportive Housing”, and therefore are intended to address the needs of persons who were experiencing homelessness or who were at risk of imminent homelessness prior to becoming a resident of the facility. ~~Such Adult Family Homes facilities may provide services to up to eight (8) adults upon approval from the Washington State Department of Social and Health Services under pursuant to the requirements of RCW 70.128.066. Refer to Supportive Housing Group Homes for facilities that provide a cooperative housing environment that does not provide personal care.~~
- C. “Child” means a person who has not yet attained the age of eighteen (18) years.
- D. “City” means the City of Lynden unless some other meaning is apparent from context.
- E. “Community Residential Facility” or “CRF” is a collective term for the housing categories regulated under this chapter. ~~namely~~ This includes a wide variety of group living situations arrangements including Adult Family Homes, Foster Homes, Group Homes, Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. Many, but not all CRFs regulated under this chapter are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. ~~For the~~

~~purposes of this chapter, facilities primarily intended to serve persons with disabilities as defined in the Fair Housing Act, 42 U.S.C. §§ 3601-3631, including without limitation homes for non-using persons recovering from a substance use disorder, are not considered CRFs and are not regulated under this chapter.~~

E. _____

F. “Community School” means any elementary school, middle school, or high school located within the City of Lynden.

G. “Emergency Housing, Indoor” means temporary indoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Such facilities may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.

H. “Emergency Housing, Outdoor” means temporary outdoor accommodations for individuals or families who are homeless or at imminent risk of becoming homeless that are intended to address the basic health, food, clothing, and personal hygiene needs of individuals or families. Emergency housing may or may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may be temporarily established to provide housing and services as a form of disaster relief.

I. “Emergency Shelter” means an indoor or outdoor facility that provides a temporary shelter for individuals or families who are currently homeless. Such facilities may not require occupants to enter into a lease or an occupancy agreement. Facilities within this category may include day cooling and warming centers that do not provide overnight accommodations.

~~I.~~ J. “Evacuation Center” means an indoor or outdoor facility identified in the *Whatcom County Natural Hazards Mitigation Plan* that provides temporary disaster-relief shelter, accommodations or emergency services for individuals or families displaced by disaster during an official City of Lynden Emergency State of Emergency. For the purposes of this chapter, Evacuation Center includes facilities identified in the *Whatcom County Natural Hazards Mitigation Plan* as “Emergency Services” locations.

~~J.~~ K. “Supportive Housing Group Homes” means a community-based, cooperative residential facility that typically serves five (5) to twelve (12) individuals and may provide 24-hour support services. This includes one-on-one support and services based on individual need and the sharing of support within a household. ~~Supportive Housing Groups Homes are may~~ function as Transitional Housing or ~~be a form of Transitional or~~ Permanent Supportive Housing. When assisting individuals exiting

correctional facilities or under court supervision, refer to Residential Reentry Facilities.

~~K.L.~~ “LMC” means the Lynden Municipal Code.

~~L.M.~~ “Permanent Supportive Housing” means subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent Supportive Housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident with community-based health care, treatment, or employment services. Permanent Supportive Housing is subject to all of the rights and responsibilities defined in chapter 59.18 RCW.

~~M.N.~~ “Provider” means the owner, sponsor, or managing agency (as context requires) of a particular Community Residential Facility.

~~N.O.~~ “Residential Reentry Facilities” means a type of Transitional Housing that provides temporary living accommodations for children or adults exiting correctional facilities (including persons who remain under correctional supervision such as probation or parole). Such facilities are meant to provide housing until such persons can move on to permanent housing. For the purposes of this chapter, “halfway homes” and other like reentry facilities shall be classified as Residential Reentry Facilities if such facilities provide essentially the same services and operate with essentially the same intent as Residential Reentry Facilities.

~~O.P.~~ “Transient Accommodation” means any facility such as a hotel, motel, condominium, resort, or any other facility or place offering three or more lodging units to travelers and transient guests for periods of less than 30 days.

~~Q.~~ “Transitional Housing” means a facility that provides temporary housing and supportive services to persons experiencing homelessness or at imminent risk of homelessness for up to 24 months and that has as its purpose facilitating the movement of such persons into independent living and permanent housing. Temporary housing for those exiting correctional facilities or under court supervision is a subset of Transitional Housing regulated separately -within this chapter (refer to Residential Reentry Facilities for the applicable provisions).

19.49.030 Community Residential Facilities established.

<u>Community Residential Facility Classification Type</u>	<u>Demographic Served</u>	<u>Maximum Scale of the Facility</u>	<u>Permitted Zoning Categories</u>	<u>Reference to Applicable Development Standards</u>
<u>Supportive Housing Adult Family Home</u>	<u>Persons in need of permanent housing providing -personal care and room and board. who were experiencing homelessness or were at imminent risk of homelessness</u>	<u>Six (6) individuals adults, up to eight (8) adults with special approval.</u>	<u>All zoning categories permitting residential dwelling units.</u>	<u>LMC 19.49.050</u> <u>RCW 35A.21.430</u> <u>70.128</u>
<u>Emergency Housing, Indoor; Emergency Shelter</u>	<u>Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.</u>	<u>Small scale facility: six (6) beds.</u> <u>Large scale facility: up to 80 beds.</u>	<u>Unless sited on a facility identified as an Evacuation Center in the <u>Whatcom County Natural Hazards Mitigations Plan</u>, permitted only in HBD, CSL, CSR., and evacuation centers identified in the <u>Whatcom County Natural Hazards Mitigation Plan</u>.</u>	<u>LMC 19.49.060</u> <u>RCW 35A.21.430</u> <u>43.185C</u>

<p>Emergency Housing, Outdoor</p>	<p>Individuals or families requiring shelter due to disaster during an official City of Lynden State of Emergency.</p>	<p>Up to 200 beds.</p>	<p>Must be sited on a facility Facilities identified as an Evacuation Center emergency service locations and evacuation centers in the <i>Whatcom County Natural Hazards Mitigation Plan.</i></p>	<p>LMC 19.49.070 RCW 35A.21.430 43.185C</p>
<p>Supportive Housing Group Homes</p>	<p>Persons in need of permanent housing in a cooperative living environment, who were experiencing homelessness or were at imminent risk of homelessness.</p>	<p>Six (6) individuals in facilities located in SF or RMD zoning categories. Maximum occupancy determined per 19.49.080 (C). Twelve (12) individuals in all other zoning categories where permitted</p>	<p>All zoning categories permitting hotels and residential dwelling units including SF and RMD categories.</p>	<p>LMC 19.49.080 RCW 35A.21.430</p>
<p>Permanent Supportive Housing</p>	<p>Persons experiencing homelessness or at imminent risk of homelessness in need of subsidized, leased housing</p>	<p>Maximum density permitted per the underlying zoning category</p>	<p>All zoning categories permitting residential dwelling units. Conditional Use in CSR,</p>	<p>LMC 19.49.110 RCW 35A.21.430</p>

	with no limit on length of stay.	and LMC 19.47.110.	CSL, and HBD.	
Residential Reentry Facilities	Individuals exiting the adult or juvenile correctional system or under court supervision.	Small scale facility: Three (3) beds.	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.090 RCW 35A.21.430
		Large scale facility: up to twelve (12) beds.	Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	
Transitional Housing Facilities	Persons experiencing homelessness or at imminent risk of homelessness in need of assistance transitioning into independent living and permanent housing.	Six (6) individuals	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.100 RCW 35A.21.430
		Thirty (30) individuals	Conditional Use in RM-3, RM-4 and all zoning categories permitting hotels.	

Commented [CM1]: THF section 19.49.100 doesn't say anything about conditional use. Is this a typo? Planning should clarify.

19.49.040 General provisions for all Community Residential Facilities.

A. General Requirements.

- 1. When the CRF site includes more than one (1) type of housing facility more than one (1) CRF definition could apply to a subject facility, the subject facility shall adhere to the more restrictive requirements of this chapter ~~shall apply.~~
- 2. The Provider shall comply with all federal, state, and local laws and regulations, including Whatcom County Department of Health regulations. The Provider shall be subject to inspections by local agencies and/or departments to ensure such compliance and shall implement all directives resulting therefrom within the specified time period.
- 3. All ~~CRFs~~ subject facilities must comply with the provisions of the City of Lynden Building and Construction Code (LMC Title 15).
- 4. Managing agencies and the Lynden Police Department (LPD) or Lynden Fire Department (LFD) shall establish reasonable requirements for appropriate access and coordination for the subject facility and its residents through the CRF approval process.
- 5. Maximum capacities ~~of each facility~~ for a subject facility ~~does not include on-site staff who may also live temporarily or permanently within the facility~~ subject facility.
- 6. Business licensing with the City of Lynden through the Washington State Department of Revenue is required for all ~~CRFs~~ subject facilities.
- 7. ~~CRFs~~ Subject facilities providing Transient Accommodations are not permitted within residential single-family zoning categories. This includes all RS zones as well as RMD and Planned Residential Districts where the underlying zoning category is RS or RMD.
- 8. All ~~CRFs~~ subject facilities must meet applicable residential or commercial design standards depending on the underlying zoning category. Per LMC 19.17.100 and 19.23.060, Design Review Board approval is required for facilities constructed with multiple units or those that are located within a commercial zoning category.

B. Registration with the City of Lynden.

- 1. All ~~CRFs~~ subject facilities are required to apply for registration on the Community Residential Facilities Registry ("Registry") maintained by the City of Lynden. Every ~~CRF~~ subject facility is subject to review and approval depending on the type and scale proposed before it can be included on the Registry.

2. The Registry will be publicly available although the location of a particular CRF-subject facility may be withheld if disclosure would jeopardize the safety of the persons housed therein.
3. The Provider must provide an operation plan at the time of registration that addresses the following elements:
 - a. Name and contact information for key staff.
 - b. Roles and responsibilities of key staff.
 - c. Site and facility management, including security policies and an emergency management plan.
 - d. Site and facility maintenance.
 - e. Applicable licensing from Washington State Department of Social and Health Services or other governing agency.
 - f. Occupancy policies, including resident responsibilities and a code of conduct that addresses, at a minimum, the use or sale of alcohol and illegal drugs, threatening or unsafe behavior, and weapon possession.
 - g. Provisions for human and social services, including staffing plan, credentials or certification, and outcome measures.
 - h. Procedures for maintaining accurate and complete records.
 - i. Coordination with the Lynden Police Department and Lynden Fire Department.
4. Approval process. Refer to the specified code section associated with CRF type to determine the required review and approval process. This may include, but is not limited to, additional application processes beyond the application to the Registry.

19.49.050 ~~Supportive Housing~~ Adult Family Homes.

A. Applicability.

- 1. The subject ~~Supportive Housing~~ Adult Family Home (“SHAFH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. SHAFHs Adult Family Homes are regulated by this chapter as well as by State Law under RCW Chapter 70.128. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.

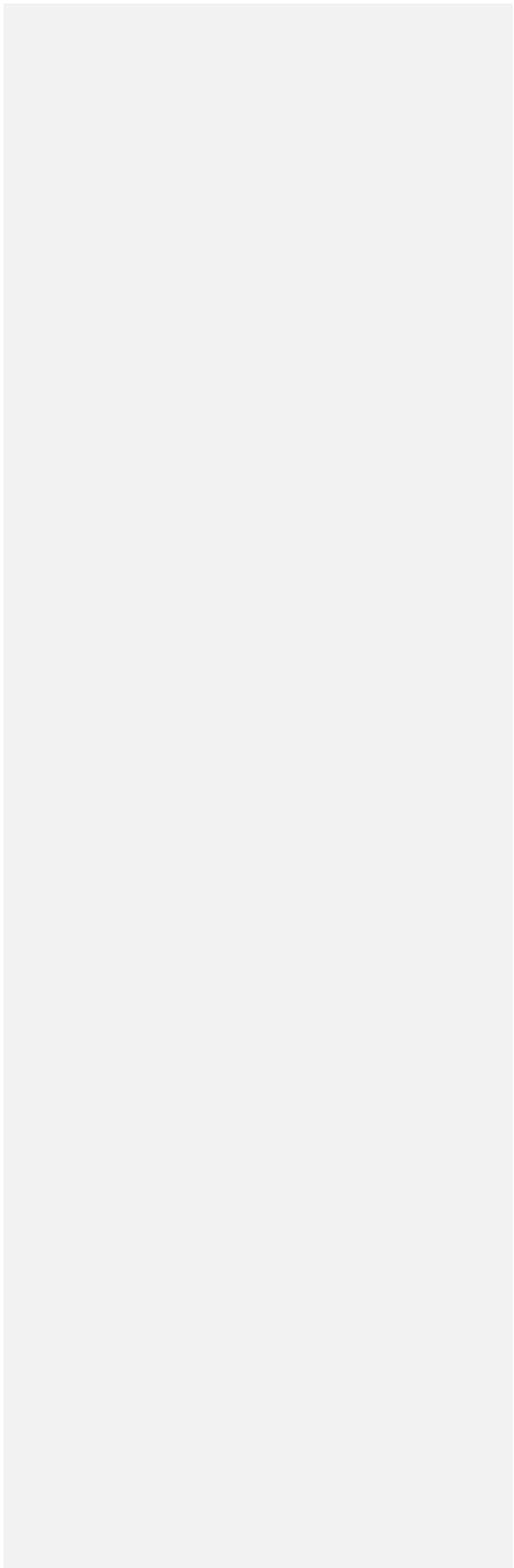
B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of SHAFHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- ~~3. The Provider of a subject SHAFH is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject SHAFH’s property line. The Notice of Decision must provide steps for accessing the subject SHAFH’s information as recorded on the Community Residential Facilities Registry.~~

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale. ~~No more than~~A maximum of six (6) individuals adults unrelated by blood or marriage to the person or persons providing services are permitted unless a group larger than six is a single family unit. However, the subject SHAFH may provide services to up to eight (8) individuals adults upon approval from the Washington State Department of Social and Health Services pursuant to RCW 70.128.066.
- 3. Zoning. SHAFHs are permitted in all residential zoning categories. ~~and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.~~
- 4. Construction and appearance. New construction or modification of an SHAFH must be made consistent with the development standards associated with the underlying zoning category.

Commented [CM2]: Revised to better track definition of Adult Family Homes (as defined herein and under RCW 70.128)



19.49.060 Emergency Housing, Indoor; Emergency Shelter; ~~Evacuation Centers~~

A. Applicability.

1. The subject Emergency Housing, Indoor facility ("EHIF") or ~~or~~ Emergency Shelter facility ("ESF") -must fit within the definition of such facilities set out in LMC 19.49.020.
2. EHIF and ESF facilities are regulated by this chapter as well as by State Law under RCW Chapter 43.185C. In the event of a conflict between the LMC regulations and State regulations, the State regulations shall prevail.
3. This chapter section includes regulations related to ~~three~~ two sub-types of facilities ~~EHIF and ESF facilities: Small Scale facilities (Evacuation Centers, EHIFs (subtyped as either Small Scale or Large Scale), and ESFs (subtyped as either Small Scale or Large Scale). For both EHIFs and ESFs, Small Scale denotes a facility of six (6) or few beds) and Large Scale facilities (denotes a facility of more than six (6) beds).~~
4. The approval process and development standards for EHIFs are identical to ESFs unless otherwise indicated.
5. Note Regarding Evacuation Centers.

- a. ~~Evacuation Center locations are identified in the Whatcom County Natural Hazards Mitigation Plan.~~
- b. Review of Evacuation Center locations will be made concurrent with periodic updates to the Whatcom County Natural Hazards Mitigation Plan.
- 3-c. EHIF and ESF facilities sited on locations identified as Evacuation Centers in the Whatcom County Natural Hazards Mitigation Plan are not subject to the zoning restrictions otherwise applicable to such facilities within this chapter.

B. Approval process.

1. Evacuation Centers:
 - a. Review of evacuation center locations will be made concurrent with periodic updates to the Whatcom County Natural Hazards Mitigation Plan.
 - b. Evacuation centers are not subject to the development standards within this chapter.
- 2-1. Small Scale Emergency Housing, Indoor Facility ("EHIF").

Commented [LP3]: We currently do not have a definition of Evacuation Center, but are using that term as a distinct category here. Should we include one in LMC 19.49.020? Do we want to include Evacuation Centers within the CRF umbrella term?

Commented [CM4R3]: My understanding: →Evacuation Centers (and Emergency Services locations) are not a type of CRF but rather are specific locations (e.g., local schools, large local churches, the fairgrounds etc.) designated in the Whatcom County Natural Hazards Mitigation Plan Designation as places suitable for disaster-relief sheltering and/or staging.

→Designation as Evacuation Centers/Emergency Services location is not something governed by 19.49

→Indoor Emergency Housing facilities, Emergency Shelter facilities, and Outdoor Emergency Housing facilities sited on a location designated as an evacuation center/emergency services location can lawfully exist in that zoning category even if that zoning category is otherwise outside the zoning limitations imposed on such facilities under 19.49

→Consistent with the above understanding, I've created a definition under 19.49.020 and made updates to 19.49.030, 19.49.060, and 19.49.070.

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- a. A subject Small Scale EHIF ~~not identified as an evacuation center per the Whatcom County Natural Hazards Mitigation Plan~~ must apply to the City Planning Department for registration on the Community Residential Facilities Registry.
- b. Small Scale EHIFs are reviewed and approved administratively according to the development standards set out in this chapter and the City's Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director's decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- c. The Provider of a subject Small Scale EHIF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale EHIF's property line. The Notice of Decision must provide steps for accessing the subject Small Scale EHIF's information as recorded on the Community Residential Facilities Registry.

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3-2. Large Scale Emergency Housing, Indoor Facilities ("EHIF").

- a. A subject Large Scale EHIF ~~not identified as an evacuation center per the Whatcom County Natural Hazards Mitigation Plan~~ is considered a conditional use and must secure a Conditional Use Permit.
- b. A subject Large Scale EHIF, in addition to the Conditional Use Hearing, must secure formal approval of the City's Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to Large Scale EHIFs set out in this chapter.
- c. Large Scale EHIFs are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

- 1. EHIFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
- 2. Scale.

- a. A subject Small Scale EHIF shall include no more than six (6) beds.
- b. A subject Large Scale EHIF shall include no more than 80 beds at any one location and there must be a minimum of 35 square feet of floor area per individual.

3. Zoning.

- a. EHIFs are permitted in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
- b. EHIFs are not permitted in any residential, public use, or industrial zoning categories.
- b-c. Notwithstanding the foregoing, a subject EHIF may be sited on a location identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.

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4. Spacing.

- a. Unless listed in the *Whatcom County Hazards Mitigation Plan Aa* subject EHIF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

5. Construction and appearance.

- a. All EHIFs ~~except those listed as evacuation centers in the *Whatcom County Natural Hazards Mitigation Plan*~~ must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, and the additional standards set out herein.
- b. A subject EHIF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of a subject EHIF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
- c. Exterior lighting of a subject EHIF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject EHI facility site in order to limit the impact on neighboring properties.

- d. A subject EHIF must provide off-street parking in accordance with LMC Chapter 19.51.
 - e. A description of transit, pedestrian, and bicycle access from the subject EHIF site to services must be provided at time of application by the Provider.
6. Facility operations. The following standards are required of all EHIFs and must be included in a subject EHIF's written procedures.
- a. Trash receptacles must be provided in multiple locations throughout the subject EHIF and site. A regular trash-cleanup patrol in the immediate vicinity of the EHIF site must be conducted.
 - b. Residents and staff of a subject EHIF must comply with all Whatcom County Health Department regulations applicable to food donations.
 - c. No children are allowed to stay overnight in a subject EHIF, unless accompanied by a parent or legal guardian, or unless the subject EHIF is licensed to provide services to children. If a child without a parent or legal guardian present attempts to stay in a subject EHIF not specifically licensed for providing housing to children, the Provider shall immediately contact the Child Protective Services division of the Washington State Department of Children, Youth & Families and actively endeavor to find alternative housing for the child.
 - d. No person under court supervision or under sex offender registration requirements is allowed to receive services from a subject EHIF, unless providing such services is consistent with the laws, regulations, and supervisory requirements applicable to such person.
7. Required services for Large Scale EHIFs. In addition to the other applicable standards set out in this chapter, Large Scale EHIFs must provide the services set out below and the Conditional Use Permit application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - i. Medical services, including mental and behavioral health counseling.
 - ii. Access to resources on obtaining permanent housing and access to employment and education assistance. (Applicable to EHIFs but not ESFs).

- iii. Substance abuse assistance. (Applicable to ESFs but not EHIFs).
- b. All functions associated with a subject EHIF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject EHIF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject EHIF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject EHIF shall coordinate with other homelessness service providers for referrals to their programs and with other providers of facilities and services for people experiencing homelessness.

19.49.070 Emergency Housing, Outdoor.

A. Applicability.

- 1. An Emergency Housing, Outdoor facility ("EHOFF"), such as a tent city or the collective use of recreational vehicles to provide shelter to disaster victims, is only permitted in situations when the City Council has declared a state of emergency.
- 2. The subject EHOFF must fit within the definition of such facilities set out in LMC 19.49.020.
- 3. EHOFFs may be established for up to sixty (60) days to provide housing and services to address basic health, food, clothing, and personal hygiene needs of individuals or families as a form of disaster relief.
- 4. The City Council may extend the approved time frame for a subject EHOFF beyond sixty (60) days if deemed necessary due to an extended state of emergency.

5. Note Regarding Evacuation Centers.

- a. Evacuation Center locations are identified in the *Whatcom County Natural Hazards Mitigation Plan*.
- b. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.
- ~~4.c.~~ EHOFF facilities must be sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan*.

B. Approval process.

- ~~1. EHOFFs may only be sited on locations identified as Evacuation Centers in the *Whatcom County Natural Hazards Mitigation Plan* as evacuation centers or emergency services locations.~~
- ~~2. Review of Evacuation Center locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan* Review of locations for evacuation centers and emergency services locations will be made concurrent with periodic updates to the *Whatcom County Natural Hazards Mitigation Plan*.~~

~~2.3. _____ INSERT EXPLANATION OF APPROVAL PROCESS.~~

C. Development standards.

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1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.

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2. Scale. A subject EHOFF shall include no more than 200 beds.
4. _____

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~~2.3.~~ Zoning. EHOFFs may only be sited on locations ~~are permitted only in locations identified as Evacuation Centers~~ ~~evacuation centers or emergency services locations~~ in the *Whatcom County Natural Hazards Mitigation Plan*.

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~~3.4.~~ Construction and appearance.

a. Design and organization of EHOFFs is within the purview of the Whatcom County Sheriff's Office Division of Emergency Management, the City Fire Chief, City Administrator, City Chief of Police, and City Public Works Director.

b. EHOFFs must be organized in such a way as to minimize impacts to surrounding neighborhoods. These impacts may include, but are not limited to, disruptions related to traffic, noise, and light.

19.49.080 Group Homes.

A. Applicability.

- 1. The subject Group Home ("GH") facility must fit within the definition of such facilities set out in LMC 19.49.020.
- 2. The Provider of a subject ~~Group Home~~-GH facility may provide 24-hour on-site support services.

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. Review of ~~the Group Home~~GHs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director's decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- 3. ~~When the a subject GH facility is used as~~functioning as ~~Transitional Housing or Permanent Supportive Housing~~ ~~(The Provider of a subject Group Home is~~ responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject ~~SHGH's~~ property line. The Notice of Decision must provide steps for accessing the subject ~~SHGH's~~ information as recorded on the Community Residential Facilities Registry.
 - a. Mailing of a Notice of Decision is not required when a ~~Group Homes~~subject GH facility is affiliated with and adjacent to the facilities of an existing ~~House of Worship~~house of worship.
 - b. Exception to the Mailing of a Notice of Decision may also be waived by the Planning Director if such a notice would jeopardize the safety and security of a subject GH facility's ~~the facility's~~ residents or expose victims of crime or abuse to emotional harm.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
- 2. Scale. ~~A subject SHGH must meet the occupancy standards set out herein.~~
 - a. All bedrooms with one (1) occupant must have at least 70 square feet.

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b. Shared bedrooms must have at least 50 square feet per occupant.

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c. Kitchens and other non-habitable rooms cannot be used as a bedroom.

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2-d. In addition to bedroom space, every GH facility shall provide shared living and dining areas as follows: 120 square feet of living room for GH facilities with two (2) or fewer occupants; 120 square feet of living room and 80 square feet of dining room for GH facilities with three (3) to five (5) occupants; and 150 square feet of living room and 100 square feet of dining room for GH facilities with six (6) or more occupants.

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a. All bedrooms with one (1) occupant must have at least 70 square feet.

b. Shared bedrooms must have at least 50 square feet per occupant.

c. Kitchens and other non-habitable rooms cannot be used as a bedroom.

d. In addition to bedroom space, every facility shall provide shared living and dining area as follows: 120 square feet of living room for facilities with two (2) or fewer occupants; 120 square feet of living room and 80 square feet of dining room for facilities with three (3) to five (5) occupants; and 150 square feet of living room and 100 square feet of dining room for facilities with six (6) or more occupants.

3. Zoning. ~~Group Homes~~GHs are permitted in all residential zoning categories (including SF and RMD).

4. Spacing. A subject ~~Group Home~~GH that is ~~servicing~~functioning as a Transitional Housing Facility or Permanent Supportive Housing shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF. See Residential Reentry Facilities in LMC 19.47.090 for cooperative living facilities which serve individuals exiting the correctional system or under court supervision.

5. Construction and appearance. New construction or modification of a ~~Group Home~~GH must be made consistent with the development standards associated with the underlying zoning category.

19.49.090 Residential Reentry Facilities.

A. Applicability.

1. The subject Residential Reentry Facility (“ResRF”) must fit within the applicable definition of such facilities set out in LMC 19.49.020.
2. ResRFs are regulated by this chapter as well as by State Law. In the event of a conflict between the LMC regulations and the State regulations, the State regulations shall prevail.
3. This chapter includes regulations related to two sub-types of ResRF facilities: Small Scale Facilities (six (6) or fewer beds) and Large Scale Facilities (more than six (6) beds but no more than twelve (12) beds).

B. Approval process.

1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
2. Small Scale Residential Reentry Facilities (“ResRFs”).
 - a. Small Scale ResRFs are reviewed and approved administratively according to the development standards set out in this chapter and the City’s Design Review Guidelines. Said review is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
 - b. The Provider of a subject Small Scale ResRF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject Small Scale ResRF’s property line. The Notice of Decision must provide steps for accessing the subject ResRF’s information as recorded on the Community Residential Facilities Registry.
3. Large Scale Residential Reentry Facilities (“ResRFs”).
 - a. Large Scale ResRFs are considered a conditional use and must secure a Conditional Use Permit.
 - b. A subject Large Scale ResRF, in addition to the Conditional Use Hearing, must secure formal approval of the City’s Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design

Review Guidelines, and the standards applicable to Large Scale ResRFs set out in this chapter.

- c. Large Scale ResRFs are to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

C. Development standards.

1. All ResRFs must demonstrate conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections. This information can be combined with a Conditional Use Permit application if one is required.
2. Scale.
 - a. A subject Small Scale ResRF shall include no more than six (6) beds.
 - b. A subject Large Scale ResRF shall include more than six (6) beds but no more than twelve (12) beds at any one location.
 - c. All ResRFs shall provide a minimum of 350 square feet of floor area per adult resident.
3. Zoning.
 - a. Small Scale ResRFs permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.
 - b. Large Scale ResRFs are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4, CSL, CSR, and HBD zoning categories.
4. Spacing.
 - a. A subject ResRF (whether small scale or large scale) shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
5. Construction and appearance. All Large Scale ResRFs are subject to approval by the City Design Review Board. New construction or modification of such facilities must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit, and the additional standards set out herein.

- a. A subject facility shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
 - b. Exterior lighting of a subject facility must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.
 - c. A subject facility must provide off-street parking in accordance with LMC Chapter 19.51.
 - d. A description of transit, pedestrian, and bicycle access from the subject facility site to services must be provided at time of application by the Provider.
6. Required services for Large Scale ResRFs. In addition to the other applicable standards set out in this chapter, Large Scale ResRFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.
- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - 1. For all facilities, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
 - b. All functions associated with a subject facility, including adequate waiting space, must take place on site.
 - c. The number of toilets and other hygiene facilities required for a subject facility shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
 - d. A subject facility shall have dedicated spaces for residents to meet with service providers
 - e. In order to encourage access to all appropriate services for residents, the Provider of a subject facility shall coordinate with other providers of

[facilities and services for people exiting the correctional system for referrals to their programs.](#)

19.49.100 Transitional Housing Facilities.

A. Applicability.

1. The subject Transitional Housing facility (“THF”) must fit within the definition of such facilities set out in LMC 19.49.020.

4.2. This chapter includes regulations related to two sub-types of THFs: Small Scale Facilities (six (6) or fewer individuals) and Large Scale Facilities (up to thirty (30) individuals).

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B. Approval process.

1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.

2. Review of THFs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director’s decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.

3. The Provider of a subject THF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject THF’s property line. The Notice of Decision must provide steps for accessing the subject THF’s information as recorded on the Community Residential Facilities Registry.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.

2. Scale.

a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.

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b. A subject Small Scale THF shall house a maximum of six (6) individuals (unless a group larger than six is a single family unit).

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c. A subject Large Scale THF shall house a maximum of thirty (30) individuals.

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d. For the purposes of calculating the total number of individuals within a subject THF, children are not included.

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- ~~a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.~~
- ~~b-a. Small Scale THFs with no more than six (6) individuals (unless a group larger than six is a single family unit) are permitted in all residential zoning categories and in all zoning categories where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD.~~
- ~~c. Large Scale THFs with up to thirty (30) individuals are permitted in all zoning categories where lodging and hotel accommodations are permitted, as well as in the RM-3, RM-4 zoning categories when a Conditional Use Permit is secured., CSL, CSR, and HBD zoning categories.~~
- ~~d.~~
- ~~e. For the purposes of calculating the total number of individuals within a subject THF, children are not included.~~

2.4. Spacing.

- a. A subject THF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

3.5. Construction and appearance. All THFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a THF must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, and the additional standards set out herein.

- a. A subject THF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject THF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.
- b. Exterior lighting of a subject THF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject THF site in order to limit the impact on neighboring properties.
- c. A subject THF must provide off-street parking in accordance with LMC Chapter 19.51.

- d. A description of transit, pedestrian, and bicycle access from the subject THF site to services must be provided at time of application by the Provider.

4-6. Required services for THFs. In addition to the other applicable standards set out in this chapter, THFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.

- a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:
 - a. For all THFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.
- b. All functions associated with a subject THF, including adequate waiting space, must take place on site.
- c. The number of toilets and other hygiene facilities required for a subject THF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.
- d. A subject THF shall have dedicated spaces for residents to meet with service providers
- e. In order to encourage access to all appropriate services for residents, the Provider of a subject THF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

19.49.110 Permanent Supportive Housing

Commented [CM5]: Formatting of this section has been revised heavily to be consistent with other sections of 19.49

A. Applicability.

- 1. The subject Permanent Supportive Housing facility ("PSHF") must fit within the definition of such facilities set out in LMC 19.49.020.

B. Approval process.

- 1. Application must be made to the City Planning Department for registration on the Community Residential Facilities Registry.
- 2. PSHFs are reviewed and approved administratively according to the development standards set out in this chapter and the City's Design Review Guidelines. Said review of PSHFs is conducted by the Technical Review Committee with final approval determined by the Planning Director. Appeal of the Planning Director's decision can be made to the hearing examiner consistent with LMC Chapter 17.11. The appeal window of this administrative decision does not begin until notices are mailed as further provided herein.
- 3. The Provider of a subject PSHF is responsible for mailing a Notice of Decision via certified mail to all property owners within 300 feet of the subject PSHF's property line. The Notice of Decision must provide steps for accessing the subject PSHF's information as recorded on the Community Residential Facilities Registry.

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- 4. Notwithstanding the foregoing, PSHFs located where lodging and hotel accommodations are permitted within a commercial zoning category are considered a conditional use and must secure a Conditional Use Permit. A subject PSHF, in addition to the Conditional Use Hearing, must secure formal approval of the City's Design Review Board. Review by the Design Review Board does not require a second public hearing. The review must consider any conditions of approval associated with the Conditional Use Permit, the City of Lynden Design Review Guidelines, and the standards applicable to PSHFs set out in this chapter. A subject PSHF is to be included on the Community Residential Facilities Registry only after Design Review Board approval is secured and a Conditional Use Permit has been issued.

Commented [CM6]: Revised for consistency with CUP process outlined for other CRFs herein.

C. Development standards.

- 1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required. This information can be combined with a Conditional Use Permit application if one is required.

2. Construction and design must be consistent with the standards associated with the underlying zoning category.

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2. Scale

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a. All PSHFs shall provide a minimum of 500 square feet of floor area per dwelling unit and maximum occupancy shall not exceed 350 square feet per adult resident.

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3. Zoning.

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a. PSFHs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.

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b. PSFHs are permitted where lodging and hotel accommodations are permitted (this includes the CSL, CSR, and the HBD zoning categories) subject to a Conditional Use Permit.

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4. Spacing.

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a. A subject PSHF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

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5. Construction and appearance. All PSFHs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, any conditions of approval associated with the Conditional Use Permit (if applicable), and the additional standards set out herein.

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a. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject facility shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.

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b. Exterior lighting of a subject PSHF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well-lit but light must be directed downward so that glare is contained within the subject facility site in order to limit the impact on neighboring properties.

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c. A subject PSHF must provide off-street parking in accordance with LMC Chapter 19.51.

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d. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the Provider.

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6. Required services for PSHFs. In addition to the other applicable standards set out in this chapter, PSHFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.

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a. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:

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1. For all PSHFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.

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b. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.

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c. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the City Building Official on a case-by-case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.

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d. A subject PSHF shall have dedicated spaces for residents to meet with service providers.

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e. In order to encourage access to all appropriate services for residents, the Provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.

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3. and Zoning

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1. PSHFs are permitted in all residential zoning categories. Maximum unit density must be consistent with the underlying zoning category.

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2. PSHFs are Conditional Uses where lodging and hotel accommodations are permitted. This includes CSL, CSR, and the HBD zones.

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~~3. Occupancy. PSHF shall provide a minimum of 500 square feet of floor area per dwelling unit and maximum occupancy shall not exceed 350 square feet per adult occupant.~~

~~D. Spacing:~~

~~1. A subject PSHF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.~~

~~E. Construction and appearance. All PSHFs within a multi-family zoning category (RM) or commercial zoning category (CSL or CSR) are subject to approval by the City Design Review Board. New construction or modification of a PSHF must be made consistent with the development standards associated with the underlying zoning category, the City's Design Review Guidelines, and the additional standards set out herein.~~

~~1. A subject PSHF shall match the bulk and scale of residential uses allowed in the zone where the facility is located. The design, construction, appearance, physical integrity, and maintenance of the subject PSHF shall provide an environment that is attractive, sustainable, functional, appropriate for the surrounding community, and conducive to health, safety, and stability of residents.~~

~~2. Exterior lighting of a subject PSHF must comply with requirements of the City's Design Review Guidelines for site lighting. Pedestrian and parking areas must be well lit but light must be directed downward so that glare is contained within the subject PSHF site in order to limit the impact on neighboring properties.~~

~~3. A subject PSHF must provide off street parking in accordance with LMC Chapter 19.51.~~

~~4. A description of transit, pedestrian, and bicycle access from the subject PSHF site to services must be provided at time of application by the Provider.~~

~~5. Required services for PSHFs. In addition to the other applicable standards set out in this chapter, PSHFs must provide the services set out below and the Registry application must include enough detail to demonstrate compliance.~~

~~6. Residents shall have access to the following services on site; if not provided on site, transportation shall be provided:~~

~~a. For all PSHFs, medical services, including mental and behavioral health counseling; access to resources on obtaining permanent housing and access to employment and education assistance; and substance abuse assistance.~~

- ~~F. All functions associated with a subject PSHF, including adequate waiting space, must take place on site.~~
- ~~G. The number of toilets and other hygiene facilities required for a subject PSHF shall be determined by the City Building Official on a case by case basis in consultation with the Whatcom County Health Department after a review of factors such as the potential number and composition of residents.~~
- ~~H. A subject PSHF shall have dedicated spaces for residents to meet with service providers~~
- ~~I. In order to encourage access to all appropriate services for residents, the Provider of a subject PSHF shall coordinate with other providers of services for people experiencing homelessness or at imminent risk of homelessness for referrals to their programs.~~

19.49.120 Construction.

A. Measurement standard.

- 1. For the purposes of the spacing requirements established in this chapter, distance shall be measured in a straight line between the closest property line of the subject CRF facility and the closest property line of the Community School or other approved CRF.

19.49.130 Exceptions.

A.C. Reasonable accommodations.

- 1. The Fair Housing Act ("FHA"), 42 U.S.C. 3604(f)(3)(B), requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The Planning Director is therefore authorized to make accommodations in the provisions of this

chapter as applied to CRFs occupied or to be occupied by persons with disabilities as defined in the FHA, when the Planning Director determines that such accommodations reasonably may be necessary in order to comply with the requirements of the FHA.

B.D. Religious organizations.

1. Nothing in this chapter shall be applied to the extent it would infringe upon a religious organization's ability to serve the homeless consistent with a sincere religious belief as protected under the First Amendment of the United States Constitution, Article I § 11 of the Washington State Constitution, the Religious Land Use and Institutionalized Persons Act (42 U.S.C. 2000cc et seq.), and RCW 35.21.915 (Hosting the homeless by religious organizations).

CHAPTER 19.57
HOME OCCUPATION PERMITS,
CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS

- 19.57.100 Home Occupation Permit Purpose
- 19.57.110 Home Occupation Permit Applicability
- 19.57.120 Home Occupation Permit Exemptions
- 19.57.130 Home Occupation Permit Ineligible Activities
- 19.57.140 Home Occupation Permit Conditions
- 19.57.150 Home Occupation Permit Procedure
- 19.57.160 Home Occupation Permit Violations
- 19.57.200 Conditional Use Permit Purpose
- 19.57.210 Conditional Use Permit Process and Criteria for Approval
- 19.57.220 Conditional Use Permit Development Standards
- 19.57.230 Conditional Use Permit Expiration
- 19.57.240 Conditional Use Permit Modifications
- 19.57.250 Conditional Use Permit Violations
- 19.57.300 Bed and Breakfast Establishments and Short-Term Rentals Purpose
- 19.57.310 Bed and Breakfast and Short-Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short-Term Rental Conditions and Criteria

This chapter addresses uses which may be suitable only under certain conditions in specific locations or when the site is regulated in a particular manner. These uses may require permits that allow for public input as well as City review.

19.57.100 Purpose - Home Occupation Permits

Home Occupation Permits allow commercial activity within residences while ensuring that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood through, noise, traffic, safety hazards, or any other public nuisances not typical to the neighborhood. Bed and breakfast establishments (B&Bs) and Short-Term Rentals (STRs), also known as vacation rentals, are addressed in this section.

19.57.110 Applicability.

- A. The Planning Director is authorized to approve home occupation permits consistent with the regulations of this chapter.

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- ~~B. Home occupations shall be permitted as an accessory use to residential single family and residential multi family uses in all zones, provided that the home occupation is clearly and obviously subordinate to the main use or dwelling unit for residential purposes.~~
- ~~C. Home occupations shall be conducted wholly within the primary structure or existing accessory building on the premises. The primary use of the premises shall be residential and at no time shall the home occupation become the predominate use.~~
- ~~D. The home occupation must be conducted by a resident of the dwelling unit. Only one home occupation permit may be in effect at any one time on the premises.~~

19.57.120 Exemptions:

~~The following activities are exempt from the permit requirements of this chapter and shall be considered an accessory use and permitted outright with no permit required. However, exempt activities are subject to all conditions of this chapter specifically 19.57.050. In addition, complaints on any exempt activity will cause review of exempt status.~~

- ~~A. These activities which involve office work for a business primarily conducted elsewhere, has no outward manifestation of the business and has no customers or employees visiting the premises; shall be considered exempt.~~
- ~~B. Part-time instructional activities such as but not limited to, tutoring, fine arts and music lessons provided that there is no negative impact to the neighborhood and surrounding areas.~~

19.57.130 Ineligible Activities

~~The following activities are not eligible for a home occupation permit because of their incompatibility with the character of a residential neighborhood.~~

- ~~A. Retail store fronts with set hours;~~
- ~~B. Rental of products;~~
- ~~C. Vehicle repair, automobile detailing or automobile servicing activities;~~
- ~~D. Medical or professional clinics;~~
- ~~E. Hospitals and mortuaries;~~
- ~~F. Eating and/or drinking establishments;~~
- ~~G. Stables and kennels;~~

19.57.140 Permit Conditions

~~The following standards shall apply to all home occupations. An applicant wishing to apply for a business license for a home occupation must demonstrate compliance with these standards prior to obtaining a business license. The home occupation shall be conducted in a manner which will not alter the normal residential character of the premises or the surrounding neighborhood.~~

- ~~A. The home occupation does not involve equipment or processes that introduce noise, smoke, dust, fumes, vibrations, odors, or any other hazardous substance in excess of those normally common to residential areas.~~
 - ~~B. Business visitors or customers shall be limited to a combined total of ten (10) visits per week with no more than a combined total of five (5) visits per day.~~
 - ~~C. Materials, goods or commodities shall be delivered to or from the premises where the home occupation is located between the hours of 8:00 a.m. to 7:00 p.m. Truck delivery or pick-up not common to a residential neighborhood is not allowed.~~
 - ~~D. The home occupation shall not exceed twenty-five percent of the floor area of the primary structure or fifty percent of an accessory building on the premises.~~
 - ~~E. There shall be no exterior modification of the primary structure or accessory building in order to accommodate the home occupation, nor shall there be any outward manifestation of the home occupation. The home occupation shall not be visible or audible from any property line.~~
 - ~~F. No more than one assistant or employee, in addition to the resident(s), may engage in the home occupation on the premises. However, for home occupations that do not generate business visitors, additional employees may be allowed at the sole discretion of the Planning Director. Non-resident working hours must take place between 7:00am and 7:00pm to avoid neighborhood disruption.~~
 - ~~G. Adequate on-site parking shall be provided for all employees of the home occupation and under no circumstances shall such parking cause negative traffic or parking impacts for the neighborhood.~~
 - ~~H. A flat unlighted sign flush against the primary structure or accessory building is allowed. Such sign shall not exceed four square feet in area. The sign shall state only the name, address and phone number of the occupant and the home occupation.~~
- ~~Any variance to the above conditions or restrictions must be approved by the Planning Commission through a hearing process outlined in this chapter.~~

19.57.150 Permit Procedure.

- ~~A. For home occupations that are not exempt from the permit requirements of this chapter, the following process and procedures apply:

 - ~~1. Permanent Permit

 - ~~a) An application may be filed on forms provided by the Planning Department for a permanent home occupation permit. A fee as established by resolution of the City Council shall accompany the application.~~
 - ~~— A list of property owners within three hundred (300) feet of the applicant's parcel shall be submitted as part of the application and shall reflect the latest available records of the Whatcom County Assessor's office.~~~~~~

- b) ~~Within seven days of the submittal, a copy of the application shall be mailed to the list of property owners, other departments within the City, and any other affected government agency. The notice shall state the proposed action of the Planning Director, comments will be considered and final action taken within fifteen days of the date of the notice. Any affected party may request a hearing in front of the Planning Commission to determine if the home occupation will be detrimental to the neighborhood.~~
- c) ~~If a hearing is requested or required it shall be published and held before the Planning Commission in accordance with Title 17 of the Lynden Municipal Code. In addition, the Planning Commission shall use the standards and criteria found in Lynden Municipal Code 19.49.020 to determine whether the application will be detrimental to the neighborhood for its recommendation on the application. The City Council shall make the decision on the application in accordance with Lynden Municipal Code 19.49.020.~~
- d) ~~If no public hearing is required or requested, the Planning Director shall have the authority to approve, deny or to place additional conditions on the application as deemed necessary to protect the surrounding neighborhood from any detrimental impact which may arise from the proposed use. In approving the application the Planning Director shall find:~~
 - ~~1) The application is consistent with the conditions of section 19.57.050 above, and~~
 - ~~2) The application meets the standards and criteria listed in Lynden Municipal Code 19.49.020 and the request will not cause detrimental effects to the surrounding neighborhood.~~

~~Once a home occupation permit has been issued, it shall not be transferable to another person, entity, business or location, nor shall the specified conditions be changed in any manner except upon reapplication.~~

19.57.160 Violations:

~~A. If the Planning Director finds that the home occupation use violates the conditions of a home occupation use permit or this chapter, the Planning Director shall notify the permit holder or licensee in writing of the decision that the home occupation use permit or business license shall be suspended or revoked unless the violation is abated. The permit holder or licensee may request a hearing within fourteen (14) days of receipt of the notice. Should no hearing be requested, the Planning Director's decision shall be the final decision of the City of Lynden. If a hearing is requested, the Planning Commission shall issue its recommendation to the City Council on the Planning Director's decision which may include additional conditions consistent with this chapter, after a public hearing of which, notice is provided pursuant to Lynden Municipal Code 17.07.030 and the City Council shall make the final decision for the City of Lynden.~~

19.57.200 Purpose – Conditional Use Permits

Conditional Use Permits regulate certain uses which, because of their size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses. Unlike Home Occupation Permits, Conditional Use Permits may be proposed in multiple zoning categories including commercial and industrial areas.

19.57.210 Standards and Criteria for granting a CUP. Conditional Use Process and Criteria for Approval

- A. ~~Certain uses may be allowed by a CUP granted by the City Council, after it receives the recommendation of the Planning Commission. The Planning Commission shall issue its recommendation after a public hearing on the CUP application. In the application and during the hearing process, it shall be clearly shown by the applicant that the proposed use is not detrimental to the surrounding area or a liability to adjacent uses. For the purpose of this chapter, the surrounding area, or neighborhood, means those parcels that are in close proximity to the subject parcel.~~
- B. ~~An application for a CUP may be made only for those uses specified under the conditional use section of the appropriate zoning district. See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code for application details.~~
- C. ~~The Planning Commission and Council shall enter findings to support any recommendation or decision on a CUP application. Conditions may be attached to CUP approvals to mitigate any adverse impacts, protect surrounding properties and to promote the general welfare of the public. A CUP will be granted only if the proposed use complies with the standards and criteria listed below. The applicant shall bear the burden of proof in all CUP proceedings.~~
 - 1. ~~The proposed use in the proposed location will not be detrimental to surrounding uses legally existing or permitted outright within the zoning district.~~
 - 2. ~~The proposed use, together with proposed mitigation, will not be detrimental to public health or safety and will be compatible with the surrounding area and land uses with respect to the following:~~
 - a. ~~Traffic and pedestrian circulation;~~
 - b. ~~Noise, smoke, fumes, glare or odors generated by the proposed use;~~
 - c. ~~Building and site design; and~~
 - d. ~~The physical characteristics of the subject property.~~
 - 3. ~~The proposed use is supported by adequate public facilities and services unless conditions can be established to mitigate adverse impacts to those facilities or services.~~
 - 4. ~~The traffic generated by the proposed use will not cause the traffic circulation system in the vicinity to deteriorate below the adopted level of service.~~

- 5. ~~The proposed use complies with the performance standards, parking requirements, height, setback and lot coverage requirements, landscaping standards and other provisions of the Lynden Municipal Code.~~
- 6. ~~There are adequate buffering devices, as specified in the landscape standards, or other topographic characteristics, to protect the adjacent properties from adverse impacts of the proposed use.~~
- 7. ~~The proposed use will not destroy or substantially damage any natural, scenic or historic feature of major importance.~~
- 8. ~~The proposed use is generally consistent with the purposes and objectives of the city comprehensive plan and applicable sub-area plan.~~

~~(Ord. 1112 § C, 2001; Ord. 1080 § E, 1999)~~

~~19.49.040 Special conditions for the approval of CUP within West Lynden sub-area.~~

~~In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, CUP applicants in the West Lynden sub-area shall also meet the below listed criteria:~~

- A. ~~Multitenant buildings with separate entrances for each tenant shall not be oriented to the guide meridian.~~
- B. ~~Any retail establishment, or combination of retail establishments, in a single building greater than fifteen thousand square feet shall incorporate the following elements in the design:~~
 - 1. ~~Facades in excess of one hundred horizontal feet shall incorporate recesses and projections.~~
 - 2. ~~Windows, awnings and arcades shall total at least sixty percent of the facade length abutting a public street.~~
 - 3. ~~Predominant exterior building materials shall be of high quality, including, but not limited to, brick, wood, sandstone, or other native stone, and tinted/textured up concrete panels, and prefabricated steel panels are discouraged.~~

~~Restaurants, cafes, and service stations within the CS-3 zone must be located within seven hundred feet of the guide meridian and have frontage on West Main Street.~~

~~(Ord. 1080 § G, 1999)~~

~~19.49.045 Special conditions for approval of CUP for assembly and distribution of products.~~

In addition to being required to satisfy the general CUP standards and criteria listed in Section 19.49.020, applicants for a CUP for the assembly of products shall also meet the criteria below:

- ~~A. The applicant must demonstrate the need to locate within the CSL zone rather than an industrial zone in terms of the availability of sites suitable to the proposed use;~~
- ~~B. A complete selection of the products assembled must be prominently displayed and offered for retail sale on-site;~~
- ~~C. All storage of supplies and materials must be enclosed or screened from view;~~
- ~~D. Hours of retail sales operations must be consistent with surrounding businesses. This will not affect the hours of operation for assembly of products.~~

~~(Ord. 1112 § D, 2001).~~

~~(Ord. No. 1390, § D, 2-22-2011)~~

19.57.220 Conditional Use Development Standards.

The following uses are conditional in the zones listed below and are subject to the following restrictions, in addition to the standards and criteria in Section 19.49.020.

<u>Use</u>	<u>Zone</u>	<u>Maximum Lot Coverage</u>	<u>Minimum Lot Size in Square Feet</u>
Churches	All residential zones	30%	12,000
Schools	Residential	30%	12,000
Schools	Nonresidential	35%	12,000
Utility substations	All zones	35%	8,000
Libraries and post offices	All zones	35%	8,000

~~(Ord. 1080 § H, 1999)~~

19.57.230 One-year validity Conditional Use Expiration.

- ~~A. Conditional use permits shall expire twelve (12) months after issuance unless construction or the establishment of the use has commenced. The planner may extend the expiration date by six months upon written request and evidence that the applicant intends to activate the permit within that time limit.~~
- ~~B. An application for a CUP that has not been approved or has been denied in whole or in part shall not be resubmitted for a period of one year from the date of such denial.~~

(Ord. 1080 § J, 1999).

19.57.240 Conditional Use Permit Modifications of or addition to existing conditional uses:

~~Conditional uses are often dynamic in nature offering new services or expanding based on community needs or market demands. Modifications of existing conditional uses, or additions to such uses, Significant modifications or expansions of existing conditional uses, or additions to such uses, shall require application for an additional conditional use permit. ; provided that, in lieu of a new application t The Planning Director planner may administratively consider, approve, or disapprove additions or modifications to an approved conditional use when such addition or modification meets the following criteria:~~

- ~~1. The addition or modification to the building(s) shall constitute less than ten percent of the total floor area originally approved; and~~
- ~~2. The addition or modification is determined by the planner not to have a significant impact beyond the site based on the criteria listed Section 19.49.020 above or the criteria specific to the sub-area.~~

~~— The addition or modification to the building(s) is not inconsistent with the use which was originally approved; and~~

~~— The addition or modification is determined by the Planning Director not to have a significant impact beyond the site based on the criteria listed Section 19.57.210 above or the criteria specific to the sub-area.~~

~~— The modification or expansion is appropriately screened, can meet minimum setback requirements, and does not exceed maximum lot coverage.~~

~~— Such additions or modifications approved administratively shall be recorded by the Planning Director on the CUP record.~~

(Ord. 1080 § K, 1999).

19.57.250 Violations

~~Any CUP that is issued, shall certify the location, nature and extent of the uses, together with all conditions that are imposed and other information deemed necessary for the issuance of the permit. A copy of the permit shall be kept on file and reviewed annually by the Planning Director. If at any time it is found that the use no longer complies with the conditions specified therein the owner shall be declared in violation of this chapter.~~

~~Remedies of the city may include criminal enforcement and/or revocation of the conditional use permit.~~

(Ord. 1080 § I, 1999).

~~19.57.300 Purpose – Bed and Breakfast Establishments and Short Term Rentals~~

~~Bed and Breakfast Establishments and Short Term Rentals allow lodging that is not a hotel or motel, in which a dwelling unit, or portion thereof is offered or provided to a guest by a short-term rental operator for fewer than thirty consecutive nights.~~

~~19.57.310 Applicability.~~

~~A. The Planning Director is authorized to approve Bed and Breakfast Establishments and Short Term Rentals consistent with the regulations of this chapter.~~

~~B. Bed and Breakfast Establishments require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted within residential multi-family zones, the Historic Business District, the Local Commercial Services zone and are not permitted in the Commercial Regional Service zone (CSR). require a CUP in all single family, RM 3 and RM 4 zones and are out right permitted within the RM 1, RM 2, HBD and CSL zones.~~

~~C. Short Term Rentals require a Home Occupation Permit in all residential single family and residential mixed density zones and are outright permitted in residential multi-family and all commercial zones.~~

~~19.57.320 – Conditions and Criteria~~

- ~~A. Regardless of zoning, all proposed Bbed and Bbreakfast establishments and Schort Tterm Rrentals shall be required to show compliance with the standards listed below.~~
- ~~1. A Bbed and Bbreakfast establishment or Schort Tterm rental shall appear as any other single-family residence within the surrounding area. One flat, unlighted sign, not exceeding 16 square feet mounted flush against the building will be permitted. In addition, a single monument sign may be permitted if it meets the requirements for monument signs within Chapter 19.33.~~
- ~~2. The applicant shall comply with local fire and building codes and guidelines fixed by the city fire chief and building inspector, including, but not limited to adequate exits as required by the Uniform Building Codes. A smoke alarm and a household size fire extinguisher shall be present in each guestroom.~~
- ~~C. A telephone shall be available for occupant use with emergency numbers and the address of the establishment posted.~~
- ~~3. Proprietors of the Bbed and Bbreakfast establishment or Schort Tterm Rrental shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.~~
- ~~4. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.~~
- ~~5. An annual business license shall be required and an inspection fee, in an amount set by resolution of the Lynden City Council, shall accompany each application and~~

~~renewal. The Public Works Director, Building Inspector or, Fire Chief may require inspections.~~

~~6. Dwellings with more than two rooms available for guests shall be considered transient accommodations and will be subject to regulation by the State Board of Social and Health Services under Chapter 248-144 WAC "TRANSIENT ACCOMMODATIONS."~~

~~7. The operator of a the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.~~

~~8. No other business, service or commercial activity may be conducted on the premises. For Bed and Breakfast Establishments: Breakfast only may be served and no meals may be served to the general public.~~

~~B. In addition to the conditions above, Bed and Breakfast establishments or Short-Term Rentals proposed within an area requiring a Home Occupation Permit CUP will be required to meet the criteria listed in Section 19.57.210.~~

Section 5. Conflict with Other LMC Provisions. If the provisions of this ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this ordinance shall control.

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Section 6. Severability. If any section, subsection, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, subsection, clause, or phrase of this ordinance.

Section 7. Effective Date. This ordinance shall take effect five (5) days after the date of its publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR ON THIS ____ DAY OF _____, 20__.

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Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

CITY OF LYNDEN



EXECUTIVE SUMMARY – City Council

Meeting Date:	March 6, 2023	
Name of Agenda Item:	Tops Condemnation	
Section of Agenda:	New Business	
Department:	Public Works	
<u>Council Committee Review:</u>	<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: _____
<u>Legal Review:</u>	<input checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required	
Attachments:		
Ordinance No. 23-1664 Condemnation and Taking by Eminent Domain of Easements for a Jim Kaemingk Trail Extension		
Summary Statement:		
<p>The City of Lynden has completed a design to expand the Jim Kaemingk Sr. Trail from Depot Road west to 8th Street. This expansion of the trail network will extend and improve the trail allowing more neighborhoods to access City Park with the Million Smiles Playground and Lynden’s extensive signature trail system to the east. The City requires two easements over property abutting West Pine Street:</p> <ul style="list-style-type: none"> a) A temporary construction easement for approximately 18 months for the purpose of constructing a new section of public trail on adjacent property, and b) Once the temporary construction easement expires, a temporary access and maintenance easement for a period of 36 months to efficiently access required mitigated vegetative plantings adjacent to the shoreline required for the trail and to address future maintenance needs for those plantings. <p>To complete the project in 2023, the construction contract should be advertised before the end of March. City staff and the City Attorney have contacted the owner(s) of the Property and their attorney on several occasions to acquire the easements but without success. It is in public interest to exercise the City’s power of eminent domain and condemn the property for the purposes of obtaining these easements subject to the City paying just compensation to the property owners as provided by law.</p> <p>Per RCW, notice has been delivered via mail, and the required advertising has been done in the City’s paper of record, the Lynden Tribune.</p>		
Recommended Action:		
That City Council approve Ordinance No. 23-1664 authorizing the acquisition, condemnation, appropriation, and taking by eminent domain of easements for the construction and maintenance of an extension of the Jim Kaemingk Sr. Trail between Depot Road and 8 th Street and authorize the Mayor’s signature on the Ordinance.		

ORDINANCE NO. 23-1664

AN ORDINANCE OF THE CITY OF LYNDEN, COUNTY OF WHATCOM, AUTHORIZING AND PROVIDING FOR THE ACQUISITION, CONDEMNATION, APPROPRIATION, AND TAKING BY EMINENT DOMAIN OF EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF AN EXTENSION OF THE JIM KAEMINGK SR. TRAIL OVER THE PROPERTY DESCRIBED IN EXHIBIT "A" BELOW; PROVIDING FOR DECLARING AS A PUBLIC USE AND NECESSITY AND AUTHORIZING CONDEMNATION, APPROPRIATION, AND TAKING EASEMENT RIGHTS NECESSARY THEREFOR; PROVIDING FOR THE COST THEREOF AND DIRECTING THE CITY ATTORNEY TO INITIATE APPROPRIATE LEGAL PROCEEDINGS FOR SAID CONDEMNATION.

WHEREAS, the City of Lynden ("City") is engaged in the expansion of the Jim Kaemingk Sr. Trail to extend and improve the trail from one end of the City to the other; and

WHEREAS, the City requires a temporary construction easement over property abutting W. Pine Street Lynden, WA described in full in Exhibit "A" (hereinafter "Property"), for a duration of eighteen (18) months, for the purpose of constructing a new section of a public trail on adjacent property; and

WHEREAS; the City requires a temporary access and maintenance easement over the Property for the thirty-six (36) months following the expiration of the temporary construction easement, to efficiently access required mitigation vegetative plantings adjacent to the shoreline required for the trail and to address future maintenance needs for those plantings; and

WHEREAS, the City has contacted the owner(s) of the Property on several occasions in an attempt to acquire the easements without success; and

WHEREAS, it is necessary and in the public interest to exercise the City's power of eminent domain and condemn the Property for the purposes of obtaining a temporary construction easement (described in Exhibit "B" and depicted in Exhibit "C") and an access and maintenance easement (described in Exhibit "D" and depicted in Exhibit "E") necessary for the laying out, establishing, constructing, and maintaining of the contemplated expansion of the Jim Kaemingk Sr. Trail, subject to the making or paying of just compensation to the owners of the Property in the manner provided by law; and

WHEREAS, notice by certified mail has been provided as required by RCW 8.25.290(2)(a) to the property owner(s) of the Property of the City's plan to take a final action to authorize the condemnation of the Property; and

WHEREAS, notice of the City’s plan to take a final action authorizing the condemnation of the Property has been given by publication, as required by RCW 8.25.290(2)(b); and

WHEREAS, the Lynden City Council is exercising its independent discretion to proceed with an eminent domain case to establish the right to take such property for a public purpose and to settle the amount of compensation, if any, owing to the property owners; and

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

NOW THEREFORE, BE IT ORDAINED as follows:

Section 1 – Finding of Public Use & Declaration of Necessity: Obtaining the above-described easements for the purpose of extending the Jim Kaemingk Sr. Trail is hereby declared to be a public use, that the public interest requires the proposed public use, and that the portion of the Property to be acquired hereunder is necessary to facilitate said public use.

Section 2 – Description of Property: The property to be taken pursuant to this Ordinance includes:

- (1) A temporary construction easement over a portion of the Property (as described in Exhibit “B” and depicted in Exhibit “C”), for a period of eighteen (18) months commencing from the date the City obtains immediate use and possession of the easement, and
- (2) A temporary access & maintenance easement over the same portion of the Property (as described in Exhibit “D” and depicted in Exhibit “E”), for a period of thirty-six (36) months commencing from the date the temporary construction easement described above expires.

Section 3 – Source of Funds: Compensation for the portion of the Property condemned including all costs and expenses of acquiring same shall be paid from City of Lynden Park funds (general fund), or from other monies the City may have available or obtain therefor.

Section 4 – Authorization of City Attorney: The City Attorney is hereby authorized and directed to undertake proceedings provided by law to condemn, appropriate, take, and damage the land and property necessary to carry out the provisions of this ordinance. The City Attorney is also authorized to enter stipulations for the purpose of minimizing damages, including all stipulations authorized by Chapter 8.25 RCW.

Section 5 - Condemnation: The temporary construction easement and temporary access & maintenance easement described in Section 2 above are hereby condemned, appropriated, taken, and damaged for the public purposes described herein, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 6 – 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 ordinance 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, and if, for any reason, this ordinance should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

Section 7 – Conflicts: Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

Section 8 – Effective Date: This ordinance shall be in full force and effect five (5) days after its passage, approval and publication as provided by law.

AFFIRMATIVE VOTE ____ IN FAVOR, AND ____ AGAINST, AND SIGNED BY THE MAYOR THIS ____ DAY OF _____, 2023.

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

Robert Carmichael, City Attorney

EXHIBIT A

Legal Description of Property

Assessor's Tax Parcel Number: 400320 145493 0000

THAT PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 20, TOWNSHIP 40 NORTH, RANGE 3 EAST OF W.M. DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, THENCE EAST 180 FEET, THENCE SOUTH 797 FEET M/L TO THE NORTH LINE OF HAWLEY'S ADDITION TO LYNDEN, TO THE POINT OF BEGINNING, THENCE WEST 180 FEET, THENCE NORTH 164 FEET, THENCE EAST 180 FEET, THENCE SOUTH 164 FEET TO THE POINT OF BEGINNING, LESS ROADS, EXCEPT THAT PORTION OF LOT 1 LYNDEN CITY TRAIL SHORT PLAT, LOT LINE ADJUSTMENT AS RECORDED UNDER AUDITOR'S FILE NUMBER 2070403245.

INCLUDING THAT PORTION OF AN ADJACENT AREA OF DEED GAP CONVEYED BY THE CITY OF LYNDEN, RECORDED UNDER WHATCOM COUNTY ASSESSOR'S FILE NUMBER 2111202452.

EXHIBIT "B"

TEMPORARY CONSTRUCTION EASEMENT

TOP FAMILY LIVING TRUST to THE CITY OF LYNDEN

A variable width easement over and across a portion of the Northeast quarter of the Northwest quarter of Section 20, Township 40 North, Range 3 East of W.M., said easement described as follows:

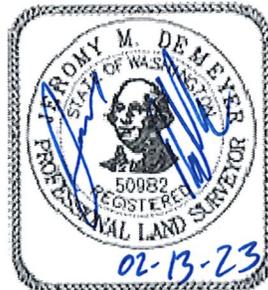
All that portion of said quarter quarter lying: Southerly of Lot 1 of the Lynden City Trail Short Plat / Lot Line Adjustment, as per the map thereof, recorded under Whatcom County Auditor's File No. 2070403245, Southwesterly of Fishtrap Creek, East of the West line of said quarter quarter, East of the Northerly extension of East line of Lot 5, Block 31, Hawleys Addition to Lynden, as per the map thereof recorded in Book 1 of Plats, Page 87, record of Whatcom County, Washington and Northeasterly and Northwesterly of the following described line:

Commencing at the Southwest corner of said Lot 1; thence South 02° 52' 35" West on a southerly extension of said Lot 1 a distance of 50.11 feet to the **true point of beginning** of this line description: thence South 51° 08' 05" East a distance of 222.44 feet; thence North 72° 16' 16" East a distance of 105.42 feet; thence North 02° 45' 12" East a distance of 15.47 feet more or less to Fishtrap Creek and the **terminus** of this line description.

As shown on Exhibit "C" attached hereto and incorporated herein by reference.

Situate in Whatcom County, Washington.

Subject to all easements, covenants, restriction and/or agreements of record, or otherwise.



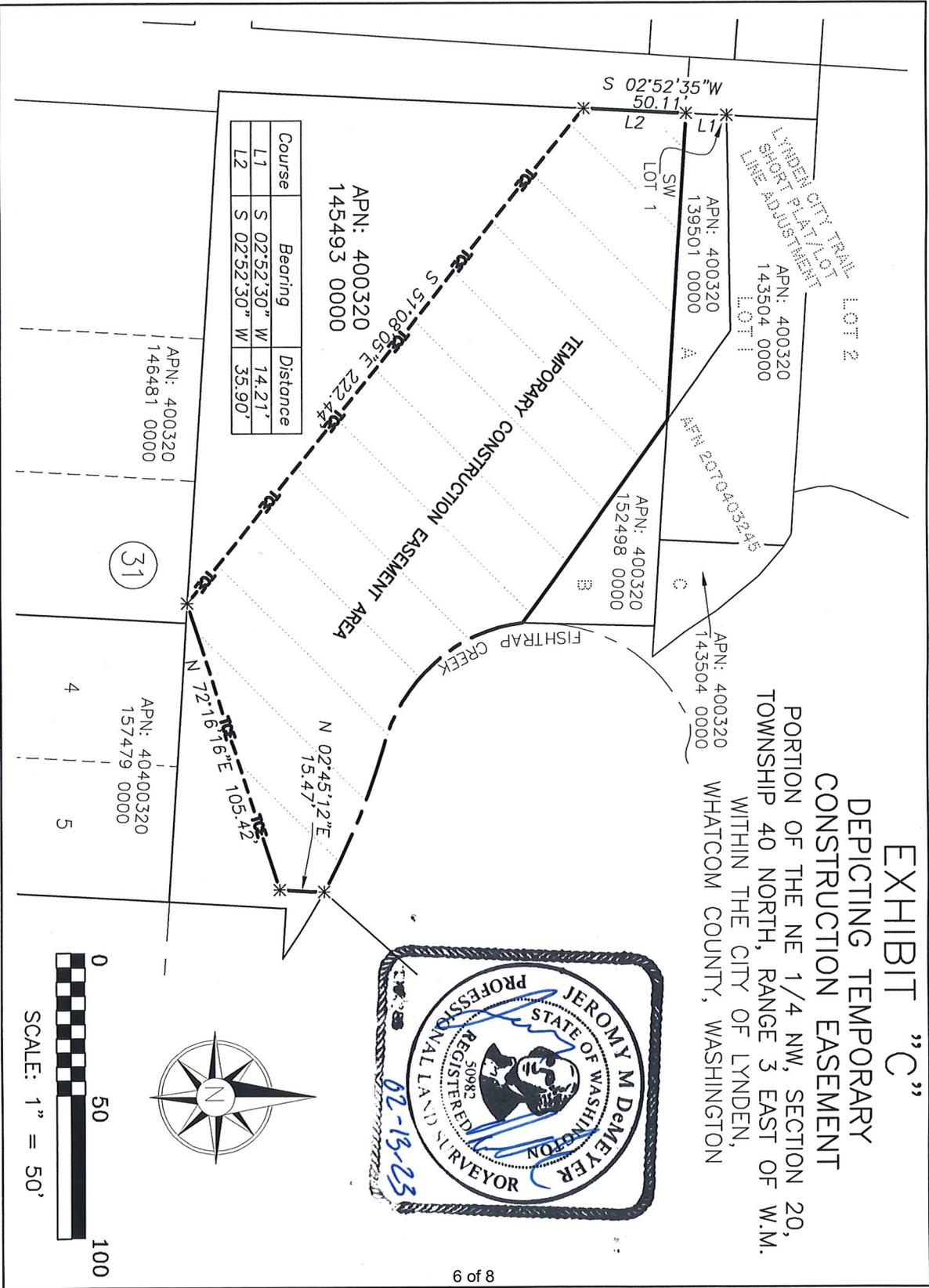


EXHIBIT "D"

ACCESS AND MAINTENANCE EASEMENT

TOP FAMILY LIVING TRUST to THE CITY OF LYNDEN

A variable width easement over and across a portion of the Northeast quarter of the Northwest quarter of Section 20, Township 40 North, Range 3 East of W.M., said easement described as follows:

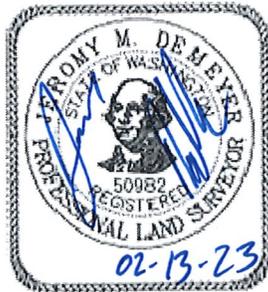
All that portion of said quarter quarter lying: Southerly of Lot 1 of the Lynden City Trail Short Plat / Lot Line Adjustment, as per the map thereof, recorded under Whatcom County Auditor's File No. 2070403245, Southwesterly of Fishtrap Creek, East of the West line of said quarter quarter, East of the Northerly extension of East line of Lot 5, Block 31, Hawleys Addition to Lynden, as per the map thereof recorded in Book 1 of Plats, Page 87, record of Whatcom County, Washington and Northeasterly and Northwesterly of the following described line:

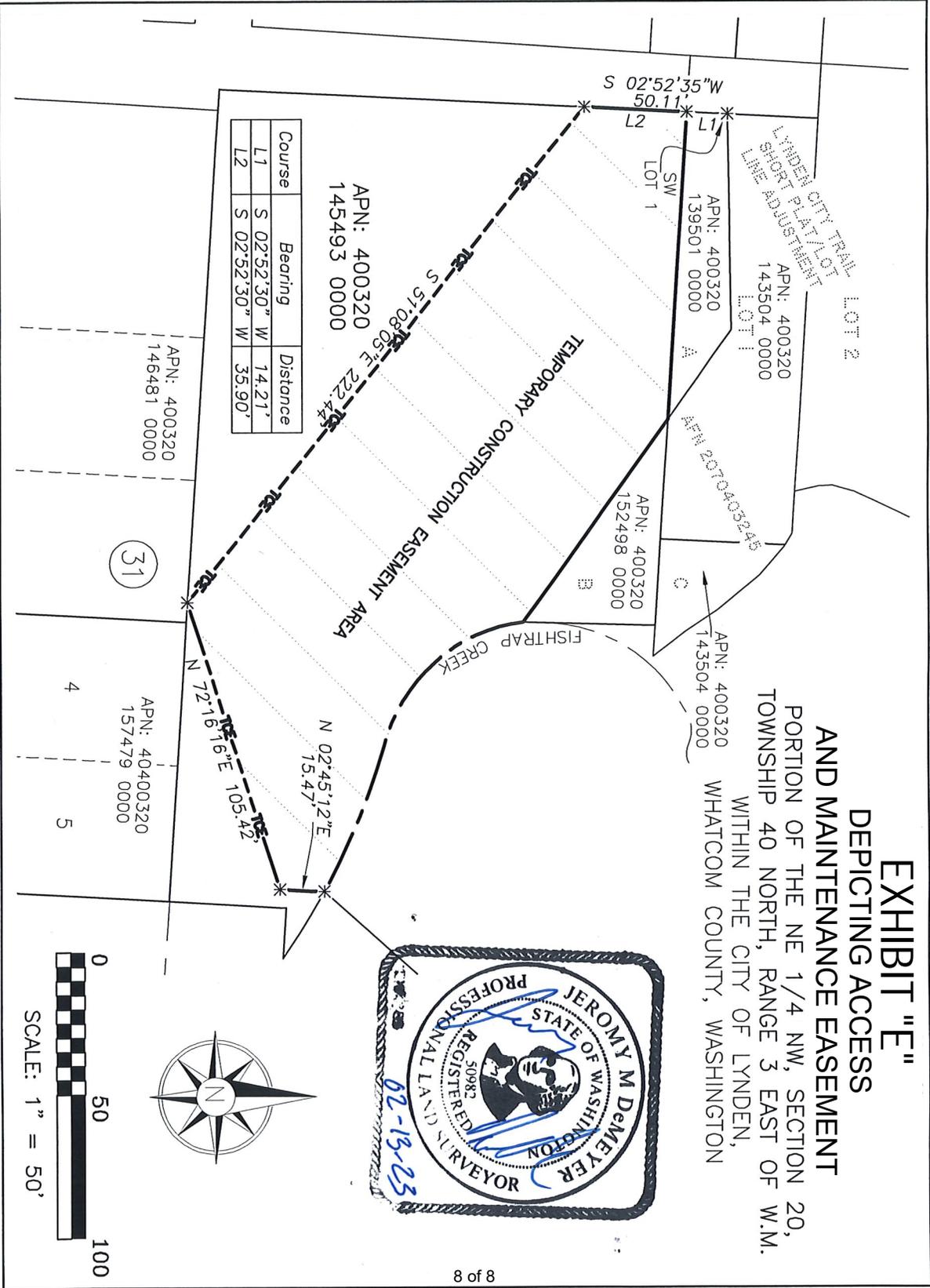
Commencing at the Southwest corner of said Lot 1; thence South 02° 52' 35" West on a southerly extension of said Lot 1 a distance of 50.11 feet to the **true point of beginning** of this line description: thence South 51° 08' 05" East a distance of 222.44 feet; thence North 72° 16' 16" East a distance of 105.42 feet; thence North 02° 45' 12" East a distance of 15.47 feet more or less to Fishtrap Creek and the **terminus** of this line description.

As shown on Exhibit "E" attached hereto and incorporated herein by reference.

Situate in Whatcom County, Washington.

Subject to all easements, covenants, restriction and/or agreements of record, or otherwise.





CITY OF LYNDEN



EXECUTIVE SUMMARY

Meeting Date:	March 6, 2023	
Name of Agenda Item:	Ord 23-1666 –Emergency Interim Zoning Ordinance regarding Community Residential Facilities (Substitute to Ord 1661)	
Section of Agenda:	New Business	
Department:	Planning 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 checked="" type="checkbox"/> Yes - Reviewed <input type="checkbox"/> No - Not Reviewed <input type="checkbox"/> Review Not Required
Attachments:	Ord 1666 –Emergency Interim Zoning Ord regarding Community Residential Facilities	
Summary Statement:	<p>On December 5, 2022 the City Council adopted Ord 1661, an emergency interim zoning ordinance pertaining to the prohibition of the establishment of community residential facilities within 500 feet of the City’s schools and within 300 feet of other community residential facilities. This ordinance is set to expire on March 15, 2023.</p> <p>While under the provisions of Ord 1661, city staff, the Planning Commission, and Community Development Committee have been developing the final ordinance pertaining to community residential facilities which will amend Chapter 17 and 19 of the Lynden Municipal Code. This has come forward as Ord 1665 and represents a significant legislative document affecting group housing, emergency and transitional housing, supportive housing, short term rentals, and the conditional use process.</p> <p>Given the breadth of information Ord 23-1665 includes, the Council may opt to continue the hearing to a later date to accommodate public comment or Council deliberation. In this event the Council will likely move to extend the interim zoning provisions put in place by Ord 1661 through the proposed Ord 23-1666. Per State code this extension may be six months in length but discontinued earlier if desired.</p> <p>A public hearing on this emergency extension is required within 60 days of this decision to extend.</p>	
Recommended Action:	<p>Motion to approve Ord 23-1666 which substitutes and extends the provisions of interim zoning Ord 1661 regarding Community Residential Facilities and authorize the Mayor’s signature on the document, and additionally direct staff to set a public hearing on this action within 60 days of today.</p>	

ORDINANCE NO. 23-1666

ORDINANCE OF THE CITY OF LYNDEN ESTABLISHING AN EMERGENCY MORATORIUM TO EXTEND AN EXISTING INTERIM ZONING ORDINANCE (SUBSTITUTE ORDINANCE NO. 1661) ON THE LOCATING OF COMMUNITY RESIDENTIAL FACILITIES WITHIN 500 FEET OF ALL COMMUNITY SCHOOLS AND 300 FEET OF OTHER COMMUNITY RESIDENTIAL FACILITIES

WHEREAS, the City of Lynden (“City”) notes that House Bill 1220 (“E2SHB 1220”), passed by the Washington State Legislature in May 2021, compels municipalities to support efforts to provide indoor emergency housing, indoor emergency shelters, transitional housing, and permanent supportive housing consistent with Chapters 35.21 and 35A.21 RCW; and

WHEREAS, for the purposes of this ordinance establishing an emergency moratorium (“Ordinance”), and its extension of previously adopted Substitute Ordinance No. 1661, these four types of facilities identified in E2SHB 1220 are collectively referred to herein as “Community Residential Facilities” or “CRFs”; and

WHEREAS, E2SHB 1220 also states that reasonable occupancy, spacing, and intensity of use requirements may be imposed by ordinance to protect public health and safety as it relates to CRFs; and

WHEREAS, the Lynden City Council (“City Council”) desires to establish reasonable standards for the safe operation and appropriate siting of CRFs and other group living arrangements such as adult family homes and group homes within the City of Lynden so as to protect public health and safety for both facility residents and the broader community; and

WHEREAS, ensuring compliance with existing City code and development standards and promoting a safe, calm, and focused atmosphere on and near the grounds of City schools are important priorities for the City; and

WHEREAS, populations served by CRFs often have higher instances of substance abuse, mental health crises, and criminal histories, which can result in disruptive behavior and emergency response activity in and around facilities which is not compatible with the atmosphere the City seeks promote around City schools; and

WHEREAS, the City’s permanent zoning regulations have not yet been updated to address E2SHB 1220’s emphasis upon municipal support for the establishment of CRFs; and

WHEREAS, the City Council approved Substitute Ordinance No. 1661 on December 5, 2022, and it was signed into law by the Mayor on December 6, 2022, as an interim zoning ordinance to preclude vesting or development of nonconforming status under

existing code before permanent comprehensive zoning regulations governing CRFs could be developed; and

WHEREAS, the City is in the process of developing a new permanent ordinance which will provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220, along with regulation of adult family homes and group homes (“Proposed Permanent CRF Ordinance”); and

WHEREAS, the City held a public hearing on a Proposed Permanent CRF Ordinance before the Planning Commission on December 15, 2022; and

WHEREAS, the City continues to work on a Proposed Permanent CRF Ordinance and has considered changes at recent Planning and Development Committee meetings of the City Council; and

WHEREAS, additional time is needed to fully consider and finalize a Proposed Permanent CRF Ordinance, including appropriate CRF occupancy, spacing, and intensity of use provisions, in order to protect the public health, safety, welfare, property, and peace in the City; and

WHEREAS, Substitute Ordinance No. 1661 does not prohibit building permit applications for or the locating of CRFs in any zone of the City, but rather imposes limited interim spacing requirements for CRFs pending adoption of comprehensive zoning regulations applicable to CRFs; and

WHEREAS, an emergency interim zoning ordinance adopted pursuant to RCW 36.70A.390 and RCW 35A.63.220 is a means for local governments to rapidly adopt temporary zoning controls during the time in which permanent regulations are being developed and enacted; and

WHEREAS, RCW 36.70A.390 and RCW 35A.63.220 authorize the enactment of an interim zoning ordinance without holding a public hearing as long as a public hearing is held within at least sixty (60) days of its adoption; and

WHEREAS, prior to adoption of Substitute Ordinance 1661, at a special city council meeting on September 15, 2022, an emergency interim zoning ordinance on CRFs was adopted by the City Council under Ordinance No. 1650; and

WHEREAS, the City Council held a public hearing at its regular meeting on October 17, 2022 and adopted Ordinance No. 1658, a substitute ordinance which extended Ordinance No. 1650 and made minor modifications to the findings therein; and

WHEREAS, the City Council then held a public hearing at its regular meeting on December 5, 2022, at which it adopted Substitute Ordinance No. 1661 to modify the findings and provisions of Ordinance No. 1658; and

WHEREAS, Substitute Ordinance No. 1661 by its own terms is set to expire on March 15, 2023, if it is not extended; and

WHEREAS, if Substitute Ordinance No. 1661 is allowed to expire prior to adoption of a New Proposed Permanent CRF Ordinance, there would be no ordinance in place to preclude vesting or development of nonconforming status of CRF's in the City of Lynden; and

WHEREAS, based on the foregoing findings and reasons, the City Council finds that adoption of this Ordinance establishing an emergency moratorium to extend existing interim zoning Substitute Ordinance No.1661 is in the best interest of the City and necessary to protect public health and safety; and

WHEREAS, the adoption of this emergency moratorium to extend existing interim Substitute Ordinance No. 1661 will provide the City with the time necessary to develop and finalize comprehensive zoning regulations applicable to CRFs while simultaneously addressing immediate public concerns as to the proximity of CRFs to community schools; and

WHEREAS, Substitute Ordinance No. 1661 is set forth herein in its entirety except for Section 9 which is updated based on this Ordinance; and

WHEREAS, the City Council concludes that it has the authority to adopt this emergency moratorium to extend existing Substitute Ordinance No. 1661; 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 City Council reserves the right to adopt additional findings in the event that additional evidence is presented.

Section 2. CRF Defined. "Community Residential Facilities" or "CRFs" is a collective term for the housing categories regulated under this Ordinance, namely Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. All CRFs regulated under this Ordinance are forms of supportive housing intended to address the needs of persons who are or were experiencing homelessness or who are or were at risk of imminent homelessness. For the purposes of this Ordinance, facilities primarily intended to serve persons with disabilities as defined in the Fair Housing Act, 42 U.S.C. §§ 3601-3631, including without limitation homes for non-using persons recovering from a substance use disorder, are not considered CRFs and are not regulated under this Ordinance.

Section 3. Community School Defined. “Community School” as used herein shall refer to any elementary school, middle school, or high school located within the City of Lynden.

Section 4. CRF Minimum Spacing Requirements Established. No proposed Community Residential Facility shall be located within 500 feet of a Community School or within 300 feet of another approved Community Residential Facility.

Section 5. Measurement Standard. For the purposes of the spacing requirement established herein, distance shall be measured in a straight line between the closest property line of the proposed Community Residential Facility and the closest property line of the Community School or other approved Community Residential Facility.

Section 6. Reasonable Accommodations. The Fair Housing Act (“FHA”), 42 U.S.C. 3604(f)(3)(B), requires that reasonable accommodations be made in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling. The Planning Director is therefore authorized to make accommodations in the provisions of this Ordinance as applied to CRFs occupied or to be occupied by persons with disabilities as defined in the FHA, when the Planning Director determines that such accommodations reasonably may be necessary in order to comply with the requirements of the FHA.

Section 7. Washington Housing Policy Act. Nothing in this Ordinance shall be applied in violation of the Washington Housing Policy Act’s requirement under RCW 35A.63.240 to treat a residence occupied by individuals with disabilities no differently than a similarly situated residence occupied by a family or other unrelated individuals.

Section 8. Religious Organizations. Nothing in this Ordinance shall be applied to the extent it would infringe upon a religious organization’s ability to serve the homeless consistent with a sincere religious belief as protected under the First Amendment of the United States Constitution, Article I § 11 of the Washington State Constitution, the Religious Land Use and Institutionalized Persons Act (42 U.S.C. 2000cc et seq.), and RCW 35.21.915 (Hosting the homeless by religious organizations).

Section 9. Duration. This Ordinance shall be in effect for six (6) months from its date of adoption so long as a public hearing hereon is held within sixty (60) days, and may be renewed for one or more successive six-month periods, pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 10. Conflict with Other LMC Provisions. If the provisions of this Ordinance are found to be inconsistent with other provisions of the Lynden Municipal Code, this Ordinance shall control.

Section 11. Severability. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, subsection, clause, or phrase of this Ordinance.

Section 12. Effective Date. This Ordinance shall take effect immediately.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND APPROVED BY THE MAYOR ON THIS ____ DAY OF MARCH, 2023.

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	March 6, 2023	
Name of Agenda Item:	Community Development Committee Minutes of 2-22-23	
Section of Agenda:	Other	
Department:	Planning 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 2-22-23	
Summary Statement:	Draft CDC minutes attached for review.	
Recommended Action:	Council review.	

CITY OF LYNDEN

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



COMMUNITY DEVELOPMENT COMMITTEE (CDC)

MINUTES

4:00 PM February 22, 2023
2nd Floor Conference Room, City Hall

1. ROLL CALL

Council Members: Gary Bode, Brent Lenssen, Scott Korthuis

Staff: John Williams, Heidi Gudde, Dave Timmer

Community: Gary Vis (Chamber of Commerce), Gene Bouma, Jess Bouma, Rachel Bouma

2. APPROVAL OF MINUTES

- a. Community Development Committee Meeting Minutes of 1/18/23 approved as presented.

3. DISCUSSION ITEMS

Update on Ord 1654 – CRFs and Short-Term Rentals – Proposed Criteria for Administrative Approval

The Committee continued the discussion of the criteria which would be used to administratively review the home occupation permits associated with short term rentals. This and other aspects of the draft ordinance were discussed at the January 18th CDC meeting.

The Bouma group joined the CDC to discuss the proposed changes to short term rentals. They have two VRBOs in Oakwood, an apartment complex, as well as a couple others in the City.

The proposed ordinance would disallow short term rentals in housing types that are attached.

The group discussed how short-term rentals may relate to transitional housing. Gudde explained that the State of WA makes a correlation between lodging facilities and the requirement to allow emergency shelters / housing.

Bode expressed concern related to the possibility of a neighborhood being altered by the presence of short-term rentals.

Gene Bouma stated that in his experience he is finding very good clients. Rachel, who manages that aspect of the business, related that they are renting their apartments to accommodate temporary workers such as nurses or refinery workers or people visiting family or friends usually staying 12-14 nights. Repeat

customers are relatively frequent especially those that visit family. Renting saw a lull during COVID but is typically pretty steady throughout the year.

Per the proposed code, transient accommodations are those that are less than 30 days (traditionally the LMC has defined transient accommodations as less than 2 weeks).

As proposed, detached residential units within commercial zoning may be used as transient accommodations.

Gene Bouma suggested that the City give STRs flexibility and make revisions if they found that it was problematic. Vis expressed concern that STR regulations would be difficult to withdraw, if allowed. He also emphasized that STRs have a distinct advantage over hotels in the area because they do not need to meet all the life/safety and commercial building codes that traditional hotel / motel lodging establishments are required to meet.

The Committee recognized the need for the type of lodging that the Bouma group was providing in that it wasn't readily available elsewhere in the city. They discussed making changes to the proposed recommendation given the feedback from the Bouma group.

Conclusions:

The conclusions of the discussion resulted in the suggested revisions to the ordinance so that the standards reflect:

In addition to the standards drafted for allowing STRs in detached housing types that they be amended to allow STRs in attached housing types with the requirements that:

1. The underlying zoning category is RM-4; and
2. No more than 10% of units within the multi-family complex be offered as STRs; and
3. That local management be available to all units in the complex 24 hours a day, 7 days a week to address noise complaints, inappropriate behavior, or maintenance issues that may arise related to the STRs.
4. The fee associated with a COL home occupation permit is required for each unit rented as an STR but may be filed together under one application.

Additionally, the Committee requested that the criteria list and this issue return to CDC in about a year to assess results and impacts.

The Committee agreed with the criteria as proposed but will be altered to include the recommendation regarding RM-4 short term rentals as noted above.

Gudde to alter the ordinance to a CDC version of Ord 1654 and present to the Council on March 6.

Committee requested that the Council’s March 9 executive summary detail the changes between the PC version and the CDC version so that it is clear what changes are suggested by the Committee.

Additionally, the Committee requested that staff prepare for an extension of the Interim Zoning Ordinance (Ord 1661) for the March 6 meeting if the public hearing must be continued to another date or Council is unable to make a decision on the document. The interim ordinance is due to expire on March 15th.

4. INFORMATIONAL ITEMS

- a. January Development Report was discussed. Committee noted that no permits were issued in January of 2023 (although permits were submitted in January). This appears to be a slow-down from 2022.

Next Meeting Date: March 22, 2022

CITY OF LYNDEN

EXECUTIVE SUMMARY



Meeting Date:	March 6, 2023	
Name of Agenda Item:	Calendar	
Section of Agenda:	Other Business	
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:	Calendar	
Summary Statement:	Calendar	
Recommended Action:	Not an action item, information only.	

March 6, 2023
Monday

7:00 PM - 9:00 PM Copy: City Council Meeting -- Annex Council Chamber

March 7, 2023
Tuesday

9:00 AM - 10:00 AM Leadership Team Meeting -- City Hall 1st Floor Large Conference Room

March 8, 2023
Wednesday

4:00 PM - 6:00 PM Copy: Public Works Committee -- City Hall 2nd Floor Large Conference Room

7:00 PM - 9:00 PM Parks & Rec District Meeting -- Annex South East Conference Room

March 9, 2023
Thursday

7:00 PM - 10:00 PM Planning Commission -- Annex Council Chamber

March 14, 2023
Tuesday

9:00 AM - 10:00 AM Leadership Team Meeting -- City Hall 1st Floor Large Conference Room

March 15, 2023
Wednesday

8:30 AM - 5:00 PM Court -- Annex Council Chamber; Annex East Training Room; Annex North East Conference Room; Annex South East Conference Room

7:00 PM - 9:00 PM Berthusen Advisory Committee -- Annex South East Conference Room
Berthusen Advisory Committee Meets the 3rd. Wednesday in January, March, May, September, and November

March 15, 2023 Continued

Wednesday

March 16, 2023

Thursday

2:00 PM - 4:00 PM

Technical Review Committee

March 20, 2023

Monday

4:00 PM - 5:00 PM

Copy: Parks Committee Meeting -- City Hall 1st Floor Large Conference Room

7:00 PM - 9:00 PM

Copy: City Council Meeting -- Annex Council Chamber