

**ORDINANCE OF THE CITY OF LYNDEN ESTABLISHING AN INTERIM
ZONING ORDINANCE 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 ~~emergency~~ interim zoning ordinance (“Ordinance”), these four types of facilities identified in E2SHB 1220 as well as all facilities which may be considered recovery residences, sober living homes, or halfway homes, including without limitation accredited approved recovery residences registered pursuant to RCW 41.05.760, 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 within the City of Lynden so as to protect public health and safety for both facility residents and the broader community; and

WHEREAS, the City’s 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 does not presently have in place any spacing requirement regulations governing CRFs; and

WHEREAS, a new ordinance is currently being drafted which will provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220; and

WHEREAS, the City Council has recently received a large volume of public comments expressing concern and opposition to the potential siting of CRFs in close proximity to schools for children within the community; and

WHEREAS, additional time is needed to develop comprehensive zoning regulations for CRFs—including careful consideration of regulations on the spacing of such facilities related to schools per public concerns, and each other; and

WHEREAS, if short-term action is not taken now, new CRFs may either vest or obtain nonconforming status prior to the development and adoption of the forthcoming comprehensive zoning regulations, thereby interfering with and potentially undermining the development of a meaningful comprehensive and permanent ordinance reasonably regulating occupancy, spacing, and intensity of use of CRFs in the City; and

WHEREAS, the City's development of reasonable comprehensive zoning regulations pertaining to CRFFR 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, the City notes that a number of Washington municipalities have adopted spacing requirements between CRFs and schools, including the City of Kent and City of Federal Way (both imposing 1,000-foot spacing restrictions) as well as the City of SeaTac (imposing a 1,750-foot spacing restriction); and

WHEREAS, this interim Ordinance 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 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, at a special city council meeting on September 15, 2022, an emergency interim zoning ordinance 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 to consider the extension of Ordinance No. 1650; and

WHEREAS, the City Council finds that adoption of this substitute Ordinance extending Ordinance No.1650, with the minor modifications to the findings as provided herein, is in the best interest of the City; and

WHEREAS, the adoption of this Ordinance 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, the City Council concludes that it has the authority to establish an ~~emergency~~ interim zoning ordinance; 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 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 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. 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 5. Public Hearing Required. The City Council shall hold a public hearing within sixty (60) days from the date of this Ordinance on this or a substitute ordinance that addresses interim zoning regulations applicable to Community Residential Facilities.~~

~~Section 6. Emergency Situation. Based on the findings herein, the City Council hereby declares that an emergency exists necessitating that this Ordinance take effect immediately upon passage by a majority vote plus one of the whole membership of the City Council as required by RCW 35A.12.130.~~

Section 67. Duration. This Ordinance shall be in effect for six (6) months from September 15, 2022 and may be renewed for one or more successive six-month periods pursuant to RCW 36.70A.390 and RCW 35A.63.220.

Section 78. 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 89. 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 ~~910~~. Effective Date. This Ordinance shall take effect five (5) days after the date of its publication. —Ordinance 1650 shall remain in effect until the effective date of this substitute Ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, AND
APPROVED BY THE MAYOR ON THIS ____ DAY OF OCTOBER, 2022.

Scott Korthuis, Mayor

ATTEST:

Pamela Brown, City Clerk

APPROVED AS TO FORM:

ROBERT CARMICHAEL, City Attorney