

Chapter ~~12.40~~
CAMPING ON PUBLIC PROPERTY

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Commented [DT1]: Chapter 12 which deals with Public Places seems to be the correct location for this new chapter.

As I understand the Boise case, though, I don't think this chapter will be deemed "constitutional". As it is written, it is a complete ban and there is no other option in Lynden.

Commented [HG2]: 12.40 is a new section. No comments from me at this time.

XX.010 Findings:

People camping on public property and on public rights-of-way create a public health and safety hazard due to the lack of proper electrical and/or sanitary facilities for these people. People without proper sanitary facilities have openly urinated, defecated, and littered on public property on the public rights-of-way. Use of public property for camping purposes or storage of personal property interferes with the rights of others to use the areas for which they were intended. (~~Ord. 2021, 4/9/19~~)

XX.020 Purpose:

It is the purpose of this chapter to prevent harm to the health or safety of the public and to promote the public health, safety and general welfare by making public streets and other areas readily accessible to the public and to prevent use of public property for camping purposes or storage of personal property which interferes with the rights of others to use the areas for which they were intended.

XX.030 Definitions:

The following definitions are applicable in this chapter unless the context otherwise requires:

"Available Overnight Shelter" means a public or private facility open to person(s) experiencing homelessness at no charge, with space available that day.

"Camp" or "camping" means ~~(a) to pitch, create, use, or occupy camp facilities and/or to use camp paraphernalia to facilitate temporary or permanent habitation; or (b) the construction or use of camp facilities.~~

"Camp facilities" ~~includes without limitation, any of the following when used for temporary or permanent habitation: include, but are not limited to,~~ tents, huts, temporary shelters made of any material, or vehicles.

"Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-City designated cooking facilities and similar equipment.

"City" means the City of Lynden, ~~Washington, the area within the official geographic boundaries thereof, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional provision, statute, or ordinance.~~

"Park" means the same as defined in Section XX.

"Store" means to put aside, ~~or accumulate, or leave for later use or for use when needed, to put for safekeeping, to place or leave in a location.~~

"Street" means any highway, lane, road, street, right-of-way, boulevard, alley, and every way or place in the City of Lynden that is publicly owned or maintained for public vehicular travel.

"Trail" means any path, lane or walkway for public use, primarily for walking, bicycling, or other non-motor vehicle, and that is publicly owned in fee or by easement or maintained by the public.

"Vehicle" means the same as defined in RCW [46.04.670](#), which is hereby adopted as now enacted or hereafter amended.

XX.040 Unlawful Camping:

A. At any time, it shall be unlawful for any person to camp, ~~or to occupy camp facilities for purposes of habitation,~~ or use camp paraphernalia ~~for purposes of habitation,~~ in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section [XX.070](#):

1. Any park;
2. Any street or trail; or

Commented [BC3]: As originally written, the definition of "camp" or "camping" included to "... use, or occupy camp facilities and/or to use camp paraphernalia." "Camp facilities" is defined to include "vehicles." "Camp paraphernalia" is defined to include "blankets" and "hammocks." Under this original definition as used in the ordinance, it would be unlawful to "use" or to "occupy" one's vehicle in a city park parking lot, to spread a "blanket" in a park for a picnic lunch, or connect a "hammock" between two trees for a short afternoon nap. The original definition was overbroad. As revised, these issues are eliminated.

Commented [BC4]: Another change to avoid overbreadth problem for vehicles.

Commented [BC5]: Using the term "place" as part of the definition could implicate innocent conduct and made the definition of "store" overbroad. No need to reference public property in definition as the ordinance uses the term "store" in context of storing in any park, street, or public parking lot.

Commented [BC6]: Added to clarify that the prohibition on use of camp paraphernalia is when used for the purpose of habitation, to avoid overbreadth concern mentioned in one of comments above.

3. Any publicly owned or maintained parking lot or other publicly owned or maintained area, improved or unimproved.

B. At any time, it shall be unlawful for any person to occupy a vehicle for the purpose of camping while that vehicle is parked in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section [XX.070](#):

1. Any park;
2. Any street or trail; or
3. Any publicly owned or maintained parking lot or other publicly owned or maintained area, improved or unimproved.

XX.050 Unlawful Storage of Personal Property in Public Places:

At any time, it shall be unlawful for any person to store personal property, including camp facilities (other than vehicles) and camp paraphernalia, in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section [XX.070](#):

- A. Any park;
- B. Any street or trail; or
- C. Any publicly owned or maintained parking lot or publicly owned or maintained area, improved or unimproved.

XX.060 Penalty for Violations:

Any person who violates any of the provisions of this chapter shall be deemed to have committed a misdemeanor.

XX.070 Enforcement Suspended

The City shall not enforce the provisions of Section XX.040 or Section XX.050 against persons who lack the financial means to pay for adequate shelter unless the City first confirms there is an available overnight shelter space that can be utilized by the particular person(s).

Commented [LP7]: If option #3 outlined below is adopted, this section should be inserted.

XX.080 Special Event Permit

A. The Mayor, or his/her designee, is authorized to issue a Special Event Permit which may authorize permit persons to camp, occupy camp facilities, use camp paraphernalia, or store personal property in parks, streets, or any publicly owned parking lot or publicly owned area, improved or unimproved, in the City of Lynden in conjunction with special events.

B. Upon receipt of an application for any permit under this chapter, the Mayor, or his/her designee, shall send a copy of the application to the City departments of police, parks, public works, community development, and fire. Each of these departments shall inspect the application and each such department shall report to the Mayor, or his/her designee, within ten (10) working days after the filing of the application. Such reports shall mention any problems which the proposed activity is expected to pose for the public. It shall make any necessary recommendations for protecting the public peace, health, safety, life, property, and welfare in the event a permit is, or was, issued.

C. The Mayor, or his/her designee, is authorized to promulgate other rules and regulations regarding the implementation and enforcement of this chapter.

D. The Mayor, or his/her designee, may approve a permit as provided under this section when, from a consideration of the application, reports from other City departments, and from such other information as may otherwise be obtained, he or she finds that:

1. Adequate sanitary facilities are provided and accessible at or near the proposed camp site;
2. Adequate trash receptacles and trash collection are provided; and
3. The camping activity will not unreasonably disturb or interfere with the safety, peace, comfort and repose of private property owners.

E. No permit shall be issued for a period of time in excess of fourteen (14) calendar days in any one (1) calendar year.

F. The Mayor, or his/her designee, is authorized to revoke a permit that has been issued if he or she finds lack of compliance with any requirement of subsection D of this section, or of any rule or regulation promulgated under subsection C of this section, or of any ordinance or statute.

G. Any person who is denied a permit, or had his/her permit revoked, may appeal the denial/revocation to a hearing examiner appointed by the Mayor, or his/her designee. Notice of appeal must be in writing, and filed with the City Clerk within seven (7) working days from the date of the denial.

Commented [HG8]: Is this our special event permit or a specific camping permit? I'd recommend using our existing special event permit and adding camping as an option.

Commented [HG9]: The Mayor or the City Administrator?

XX.090 Public Duty Created:

A. This chapter is intended to be for the benefit of the public as a whole. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this chapter.

B. Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this chapter by its officers, employees or agents.

Disclaimer: The city clerk has the official version of the Lynden Municipal Code. Users should contact the city clerk for ordinances passed subsequent to the ordinance cited above.