

RESOLUTION NO. 1011

A RESOLUTION OF THE CITY OF LYNDEN ESTABLISHING A POLICY FOR DECOMMISSIONING ACCESSORY DWELLING UNITS AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO SIGN COVENANTS TO RESTRICT USE AND RELEASE COVENANT OF ACCESSORY DWELLING UNIT

WHEREAS, pursuant to Ch. 19.20 LMC, if a property owner wishes to operate an accessory dwelling unit (“ADU”) on their property, the property owner must record a “Covenant for ADU” obligating them and all successors to occupy either the primary dwelling or the ADU on the Property and additionally to comply with all requirements of Ch. 19.20 LMC; and

WHEREAS, because of a change in circumstances or a change in ownership, some property owners do not wish to continue to maintain an ADU on their properties; and

WHEREAS, it is the purpose of this Resolution to provide a policy for the decommissioning of ADUs legally established under Ch. 19.20 LMC;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lynden as follows:

Section 1: Policy for Decommissioning of ADUs.

At the request of the owner of a lot with an attached or detached ADU legally established under Ch. 19.20 LMC, the City may release the Covenant for ADU if the property owner takes all of the following steps at his or her expense:

1. Remove the cooking facilities from the ADU and remodel the ADU so that cooking facilities cannot be easily replaced (e.g., stove removal alone is not adequate); and
2. Schedule and pass an inspection by the Lynden Fire Department to verify the safe and permanent removal of cooking facilities; and
3. Apply to the Lynden Planning and Community Development Department for the City’s approval of a “Covenant to Restrict Use and Release of Covenant for ADU,” the form of which is attached hereto as Exhibit A; and
4. Execute and record the Covenant to Restrict Use and Release of Covenant for ADU with the Whatcom County Auditor.

Section 2: Authorization.

The Council hereby authorizes the Mayor of the City of Lynden or his designee to execute the “Covenant to Restrict Use and Release of Covenant for ADU” form attached as Exhibit A, to release the City’s interest in the Covenant for ADU and bind the property owner to the other terms contained therein for each and every property owner meeting the requirements described in Section 1 above.

Section 3:

BE IT FURTHER RESOLVED that any resolutions or parts of resolutions in conflict herewith are hereby repealed insofar as they conflict with the provisions of this resolution.

Section 4:

If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 5:

This Resolution shall be in full force and effect immediately upon approval.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, ____ IN FAVOR ____ AGAINST, AND SIGNED BY THE MAYOR THIS ____ DAY OF _____, 2019.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY