

ORDINANCE NO. 1654

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 (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 ordinance is intended to provide comprehensive zoning regulation of CRFs in a manner consistent with E2SHB 1220; 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.

CHAPTER 19.17
LAND DEVELOPMENT

17.01.030 Definitions

"Adult family home" ~~or Supportive Housing Adult Family Home~~ 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. Supportive Housing Adult Family Homes are a form of 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 facilities 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 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.

"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 hotels, motels, community residential care facilities, 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" is a collective term for the housing categories regulated under this chapter, namely Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. 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. See LMC 19.49.020 for additional information.

"Dwelling unit" means a single unit providing complete, independent living facilities for ~~not more than~~ one family or a congregate residence cooperatively living as a single housekeeping unit. for six or less persons, A dwelling unit includesing 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 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 care facility" ~~see "Supportive Housing Group Homes" 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.~~

"Supportive Housing Group Homes" 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. Supportive Housing Groups Homes are a form of 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.

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

"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.

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 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 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>Supportive Housing Adult Family Home</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Supportive Housing Group Homes – Small and Large Scale</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 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 short term rentals (See Section 19.49.030).
 - 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 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 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 LMC 19.49. For the purposes of this section, 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>Supportive Housing Group Homes</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>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>

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 Community Residential Facilities within the City of Lynden, so as to protect public health and safety for both facility residents and the broader community. This chapter does not include regulations related to camping on public property. These are found in 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 are a form of 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 facilities 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.
- 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 Emergency Housing, Indoor; Emergency Housing, Outdoor; Emergency Shelter; Transitional Housing; and Permanent Supportive Housing. 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.
- 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. “Supportive Housing Group Homes” 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. Supportive Housing Groups Homes are a form of Permanent Supportive Housing. When assisting individuals exiting correctional facilities or under court supervision, refer to Residential Reentry Facilities.
- K. “LMC” means the Lynden Municipal Code.
- L. “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. “Provider” means the owner, sponsor, or managing agency (as context requires) of a particular Community Residential Facility.

- N. “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. “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.

- P. “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>
<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, up to eight (8) 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>

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 <i>Whatcom County Natural Hazards Mitigation Plan</i>.	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.	200 beds	Facilities identified as emergency service locations and evacuation centers in the <i>Whatcom County Natural Hazards Mitigation Plan</i>	LMC 19.49.070 RCW 35A.21.430 43.185C
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.	LMC 19.49.080 RCW 35A.21.430
		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.	
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.	LMC 19.49.090 RCW 35A.21.430
		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.	

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, 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 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 does not include on-site staff who may also live temporarily or permanently within the facility.
6. Business licensing with the City of Lynden through the Washington State Department of Revenue is required for all CRFs.
7. CRFs 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 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 are required to apply for registration on the Community Residential Facilities Registry ("Registry") maintained by the City of Lynden. Every CRF 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 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 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 six (6) individuals 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 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 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 includes regulations related to three types of 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 denotes a facility of more than six (6) beds. The approval process and development standards for EHIFs are identical to ESFs unless otherwise indicated.

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. 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. 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.
- 4. Spacing.

- a. 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.
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 (“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.

B. Approval process.

1. EHOFS may only be sited on locations identified in the Whatcom County Natural Hazards Mitigation Plan as evacuation centers or emergency services locations.
2. 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.

C. Development standards.

1. Conformance with the general provisions for all CRFs (LMC 19.49.040), including applicable inspections, is required.
2. Zoning. EHOFS are permitted only in locations identified as evacuation centers or emergency services locations in the Whatcom County Natural Hazards Mitigation Plan.
3. Construction and appearance.
 - a. Design and organization of EHOFS 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. EHOFs 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 Supportive Housing Group Homes.

A. Applicability.

1. The subject Supportive Housing Group Home (“SHGH”) facility must fit within the definition of such facilities set out in LMC 19.49.020.
2. The Provider of a subject SHGH 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 SHGHs 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 SHGH 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. Notice of Decision is not required when a SHGH is affiliated with and adjacent to the facilities of an existing house of worship.
 - b. Exception to the Notice of Decision may also be waived by the Planning Director if such a notice would jeopardize the safety and security of 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. No more than six (6) individuals are permitted in a subject SHGH located within a SF or RMD zoning category. No more than twelve (12) individuals are permitted in a subject SHGH located in all other residential categories or wherever lodging and hotel accommodations

are permitted. For the purposes of calculating the total number of individuals within a subject SHGH, on-site staff are not included

- b. A subject SHGH must meet the occupancy standards set out herein.
 1. All bedrooms with one (1) occupant must have at least 70 square feet.
 2. Shared bedrooms must have at least 50 square feet per occupant.
 3. Kitchens and other non-habitable rooms cannot be used as a bedroom.
 4. 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. SHGHs 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. Spacing. A subject SHGH 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 SHGH 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.

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 and zoning.
 - a. A subject THF shall provide a minimum of 350 square feet of floor area per adult resident.
 - b. THFs with no more than six (6) individuals (unless a group larger than six is a single family unit) 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. 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.
3. Spacing.

- a. A subject THF shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.
4. 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.
5. 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:
 - 1. 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 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 and the closest property line of the Community School or other approved CRF.

19.49.120 Exceptions.

A. 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. 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

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[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.

- 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>
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.~~
- 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.
 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 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 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