

ORDINANCE NO. 1654

**ORDINANCE OF THE CITY OF LYNDEN REASSIGNING THE PROVISIONS
OF LYNDEN MUNICIPAL CODE CHAPTER 19.49, “CONDITIONAL USE
PERMITS” TO A NEW CHAPTER 19.58 AND ADOPTING COMPREHENSIVE
ZONING REGULATIONS GOVERNING COMMUNITY RESIDENTIAL
FACILITIES TO BE CODIFIED AT CHAPTER 19.49**

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 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, 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. Reassignment of Existing LMC Chapter 19.49. The existing contents of LMC Chapter 19.49 are reassigned in their entirety to a new LMC Chapter 19.58.

Section 2. 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:

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 to 24 months and that has as its purpose facilitating the movement of such persons into independent living and permanent housing. Temporary housing for those exiting correctional facilities or under court supervision is a subset of Transitional Housing regulated separately within this chapter (refer to Residential Reentry Facilities for the applicable provisions).

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19.49.030 Community Residential Facilities established.

Community Residential Facility Classification Type	Demographic Served	Maximum Scale of the Facility	Permitted Zoning Categories	Reference to Applicable Development Standards
Supportive Housing Adult Family Home	Persons in need of permanent housing providing personal care and room and board who were experiencing homelessness or were at imminent risk of homelessness	Six (6) individuals, up to eight (8) with special approval	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.050 RCW 35A.21.430 70.128
Emergency Housing, Indoor; Emergency Shelter	Individuals or families requiring shelter due to disaster, homelessness or imminent risk of homelessness.	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.	Twelve (12) individuals	All zoning categories permitting residential dwelling units or hotels.	LMC 19.49.080 RCW 35A.21.430
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	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	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.
5. Spacing. A subject SHAFH shall not be located within 500 feet of a Community School or within 300 feet of another approved CRF.

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 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 EHIF facilities.

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

19.49.080 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.

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 twelve (12) individuals are permitted in a subject SHGH. 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 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 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).

Section 3. 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 4. 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 5. 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