

ORDINANCE NO. 1649

**AN ORDINANCE OF THE CITY OF LYNDEN, COUNTY OF WHATCOM, AMENDING
CHAPTER 12.24 OF THE LYNDEN MUNICIPAL CODE TO PROHIBIT CERTAIN
ACTIVITIES IN CITY PARKS AND OTHER SENSITIVE AREAS OWNED BY THE
CITY**

WHEREAS, the City of Lynden (“City”) has experienced an increase in certain behavior among visitors to city parks that is damaging to park infrastructure or disruptive to the enjoyment of such parks by the wider public, including camping and other violations of the City code; and

WHEREAS, the City now wishes to pass an ordinance addressing prohibited uses and activities in City parks and provided a process for enforcement; and

WHEREAS, the City desires to amend the Lynden Municipal Code to expressly establish park rules and enforcement procedures for any one that violates provisions of the City code, the Revised Code of Washington, or any park rules; and

WHEREAS, this ordinance is declared to be an exercise of the policy power of the City of Lynden, and its provisions shall be liberally construed for the preservation and protection of the natural environment, public peace, health, safety, welfare, and preserve parks and other open spaces for the its citizens and all future generations; and

WHEREAS, the foregoing recitals are material findings and declarations of the Lynden City Council;

NOW THEREFORE, the Mayor and the City Council of the City of Lynden does ordain as follows:

Section 1. Title 12.24, City Parks is hereby amended to include the revisions as follows:

Chapter 12.24 CITY PARKS

12.24.010 Purpose:

The establishment and maintenance of park property and facilities is intended to benefit current and future citizens of the City of Lynden by providing opportunities for active and passive recreation. Rules and regulations governing use of park properties and park facilities will help to ensure that park property and park facilities are used and maintained in a beneficial manner to the community. The foregoing park rules and regulations are intended to provide standards for the public use and enjoyment of these facilities and to provide for the public health, safety, welfare and protection in the use and enjoyment of these facilities.

12.24.020 Identification of Parks:

Parks are identified as any existing or future city parks. Parks shall be classified as Regional, Neighborhood, and Greenspace.

- A. Regional Parks: Regional Parks are designed to offer services and provide passive and active recreational opportunities to the entire Lynden community and beyond.
- B. Neighborhood Parks: Neighborhood Parks are designed to provide passive recreational opportunities for adjacent neighborhoods in the City.

Neighborhood Parks

- Centennial Park
- Glenning Park
- Greenfield Park
- Northwood Lynden Jim Park
- Patterson Park

- C. Greenspace: Greenspace is designed to emphasize natural ecosystems and open space aesthetics with minimal if any “developed” park services.

- Fairgrounds Wetlands
- Treatment Plant Floodplain
- Scenic Estates Conservancy
- Old Middle School Trail
- City Hall North Lawn

12.24.030 Hours of Operation:

Parks shall be open to the public from 6:00 a.m. to 10:00 p.m. Between the hours of 10:00 p.m. and 6:00 a.m. the parks shall be closed to the public unless persons are actively engaged in activity within a special-use area as described in Section [12.24.060](#).

No activities will be allowed during closed park hours that disturb the peace of the public or for any of the prohibited acts listed below.

Activities on park property or in park facilities that exceed normal hours of operation or deviate from the park rules may be authorized in association with a facilities use agreement or park use permit authorized by the City Administrator. Any person entering or remaining in a park when it is closed is subject to arrest and prosecution for criminal trespass.

Park closure hours shall be indicated by appropriate signage.

12.24.040 Prohibited Acts:

A. All activities that constitute civil or criminal violations under state, local or federal statutes shall be prohibited on park property or in park facilities.

B. It is unlawful for any person to do or permit any of the following acts within any City park:

1. Scatter, leave, throw, break or strew any litter, bottles, glass, paper, debris, garbage, refuse, or advertising matter in any park except in designated receptacles; provided, however, that it is further unlawful to deposit in such designated litter receptacles or elsewhere within a park any refuse, litter or other trash collected at the home, business or other dwelling of any person and intentionally brought to the park solely for the purpose of disposing of such refuse, litter or trash.
2. Damage, deface, mar, or destroy any park equipment or facility.
3. Cut, damage or destroy any park trees, shrubs, landscaping or plants, including grass.
4. Consume any beer, wine or intoxicating liquor in any park, or have possession of any container of beer, wine or intoxicating liquor in any park; provided, however, that consumption of alcoholic beverages in City parks is permitted if consumption is within a designated area in conjunction with a special event as authorized by the Parks Department.
5. Drive or park any vehicle or motorized bike, scooter, motorcycle, or ATV/UTV (as defined in Chapter [10.18](#)), on the grass in any park or any other place not specifically designated for vehicular traffic, or operate a vehicle, motorized bike, scooter, motorcycle or ATV/UTV negligently within any park or park facility, unless expressly authorized by a permit issued by the City. This provision does not apply to authorized personnel of the City.
6. Disturb or molest the peace of others using the park and park facilities.

7. Solicit, promote or engage in any private commercial enterprise without prior approval of the City Council.
8. Start or maintain a fire except in permanent park facilities provided for that purpose or in a barbecue, hibachi or other freestanding apparatus commonly used for outdoor food preparation purposes in an approved portion of the park.
9. Camp in any portion of any park unless specifically allowed by City Administrator pursuant to Section 12.40.070 or by City Council action for special events. "Camp" and "Camping" shall be as defined in LMC Chapter 12.40.
10. Bring, ride, leave, turn loose, or allow any animal to be within a park or park facility. Provided, however, that this prohibition shall not apply to a service animal which is defined as any animal which is trained or is being trained to aid a person who is blind, hearing impaired, or otherwise disabled and is used for that purpose and is properly trained to provide the required service, nor shall this prohibition apply to dogs properly restrained by a leash.
11. Erect, put or place any sign, pamphlets, flyers, or advertisement in a park or park facility, or engage in any commercial activity except as authorized by the City Council or Mayor pursuant to Section [12.24.065](#).
12. Engage or participate in any disorderly, lewd, obscene, drunken, or indecent conduct within any park or park facility.
13. Use or engage in any of the following activities: archery, discus, javelin, shot, golf, or aircraft, rockets, missile powered devices, or firearms. The Mayor may allow those activities in special-use areas as provided in Section [12.24.060](#).
14. Possess any glass containers within a City park.
15. Use abusive, threatening, profane or obscene language.
16. Engage in or encourage a fight or brawl.
17. Yell, shout, hoot, whistle, or sing so as to unreasonably disturb or interfere with the peace, comfort, repose, health or safety of park users or nearby residents.
18. Meet or gather in large groups or assemblies without first making reservations and obtaining a written permit from the Parks Department. A large group or assembly is that which would occupy one-tenth (1/10) or more of the user capacity of the park.
19. No person shall enter or remain in any park at any time during which there is in effect a notice of exclusion issued under Section [12.24.080](#) excluding that person from that park.

20. Tobacco use, including smoking, e-cigarettes and vaping devices, is prohibited pursuant to Chapter [8.56](#).
21. Discharge or sell any fireworks; fireworks are prohibited pursuant to Chapter [8.04](#).
22. Install, erect or otherwise construct displays, exhibitions or expositions on park property.

12.24.050 Animals - Conduct of Dogs and Fecal Matter:

A. General Park Areas, Fields, Walkways, and Play Areas

1. All animals, except for dogs, are prohibited in the City's parks unless otherwise authorized in a Special-Use Area as described in LMC 12.24.060.
2. Any person with a dog in his or her ownership, possession, or under his or her control, in any park, shall be responsible for the conduct of the dog and shall not allow the dog to bite or otherwise molest or annoy other park visitors or dogs.
3. All dogs shall be confined on a leash and controlled by the owner and/or custodian at all times except as permitted in subsection B below.
4. Any person with a dog in his or her ownership, possession, or under his or her control in any park shall carry equipment for removing fecal matter and shall collect and place all fecal matter deposited by such dog in an appropriate receptacle.

B. Off-Leash Dog Areas

1. Notwithstanding subsection A above, a dog may be permitted off-leash in a park or portion thereof which is officially designated as an off-leash area. Any person with a dog in his or her ownership, possession, or under his or her control, in the off-leash area of any park, shall comply with the rules of conduct in subsection A above, except for the leash requirement, and any additional rules of conduct as proscribed by City ordinance or the City Parks Department.
2. Off-leash areas within the City are hereby designated as follows: [Identify park and describe portion thereof for which off leash dogs are allowed.]

12.24.060 Special-Use Areas:

- A. The Mayor is authorized to establish, alter, and discontinue special-use areas in parks. Special-use areas can include areas for horse or pony riding, swimming, fishing, BMX riding, skateboarding, concerts, bicycle riding, camping, motorcycle riding, tennis, gold, baseball, softball, or any activity that is otherwise prohibited in

this chapter. Before establishing, altering, or discontinuing a special use area, the Mayor shall determine the priority of need for such an area, and a determination shall be made as to whether the activity can be carried on without unreasonable interference or danger to other persons.

- B. City parks are open to the public from dawn until dusk, and are closed to the public from dusk until dawn, with only the following exceptions:
 - 1. Persons attending or participating in an event or game at a city park for which the parks department issued a permit or approved the scheduling thereof, may remain in that park for the duration of the event or game.
 - 2. Persons utilizing a city park facility in accordance with a valid reservation may remain in and around that facility until the conclusion of the reservation period.
- C. City park contains lighted tennis courts; the tennis courts may be used after dusk until the lights are turned off.
- D. When a city park is closed to the public, the trails through it shall remain open, but may only be used for the purpose of moving through the park. Loitering on or deviating from trails through a park when the park is closed is prohibited.
- E. The director of the parks department may post different hours at individual city parks and trails on a temporary basis, which shall supersede this section.

(Ord. No. 1593, § 1, 10-21-2019)

~~The Mayor may designate the following conditions for special-use areas.~~

- ~~1. Hours and days that the special-use is allowed which may be more or less restrictive than general park hours.~~
- ~~2. Specific activities that are allowed within the special-use area.~~

Parks	Special-Use Area	Allowable Activity
Bender Fields	Pump Track	360 nose pivot with a half cab fakie tailwhip
	Lighted sport courts	Sports between the hrs of x and x.
	Off-leash dog run	Unleashed dog exercise
Berthusen Park	Shooting Range	?
	Horse riding	Only on "X" trails during "X" time period...permit required or something?

Parks	Special-Use-Area	Allowable Activity
	Antique tractor grounds	Camping on-site during special events with an approved

E.F. The city shall mark the boundaries of the special use area and shall post signs that state the conditions for the special-use area. All warnings that are appropriate for the special-use area shall also be posted with the conditions.

F.G. Special use areas shall be used only for those purposes for which they are established. All persons who use a special use area shall obey all conditions that are specified by the Mayor and are posted at the special-use area.

G.H. Between the hours of 10:00pm and 6:00am the parks shall be closed to the public unless persons are actively engaged in an allowable activity within a special-use area.

12.24.065 Commercial Activity:

- A. The City Council or the Mayor may approve permits to be issued that authorize merchandise or services to be sold in a park and that authorize concessions to be operated in park. No person shall sell or attempt to sell merchandise or services or operate concessions in a park without a permit. Permits shall only be issued if the merchandise, services, and concessions are reasonable and are in the best interests of the city.
- B. All requests for permits from profit-making groups or organizations shall be reviewed by the City Council, and the requests shall be either approved or denied by the City Council. All requests for permits from non-profit groups or organizations shall be reviewed by the Parks and Recreation Director and the Parks and Recreation Director shall make recommendations to the Mayor or designee. The Mayor or designee shall either approve or deny the request. If an application for a permit is denied by the Mayor or designee, the applicant may appeal the decision to the City Council. The City Council shall hear the appeal at the next regularly scheduled City Council meeting if the appeal request is submitted by the applicant to the Mayor prior to the Thursday before the Council meeting.
- C. The City Council or the Mayor may place conditions on the permit and the city may revoke the permit if the conditions of the permit are violated. Persons who hold a valid permit shall adhere to all of the conditions stated on the permit. The City Council may deny permits to persons who have violated the conditions of a permit within the previous year.

12.24.070 Aiding and Abetting Violations:

Any person participating in a violation of any provision of this chapter, whether directly committing the act or omitting to do the thing constituting the offense or who aids or abets the same, and whether present or absent, and anyone who directly or indirectly counsels, encourages, hires, commands, induces or otherwise procures another to commit such offense, shall be guilty of the violation or offense.

12.24.080 Park Exclusion:

Insert Previously adopted rules here (Ordinance 1637), which was adopted in Nov 2021.

12.24.090 Trespass in parks:

It shall constitute a trespass in a city park if any person knowingly:

- A. Enters or remains in a park from which he or she has been excluded during the period covered by an exclusion notice pursuant to LMC [12.24.080](#);
- B. Enters, remains in, or is otherwise present within the premises of a park during hours which the park or portion of the park is not open to the public, unless the person is present within the park to participate in an activity either conducted by the parks and recreation department or conducted pursuant to the terms of a permit issued by the parks and recreation department; or
- C. Enters or remains in any area of a park which has been designated and posted by the City as a closed area, using such postings as “no admittance” or “closed to use” or “no trespassing.”

The provisions of this section do not apply to any duly authorized department of parks and recreation or other city employee in the performance of his or her duties, or other person authorized by law.

Any person trespassing on city park property shall be subject to arrest and prosecution for criminal trespass.

12.24.100 Other Prohibited Activities

A. Injuring Park property prohibited.

It is unlawful for any person to injure, destroy, remove, cut or deface any playground or camping apparatus, building, fence, trees, flowers, shrubbery, lights, flagpole, flag rope, or any other property in any park of the city.

B. Depositing waste materials prohibited when.

It is unlawful for any person to throw or deposit any empty cans, boxes, garbage, rubbish or other waste materials in any place in such park except in the containers provided therefor.

C. Depositing waste materials in streams and swimming pools prohibited.
It is unlawful for any person to throw or deposit any empty cans, boxes, brush, rubbish, garbage or other waste materials or substances in any running stream or swimming pool in any park of the city.

D. Acts injurious to watercourses prohibited when.
It is unlawful for any person to pollute, obstruct or change the course of any stream, or excavate in or near, or construct abutments on the banks of any stream, in such park, provided that necessary construction work on the abutments of the banks of any stream, on wing dams or excavations, and such other work as may be necessary may be done with the consent of the park board.

E. Excavations and removal of earth—Permit required.
It is unlawful for any person to take any sand or gravel out of any stream or bank thereof or to excavate or remove any dirt from such park without first securing a written permit therefor from the park board.

F. Water pipe or faucet—Injuring or leaving open prohibited.
It is unlawful for any person to injure, destroy or leave open any water pipe or water faucet in any park in the city.

G. Burning materials prohibited—Exception.
It is unlawful for any person to burn any rubbish, wood or other combustible substance in such park except in the stoves or fireplaces provided for such purposes.

H. Advertisements prohibited.
It is unlawful for any person to post, tack up, paint, set up or otherwise construct or expose to view any billboard, sign, placard or advertisement of any nature whatsoever in any place in such park, or within one block on either side of the entrances thereto.

I. Animals staked or at large prohibited.
It is unlawful for any person to stake or allow to run at large in such park any horse, cow, swine, goat, fowl, or any other animal.

J. Driving over park grounds prohibited.
It is unlawful for any person to drive with any vehicle, except those propelled by hand, over or upon any part of such park, except on the established highway.

K. Throw stones or discharge any firearms.

L. Drive carelessly.

M. Make indecent exposure of person.

N. Operate any gaming device.

O. Disturb any public meeting.

P. Climb on any building, facility, apparatus, or improved area not specifically designated for climbing purposes.

Q. Be on the roof of any building or facility except as authorized for construction, repair, operations, or maintenance purposes.

R. Disturb the peace of others by violent, disorderly, or offensive conduct, by making or causing to be made loud or unusual noises, or by using personally abusive, profane, lewd, vulgar, obscene, or offensive language.

S. Be guilty of any act contrary to the laws of the State.

T. Operate or ride upon any bicycle, skateboard, or other device on any tennis, basketball, pickleball, or similar sports court.

12.24.110 Unlawful acts prohibited.

It is unlawful for any person to do any other act in any such park which shall be unlawful and contrary to the ordinances of the city and the statutes of the state.

12.24.120 Enforcement authorized.

It shall be the duty of the chief of police to enforce the provisions of this chapter and he shall have authority to appoint such deputy or deputies as may be necessary to enforce the same.
(Ord. 195 § 2, 1922).

12.24.100130 Motor Vehicle Speed:

The designated speed for motor vehicles upon the roadways within developed park areas shall not exceed fifteen (15) miles per hour. Speed limit signs shall be posted along the roadways within a park.

12.24.110140 Discretion of Mayor:

Whenever this chapter makes reference to the exercise of reasonable discretion by the Mayor, the Mayor shall take into consideration and account the use and enjoyment of the parks for the maximum number of people and the general purpose set forth in Section 12.24.010.

12.24.120150 Posting of Park Rules:

- A. Park rules and regulations shall be conspicuously posted. Rules and regulations pertaining to trails and walking paths, and for off-leash dog areas, shall be posted in conspicuous locations such as entrances or intersections.
- B. Defacing or removing posted signs is prohibited.

12.24.130160 Violations - Penalty:

Any violation of any provision of this Chapter shall constitute a civil infraction and shall subject the violator to a monetary penalty as provided in LMC .. Each and every calendar day during any portion of which any violation of this chapter is committed, continued or permitted by any such person shall constitute a separate offense.

Section 2. Title 12, Streets, Sidewalks, and Public Places is hereby amended to include a new Chapter 12.40, Camping on Public Property, which reads as follows:

Chapter 12.40
CAMPING ON PUBLIC PROPERTY

12.40.010 Findings:

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

12.40.020 Purpose:

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

12.40.030 Definitions:

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

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

“Camp” or “camping” means (a) to use camp paraphernalia to facilitate temporary or permanent habitation; or (b) the construction or use of camp facilities.

“Camp facilities” includes without limitation, any of the following when used for temporary or permanent habitation: tents, huts, temporary shelters made of any material, or vehicles.

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

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

“Park” means the same as defined in Section 12.

“Store” means to put aside, accumulate, or leave for later use or safekeeping.

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

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

“Vehicle” means the same as defined in RCW 46.04.670, which is hereby adopted as now enacted or hereafter amended.

12.40.040 Unlawful Camping:

A. At any time, it shall be unlawful for any person to camp, or to occupy camp facilities or use camp paraphernalia for purposes of habitation, in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section 12.070:

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

B. At any time, it shall be unlawful for any person to occupy a vehicle for the purpose of camping while that vehicle is parked in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section 12.070:

1. Any park;

2. Any street or trail; or

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

12.40.050 Unlawful Storage of Personal Property in Public Places:

At any time, it shall be unlawful for any person to store personal property, including camp facilities (other than vehicles) and camp paraphernalia, in the following areas, except as otherwise provided by ordinance or as permitted pursuant to Section 12.070:

A. Any park;

B. Any street or trail; or

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

12.40.060 Penalty for Violations:

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

12.40.070 Enforcement Suspended

The City shall not enforce the provisions of Section 12.040 or Section 12.050 against persons who lack the financial means to pay for adequate shelter unless the City first confirms there is an available overnight shelter space that can be utilized by the particular person(s).

12.40.080 Special Event Permit:

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

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

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

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

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

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

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

section, or of any rule or regulation promulgated under subsection C of this section, or of any ordinance or statute.

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

12.40.090 Public Duty Created:

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

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

Section 3. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4. This Ordinance shall be in force and effect five (5) days from and after its passage, approval, and publication.

AFFIRMATIVE VOTE, _____ IN FAVOR, AND _____ AGAINST, AND SIGNED BY THE MAYOR THIS _____ DAY OF _____ 2022.

MAYOR, Scott Korthuis

ATTEST:

CITY CLERK Pamela D. Brown

APPROVED AS TO FORM:

CITY ATTORNEY Robert A. Carmichael