

**CHAPTER 19.57**  
**HOME OCCUPATION PERMITS,**  
**CONDITIONAL USE PERMITS AND SHORT-TERM RENTALS**

- [19.57.100 Home Occupation Permit Purpose](#)
- 19.57.110 Home Occupation Permit Applicability
- [19.57.120 Home Occupation Permit Exemptions](#)
- [19.57.130 Home Occupation Permit Ineligible Activities](#)
- [19.57.140 Home Occupation Permit Conditions](#)
- [19.57.150 Home Occupation Permit Procedure](#)
- [19.57.160 Home Occupation Permit Violations](#)
- 19.57.200 Conditional Use Permit Purpose
- [19.57.210 Conditional Use Permit Process and Criteria for Approval](#)
- [19.57.220 Conditional Use Permit Development Standards](#)
- [19.57.230 Conditional Use Permit Expiration](#)
- [19.57.240 Conditional Use Permit Modifications](#)
- [19.57.250 Conditional Use Permit Violations](#)
- [19.57.300 Bed and Breakfast Establishments and Short Term Rentals Purpose](#)
- 19.57.310 Bed and Breakfast and Short Term Rental Applicability
- 19.57.320 Bed and Breakfast and Short Term Rental Conditions and Criteria

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.~~ 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