

Chapter 19.49  
CONDITIONAL USE PERMITS

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19.49.010 Purpose.

The purpose of the Conditional Use Permit (CUP) is to allow the proper integration of specific land uses which may be suitable only under certain conditions in specific locations in a zoning district, or when the site is regulated in a particular manner. It is the intent of this section to allow certain uses which, because of their unusual size, special requirements, adverse impacts, possible safety hazards or detrimental effects on surrounding properties are classified as conditional uses.

19.49.020 Standards and criteria for granting a CUP

- 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 ordinance, 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.
- 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:
  - i) traffic and pedestrian circulation,
  - ii) noise, smoke, fumes, glare or odors generated by the proposed use,
  - iii) building and site design,
  - iv) 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; and
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.

19.49.030 Special conditions for the approval of a bed and breakfast establishment

Bed and breakfast establishments require a CUP in all single-family zones and the RM-3 and RM-4 zones and are permitted within the RM-1, RM-2, HBD and CSL zones. All proposed bed and breakfast establishments, regardless of zone, shall be required to show compliance with the standards listed below. Bed and breakfast establishments proposed within an area requiring a CUP will be required to meet the standards and criteria listed in Section 19.49.020 as well as those conditions listed below.

- A. A bed and breakfast establishment 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.
- B. 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.

- D. Proprietors of the bed and breakfast establishment shall follow health guidelines and regulations of the Whatcom County Department of Health and Washington State regulations.
- E. The applicant shall meet all requirements for the provision of off-street parking. Parking shall be adequately screened from the neighboring properties.
- F. 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.
- G. 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."
- H. The operator of the bed and breakfast shall reside on the premises. Owner and operator quarters and guestrooms shall be in the same building.
- I. No other business, service or commercial activity may be conducted on the premises. Breakfast only may be served and no meals may be served to the general public.

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. Multi-tenant 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 15,000 square feet shall incorporate the following elements in the design:
  - 1. Facades in excess of 100 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 concrete masonry units. Smooth faced concrete block, tilt-up concrete panels, and prefabricated steel panels are discouraged.
- C. Restaurants, cafes, and service stations within the CSR zone must be located within 700 feet of the Guide Meridian and have frontage on West Main Street.

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 listed 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 section 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.

19.49.050 Maximum coverage and minimum lot size for certain conditional uses.

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.

Use	Zone	Maximum Lot Coverage	Minimum Lot Size in Square Feet
Churches	All residential zones	30%	12,000 sq. ft.
Schools	Residential	30%	12,000 sq. ft.
Schools	Non-residential	35%	12,000 sq. ft.
Utility Substations	All zones	35%	8,000 sq. ft.
Libraries and post offices	All zones	35%	8,000 sq. ft.

19.49.060 Content -- 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 Planner. 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.

19.49.070 One-year validity.

- A. Conditional use permits shall expire twelve 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.

19.49.080 Modification of or addition to, existing conditional uses.

- A. Modifications 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 Planner may administratively consider, approve or disapprove a one-time addition or modification 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.
- B. Such additions or modifications approved administratively shall be recorded by the Planner on the CUP on record.

19.49.090 Application process.

See Chapters 17.05, 17.07 and 17.09 of the Lynden Municipal Code.