

ORDINANCE NO. 1453

**AN ORDINANCE OF THE CITY OF LYNDEN TO REPEAL AND REPLACE
CHAPTER 19.57 OF THE LYNDEN MUNICIPAL CODE**

WHEREAS, the City of Lynden has adopted regulations pertaining to Home Occupation Permits in order to ensure consistent, timely and orderly review of such applications within the City of Lynden; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time ensure that all commercial activity remains incidental to the residential use and does not interfere with the residential character of the neighborhood.

WHEREAS, the Lynden Planning Commission held a public hearing on October 24, 2013, on the proposed repeal and replacement of Chapter 19.57 of the Lynden Municipal Code regarding Home Occupation Permits; and

WHEREAS, on December 2, 2013, the Lynden City Council held a public hearing to consider the Planning Commissions recommendation and to hear further public input regarding the changes to the Home Occupation Ordinance (Chapter 19.57); and

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

SECTION A. Chapter 19.57 of the Lynden Municipal Code is hereby repealed in its entirety.

SECTION B. A new chapter 19.57 of the Lynden Municipal Code is hereby adopted as follows:

Sections:

- 19.57.010 Purpose
- 19.57.020 Applicability
- 19.57.030 Exemptions
- 19.57.040 Ineligible Activities
- 19.57.050 Permit Conditions
- 19.57.060 Permit Procedure
- 19.57.070 Violations

19.57.010 Purpose.

The purpose of this chapter is to allow for home occupations which are limited 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.

19.57.020 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.

19.57.030 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.

19.57.040 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;

19.57.050 Permit Conditions

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.

19.57.070 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.

SECTION C. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

SECTION D. Any ordinance or parts of ordinances in conflict herewith are hereby repealed.

SECTION E. This ordinance shall be in full effect five (5) days after its passage, approval and publication as provided by law.

PASSED by the City Council this 21 day of January, 2014.


Signed by the Mayor on this 21 day of January, 2014.


MAYOR (Scott Korthuis)

ATTEST:


CITY CLERK (Mike Martin)

APPROVED TO AS FORM:


CITY ATTORNEY (Robert Carmichael)