



Responding to ESHB 1293 re Design Review

State legislation requires the City of Lynden to modify the design review process used to evaluate commercial and multi-family projects. This modification must replace subjective guidelines and rules with prescriptive design standards so that expectations are ascertainable. The overarching goal is that projects can be approved more efficiently and the carrying costs of developers / builders are reduced.

In the proposed amendment the role of the Design Review Board (DRB) has been eliminated because the design standards have become prescriptive. Likewise, because a design will either meet or not meet code, the public hearing where neighboring properties review the design of the project has also been eliminated. (No alterations have been made to the public comment or participation process associated with land use / subdivision approvals.) Projects will be reviewed for Design Standard compliance by the Technical Review Committee (TRC). Appeals to the TRC decisions, like other administrative decisions, would be made to the Hearing Examiner.

This revision touches many sections of the Lynden Municipal Code (LMC) and has also been used to make minor improvements, correct errors, and insert clarifications throughout. This review guide summarizes the proposed changes per section. The most substantive changes are noted below with **bold red text**.

Review Guide

Chapter 2.09 HEARING EXAMINER

- Revised the list of applications to show that variances to commercial design standards go to the City Council and not to the Hearing Examiner.

Chapter 17.03 ADMINISTRATION

- Generally, the “Planning Department” was updated to the “Community Development Department” throughout to reflect the revision and expansion of the department.

- Generally, all mention of the Design Review Board and the associated Design Review hearing have been modified to an administrative design review process conducted by the Technical Review Board.
- 17.03.020: Added Title 15 to the list of titles under the responsibility of the Community Development Director as the building division is now within the Community Development Department.
- 17.03.030: Updated the City Council's responsibilities to include closed record hearing of design review variance and sign variances which are currently heard by the Design Review Board.

Chapter 19.18 PEPIN CREEK SUBAREA ZONES

- 19.18.030(K): Moving this one section completes the consolidation of all residential design standards to 19.22, a process which began in 2019.

Chapter 19.20 ACCESSORY DWELLING UNITS (ADUs)

- 19.20.030: Clarifications in height and setbacks as they relate to the primary structure. These ensure consistent interpretation with the State's requirements.
- Correction to the listed date upon which the City began collecting impact fees on ADUs. This began on July 1, 2024 per Ord. 24-1684, not January 1, 2025.

Chapter 19.22 RESIDENTIAL DESIGN STANDARDS

- 19.22.015: Copied the existing language related to design review but with administrative review rather than Board review, from 19.45.040 and placed at the start of this section as an overview of the design review process.
- 19.22.040(B): Clarifications made to the Accessory Dwelling Unit (ADU) development standards consistent with State requirements.
- 19.22.040(D) and 19.22.050: Integrated the zoning category of RM-PC to the residential design standards to complete the consolidation of all residential design standards to this section.
- 19.22.060: Copied the language related to Design Review Waivers (and existing process) from 19.45.035 to provide a more complete overview of the design review

process within this section. Waivers proposed to be considered administratively with appeals directed to the City Council.

Chapter 19.23 COMMERCIAL ZONING

- 19.23.020: Updated permitted uses to include Outdoor Commercial Recreation and associated notes. Deleted “Commercial Sporting Events” with directions to seek a Special Event Permit for events.
- 19.23.060: Revised the instructions for commercial design review to shift from a Board review to an administrative review. Added clarification regarding when compliance is required of schools and churches – code requirement regarding design review of these structures has been ambiguous.
- **19.23.080: Commercial Design Standards.** This section has historically focused on special design conditions specifically for ‘big box stores’. **This section, along with the adopted design guidelines became the foundation for the proposed commercial design standards.** Some language here related to covenants and restrictions on leases has been deleted due to the difficulty in enforcing restrictions on real estate transactions. **The intent of design standards is that new construction contributes positively to the city’s streetscape and the pedestrian environment. Designs should be interesting, appropriate to the site, functionally efficient, and safe. Per State code the standards must be discernible and not subjective.** Design standards cannot force the reduction in the bulk of the building which are otherwise permitted per development standards.
- 19.23.090: Projects which seek to utilize the mixed-use provisions of the city’s code and construct residential units on commercial properties (typically at higher densities) are held to a higher design standard. This section outlines requirements that seek primarily to accommodate pedestrians in these environments by focusing on additional sidewalk requirements, entry ways, lighting, and landscape buffering.
- 19.23.100: **Proposed deletion of spacing requirements for gas stations.** Deletion here is proposed as spacing requirements like this one are rare in Lynden’s development code. Typically, the code allows market factors to determine viability and retail competition can be beneficial for consumers. However, a couple key properties including the SW corner of Badger and Bender and the NW corner of Main and Guide could develop into gas stations which would be immediately adjacent to existing gas stations. If the Council opts to maintain the spacing requirement then the permitted uses table should be updated in 19.23.020 to very clearly identify the spacing requirement so that it is obvious and not a regulation that is missed.

Chapter 19.25 INDUSTRIAL ZONING

- 19.25.030: Planning Commission requested that Outdoor Commercial Recreation be added as a conditional use within industrial zones.
- 19.25.070: Landscape and Fence requirements for industrial development are proposed to be consolidated to the landscape and fence sections of the code without significant changes. This is consistent with the overall organization of the code. Revised locations will be referenced here in the industrial code.

Chapter 19.27 PUBLIC USE ZONE

- 19.27.030: Development regulations here were reorganized into three areas: Setbacks, Height, and Design Review.
- 19.27.030: Increase in maximum building height. Proposed increase maximum height from 30 feet to 48 feet to allow for larger scale buildings which occur on properties such as arena structures at the Fairgrounds or recreational facilities which could be constructed at the city's regional parks such as Benson Park.
- 19.27.030(C): Code has been relatively ambiguous about when / if design review is needed for buildings with the Public Use zones. The section proposes that PU development does not need to submit a Design Review application but must meet the list of design standards included here. These elements must be confirmed at the time of building permit.

Chapter 19.33 SIGNS

- 19.33.020: Corrections needed here as the definition of 'internal lighting' was inadvertently repeated for 'indirect lighting'.
- 19.33.030: Revision to the process for sign review so that Design Review is conducted administratively and sign variances are decided by the City Council in a closed record hearing with no appeal.
- 19.33.040: Design elements currently found in the city's design guidelines have been copied to this section.

Chapter 19.45 DESIGN REVIEW

- 19.45.010 and 19.45.020: Expanded and clarified the description of the intent of design review. Revisions to the process proposed to dissolve the role of the Design Review Board because after standards are revised to be prescription the review can be completed by use of a 'checklist' process rather than subjective or Board opinion.
- 19.45.020 and 19.45.030: Updated the waiver process to be reviewed administratively per the listed criteria. Appeals of a waiver decision go to the City Council.
- 19.45.040: Has been updated to be reviewed administratively.

Chapter 19.47 HEARING EXAMINER

- 19.47: This section was updated in recent years and no changes are proposed except that the title of 19.47 was never codified as "Hearing Examiner" instead of "Board of Adjustment" after the dissolution of the Board of Adjustment.

Chapter 19.49 COMMUNITY RESIDENTIAL FACILITIES

- 19.49: Many Community Residential Facilities (emergency shelters, transitional housing facilities, etc) would be required to meet design standards associated with either the multi-family zone or the commercial zone depending on where they are located. Changes here update the code to update the design review process.
- 19.49.060: Emergency Housing, Indoor – Emergency Shelters is a section which was inadvertently overwritten when the city adopted the civil penalties code. This ordinance restores the adopted language and shifts the portion related to civil penalties to its appropriate (new) section in 19.57.250 as it relates to violation of conditional use permits.

Chapter 19.57 HOME OCCUPATION PERMITS, CONDITIONAL USE PERMITS AND SHORT TERM RENTALS

- 19.57.250: Updates the violation section of the conditional use permit process to be consistent with the city's civil penalties code as adopted by Ord 23-1680.

Chapter 19.61 LANDSCAPE REQUIREMENTS

- 19.61.010: Moved the definitions of this section to the top of the chapter instead of the end to be consistent with the format of the LMC.
- 19.61.080 and 19.61.090: Updated the sections on street trees and landscape buffers to allow for some flexibility in some circumstances while still facilitating the planting of the required trees or buffer.
- 19.61.100: Broadened this section to address more than just parking lots including perimeter landscaping and foundation landscaping. Included minimum plant sizes so staff can enforce quality control at the time of planting.
- 19.61.150: Moved the industrial landscape requirements from 19.25 to this section to consolidate all of the landscape sections.

Chapter 19.63 FENCE PERMITS AND REQUIREMENTS

- 19.63.080: Moved the language regarding industrial fence from 19.25 to this section to consolidate all fence related standards.