

ORDINANCE NO. xxxx

AN ORDINANCE OF THE CITY OF LYNDEN, AMENDING SECTION 12.28
SIDEWALK OBSTRUCTIONS

WHEREAS, Section 12.28 of the Lynden Municipal Code regulates sidewalk obstructions and use of planting strips, including infractions for violations; and

WHEREAS, from time to time certain chapters of the Lynden Municipal Code need updating in order provide clarification and to reflect minor changes needed in order to accurately reflect changes in parking needs; and

WHEREAS, The City of Lynden seeks to provide opportunity for outdoor dining areas to be placed on sidewalks adjacent to, and operated by the restaurants provided that safe pedestrian access can be maintained.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Section 12.28 of the Lynden Municipal Code is hereby repealed and replaced as follows:

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Chapter 12.28 - SIDEWALK OBSTRUCTIONS

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12.28.010 - Sidewalk obstructions prohibited—When.

Nothing shall be placed on any sidewalk in the city which either partially or totally obstructs or impedes the flow of pedestrian traffic except as specifically permitted in this chapter.

(Ord. 812 § A(part), 1989).

12.28.020 - Authorized partial obstruction.

Includes temporary and permanent additions to areas within the public right-of-way which may occur per the standards described below:

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A. Authorized partial obstructions related to general business use

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1. Sandwich board signs or similar as permitted by the Lynden Municipal Code, and merchandise, both of which may be placed only by the owner or lessee of adjacent property per the conditions in subsection B;

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2. Items sponsored by the Downtown Business Association or the City of Lynden including public art, garbage cans and benches for use by the general public, merchandise, outdoor dining areas, and/or flower

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containers or other streetscape enhancements per the conditions in ~~sub B. of this code chapter, including the removal of posts, signs and~~

B. Conditions for partial obstructions related to general business use:

- 1. A. ~~_____~~ unobstructed. This area to remain unobstructed even when vehicles are parked at the adjacent curb and outdoor dining facilities are in use and must connect with adjacent unobstructed routes.
- 2. B. ~~The obstructions with sight triangles of intersections are intruded on property no more than thirty-two inches tall or are otherwise approved by the Public Works Department and no more than fifty inches tall. An exception is allowed for City permitted outdoor dining areas.~~
- 3. C. ~~—~~ No safety hazard is created. Any placement deemed to be hazardous by the Lynden ~~police~~ Public Works Department shall be immediately removed upon receipt of notice thereof by the property owner or occupant.
- 4. ~~Merchandise must be located within 32 inches of the building façade unless otherwise temporarily permitted by a special event permit.~~
- 5. D. ~~—~~ A permit is issued by the Lynden ~~police~~ Public Works department for such placement. No fee shall be charged for the permit. Proof of insurance naming the City as an additionally insured and/or hold harmless covenants may be required as a condition of permit issuance.

(Ord. 812 § A(part), 1989).

Commented [HG1]: We can continue to have a fee of \$0.00 but this statement should be removed from code to give the City the flexibility to implement a fee with the unified fee schedule if Council decides it is appropriate.

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12.28.030 - Use of planting strips.

Sandwich board signs, garbage cans, merchandise, flower containers, benches and/or newspaper stands may be placed on a planting strip between the street and sidewalk in CS, CSC, RS and I zones; provided, that they are at least twenty feet from any street intersection, are less than fifty inches high and do not constitute a safety hazard in the opinion of the Lynden police and public works departments. No fee shall be charged for the permit which is issued by public works. Use of the planting strip shall not interfere with LID BMPs or infiltration functions.

(Ord. 812 § A(part), 1989).

(Ord. No. 1541, § 8, 12-4-2017)

12.28.040 - Placement of bike racks, benches or newspaper stands.

Bicycle racks, benches or newspaper stands may be placed only at locations approved in advance by the public works director.

(Ord. 812 § A(part), 1989).

12.28.050 ~~Existing signs allowed.~~ **Reserved**

~~Sandwich board signs in place before October 1, 1988, may remain in place even though they violate Section 12.28.020 or 12.28.030; provided, that they do not, in the opinion of the Lynden police department, constitute a traffic safety hazard.~~

(Ord. 812 § A(part), 1989).

12.28.060 - Penalty.

The penalty per violation of this chapter shall be as follows:

- A. First offense within one year—Twenty-five dollars;
- B. Second offense within one year—Seventy-five dollars;
- C. Third and subsequent offense within one year—Three hundred dollars.

(Ord. 812 § A(part), 1989).

Section 2 – Severability.

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 3 – Effective Date.

This ordinance shall be in full force and effect from and after its passage by the City Council and approval by the Mayor, otherwise as provided by law, five days after the date of its publication.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, ____ IN FAVOR ____ AGAINST AND SIGNED BY THE MAYOR THIS ____ DAY OF _____, 2021.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY