

Ordinance No. 23-1674

AN ORDINANCE OF THE CITY OF LYNDEN AMENDING TITLE 19 OF THE LYNDEN MUNICIPAL CODE REGARDING PORCHES, STOOPS, DECKS AND PATIOS

WHEREAS, the City is responsible for enacting regulations that protect the health, safety and general welfare of the citizens of Lynden; and

WHEREAS, the Growth Management Act requires that local governments planning under the Act must adopt regulations which implement adopted comprehensive plans; and

WHEREAS, the City of Lynden finds it necessary to amend these regulations from time to time to ensure orderly review of zoning regulations within the City; and

WHEREAS, a proposal was brought forward to amend Lynden Municipal Code (LMC) Title 19, Section 19.22 regarding patio enclosures and screening; and

WHEREAS, a proposal was simultaneously brought forward to amend LMC Title 19, Section 19.23 regarding Small Scale Mixed-Use Provisions for the South Historic Business District; and

WHEREAS, the Lynden Planning Commission held an open record public hearing on May 11, 2023, to accept public comments on the proposed amendments to LMC Chapters 19.22 and LMC 19.23; and

WHEREAS, the Planning Commission recommended adoption of the amendments as presented to the City Council in Resolution 23-03 and 23-04; and

WHEREAS, on June 19, 2023, the Lynden City Council held a public hearing to accept public testimony on the proposed amendments to LMC 19.22 and LMC 19.23 and to consider the matters of record to that date; and

WHEREAS, the City Council did approved the proposed amendment to LMC Chapter 19.23.110(B) under Ordinance 23-1669 making applicable properties with commercial zoning in the SHBD eligible for small-scale mixed-use provisions; and

WHEREAS, the City Council did not approve the amendment to LMC 19.22 regarding screening of patios but instead passed Resolution 23-1076 on August 21, 2023 which required the issue be reconsidered by the Community Development Committee; and

WHEREAS, the Community Development Committee discussed this amendment to LMC 19.22 at the September 20th and October 18th meetings, made edits to the original proposal which now includes clarifications as to the use of decks and patios in front yards, the height of side and rear decks, and regulations regarding the enclosure and ventilation of decks and

patios in order to provide options for securing covered patios with railings or sheltering from sun, wind or visibility; and

WHEREAS, the Community Development Committee concluded its discussion on October 18th with a recommendation to approve the revised amendment as attached in Exhibit A.

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

SECTION A Title 19 Amended as follows and as detailed in Exhibit A attached.

Repeal and replace LMC 19.22.030(E) in its entirety to incorporate minor updates and clarifications related to the standards associated with residential porches, stoops, decks and patios including provisions which allow for additional enclosure of patios and decks which encroach into rear yard setbacks.

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

SECTION D Effective Date. This ordinance shall be effective five days after the date of publication. All development applications received after that date shall be reviewed under the provisions of this ordinance.

PASSED by the City Council this 6th day of November, 2023. Signed by the Mayor on this _____ day of _____ 2023.

SCOTT KORTHUIS, MAYOR

ATTEST:

PAM BROWN, CITY CLERK

APPROVED TO AS FORM:

ROBERT CARMICHAEL, CITY ATTORNEY

EXHIBIT A
ORD 23-1674

E. Porches, Stoops, Decks, and Patios.

1. General Provisions for Porches, ~~and~~ Stoops, Decks, and Patios.

- a. All decks, porches, and patios must be included in calculations of maximum impervious lot coverage, as established in LMC 19.11.020.
- b. All decks, patios, porches, or similar must be designed so as not to drain to surrounding properties.
- c. No element of the deck or patio including footings may encroach into a neighboring property or an existing easement.

2. Front Entries and Front Yards

- a. ~~Architecture of the p~~Primary pedestrian entrances must include cover from the elements. Eave overhang alone does not constitute cover.
- b. Steps used to access front porches or stoops must be complimentary to the primary structure through the use of coordination materials or architectural elements.
- c. Stairs with open risers are not permitted on front porches or stoops.
- d. Front yard porches, decks and patios.
 - i. Uncovered porches, decks, and patios may encroach into a front yard but must maintain a minimum setback of ten (10) feet and shall not exceed eighteen (18) inches above the natural grade.
 - ii. Porches, decks, and patios that are covered or those that are uncovered but exceed eighteen (18) inches above the natural grade must meet the front setback assigned to the primary structure.

2.3. Uncovered Decks and Patios in Rear and Side Yards.

- a. Uncovered wood decks and ~~raised concrete~~ patios are permitted within side and rear setbacks. Uncovered decks and patios not over twenty-four (24) inches in height above grade at any point may be are permitted within ~~eighteen feet of the rear property line and five~~ six (6) feet of the rear and side property lines.
- b. Patios and decks more than twenty-four (24) inches above the natural grade must maintain a rear setback of eighteen (18) feet and side setback of six (6) feet.

3.4. Covered decks and patios are subject to general provisions as well as the following standards described here. Covered decks and patios which are detached from a primary residence by six (6) or more feet are regulated as accessory structures per LMC 19.22.040.

- a. Setbacks. Roof structures covering decks or patios are permitted within the rear setback provided that the structure:
- i. Remains open on three sides and is not enclosed in any way;
 - ii. Does not come within eighteen feet of the rear property line;
 - iii. Does not encroach more than two feet into the side yard setbacks of the underlying zone; and,
 - iv. The addition does not exceed the permitted lot coverage.
 - i. Covered decks and patios may encroach into a rear yard but a minimum rear setback of eighteen (18) feet must be maintained. This setback is measured from the property line to the farthest extent of the roof structure.
 - ii. Roof structures may encroach into side yard setback as much as two (2) feet.
- b. Enclosure. Deck or patio privacy screening or fencing which is located more than six feet from the property line, may be up to eighty four inches in height above the lowest grade. Privacy screening of a deck or patio which is located on a property line is subject to maximum fence height of six feet above grade. Covered decks and patios attached to a residence may be screened, secured, or enclosed to extend the usefulness of these outdoor spaces however, enclosures, whether conditioned or unconditioned, are not intended to become extensions of indoor living space unless the enclosure meets all setbacks applicable to the primary residence. Screening and enclosure of covered decks and patios encroaching into a rear yard setback is subject to the following regulations:
- i. Ventilation. Exterior edges of a covered deck or patio must include air gaps or screened openings that remain vented to the outdoors at all times. Walls, windows, and doors which can be made to seal the space are not permitted on any exterior edge. Vented openings must be present at the top and bottom of rigid enclosure walls. At a minimum, venting must include a gap equal to three and one half (3.5) inches at floor level, horizontally running the full perimeter of the patio's exterior between vertical supports. Additionally, an area equivalent to this floor level ventilation must be provided at the top of rigid enclosure walls. Venting an enclosed attic (such as when a ceiling is present on a patio) will not be counted toward the ventilation required for the enclosed patio / deck space.
 - ii. The portion of patio or deck enclosed with rigid and opaque screening materials may not occupy more than sixty (60) percent of the total linear length of the rear façade.
 - iii. Materials used to enclose or screen patios and decks that encroach into a rear yard may vary but the design must maintain the intent to provide ventilated outdoor, rather than indoor, living space. Examples of methods and materials include flexible and retractable

opaque or transparent patio screens or sunshades; framed insect screening; railings, louvered or rigid windscreens, or privacy panels which are mounted with brackets to the floor, ceiling, or vertical supports; tinted or transparent glass or plexiglass may be used except that highly reflective or mirrored glazing is not permitted.