



Balcony closure with windbreak pergolas

The urban planning and legal regime regarding the installation of windbreak panels or view breakers on one's balcony

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There are several interventions that can be implemented on your **balcony** to make it more welcoming and liveable: from verandas to pergolas, passing through pergotende and canopies. The options are different, since these are works that also differ from an urban point of view, and the choice is left to the preferences and needs of individuals.

Among these possibilities also emerges the one aimed at closing the balcony with pergolas or **so-called windbreak panels** made of different materials, such as glass, wood, plexiglass and so on.

These elements are useful for protecting from the wind, while still maintaining a partial passage of air, but also as partitions or shielding from noise, as well as to protect your privacy from prying eyes (to the point that they are also called "view breakers") or for the purpose of aesthetic finishing of the pergola (such as those grids on which to place creepers).

Windbreak pergolas and urban planning

As regards the regime in which these works fall (free construction or not) and the possible need for permits, it is useful to remember that the clarifications provided by the Council of State on several occasions (see sentence of 7 February 2020) as far as it concerns the pergola: this, by its nature, is a structure open on at least three sides and in the upper part and normally **does not require building permits**.

In fact, this is an artifact that does not involve an increase in volume or useful surface, which *"has an ornamental function and is made of a light structure in wood or other material of minimal weight, must be easily removable as it has no foundations, and acts as a support for climbing plants, through which to create shelter and shading of surfaces of modest size"* (see Council of State, sentence no. 306/2017).

On the other hand, the pergola itself, if it is covered from the top, even partially, with a structure that is not easily removable, must be considered a canopy and will be subject to the relative regulations.

As clarified by the administrative jurisprudence, it will always be necessary to **examine each intervention, case by case**, and take into consideration elements such as dimensions, structure, materials and purposes of the work, as well as the precariousness and / or removability of the work, to verify whether it is actually a matter of new buildings or real sheds,

They are expressly numbered inside the building free glossary, and are deemed to fall into this type of work, the **pergola to (of limited size and not permanently fixture to the ground) and cd tends to pergola**. For their installation, a simple communication of the start of work would seem to be necessary.

However, it will always be necessary to question the Technical Office of the Municipality as these works will also have to deal with the urban planning legislation in force at local level, which may provide for further restrictions. In addition to the municipal provisions, those concerning areas subject to historical, landscape or other restrictions are added.

Given the decisive importance that the **precariousness and removability** requirements of the work assume, it must be considered that windbreak panels can also be installed without special requirements.

Further confirmation also comes from a sentence of the Piedmont Regional Administrative Court (see no.18 / 2020) which states that **closing a terrace with windbreak panels is equivalent to installing a curtain** and therefore no building permit is needed, but the building must not be comparable to a real veranda which must always be expressly authorized.

Condominium: windbreak pergolas on the balcony and architectural decoration

If the apartment is in a condominium, further attention must be paid.

The art. 1122 cc states that in the real estate unit owned by the condominium, the condominium cannot carry out works that damage the common parts or cause damage to the stability, safety or architectural decoration of the building. The condominium must, in any case, **give advance notice to the administrator who reports it to the assembly**.

It would therefore seem that the condominium can freely proceed with the interventions by merely informing the administrator in advance.

Nevertheless, the codicistica provision requires that the works should not cause prejudice, among other things, the **architectural décor of the building**, which means that, if other condos they felt that there was a similar injury, they may seek the removal of windbreaks pergolas.

The jurisprudence believes that the architectural decoration, which characterizes the physiognomy of the condominium building, is comparable to a common good, pursuant to **art. 1117 cc**, the maintenance of which is protected regardless of the absolute aesthetic validity of the changes to be made (see Cass. N. 8830/2008).

The judgment relating to the impact of an innovation on the architectural decoration of the building is based, moreover, on **a factual investigation typically referred to the judge of merit** (see Cass. 10350/2011), case by case, which cannot be determined priori.

In particular, the protection of the decoration is prepared in consideration **of the appreciable alteration of the basic lines and structures of the building**, or even of its individual parts or elements with substantial autonomy, and of the consequential decrease in the value of the entire building and, therefore, also of each of the real estate units that compose it.

This is by no means a concept applicable only to properties with particular historical or artistic value, or with a particular design, since each building has a harmonic line that characterizes its physiognomy, even if it is particularly simple.

The judge, therefore, will have to adopt, case by case, criteria of greater or lesser rigor in consideration of the characteristics of the single building and / or the part of it concerned, and will also have to ascertain whether it originally had and to what extent a unity of lines and style, susceptible to significant alteration in relation to the innovation deduced in court, as well as whether or not previous innovations had already affected this aesthetic, impairing it (for example similar interventions by other owners).

On the other hand, the judge will have to ascertain that **the alteration is conspicuous and not negligible and such as to cause an aesthetic damage to the whole** susceptible to an appreciable economic evaluation, while said alteration can affirm without the need for such specific investigation only if has found an aesthetic damage of such importance, in terms of entity and / or nature, that the economic one can be considered inherent (see Cass. n. 28465/2019).

Windbreak pergolas on the balcony compliance with the regulations

In reality, even before verifying that the windbreak pergolas installed on the balcony cause an alteration of the architectural decoration, **those who intend to install them must check if there are particular prohibitions or prescriptions within the condominium regulations.**

The **condominium regulation**, of a "contractual" type, that is originally prepared by the builder or approved with the unanimous consent of all the condominiums, can define the concept of architectural decoration even in a more stringent manner than the provisions of the law and jurisprudence, and, for example, absolutely prohibit certain interventions or subject them to a procedure of prior approval that passes through the condominium assembly.

Source: <https://www.condominioweb.com/installation-sul-proprio-balcone-di-pergole-frangivento.17726>

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