



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Building Elements and Site Improvements Allowed in Building Setbacks

Meeting	File No.	Application Type
January 27, 2025	2025-105-LDR	Amendment to the Land Development Regulations

#### Request

Provide a recommendation to the City Commission on Ordinance No. 10-25, a City-initiated request to amend and update Section 4.3.4(H), "Setbacks," and Section 4.6.15, "Swimming Pool, Whirlpools, and Spas," Subsection (G), "Yard Encroachment" of the Land Development Regulations (LDR) to clarify regulations on building elements and site improvements allowed in building setbacks.

#### Background

On July 9, 2024, the City adopted Ordinance No. 13-24, extensively updating the regulations governing structures in setbacks. The lack of clear standards for structures and building elements made the review process challenging for Staff and resulted in inconsistent over time. The amendment specifically addressed the issue of balcony encroachment, and additionally provided a complete overhaul of the regulations in LDR Section 4.3.4(H) and Section 4.6.15(G) to add objective standards, to adopt standards for new elements, and to reorganize the regulations for clarity.

The proposed amendment adopts minor modifications to improve clarity of interpretation, in response to additional issues that have arisen during development review.

#### Description of Proposal

The proposal is initiated by the City to simplify and provide clear guidance on the placement of certain structures and building features within the setbacks, such as balconies and porch entries. The following changes are proposed.

#### Section 4.3.4(H), Setbacks

- Detached Pergolas. A 10-foot x 10-foot pergola less than 10' in height, without a solid roof, may be placed 5 feet from the side interior or rear property line.

#### Section 4.6.15(G), Yard Encroachment (for Swimming Pools, Whirlpools, and Spas)

- Pool Setbacks, Duplexes. Ordinance No. 13-24 adopted a 5-foot setback for townhomes, to eliminate the ambiguity associated with administrative interpretation. Duplexes were inadvertently excluded, however. The proposed amendment establishes a 5-foot interior setback for duplexes, and clarifies that the 5-foot setback applies to the interior lot line between units.
- Setbacks for Screen Porches, Not Associated With a Pool. Language is added to clarify the difference in regulation between a screen porch (roofed, and not associated with a pool) and a screen enclosure (which is associated with a pool). Screen porches can be enclosed (and often are), so the restriction on encroachment is intended to prevent the construction of a structure that could be enclosed and have a significant negative impact on the adjacent properties.

The proposed amendment is in full in the attached draft of Ordinance No. 10-25.

#### Review and Analysis

#### LDR Section 1.1.6, Amendments

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

### LDR Section 2.4.7(A), Amendments to the Land Development Regulations

*Amendments to the LDR may be initiated by the City Commission, Planning and Zoning Board, or City Administration, or by a member of the public.*

The proposed amendment is initiated by City staff.

### LDR Section 2.4.7(A)(5), Findings

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Objectives and Policies of the adopted Comprehensive Plan are applicable to the proposed amendment.

### Neighborhoods, Districts, and Corridors Element

Objective NDC 3.5 Update Land Development Regulations *Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.*

Policy NDC 3.5.1 *Review the uses and use descriptions in the Land Development Regulations to provide consistent terminology.*

The proposed amendment will improve the development review process for residential and non-residential proposals by providing clear standards for City staff, development professionals, and property owners within the city.

### Review By Others

The **City Commission** is anticipated to review the proposed LDR Amendment in March 2025.

### Options for Board Action

- A. Recommend **approval** to the City Commission of Ordinance No. 10-25, on a City-initiated request to amend Land Development Regulations Section 4.3.4 “Base District Development Standards”, Subsection (H) “Setbacks,” amending Section 4.6.15, “Swimming Pool, Whirlpools, and Spas,” Subsection (G), “Yard Encroachment” to clarify regulations on building elements and site improvements allowed in building setbacks, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- B. Recommend approval to the City Commission of Ordinance No. 10-25, **as amended**, on a City-initiated request to amend Land Development Regulations Section 4.3.4 “Base District Development Standards”, Subsection (H) “Setbacks,” amending Section 4.6.15, “Swimming Pool, Whirlpools, and Spas,” Subsection (G), “Yard Encroachment” to clarify regulations on building elements and site improvements allowed in building setbacks, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 10-25, on a City-initiated request to amend Land Development Regulations Section 4.3.4 “Base District Development Standards”, Subsection (H) “Setbacks,” amending Section 4.6.15, “Swimming Pool, Whirlpools, and Spas,” Subsection (G), “Yard Encroachment” to clarify regulations on building elements and site improvements allowed in building setbacks, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

### Public and Courtesy Notices

N/A Courtesy Notices are not applicable to this request

N/A Public Notices are not required for this request.