

ORDINANCE NO. 10-25

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES; AMENDING CHAPTER 4, “ZONING REGULATIONS,” ARTICLE 4.3, “DISTRICT REGULATIONS, GENERAL PROVISIONS,” SECTION 4.3.4, “BASE DISTRICT DEVELOPMENT STANDARDS,” BY AMENDING SUBSECTION (H), “SETBACKS,” SUBSECTION (4), TO PERMIT OPEN-AIR PERGOLAS WITHIN THE REQUIRED BUILDING SETBACK AREA, AND SUBSECTION (5), TO CLARIFY THE REQUIREMENTS FOR REDUCED SETBACKS FOR SCREEN AND PORCH ENCLOSURES IN ZERO-LOT LINE PROPERTIES; AMENDING CHAPTER 4, “ZONING REGULATIONS,” ARTICLE 4.6, “SUPPLEMENTAL DISTRICT REGULATIONS,” SECTION 4.6.15, “SWIMMING POOL, WHIRLPOOLS, AND SPAS,” TO ALLOW A FIVE-FOOT INTERIOR SETBACK FOR SWIMMING POOLS IN DUPLEX AND TOWNHOME DEVELOPMENTS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, PROVIDING AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

WHEREAS, the Land Development Regulations (“LDR”) of the City of Delray Beach (“City”) Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDR from time to time; and

WHEREAS, LDR Section 4.3.4(H), “Setbacks,” outlines the types of detached structures and attached building features that are permitted in the required building setback area; and

WHEREAS, staff regularly reviews development applications with requests to place swimming pools and open-air pergolas within the building setback area; and

WHEREAS, adjustments to be made to the LDR to allow open-air pergolas in setback areas, to clarify the requirements for screen and porch enclosures, and to allow for a five-foot interior setback for duplex and townhome swimming pools; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, reviewed the proposed text amendment to the Land Development Regulations at a public hearing on January 27, 2025, and voted 6 to 0 to recommend that the proposed text amendment be approved, finding that the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission has considered Ordinance No. 10-25, and the respective findings as set forth in the Comprehensive Plan and Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. The City Commission of the City of Delray Beach finds that Ordinance No. 10-25 is consistent with the Comprehensive Plan, meets the criteria set forth in the Land Development Regulations, and is in the best interests of the City.

Section 3. Chapter 4, “Zoning Regulations,” Article 4.3, “District Regulations, General Provisions,” Section 4.3.4, “Base District Development Standards,” Subsection (H) “Setbacks”, of the Land Development Regulations of the City of Delray is hereby amended as follows:

(H) *Setbacks.*

(1) - (3) (These subsections shall remain in full force and effect as adopted.)

(4) ***Building elements or site improvements allowed in setbacks.*** The building elements and site improvements identified in Table 4.3.4(A) are allowed in building setbacks, subject to the limitations herein. These limitations apply to both structural and decorative features. When in conflict with the Central Business District (CBD) standards in Section 4.4.13, the CBD standards shall govern.

Table 4.3.4(A) Building Elements or Site Improvements Allowed in Building Setbacks					
Building Elements					
Building Element	Maximum Encroachment into the Setback (Feet)				Limitations
	Front	Side Street	Side Interior	Rear	
Attached arbors and trellises	3	3	3	3	-
Awnings and covered entries	3	3	3	3	Supporting brackets are allowed; columns are not allowed in the required setback.
Balconies	3	3	-	-	Elements such as, but not limited to, columns, privacy walls, louvres, screens, and railings taller than 42 inches are not allowed in the required setback.
Bay windows	3	3	-	-	Limited to 25% of width of the associated interior space/room.

Decorative architectural features	0.5	0.5	0.5	0.5	Lintels, trim, cornices, stucco banding, molding, or similar detailing.
Roof eaves	3	3	3	3	-
Underground parking	0	0	0	0	Any portion of the structure located above grade is subject to setback requirements.
Site Improvements					
Site improvements, less than 3 feet in height	Minimum Setback from Property Line (Feet)				Limitations
	Front	Side Street	Side Interior	Rear	
Air conditioning units, transformers	7	5	2	5	Adjacent to structure, subject to manufacturer specifications. Requires screening if located within the front or side street yards.
Barbecue pits or outdoor kitchens	-	-	5	5	Uncovered, not to exceed 6 by 6 feet.
Boat slips	-	-	10	0	No more than 20 percent of the total lot area.
Permanently installed generators	See Section 4.3.3(ZZ)				Subject to Section 4.3.3(ZZ).
Uncovered patio, walkways	5	5	5	5	-
Steps or platforms leading to buildings	0	0	3	6	Not to exceed 3 feet in height.
Open-air ramps leading to buildings	0	0	4	4	For the purpose of ADA accessibility.
Splash pools, fish or lily ponds	0	0	0	0	Maximum of 24 inches in depth.
Planter walls	0	0	0	0	-
Pool pump houses	-	5	5	5	Pool pump houses are only allowed a reduced setback when associated with a variance request.
Permanently installed sculptures and other similar objects of art	3	3	3	3	-
Swimming pools, residential zoning	See Section 4.6.15				Subject to Section 4.6.15.

districts					
Site improvements greater than 3 feet in height	Minimum Setback from Property Line (Feet)				Limitations
	Front	Side Street	Side Interior	Rear	
<u>Standalone, open-air pergolas</u>	-	-	<u>5</u>	<u>5</u>	<u>Maximum of 10 feet by 10 feet, no greater than 10 feet in height at the highest point.</u>
Fences, walls	0	0	0	0	Subject to Section 4.6.5, including maximum height limitations.
Recreational equipment	5	5	5	5	-
"-" indicates building element or site improvement is not allowed within the setback.					

- (5) ***Reduction in setbacks for screen enclosures and screen porches ~~in rear yards~~***. Setbacks may be reduced for screen enclosures ~~in rear yards~~ in residential zoning districts under the following conditions:

(a) ***Screen Porches.***

1. The minimum rear setback for attached screen porches with a solid roof on residential dwelling units shall be ten feet whenever at least 50 feet of common open area, as defined in subsection (c) below, separates that rear property line from the abutting common open area.
2. In zero-lot line developments, screen porches with a solid roof may be located on the side of the lot with zero setbacks; provided a solid masonry fire-rated wall is provided on the property line.

(b) ***Screen Enclosures.***

1. Swimming pool screen enclosures may have a zero rear yard setback whenever at least 50 feet of common open area as defined in Subsection (c) below separates the rear property line from the property line directly across and abutting the common open area.
2. In zero-lot line developments, screened pool enclosures may extend into the interior side setback areas up to five feet from the property line.

- (c) For the purpose of Subsection (5), common open area shall mean any exterior open area clear from the ground upward, such as canals, lakes, golf courses, parks, sidewalks, streets, parking areas, and bicycle paths. If a common open area, such as a golf course, includes buildings or

structures utilized in connection therewith, the reduced setback shall still apply if there is a minimum of 50 feet between such buildings and structures, and the property line on which the subject screen porch is to be located. The common open area must either consist of common open space that is owned or leased by the owners of residential units within the subdivision, or be dedicated to the public, or restricted to such open space use by covenants, declarations, easements, or deed restrictions that guarantee the continuity of the common open area.

~~(d) In zero lot line developments, screened pool enclosures may extend into the interior side setback areas, but no less than five feet from the property line.~~

(e d) In the case of a conflict between this subsection and the regulations in an individual residential zoning district, this subsection shall take precedent.

(6) - (7) (These subsections shall remain in full force and effect as adopted.)

Section 4. Chapter 4, "Zoning Regulations," Article 4.6, "Supplemental District Regulations," Section 4.6.15, "Swimming Pool, Whirlpools, and Spas," Subsection (G), "Yard Encroachment", of the Land Development Regulations of the City of Delray Beach, Florida, be and the same is hereby amended to read as follows:

(G) ~~Yard encroachment~~Setbacks. Swimming pools at grade level are allowed to encroach into the required setbacks as follows.

(1) *Conventional single-family lots.*

- (a) Swimming pools may extend into the rear, interior or street side setback areas but no closer than ten feet to any property line. Swimming pools shall not extend into the required front setback area ~~required by Section 4.3.4(K).~~
- (b) When adjacent to at least 50 feet of common open area, as defined in Section 4.3.4(H)(5), swimming pools may extend into the rear or interior side setback area, no closer than five feet to the property line.
- (c) A screened pool enclosure ~~shall not be permitted to encroach into side and rear setback areas except as allowed in~~ is subject to Section 4.3.4(H)(5).

(2) *Zero lot line developments.*

- (a) Swimming pools may extend into the interior side setback no closer than five feet from the property line.
- (b) A swimming pool may extend no closer than five feet from the rear property line, except along the perimeter of the development where a 10 foot setback is required, unless adjacent to at least 50 feet of common open area as defined in Section 4.3.4(H)(5).

- (3) **Duplex and tTownhouse developments.** Swimming pools in duplex and townhouse developments may have a five-foot side interior setback between units.
- (4) Swimming pools are prohibited in dedicated easements unless written approval of the easement holder is obtained and a hold harmless agreement is executed.

Section 5. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 6. Should any section or provision of this Ordinance, or any portion thereof, any paragraph, sentence, or word, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 7. Specific authority is hereby given to codify this Ordinance.

Section 8. This Ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the ____ day of _____, 2025.

ATTEST:

Alexis Givings, City Clerk

Thomas F. Carney, Jr., Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

First Reading_____

Second Reading_____