



# DEVELOPMENT SERVICES

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ADMINISTRATIVE MEMORANDUM NO. 21-097

**TO:** Mark E. Berman, City Attorney  
**FROM:** Lauren Gratzer, Planner  
**SUBJECT:** Request for Ordinance / Swimming Pool and Fence Text Amendment  
**DATE:** August 30, 2021

At the August 25, 2021 Planning & Zoning Board Meeting, the Board was presented with a code amendment in response to the high number of swimming pool variances being brought in front of the Zoning Board of Appeals. The request is to amend Article 4, Use Standards of a swimming pool, spa, or hot tub (155.4303.GG) for residential corner properties located in the City. Additionally, Article 5, Fences and Walls (155.5302.D) is being amended in order to address fencing concerns on these corner lots.

The proposed amendment will allow swimming pools to be located in all required setbacks, including the front yard and street side yard, where as currently it is prohibited. The amendment proposes a 5-foot setback for all sides to match the current setback requirement of the rear and interior side. The fence and wall section is being amended as a precaution in case the State Statues are changed to require a taller fence around pools. As of today the State requires a 4-foot fence surrounding pools, which is also currently permitted in the front yards and street side yards of Pompano Beach.

The Board made a motion unanimously recommending approval of the text amendment to the City Commission.

The staff report has been attached to this memorandum.

Please review the proposed changes to this code section and draft the necessary ordinance. We are also requesting confirmation that the ordinance will require one published notice in a paper of general circulation at least 10 days prior to the public meeting, pursuant to Fla. S. S. § 166.041 (3) (a).Should you have any questions or comments, please contact me at extension 7792.

**Enclosures:**

- P&Z Report - Text Amendments to Chapter 155, Zoning Code
- Amendment Text for Ordinance (attached to email in Word Format)



## Staff Report

**File #:** LN-176

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY

Meeting Date: AUGUST 25, 2021

### SWIMMING POOL TEXT AMENDMENT

**Request:** Text Amendment  
**Project Planner:** Lauren Gratzer (954-545-7792) / lauren.gratzer@copbfl.com

#### Summary:

Residential corner lots often pose development constraints for accessory structures, specifically swimming pools. This is most challenging for residential corner lots where the home’s main entrance faces the street-side lot line rather than the front lot line, or in residential corner lots where the house is angled to face two streets. On a corner lot, the front lot line is determined to be the shorter of the lot lines abutting a street, in accordance with Article 9, Part 5, definition of *Lot Line, Front*. This determination, in turn, limits where a pool can be located, as code section 155.4302.B.2. prohibits any accessory use or structure from being located in a required yard or in front of the principal structure, unless specifically stated otherwise within an individual use standard. In corner lots, this means the pool can only be located in the rear or interior side setback, which may not provide the adequate space necessary for a pool. This proves difficult for some existing residences located in the RS-2 zoning districts, as this district was zoned RA-2 (Residence A-2) prior to the 1991 conversion to RS-2. At the time, the RA-2 zoning district allowed rear setbacks of as little as 15 feet, whereas the RS-2 zoning district requires a 20-foot rear setback today.

This development constraint has resulted in a high amount of properties requesting variances from the Zoning Board of Appeals. Between August of 2020 and August of 2021, there have been ten variance application requests to allow pools in corner lots.

An assessment of swimming pool location regulations was conducted of neighboring similar cities in order to compare the City of Pompano Beach regulations for the same. The following table shows the results of this

assessment.

City	Pool Location Regulations	
	Front Setback/Yard	Street Side Setback/Yard
<i>Pompano Beach</i>	<i>Prohibited in Front Yard; Prohibited in front of the principal structure</i>	<i>Prohibited</i>
Deerfield Beach	Prohibited	15 Feet
Fort Lauderdale	5 Feet	5 Feet
Boca Raton	25 feet	15 Feet
West Palm Beach	25 feet from the front lot line. On a double fronting lot, a swimming pool may be located along that street frontage that is the predominant location of swimming pools along that same street.	10 Feet. On a double fronting lot, a swimming pool may be located along that street frontage that is the predominant location of swimming pools along that same street.
Hollywood	Prohibited. On a double fronting lots- the required front yard shall be provided on each street frontage.	15 Feet
Coral Springs	Prohibited	Prohibited

Of all cities audited, the City of Pompano Beach currently regulates swimming pools most similar to Coral Springs. All other cities have either a setback requirement or provide setback flexibility for corner lots.

It is staff’s recommendation that corner lots be given flexibility regarding the location of pools and the height of pool fencing following specific conditions. This recommendation is made to uphold the General Purposes of Residential Base Zoning Districts, to recognize that many homes were built following reduced rear yards and angled building orientations, as well as to alleviate the demand and pressure that currently rests on the Zoning Board of Appeals. The following code amendment proposes to allow corner lots to locate a pool no closer than 5 feet from the front or street side lot lines. Additionally, the amendment allows fence height restrictions to be waived by the Development Services Director in order to meet pool-fencing requirements of section 454.2.17 of the Florida Building Code and Chapter 515 of the Florida Statutes, so long as it is on corner lots and it does not exceed the fence and wall height maximums of the zoning district in which they are located *and* the fence or wall does not exceed the height permitted on an abutting property.

**TEXT AMENDMENTS**

The following changes are proposed. All changes are highlighted in **yellow**. Additions are underlines and redactions are ~~stricken~~.

## 155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

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### GG. Swimming Pool, Spa, or Hot Tub

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#### 3. Standards

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##### d. Setbacks

- i. A swimming pool , spa, or hot tub may be located in a required interior side yard setback, **street side yard setback**, or required rear yard setback.
- ii. A swimming pool , spa, or hot tub shall be located at least five feet from any interior side, **street side**, or rear lot line.
- iii. The measurements shall be taken from the inner edge or water line of the pool.
- iv. A swimming pool , spa, or hot tub may be located in any required yard setback and in front of the principal structure, provided that the lot is a corner lot or a through lot. A swimming pool , spa, or hot tub shall be located at least five feet from the front property line.**
- e. Portable pools which are less than 24 inches in depth may be allowed in any required yard setback
- f. Mechanical equipment associated with a permitted swimming pool shall comply with the standards for Section [155.4303.JJ <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-45568>](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) (Mechanical equipment and similar features).
- g. Screen enclosures associated with a permitted swimming pool shall comply with the standards for Section [155.4303.OO <https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-45568>](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) (Screened Enclosures with Screened Roof).

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## 155.5302. FENCES AND WALLS

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### D. Height Requirements for Fences and Walls

#### 1. Applicability

##### a. General

Except for fences or walls exempted by subsection b below, a fence or wall shall comply with the height limits in this subsection. Fence or wall height is measured from natural grade.

##### b. Exemptions

**i. Required Screening**

A fence or wall provided to meet the standards of Section [155.5301](#) [https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-39013](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-39013), Screening, is exempted from the height standards of this subsection, but in no case shall the fence or wall exceed a height of ten feet.

**ii. Recreational Fencing**

Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility shall be exempt from the height restrictions of this subsection.

**iii. Public Safety Use Fences and Walls**

Major utilities, wireless communication towers, government facilities, and other public safety uses shall be allowed to increase maximum fence or wall heights to ten feet in front, side, and rear yards, unless further increased through an approved security plan-see subsection iv below.

**iv. Security Plan Fences and Walls**

An owner or tenant of property or a representative of a public agency responsible for a public facility may submit to the Development Services Director a site security plan proposing fences or walls taller than those permitted by this subsection, or the use of barbed or concertina wire atop a fence or wall . The Development Services Director shall approve, or approve with conditions, the site security plan and its proposed exemption of fences or walls from the standards of this subsection, on finding that:

- (A) The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage than surrounding land; and
- (B) The proposed taller fences or walls, or use of barbed or concertina wire, will not have a significant adverse effect on the security, functioning, appearance, or value of adjacent lands or the surrounding area as a whole.

**v. Corner Lot Fences and Walls**

Fencing or walls required to comply with the residential swimming pool barrier requirements of FBC 454.2.17 and Chapter 515 of the Florida Statutes may be waived by the Development Services Director from the height restrictions of this subsection, provided that the following conditions are met:

- (A) The height of the fence or wall does not exceed the maximum height requirement for fences and walls within the zoning district in which the lot is located, and
- (B) In no event shall fences or walls be higher than those permitted on abutting lot lines.

**2. Fences and Walls in Residential Districts**

Except as otherwise provided in [155.5302](#) [https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-39060](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-39060).D.5, Fences and Walls Adjacent to Waterways, the following height limits shall apply to fences and walls within Residential zoning districts:

- a. No fence or wall within a front yard or a street side yard shall exceed a height of four feet, provided that a fence or wall in a street side yard may be up to six feet in height if set back at least four feet from the street side lot line . Fence posts, including decorative finials, may extend up to six inches above the maximum fence height.
- b. No fence or wall within an interior side yard or a rear yard shall exceed a height of six feet.

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**CODE AMENDMENT REVIEW STANDARDS**

The Planning & Zoning Board must make a recommendation to the City Commission on applications for code amendments based on the competent substantial evidence in the record that the amendment addresses the following standards:

**155.2402. TEXT AMENDMENT**

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**C. Text Amendment Review Standards**

The advisability of amending the text of this Code is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In determining whether to adopt or deny the proposed amendment, the City Commission shall weigh the relevance of and consider whether and the extent to which the proposed amendment:

1. Is consistent with the comprehensive plan;
2. Does not conflict with any provision of this Code or the Code of Ordinances ;
3. Is required by changed conditions;
4. Addresses a demonstrated community need;
5. Is consistent with the purpose and intent of the zoning districts in this Code, or would improve compatibility among uses and would ensure efficient development within the city;
6. Would result in a logical and orderly development pattern; and
7. Would not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

**DEPARTMENT RECOMMENDATION**

Given the information provided to the Board, as the finder of fact, the Development Services Department provides the following recommendation, and alternative motions, which may be revised or modified at the Board’s discretion.

Alternative Motion I

Recommend approval of the text amendment to the City Commission for their consideration.

Alternative Motion II

Table this application for additional information as requested by the Board.

Alternative Motion III

Recommend denial as the Board finds that the request is not consistent with the Future Land Use Goals, Objectives and Policies, or having sufficiently addressed the review standards for a code amendment as listed in this report.

Staff recommends Alternative Motion #1