

**Agenda Item 12.F.
Meeting of 6/12/19****ORDINANCE 2019-14367**

AN ORDINANCE RELATING TO THE HEIGHT OF DECKS IN SIDE AND REAR YARDS, AND OTHER YARD ENCROACHMENTS; AMENDING CHAPTER 56 – SUPPLEMENTAL STANDARDS, ARTICLE II – STANDARDS APPLICABLE TO ALL DISTRICTS, SECTION 56-45 - POOLS, AND SECTION 56-54. - YARDS, CODE OF ORDINANCES, CITY OF NAPLES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Naples City Council authorized staff to propose a text amendment to the City's regulations;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:

Section 1. That Section 56-45 and Section 56-54, Code of Ordinances, City of Naples, are hereby amended to read as follows (with underlining indicating additions and ~~striketrough~~ indicating deletions):

Chapter 56 – Supplemental Standards

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ARTICLE II. – STANDARDS APPLICABLE TO ALL DISTRICTS

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Sec. 56-45. - Pools.

- (a) *Single-family and multifamily residential lots.* All swimming pools, enclosures or decks constructed or erected on any single-family or multifamily residential lot, except in the RE rural estates zoning district, ~~shall~~ will be subject to the following regulations:
- (1) *Location generally.* Unroofed pools or pools enclosed only with open mesh screening may be placed in a required rear yard, subject to the limitations of subsection (a)(2) of this section, but shall not be placed in a required front or side yard. Unscreened and unroofed pool decks may extend into required yards provided they comply with the height restrictions listed in this section.
 - (2) *Distance from rear lot line.* Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas, but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure ~~shall~~ will be placed within a utility or drainage easement.
 - (3) *Setback measurement.* The minimum setback requirement from any lot line ~~shall~~ will be measured from the exterior of the screen enclosure of a screen-enclosed pool or from the outer edge of the edge of water of the pool for an unroofed or unenclosed pool. All

parts of the pool including overflow, spas and spillways will be considered part of the pool.

- (4) *Roofed or enclosed pools.* If any part of a pool is covered by a roof or enclosed by walls over 6 feet in height, then such covered or walled section of the pool ~~shall~~ will be subject to the limitations regarding location of any building or structure and shall not be placed in any required yard.
 - (5) *Construction on vacant lot.* Other sections of this comprehensive development code prohibit the construction of a swimming pool on a vacant lot.
 - (6) *Height.* The height of pool decks will be governed under Section 56-54. – Yards. ~~Pools and pool decks extending into required primary structure rear yards and unscreened and unroofed pool decks extending into required side yards may not exceed a height of 30 inches above the crown of the road with an additional 6 inches of height for every 12 inches of horizontal distance permitted from either the side or rear property lines, whichever is closer, up to a maximum height of 6 feet.~~
- (b) *Other property.* All swimming pools and enclosures constructed or erected on any lot other than a single-family or multifamily residential lot shall will meet the minimum yard requirements as specified for buildings or structures in the zoning district in which the pool or enclosure will be constructed or erected. The minimum setback requirements from any lot line shall will be measured from the exterior of the screen enclosure of a screen-enclosed pool and from the outer edge of the pool for an unroofed or unenclosed pool.
- (c) *Compliance with other regulations.* It shall will be unlawful for any person to erect, construct or cause to be installed a private swimming pool upon any property located in the city without conforming to this section or without conforming to the Florida Building Code or the zoning ordinance of the city.
- (d) *Permit.*
- (1) No permit ~~shall~~ will be issued for a private swimming pool unless the requirements are adhered to as set forth by the "application for permit" and "permits" sections of the Florida Building Code, together with all provisions of this Code.
 - (2) No permit ~~shall~~ will be issued for a private swimming pool unless the name of a registered architect or structural engineer ~~shall~~ appears on the face of the drawing submitted.
 - (3) No permit ~~shall~~ will be issued for a private swimming pool unless the sanitary operation of such pool ~~shall~~ will be of a recirculation type system, employing a disinfectant. Fill and drain or continuous flow systems will not be accepted as a method of sanitary operation.
 - (4) This subsection (d) is hereby declared to be in the interest of the public welfare and health of the general public.

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Sec. 56-54. - Yards.

- (a) *Encroachments into required yards.* Structures less than 30 inches in height, other than swimming pools, are not considered encroachments upon minimum required yards. Every part of every required yard shall will be open and unobstructed from 30 inches above the ground, as measured from the average elevation of the crown of road along the property frontage, except as provided in this section or section 56-45, Pools.

(1) Exceptions:

- a. Bermed earth, plant materials and driveways that follow the contours of the grade are not considered encroachments.
- b. Cornices, overhangs, decorative awnings with no ground support installed over windows and at entrances, eaves and gutters, chimneys, bay windows, balconies, and means of egress, and required stair railings associated with the means of egress, may project at maximum of 36 inches into required yards, except as limited in the R1-15A zoning district.
- c. Larger awnings, such as porte cocheres, requiring pole supports to be placed in a setback area, or those without pole supports which encroach more than 36 inches into required yards, may be approved at the discretion of the city manager. These encroachments are permitted in all zoning districts except single-family districts, and such awnings must function as decorative architectural elements as opposed to garage, carport or other similar storage facilities.
- d. Unscreened and unroofed decks, with or without pools, are permitted to extend into required primary structure rear yards and side yards provided that these decks must not exceed a height of 30 inches above the crown of the road with an additional six inches of height for every 12 inches of horizontal distance from either the side or rear property lines, whichever is closer, up to a maximum of the height of the minimum finished floor height or 6 feet above the crown of the road, whichever is greater. The minimum finished floor height is determined by the requirements of FEMA and the Florida Building Code. Pool and spa coping may extend up to one foot vertically above the deck. Safety railings may project above the pool deck the minimum necessary to meet the Florida Building Code requirements for safety railings.
- e. Mechanical equipment is governed under section 56-41. – Mechanical equipment. Air conditioning and pool equipment permitted and installed prior to the effective date of this ordinance may be maintained and replaced provided the new equipment does not encroach more than 36 inches into any required yard.

- (2) In single-family districts, excluding the R1-15A district, the following encroachments are permitted into the required side yard as the line of setback bends to a 12:12 slope beyond the first 15 feet of height:

- a. Chimneys are permitted to encroach a maximum of five 5-feet vertically or the minimum distance necessary to meet the fire safety requirements of the Florida Building Code.
 - b. Balcony railings are permitted to encroach a maximum of four 4-feet vertically. These railings must be at least 50 percent transparent and open in design, and the width of the balcony and railing cannot exceed 50 percent of the width of the facade on which it is located, as measured from the base of the structure.
 - c. Overhangs are permitted to project 36 inches beyond the line of setback. An overhang ~~shall~~ will include only that part of the roof that extends beyond the vertical extension of the outside face of the wall.
 - d. No other part of a structure, including any portion of a roof, may encroach into the required side yard as it bends to the 12:12 slope.
- (3) Flagpoles, play equipment, wires, lights, mailboxes, and outdoor furniture are not considered yard encroachments. Fire pits, fire torches, and portable grills are not considered yard encroachments in the side and rear yards.
- (4) Arbors, trellises or pergolas in multiple-family and single-family districts, excluding the R1-15A district.
- a. Shall not be enclosed, must be a minimum of 50 percent open to the sky above, and may be used only to provide shade or serve as a decorative architectural or horticultural support element and may not be used as a carport, storage shed, boat shelter or the like.
 - b. ~~Shall~~ Will maintain the following setbacks:
 1. Side yard; same as primary structure for the respective zoning district.
 2. Rear yard abutting waterfront; 15 feet.
 3. Rear yard not abutting waterfront; five feet.
 4. Front yard; five feet or minimum required to maintain visibility for ingress and egress to neighboring properties, whichever is more restrictive.
- (5) Boat shelters are permitted in accordance with this chapter.
- (6) Chickees may be permitted in rear yard setback areas by the approval of a conditional use permit. Such structures ~~may~~ must not be enclosed, must be constructed of natural materials, ~~may~~ must not obstruct the view or interfere with the privacy of an adjacent neighbor, and ~~may~~ must be used only to provide shade or serve as a decorative architectural element, and ~~may~~ must not be used as a carport, storage shed, boat shelter, or the like.
- (7) The height of a retaining wall is measured from the average elevation of the crown of road along the property frontage to the top of the finished grade. Retaining walls exceeding 30 inches in height are not

permitted in required yards unless otherwise allowed as part of a pool deck. The total height of walls extending above finished grade ~~shall~~ will be governed by Section 56-37, Fences and walls.

- (b) *Distance between principal buildings.* In the case of more than one 4 principal structure on a single site, the minimum required yards between such structures ~~shall~~ will be the total of the side yards required for each such structure in the applicable zone district. Carports and garages are not principal structures.
- (c) *Modification of front yard requirements for lots on streets with existing development.* Whenever 40 percent or more of the frontage on one 4 side of a street between two 2-intersecting streets is improved with buildings that have a front yard that is less than the minimum front yard requirements of the district in which they are located, then the average front yard of such buildings ~~shall~~ will become the minimum required front yard for that side of the street. This regulation shall not, however, permit a front yard of less than 25 feet in depth in any residential zone district.

Section 2. That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same shall not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection or section, shall be revived.

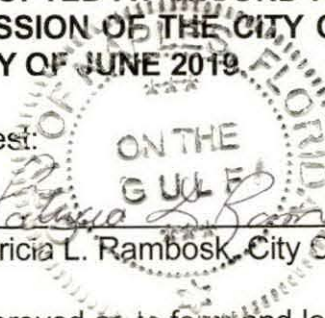
Section 3. That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 4. That this ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING AND PUBLIC HEARING THE 5TH DAY OF JUNE 2019.

ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 12TH DAY OF JUNE 2019.

Attest:


Patricia L. Rambosk
Patricia L. Rambosk, City Clerk

Bill Barnett
Bill Barnett, Mayor

Approved as to form and legality:

James D. Fox
James D. Fox, City Attorney

Date filed with City Clerk: 6-20-19