

ORDINANCE 2025 - _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF SUNNY ISLES BEACH, FLORIDA, AMENDING CHAPTER 265, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF SUNNY ISLES BEACH, ENTITLED “DEFINITIONS AND RULES OF CONSTRUCTION,” AND AMENDING ARTICLE VII, ENTITLED “ZONING DISTRICTS,” TO PERMIT AND DEFINE CERTAIN SETBACK ENCROACHMENTS IN THE R-1 AND R-TH ZONING DISTRICTS, TO CLARIFY RESIDENTIAL FENCING REGULATIONS, TO CLARIFY POOL SAFETY BARRIER HEIGHT REQUIREMENTS, AND TO REVISE SETBACK REQUIREMENTS FOR UTILITY/MECHANICAL EQUIPMENT; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the City’s Land Development Regulations (“LDRs”) include definitions and zoning development standards that regulate residential setback encroachments, fencing, pool safety barriers, and utility/mechanical equipment placement; and

WHEREAS, the City Commission has identified the need to add definitions in Section 265-5 of the LDRs for common residential site and structural elements such as decks, terraces, and walkways, that may encroach into residential setbacks ; and

WHEREAS, the City Commission wishes to amend Article VII of Chapter 265 to permit certain setback encroachments in the R-1 Single-Family Residential and R-TH Moderate Density Townhouse Residential zoning districts; and

WHEREAS, the City Commission finds it necessary to update and clarify the residential fencing and pool safety barrier regulations in Section 265-45 to ensure consistency, improve aesthetic quality, and maintain visibility and safety along front yards and public rights-of-way; and

WHEREAS, the City Commission also wishes to revise and clarify the setback requirements for utility and mechanical equipment to ensure safe placement, minimize visual impacts, and maintain compatibility with adjacent properties;

WHEREAS, the City Commission finds this Ordinance is consistent with the Comprehensive Plan and will promote orderly development, improve clarity in the Land Development Regulations, and protect the public health, safety, and welfare;

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

Section 1. Incorporation of Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amendment of Chapter 265, Article II. Chapter 265, Article II, Section 265-5, of the Code of Ordinances of the City of Sunny Isles Beach, Florida, entitled "Definitions," is hereby amended as follows:

ARTICLE II – Definitions and Rules of Construction

§ 265-5. - Definitions.

DECK – A paved structure, without a roof or walls, that is freestanding or directly adjacent to a principal building, elevated at least 30 inches above finished elevation (includes pool deck).

TERRACE – A level surfaced area without a roof or walls that starts at ground level and is elevated no more than 30 inches above finished graded, intended for outdoor dining, lounging, and similar uses (shall also mean "patio").

WALKWAY – An at-grade pedestrian path that is open to the sky and that is intended for access throughout the property.

Section 3. Amendment of Chapter 265, Article VII. Chapter 265, Article VII, of the Code of Ordinances of the City of Sunny Isles Beach, Florida, entitled "Zoning Districts," is hereby amended as follows:

ARTICLE VII – Zoning Districts

§ 265-31. Single-Family Residential (R-1).

D. Site development standards.

- (1) Minimum lot area: 7,500 square feet. A documented lot of record may be reduced to a minimum lot area of 5,000 square feet.
- (2) Minimum lot width: 75 feet. Minimum lot width on a documented lot of record may be reduced to 50 feet for a minimum lot area of 5,000 square feet and 60 feet for a minimum lot area of 6,000 square feet.

- (3) Maximum height: 35 feet. Protective structures such as balconies, railings or banisters may be increased by 40 inches.
- (4) Setbacks: Every part of a required yard shall be open to the sky, except as authorized by the allowable encroachments detailed below.
- (a) Front yard: Minimum of 25 feet. This setback may be reduced to 20 feet for a documented lot of record with a minimum lot area of 5,000 square feet.
 - (b) Interior side yard: Minimum of 7.5 feet. For documented lot of record, this setback may be reduced to six feet for a minimum lot area of 6,000 square feet and reduced to five feet for a minimum lot area of 5,000 square feet.
 - (c) Corner side yard: Minimum of 15 feet.
 - (d) Rear yard: Minimum of 15 feet for principle use structures.
 - (e) Encroachments: The following may encroach into a required yard area, subject to compliance with the conditions set forth below:
 - i. Roof overhang, eyebrow, awning. The encroachment shall not exceed 20 percent of the required yard, with a maximum projection of 5 feet. If the minimum required yard width is 7.5 feet or less, the projection may encroach up to 2 feet. This encroachment does not include balconies or rooftop terraces.
 - ii. Built-in planter. The encroachment shall not exceed 25 percent of the required yard and up to a maximum height equal to the finished floor elevation of the principal structure.
 - iii. Deck and pool deck. Encroachment is only permissible into the rear yard, up to 5.5' feet from the property line and the maximum height is equal to the finished first floor elevation of the principal structure. The encroachment may extend to the rear property line and be connected to a dock and its related decking when abutting a bay, canal, or other body of water. No encroachment is allowed into the front yard, side yard, or street side yard. Does not include walkways, terraces, patios that are at grade or below 30 inches above grade.
 - iv. Roof deck landscaping. Built-in planters, gardens, or similar landscaping features, not exceeding three and one-half feet in height above the finished roof deck, may be permitted immediately adjacent to or on the roof deck area. All landscaping materials must be securely fastened to prevent movement.
 - v. Stairs, stair landing, ramp. The encroachment shall not exceed 50% the required yard area and the height cannot exceed the finished first floor elevation of the principal structure. The use of opaque railings shall not be permitted within the front yard.
 - vi. Walkway, terrace. Encroachment into all yards is permissible when the walkway or terrace is no higher than 30 inches above finished grade. If 30 inches above grade or higher, the walkway or terrace must meet the standards for decks.

§ 265-32. Moderate Density Townhouse Residential (R-TH).

D. Site Development Standards.

- (1) Minimum lot area: 4,000 square feet for single-family and duplex dwellings, and 3,000 square feet for townhouse units.
- (2) Minimum lot width: 40 feet for single family, and duplex dwellings. No minimum lot width for townhouse dwellings in contiguous blocks of three or more dwellings.
- (3) Maximum height: 45 feet.
- (4) Setbacks: Every part of a required yard shall be open to the sky, except as authorized by the allowable encroachments detailed below.
 - (a) Front yard: Minimum of 20 feet.
 - (b) Interior side yard: Minimum of five feet or combined side yard of 10 feet for single-family detached units. For duplex and townhouse units, zero feet for the side of common or abutting walls of attached units. A maximum of eight dwellings may be constructed in a contiguous series of attached dwellings or townhouses. The minimum side separation between contiguous groupings of dwellings shall be 20 feet.
 - (c) Corner side yard: Minimum of 10 feet.
 - (d) Rear yard: Minimum of 15 feet for principle use structures.
 - (e) Encroachments: The following may encroach into a required yard area, subject to compliance with the conditions set forth below:
 - i. Roof overhangs, eyebrows, awnings. The encroachment shall not exceed 20 percent of the required yard, with a maximum projection of 5 feet. If the minimum required yard width is 7.5 feet or less, the projection may encroach up to 2 feet. This encroachment does not include balconies or rooftop terraces.
 - ii. Built-in planters. The encroachment shall not exceed 25 percent of the required yard and up to a maximum height equal to the finished floor elevation of the principal structure.
 - iii. Deck and pool deck. Encroachment is only permissible into the rear yard, up to 5.5' feet from the property line and the maximum height is equal to the finished first floor elevation of the principal structure. The encroachment may extend to the rear property line and be connected to a dock and its related decking when abutting a bay, canal, or other body of water. No encroachment is allowed into the front yard, side yard, or street side yard.
 - iv. Roof deck landscaping. Built-in planters, gardens, or similar landscaping features, not exceeding three and one-half feet in height above the finished roof

deck, may be permitted immediately adjacent to or on the roof deck area. All landscaping materials must be securely fastened to prevent movement.

v. Stairs, stair landings, ramps. The encroachment shall not exceed 50% the required yard area and the height cannot exceed the finished first floor elevation of the principal structure. The use of opaque railings shall not be permitted within the front yard.

vi. Walkway, terrace. Encroachment into all yards is permissible when the walkway or terrace is no higher than 30 inches above finished grade. If 30 inches above grade or higher, the walkway or terrace must meet the standards for decks.

§ 265-45. Accessory uses.

E. Fences and walls.

- (1) Defined. A fence or wall is a barrier constructed of man-made or natural materials. A wall is a concrete or block structure.
- (2) Fences on residential lots. Fences on a residential lot shall be limited to six feet in height from the finished elevation of the property, except fences or walls constructed by the City for public purposes may exceed six feet in height to a maximum of eight feet in height. Barbed wire and other similar material shall not be permitted on a fence or wall within a residential district. Fences and walls shall be limited to four feet in height within a required front yard, except that fences with decorative railings shall be limited to six feet in height. Such railings shall be a minimum of six inches apart and The width of each railing picket shall not exceed the spacing between pickets, with a minimum spacing of three inches and maximum spacing of four inches. Decorative columns may be used in the front yard with a maximum width of 2 feet and maximum number of one column per ten feet of street frontage. Fences and walls within the front yard shall not obstruct the view from the rights-of-way. Fences and walls within the back yard shall be limited to six feet in height from the ~~grade~~ finished elevation of the property. In all zoning districts, only pressure-treated pine, redwood and cedar wood shall be acceptable for wood fence construction. All wood fencing shall have a nominal thickness of one inch. Each side of a concrete block or masonry wall shall be completely finished with stucco and/or paint.

- (8) Footings. Footings for walls must be located within the property line.

I. Swimming pools and spas.

- (1) General requirements. Swimming pools and spas shall be permitted in ~~all residential~~ the R-1 and R-TH zoning districts, subject to the following:

- (a) No swimming pools or spas shall be permitted within the required front yard area, or within utility, drainage or access easements. Swimming pools shall be required to have a safety barrier.
- (b) Above ground pools and spas, which exceed 48 inches in height from finished elevation, must meet all structural setback requirements.
- (c) The following setback requirements shall apply to swimming pools and spas:
 - [1] The side yard or side street setbacks to the water's edge shall be two feet plus the required side yard or side street structure setback.
 - [2] The rear yard setback shall be seven feet from the water's edge to rear lot line.
 - ~~[3] The setback from any building foundation shall be five feet unless both the design and construction as approved by the Development Services Director is safe and will not possibly result in a weakening of or damage to the building foundation. In no event shall said pool or spa be closer than 18 inches to any wall or any enclosure.~~
- ~~(d)~~ (2) Any pool for a ~~nonresidential~~ development in the RMF-1, RMF-2, B-1, Business Overlay, MUR, TCD, ROS, or CF zoning district shall meet the structural setbacks for the district in which it is located and all required governmental agency standards.
- ~~(2)~~(3) Safety barrier required; specifications.
 - (a) Specifications. No swimming pool final inspection and approval shall be given by the City, unless there has been erected a safety barrier. The safety barrier shall take the form of a screened-in patio, a wooden fence, a rock wall, a concrete block wall, or other materials so as to enable the owner to blend the same with the style of architecture planned or in existence on the property. The minimum height of the safety barrier shall be not less than four feet. The safety barrier shall be erected either around the swimming pool or around the premises on which the swimming pool is erected. In either event, it shall enclose the area entirely, prohibiting unrestrained admittance to the enclosed area. Gates shall be of the spring lock type, so that they shall automatically return to a closed position at all times. Gates shall also be equipped with a safe lock and shall be locked when the swimming pool is not in use. If the safety barrier takes the form of a fence or wall, it shall not exceed the applicable maximum height limitations for fences or walls in that district.
 - (b) Permits required. Before any work is commenced, permits shall be secured for all swimming pools and for the safety barriers. Plans shall contain all details necessary to show compliance with the terms and conditions of these regulations. No swimming pool permit shall be issued unless simultaneously therewith a permit is secured for the erection of the required safety barrier; if the premises are already enclosed, as herein before provided, a permit for the safety barrier shall not be

required, if, upon inspection of the premises, the existing barrier is proven to be satisfactory.

- (c) Construction specifications of walls and fences. For a wooden type fence, the boards, pickets, louvers, or other such members, shall be spaced, constructed, and erected, so as to make the fence nonclimbable and impenetrable. Walls, whether of the rock or block type, shall be so erected to make them nonclimbable.
- (d) Authority to disapprove barriers. It shall be within the discretion of the building inspector to refuse approval of any barrier which, in his opinion, does not meet the safety requirements of this regulation, i.e., that it is high enough at least four feet high and so constructed, to keep the children of preschool age from getting over or through it.
- (e) Maintenance of safety barrier; duty of owner, occupant. It shall be the responsibility of the owner and/or occupant of the premises containing the swimming pool to maintain and keep in proper and safe condition at all times the safety barrier required and erected in accordance with this section.
- (f) Maintenance of pool; duty of owner, occupant. It shall be the responsibility of the owner and/or occupant of the premises containing a swimming pool to keep such pool from becoming a health hazard to the community. In the event any person owning or occupying the premises containing a swimming pool permits the safety barrier to become in an improper and unsafe condition, or permits the swimming pool to become a health hazard to the community, the City may direct a letter by certified mail to the owner or occupant of such premises, advising such owner or occupant that the City will have such safety barrier put in a proper and safe condition or correct the health hazard of the swimming pool within a period of ten days from receipt of such letter. The City shall be authorized to place a lien on the property not in compliance with this section in order to recover the costs associated with enforcement of this section.
- (g) Temporary fence to enclose swimming pools while under construction. No person shall construct or cause to be constructed any swimming pool unless such swimming pool is completely enclosed by a fence with a minimum height of not less than four feet. Such fence may be of a temporary nature but must be erected either around the swimming pool or around the premises on which the swimming pool is under construction; in either event, it shall enclose the area entirely, prohibiting unrestricted admittance to the enclosed area. However, the swimming pool need not be completely enclosed during those periods when an adult person is present on the site and actual construction is in process. This section shall only affect those pools under construction within 140 feet of any residence upon which a certificate of occupancy has been issued. The 140 feet shall be measured from the edge of the swimming pool to the closest property line containing such residence by straight-line measure.

- K. Utility/mechanical equipment. Utility and mechanical equipment used for a building's operation which is located outside the building shall only be located in a rear or side yard. The equipment shall not be located within a utility easement unless it is equipment serving that specific easement. ~~The minimum distance from a property line to the structure shall be no less than the structure's height.~~ The top of the equipment shall not exceed 6 feet above the minimum design flood elevation of the property. The equipment shall not be located closer than 3.5 feet to the property line. All equipment shall be screened from ~~view the public right-of-way~~ by landscape materials or fencing as provided for in this Code. If the equipment does not comply with these subsections, then such equipment shall follow the setbacks of the main structure. These requirements shall not apply to municipal or franchise utilities such as power, phone, cable, communication or drainage equipment, which is located within a public utility easement. Rooftop mechanical equipment shall not exceed the maximum height standards of the applicable zoning district.

Section 3. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed to the extent of such conflict.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity, but shall remain in full force and effect.

Section 5. Inclusion in the Code. It is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Sunny Isles Beach; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 6. Effective Date. This Ordinance will become effective immediately upon adoption at second reading.

PASSED AND ADOPTED on first reading this ____ day of August, 2025.

PASSED AND ADOPTED on second reading this ____ day of September, 2025.

Larisa Svechin, Mayor

ATTEST:

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Mauricio Betancur, CMC, City Clerk

Alain E. Boileau, for Nabors, Giblin
& Nickerson, P.A., City Attorney

First Reading

Second Reading

Motion: _____

Motion: _____

Second: _____

Second: _____

Vote on First Reading:

Mayor Svechin

____ (Yes) ____ (No)

Vice Mayor Lama

____ (Yes) ____ (No)

Commissioner Joseph

____ (Yes) ____ (No)

Commissioner Stuyvesant

____ (Yes) ____ (No)

Commissioner Viscarra

____ (Yes) ____ (No)

Vote on Second Reading:

Mayor Svechin

____ (Yes) ____ (No)

Vice Mayor Lama

____ (Yes) ____ (No)

Commissioner Joseph

____ (Yes) ____ (No)

Commissioner Stuyvesant

____ (Yes) ____ (No)

Commissioner Viscarra

____ (Yes) ____ (No)