

GROUP 4, ITEM C

POOLS, POOL DECKS, AND SCREEN ENCLOSURES

AMENDMENT SUMMARY

- Issue:** Swimming pools, decks, patios, and decks within special flood hazard areas are constrained by the 3½-foot above grade requirement established in section 34-1176(b)(1)b and the requirement for these types of accessory uses to meet principal structure setbacks. In many cases, relief from this requirement is sought through an administrative variance to allow for a reduced setback for these facilities, and this type of request is becoming increasingly prevalent.
- Solution:** Staff proposes revisions to this section to allow pools, decks, and patios on properties within flood prone areas to exceed 3½ feet above grade subject to a rear setback of 10 feet. The proposed 10-foot setback is intended to provide a middle ground between a prevailing accessory structure setback of 5 feet and the prevailing principal structure setback of 20 feet to allow for adequate grading and drainage. Staff also proposes modifications to regulations governing the placement of screen enclosures for clarity and to codify current Department interpretation regarding screen enclosures.
- Outcome:** These modifications will eliminate the need for additional zoning actions to allow pools and pool decks elevated to the finished floor of associated residences in special flood hazard areas and codify existing Department interpretations regarding screen enclosures.

CHAPTER 34- ZONING

ARTICLE I. – IN GENERAL

Sec. 34-2. Definitions

Staff Note: Add definition of screen enclosure. The LDC currently references “open mesh enclosure and open mesh screen.” Open mesh enclosure is not defined in the LDC and “open mesh screen” is defined in Section 34-1172. Changing terminology and providing one definition is intended to provide for clarity and consistency in administration since the term “open mesh” is used elsewhere in the LDC as it relates to fences. Staff proposes to strike Section 34-1172 in its entirety and relocate the definition of “roofed” from Section 34-1172 to Section 34-2.

Roofed means any structure or building with a roof which is intended to be impervious to weather. See *building*.

Screen enclosure means a structure, in whole or in part self-supporting, with walls and a roof of insect screening intended to provide protection from insects not designed to be impervious to weather.

ARTICLE VII. – SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 2. – ACCESSORY USES, BUILDINGS, AND STRUCTURES

Sec. 34-1172. Definitions - Reserved.

Staff note: Strike Section 34-1172 in its entirety and relocate the definition of “roofed” from Section 34-1172 to Section 34-2.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~Open mesh screen means meshed wire or cloth fabric to prevent insects from entering the facility, including the structural members framing the screening material.~~

~~Roofed means any structure or building with a roof which is intended to be impervious to weather.~~

Sec. 34-1176. Swimming pools, tennis courts, porches, decks and similar recreational facilities.

Staff note: Swimming pools, decks, patios, and decks within special flood hazard areas are constrained by the 3½-foot above grade requirement established in section (b)(1)b and the requirement for these types of accessory uses to meet principal structure setbacks. In many cases, relief from this requirement is sought through an administrative variance to allow for a reduced setback for these facilities, and this type of request is becoming increasingly prevalent. Staff proposes revisions to this section to allow pools, decks, and patios on properties within flood prone areas to exceed 3½ feet above grade subject to a rear setback of 10 feet. The proposed 10-foot setback is intended to provide a middle ground between a prevailing accessory structure setback of 5 feet and the prevailing principal structure setback of 20 feet to allow for adequate grading and drainage. Staff also proposes modifications to regulations governing the placement of screen enclosures for clarity and to codify current Department interpretation regarding screen enclosures.

(a) *Applicability.* The regulations set out in this section apply to all swimming pools, tennis courts, shuffleboard courts, porches, decks and other similar recreational facilities which are accessory to a permitted use, and which are not specifically regulated elsewhere in this chapter.

(b) *Location and setbacks.*

(1) *Personal, private and limited facilities.*

a. ~~Nonroofed facilities.~~ All swimming pools, tennis courts, decks and other similar ~~nonroofed~~ accessory facilities shall must comply with the following setback requirements:

1. Street setbacks, as set forth in ~~§~~sections 34-1174 and 34-2192.
2. Waterbody setbacks, as set forth in ~~§~~section 34-2194.
3. Rear lot line setback, as set forth in ~~§~~section 34-1174(d).
4. Side lot line setbacks, as set forth in ~~§~~section 34-1174(d).

b. ~~Open mesh screen enclosures.~~ Nonroofed facilities. Swimming pools, patios, decks and other similar recreational facilities may not exceed 3½ feet above grade, as defined in section 34-2171, unless: ~~it complies with minimum required principal structure setbacks. Decks or patios that comply with accessory structure setbacks may be enclosed with open mesh screen. Enclosures with an opaque material above 3½ feet from grade must meet principal structure setbacks.~~

1. The recreational facility complies with minimum required principal structure setbacks where the property is not located in a special flood hazard area; or
2. The recreational facility is located in a special flood hazard area and is designed and constructed at or below the lowest minimum habitable floor elevation for which a building permit may be issued, provided the facility complies with accessory structure setbacks and a minimum rear lot line setback of 10 feet.

~~It is the responsibility of the applicant to increase all required setbacks sufficient to provide maintenance access around the pool whenever the pool is proposed to be enclosed with open-mesh screening or fencing. A minimum increase in setbacks of three feet is recommended.~~

c. Screen enclosures. Swimming pools, decks or patios may be enclosed with a screen enclosure, subject to the following requirements:

1. Any screen enclosure with an opaque material above 3½ feet from grade must meet principal structure setbacks;
 2. Roofed open-mesh screen enclosures. Open-mesh-Roofed screen enclosures may be covered by a solid roof (impervious to weather, provided that must:
 - i. Comply with all setback requirements for the principal building if structurally part of the principal building, except when constructed as a flat roof with a pitch no greater than the minimum required for rain runoff.
 - ii. Comply with all setback requirements for accessory structures if not structurally part of the principal building.
1. ~~If structurally part of the principal building, the enclosure shall comply with all setback requirements for the principal building.~~
 2. ~~Except when in compliance with the setback requirements for principal buildings, a solid roof over a screen enclosure shall be constructed as a flat roof with the pitch no greater than the minimum required for rain runoff.~~
- (2) *Commercial and public facilities.* All pools, tennis courts and other similar recreational facilities owned or operated as a commercial or public establishment ~~shall~~must comply with the setback regulations for the zoning district in which located.

(c) *Fencing.*

Staff note: This section is proposed to be revised to eliminate fencing requirements for swimming pools established in the LDC. Barrier requirements for swimming pools, hot tubs, and spas are governed by the Florida Building Code.

- ~~(1) *In-ground swimming pools, hot tubs and spas.* Every swimming pool, hot tub, spa or similar facility shall be enclosed by a fence, wall, screen enclosure or other structure, not less than four feet in height, constructed or installed so as to prevent unauthorized access to the pool by persons not residing on the property. For the purposes of this subsection, the height of the structure shall be measured from the ground level outside of the area so enclosed. The enclosure may be permitted to contain gates, provided they are self-closing and self-latching.~~
- ~~(2) *Aboveground swimming pools, hot tubs and spas.* Aboveground pools, hot tubs, spas and similar facilities shall fulfill either the enclosure requirements for in-ground pools or shall be so constructed that the lowest entry point (other than a ladder or ramp) is a minimum of four feet above ground level. A ladder or ramp providing access shall be constructed or installed so as to prevent unauthorized use.~~
- ~~(3) *Exception.* A spa, hot tub or other similar facility which has a solid cover (not a floating blanket) which prevents access to the facility when not in use shall be permitted in lieu of fencing or enclosure requirements.~~
- ~~(4)~~(1) *Tennis courts.* Fences used to enclose tennis courts shall not exceed 12 feet in height above the playing surface.

- (d) *Lighting.* Lighting used to illuminate a swimming pool, tennis court or other recreational facility shall be directed away from adjacent properties and streets and shall shine only on the subject site.
- (e) *Commercial use.* No swimming pool, tennis court or other recreational facility permitted as a residential accessory use shall be operated as a business.

Sec. 34-2194. Setbacks from bodies of water.

Staff note: Revise subsection (c)(3) to add a waterbody setback for swimming pools, decks, and other similar nonroofed accessory structures to allow a reduced setback for these structures when located in a special flood hazard area. Current regulations require these structures to meet required principal building setbacks when such structures exceed 3½ feet above grade.

- (a) *Gulf of Mexico.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer to the Gulf of Mexico than set forth in Chapter 6, Article III, pertaining to coastal zone protection, or 50 feet from mean high water, whichever is the most restrictive.
- (b) *Other bodies of water.* Except as provided in this section or elsewhere in this chapter, buildings and structures may not be placed closer than 25 feet to a canal or to a bay or other water body or the distance required by the provisions of Chapter 6, Article IV, pertaining to flood hazard reduction, whichever is greater.

For the purposes of measuring setbacks from a canal, bay, or other body of water, the following will be used:

- (1) If the body of water is subject to tidal changes, the mean high water line (MHWL) will be used.
- (2) If the body of water is seawalled, setback will be measured from the seaward side of the seawall, not including the seawall cap.
- (3) If the body of water is rip-rapped or has a natural or unimproved shoreline, the setback will be measured from the control elevation of the body of water. If the control elevation is unknown or not available, then the setback will be measured from the ordinary high water line (OHWL).

(c) *Exceptions.*

(1) *Planned developments.* In a Planned Development Zoning District, the Board of County Commissioners shall have the authority to grant less stringent setbacks than required in this section for the following situations:

- a. Artificial bodies of water such as retention ponds or reflection ponds, when development surrounding the entire body of water is under unified control.
- b. Natural bodies of water which are totally contained on a parcel of land proposed for development under unified control, provided all applicable State or local permits are obtained.
- c. Those portions of natural or artificial bodies of water which may be defined as navigable and accessible to the public, but which do not provide for through navigation, including, but not limited to, lakes, ponds or pockets which have only one means of navigable ingress and egress, provided that:
 - 1. All necessary State and local permits are obtained; and
 - 2. The entire circumference of the body of water, except the navigable point of ingress and egress, is under unified control.

(2) *Docks, seawalls and other watercraft landing facilities.* See ~~S~~section 34-1863.

(3) *Other accessory structures.* Certain accessory buildings and structures may be permitted closer to a body of water as follows:

- a. *Fences and walls.* See Division 17 of this article.
- b. *Nonroofed structures and screen enclosures.* Swimming pools, tennis courts, patios, decks and other nonroofed accessory structures or facilities which do not exceed 3½ feet above grade as defined in section 34-2171, and are not enclosed, except by fenced, or which are enclosed on at least three sides with open-mesh screening a screen enclosure from a height of 3½ feet above grade to the top of the enclosure, shall may be permitted up to but not closer than the greater of:
 - 1. Five feet from a seawalled canal or seawalled natural body of water;
 - 2. Ten feet from a nonseawalled artificial body of water; or
 - 3. 25 feet from a nonseawalled natural body of water;

~~whichever is greater.~~ Enclosures with ~~any two or more sides~~ enclosed by opaque material ~~shall be required to must comply with the setbacks set forth in S~~subsections (a) and (b) of this section.

c. Swimming pools, tennis courts, patios, decks and other nonroofed accessory structures or facilities which exceed 3½ feet above grade must comply with the setbacks set forth in subsections (a) and (b) of this section, with the following exception:

1. Facilities located in a special flood hazard area which are designed and constructed at or below the lowest minimum habitable floor elevation for which a building permit may be issued may be located a minimum of 10 feet from an artificial body of water or seawalled natural body of water or 25 feet from a nonseawalled natural body of water.

d. Roofed structures.

1. Accessory structures with roofs intended to be impervious to weather and which are structurally built as part of the principal structure shall be required to comply with the setbacks set forth in subsections (a) and (b) of this section.
2. Accessory structures with roofs intended to be impervious to weather and which are not structurally built as part of the principal structure may be permitted up to but not closer than 25 feet to a natural body of water, and ten feet to an artificial body of water.