



## ORDINANCE

### Amending the Hillsborough Unified Development Ordinance Section 9.I.5.2, Permissible Encroachment into Required Setbacks

**WHEREAS**, an application was initiated by Mr. Michael Reeves to amend Unified Development Ordinance Section 9.1.5.2, Permissible Encroachment into Required Setbacks to make encroachment allowances for swimming pools, hot tubs, and spas the same as those for accessory buildings and dwellings; and

**WHEREAS**, the application was referred to the town Planning Board for its recommendation, and the Planning Board has provided the town board with a written recommendation addressing the consistency of the proposed rezoning amendment with the town's comprehensive plan and such other matters as the Planning Board deemed appropriate; and

**WHEREAS**, the town board has, prior to acting on the application, adopted a statement describing the consistency of the proposed text amendment with the town's comprehensive plan and explaining why the action contemplated by the town board as reflected herein is reasonable and in the public interest.

**NOW, THEREFORE**, the Hillsborough Board of Commissioners ordains:

**Section 1.** The Unified Development Ordinance of the Town of Hillsborough is hereby amended as attached hereto.

**Section 2.** All provisions of any town ordinance in conflict with this ordinance are repealed.

**Section 3.** This ordinance shall become effective upon adoption.

The foregoing ordinance, having been submitted to a vote, received the following vote and was duly adopted this 14<sup>th</sup> day of April in the year 2025.

Ayes:

Noes:

Absent or excused:

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Sarah E. Kimrey, Town Clerk

### **9.1.5.2 Permissible Encroachment into Required Setbacks**

- 9.1.5.2.a** One- and two-family driveways, walkways, fences, retaining or decorative walls, ornaments, furniture, and landscape plantings may be permitted in any setback.
- 9.1.5.2.b** Patios may encroach into required setbacks, provided that the minimum patio setback is ten feet from a rear or side property line and provided that the patio surface is not more than 6 inches above the adjacent grade. Covered patios or patios with shade structures must observe the setback established for the district as set forth in Section 6.3, *Dimensional Requirements*.
- 9.1.5.2.c** Accessory buildings and freestanding accessory dwelling units may encroach into a side yard or rear yard setback not adjacent to a street right-of-way to within 5 feet of the property line, with the following limits:
- (a) For an accessory building with a highest point 12' or more above the ground elevation, an additional setback of 2' for each 1' of elevation above 12' is required until the standard setback is met.
  - (b) The setback being reduced is not part of a land use or stream buffer required elsewhere in this Ordinance, nor a recorded easement for utilities, drainage, or access.
- 9.1.5.2.d** Parking lots and parking spaces are not allowed within setbacks.
- 9.1.5.2.e** Residential mechanical equipment, including but not limited to generators and HVAC units or components, are not required to observe minimum setbacks. These installations for non-residential and multi-family uses are required to observe minimum setbacks, regardless of the zoning district.
- 9.1.5.2.f** For setback provisions that apply to nonconforming lots of record, see Section 7.5, Nonconforming Lots of Record.
- 9.1.5.2.g** Steps, risers and ramps without a roof, awning or similar covering extending from residential structures may encroach in required setbacks, provided that a minimum setback of no less than 10 feet remains along any property line shared with another residential property (not street right of way). Required landings between two runs of risers or ramps may also encroach provided the landing is also without a roof, awning or similar cover. In the case where an existing structure does not observe a 10-foot setback from a property line shared with another residential property or street right of way at the time of application, the maximum possible setback shall be preserved while allowing necessary access to an existing structure.
- 9.1.5.2.h** Projections and cantilevers from residential structures, including but not limited to eaves, overhangs, gutters, bow windows, chimneys, that do not

exceed 24" of projection and do not have contact with the ground. Projections in excess of 24" and those that have contact with the ground must meet the applicable setbacks, unless otherwise addressed in this section.

- 9.1.5.2.i** Outdoor, residential, in-and above-ground swimming pools, hot tubs and spas, including all decking and patios, may be located in side or rear yards not adjacent to a street and no closer than five feet to any property line.