

Planning Division Staff Report

Ordinance 17-26

Review Date: March 01, 2026

Prepared by: Anthony Santora, Senior Planner

Recommendation: Approval

Request: Amend Section 5.2.1 and Section 5.2.7 of the Land Development Code (LDC), to provide consistency and clarity as well as providing additional emergency response / administrative deviation allowances for fence and wall implementation as follows:

1. Amend LDC, Section 5.2.1, Table 5.2.1.A, to be consistent with the permissible setback requirements established in LDC Section 5.2.7.
2. Amend LDC, Section 5.2.7 to create new code language for exceptions to regulations for fencing and walls for emergency response .
3. Amend LDC, Section 5.2.7 to create new code language for the allowance of administrative deviations for walls and fences which aligns with the requirements of LDC Section 3.3.6.C.
4. Amend LDC, Section 5.2.7, to streamline, clarify and provide enhanced specificity for existing sections of code throughout the section. Amendments include: removing duplicate sections; providing enhanced specificity where ambiguity in measurements, location, or requirements exists; and adding specific sections which pertain to new or existing conditions encountered throughout the city.

| | |
|--|---|
| Positive aspects of the amendment | <ul style="list-style-type: none"> • <i>Eliminates a current inconsistency in the LDC regarding the setback locations for fences and walls.</i> • <i>Provides added language for emergency response.</i> • <i>Provides added language allowing for deviations beyond which would currently be permissible.</i> |
| Negative aspects of the amendment | <ul style="list-style-type: none"> • <i>None</i> |
| Mitigating factors | <ul style="list-style-type: none"> • <i>None</i> |

SUMMARY OF PROPOSED CHANGES

Amendments to fences and walls are proposed to Articles 5, Section 5.2.1 and Section 5.2.7 of the LDC.

Ordinance 17-26 seeks to amend these sections to provide consistency and clarity throughout the section and provide for emergency response and administrative deviations. In doing so, the ordinance strengthens regulatory framework by refining terminology, reorganizing provisions, and eliminating internal inconsistencies allowing for easy and consistent implementation of the standards. The ordinance also introduces a more deliberate approach to administrative flexibility, ensuring that deviations can be granted for specific instances in a controlled manner that preserves and enhances the character of the property and surrounding area. Additionally, the ordinance’s inclusion of emergency-response considerations ensures that regulatory requirements support, rather than hinder, public safety and operational access.

LDC, Section 5.2.1 is amended by revising the section reference for fence and walls in Table 5.2.1.A.

LDC, Section 5.2.7 is amended by adding Subsection A and Revising Subsections B through I. A summary of these key changes includes the following:

- Subsection A was added providing applicability language, exemption language, and administrative deviation language for fences and walls.
- Subsection B.2 was amended to include new language for the provision of fences and walls along cul-de-sacs, hammerheads, or other directional angular property lines.
- Subsection B.4 was amended to provide specific regulations for height, location and opacity specifications for walls, fencing, or vegetative growth along the rear and side property lines of waterfront residential property.
- Subsections B through I were amended to clean up redundancies in the statute, eliminate grammatical mistakes and directions, and provide a consistent and concise formatting throughout the section.

COMPREHENSIVE PLAN ANALYSIS

The proposed amendment is consistent with Objective 1 found in the Future Land Use Element.

Future Land Use Element

Objective 1: Managing Future Growth and Development: The City of Cape Coral will manage future growth and land development by adopting, implementing, and enforcing new regulatory vehicles. All land development regulations called for in this Plan shall be adopted and implemented in accordance with the provisions of S. 163.3202, Florida Statutes. The short-term planning timeframe shall be established as up to the year 2028, while the long-term planning horizon shall be the year 2050.

Staff analysis. The proposed amendment aligns with Objective 1 by strengthening the City's capacity to manage future growth and development through clearer, more effective regulatory standards. By refining the fence and wall provisions in the LDC, the update enhances the reliability of the code as a regulatory tool, ensuring that development activity is guided by standards that are coherent, consistent, and easier to administer. The clarified language, removal of redundancies, and incorporation of flexible provisions collectively support a more predictable and orderly development process, reinforcing the City's broader goal of managing growth through well-crafted and enforceable regulations.

LDC TEXT AMENDMENT ANALYSIS

LDC, Section 3.5.4. states text amendments shall be considered for one or more of eight stated reasons. This LDC amendment is consistent with Reasons #1 and #2 below.

1. The amendment clarifies the intent of the LDC.

Staff analysis. This proposed amendment to the LDC for fences and walls reinforces the code's intent by articulating standards that were previously broad or only indirectly referenced. It introduces more precise parameters, reducing interpretive variability and improving consistency in application. The amendment also incorporates new language that allows for measured flexibility and responsiveness, ensuring the code can accommodate a wider range of site conditions and design approaches without sacrificing clarity. Through these refinements, the updated provisions support more efficient review processes and promote clearer, more predictable implementation.

2. The amendment corrects an error in the LDC.

Staff analysis. The proposed amendment corrects existing errors in the LDC by removing

internal inconsistencies and eliminating redundant provisions that hindered clear and efficient application of the code. By aligning overlapping requirements and standardizing terminology across related sections, the amendment restores coherence to the standards and ensures that all referenced criteria function together as intended.

REVIEW CRITERIA FOR PROPOSED LDC TEXT AMENDMENTS

LDC, Section 3.5.4. identifies four review criteria for proposed text amendments to the LDC. Each criterion is evaluated below.

1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan.

Staff analysis. The proposed amendment is consistent with Objective 1 of the Future Land Use Element appearing in the Comprehensive Plan as outlined earlier within this report.

2. The amendment results in compatible land uses within a zoning designation.

Staff analysis. This criterion is not applicable as the proposed amendment does not modify the schedule of uses for any of the City zoning districts.

3. The amendment protects the health, safety, and welfare of the community.

Staff analysis. The proposed amendment supports the health, safety, and welfare of the community by strengthening the clarity, consistency, and enforceability of standards that directly influence the built environment. Clearer regulations reduce the likelihood of unsafe and unsightly construction and help prevent conflicts between neighboring properties. By eliminating redundancies and inconsistencies, the amendment ensures that the standards can be applied uniformly, thereby reducing the risk of errors that could compromise public safety or neighborhood compatibility. Additionally, the inclusion of flexible, well-defined provisions also allows the City to respond appropriately to unique site conditions, ensuring that safety-related considerations are addressed without creating unintended barriers to compliance.

4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.

Staff analysis. N/A.

RECOMMENDATION

The proposed amendment will eliminate existing inconsistencies and redundancies within the LDC related to fence and wall standards, restoring internal coherence and improving the clarity of the code. Additionally, the proposed ordinance provides revised and more precise language that clarifies how these structures are regulated and introduces measured flexibility to accommodate unique site conditions while maintaining clear expectations. These refinements strengthen the effectiveness of the LDC as a regulatory tool, support orderly development, and enhance the City's ability to administer the standards consistently. This ordinance is consistent with the goals and objectives of the Comprehensive Plan and meets the applicable criteria for LDC text amendments. Staff recommends **approval** of Ordinance 17-26.

Staff contact information:

Anthony Santora, Senior Planner
PH 239-573-3125
asantora@capecoral.gov