

ORDINANCE NO. C-25-40

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE SUBSECTION 47-24.1, "GENERALLY," SUBSECTION 47-24.12, "VARIANCES, SPECIAL EXCEPTIONS AND INTERPRETATION OF UNIFIED LAND DEVELOPMENT REGULATIONS," SUBSECTION 47-26B.1, "PROCEDURE," SUBSECTION 47-29.3. "ZONING ADMINISTRATOR," AND SUBSECTION 47-33.2. "POWERS AND DUTIES" OF THE CITY OF FORT LAUDERDALE, FLORIDA, UNIFIED LAND DEVELOPMENT REGULATIONS, BY CHANGING THE APPEAL PROCESS FOR DECISIONS MADE BY THE BOARD OF ADJUSTMENT, BY PROVIDING FOR ADMINISTRATIVE REVIEW FOR DE MINIMIS VARIANCES, AND PROVIDING FOR CORRECTION OF SCRIVENER'S ERRORS, SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, desires to amend Subsection 47-24.1, "Generally," Subsection 47-24.12, "Variances, special exceptions and interpretation of Unified Land Development Regulations," and Subsection 47-26B.1, "Procedure," of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, to allow appeals of decisions made by the Board of Adjustment to be reviewed and decided on by the City Commission prior to a petition with the circuit court being filed; and

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, desires to amend Subsection 47-24.12, "Variances, special exceptions and interpretation of Unified Land Development Regulations," and Subsection 47-33.2. "Powers and Duties," of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, to set the criteria by which the zoning administrator can approve applications for de minimis variances; and

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida, desires to amend Subsection 47-29.3, "Zoning Administrator," of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, to provide the zoning administrator with the authority to grant administrative variances; and

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WHEREAS, the Planning and Zoning Board, acting as the local planning agency, at its meeting of August 20, 2025 (PZ Case No. UDP-T25008), reviewed the proposed text amendments for consistency with the City of Fort Lauderdale Comprehensive Plan and recommended the City Commission adopt the amendments to the ULDR; and

WHEREAS, notice was provided to the public that this ordinance would be considered at the City Commission meeting to be held on Tuesday, October 7, 2025, at 6:00 o'clock P.M., or as soon thereafter as possible, and on Thursday, October 23, 2025, at 6:00 o'clock P.M., or as soon thereafter as possible, at the Broward Center for the Performing Arts - Mary N. Porter Riverview Ballroom, 201 SW 5th Avenue, Fort Lauderdale, Florida;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. Subsection 47-24.1 of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, is hereby amended to provide as follows:

Permit	Department	Development Review Committee	Planning & Zoning Board (Local Planning Agency)	Historic Preservation Board	City Commission	Board of Adjustment	Criteria for Review
...							
VARIANCE/SPECIAL EXCEPTION	R				<u>A</u>	DP	1. Adequacy Review Sec. 47-25.2, and 2. Variance/Special Exception

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							Requirements, Sec. 47-24.12
<u>ADMINISTRATIVE VARIANCE</u>	<u>DP</u>				<u>A</u>	<u>DH/DP</u>	1. <u>Adequacy Review Sec. 47-25.2,</u> and 2. <u>Variance/ Special Exception Requirements, Sec. 47-24.12</u>

...

LEGEND	
DRC	Development Review Committee
PZ	Planning and Zoning Board
Dept.	Department
DP	Development Permit issued
R	Review and recommendation requirement
A	Appeal by applicant of a denial
<u>DH</u>	<u>De Novo Hearing</u>
CRR	City commission request for review

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CRR/PZ		City commission request for review of planning and zoning board action
CRR/PZ Dept.	or	City commission request for review of planning and zoning board action or of department action
CRR/PZ DRC	or	City commission request for review of planning and zoning board action or of Development Review Committee action

SECTION 2. Subsection 47-24.12. of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, is hereby amended to provide as follows:

Sec. 47-24.12. – Variances, special exceptions and interpretation of Unified Land Development Regulations.

A. *Variance, special exception* ~~(board of adjustment)~~.

1. *Applicant.* The property owner of record who wishes to develop his property not in compliance with the requirements of the ULDR.
2. *Application.*
 - a. An application for a variance or special exception shall be made to the department on forms promulgated by the department and the application shall include a statement by the applicant of the facts that show how the criteria for a variance or special exception have been met. The application shall include such additional material in support of the application as determined by the department to be appropriate to the relief requested for the property in question.
 - b. The application shall be accompanied by a copy of the deed by which the record owner of the property claims title and a current survey. If the applicant is other than the owner of record, then the applicant must identify the relationship of the applicant to the owner of record. A sworn and acknowledged power of attorney from the owner of record to the applicant must accompany the application affirming that the owner of record has granted full power and authority to the applicant to apply for the relief requested in the application. Such power of attorney shall recite that the owner of record acknowledges that the city will be

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relying on the power of attorney in the processing of the application for the relief requested and that revocation of the delegated authority shall not be effective until written revocation, in the same form and dignity as the original power of attorney, is delivered to the department. If the owner of record or applicant is other than an individual, then the application must identify whether the owner of record or applicant is a partnership, corporation, trust, proprietorship or other legal entity and the application and power of attorney, where applicable, must be executed by a general partner, officer, trustee, or other person with authority to bind the applicant or owner of record and such individual must affirm that he has the authority to bind the applicant or owner of record. If the applicant is an attorney who is a member of the Florida Bar who is acting on behalf of the owner of record, no power of attorney from the owner of record shall be required, but the application shall be signed by the attorney who shall indicate his representative capacity and Florida Bar number on the face of the application.

- c. The application will not be deemed complete until the owner of record and applicant files an affidavit with the department indicating the owner of record and applicant is aware of the following:
 - i. That in order to be entitled to the relief requested in the application an affirmative vote of a majority, plus one of the board of adjustment is required;
 - ii. That in granting the relief requested the board of adjustment or the zoning administrator is limited to the authority vested in the board or zoning administrator by the ULDR and that the board or zoning administrator may not grant the relief requested unless the applicant proves all the criteria specified in the ULDR have been met;
 - iii. That the granting of relief by the board or zoning administrator or designee does not exempt the applicant or owner of record from the responsibilities of obtaining all applicable permits or approvals as may be required by law for both new and existing structures;
 - iv. That if the relief requested is granted by the board or zoning administrator or designee, the applicant must secure a building permit to implement the relief requested within one hundred eighty (180) days of the entry of the final order of the board, or within such lesser time as the board may proscribe and that

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failure to procure the necessary permits within the time so proscribed shall render the variance or special exception null and void;

- ~~v. That if the board denies the request for relief, then no additional application for the same or substantially the same relief may be entertained by the board within two (2) years of the date of entry of the final order of denial.~~

3. *Review process.*

- a. Variance, special exception and interpretation of ULDR review process. The variance special exception and interpretation of ULDR review process shall be as follows:

- ~~a.i.~~ An application shall be submitted to the department on forms promulgated by the department.
- ~~b.ii.~~ Consideration of an application shall not be heard sooner than twenty (20) days from the date of submission of a complete application together with supporting materials thereto as required by the department.
- ~~c.iii.~~ The board of adjustment shall consider the application and the evidence adduced in support of and in opposition to the application at a public hearing and may receive public comment thereon.
- ~~d.iv.~~ The burden shall be upon the applicant to demonstrate by a preponderance of the evidence that the application meets the criteria specified in the ULDR. If the board of adjustment determines that the proposed application for a temporary nonconforming use permit, variance or special exception meets the criteria specified herein, the board of adjustment shall approve the application by entering a final order granting such relief and imposing such conditions or safeguards as are appropriate under the ULDR. The final order granting a variance or special exception shall include a time period, not to exceed one hundred eighty (180) days, within which a building permit shall be secured to implement the improvements authorized by the variance or special exception as granted. The variance or special exception shall expire if the building permit to implement the improvements authorized by the variance or special exception is not secured within the time frame

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specified in the final order. Violation of any other condition of a final order granting a temporary nonconforming use permit, variance or special exception shall be a violation of the ULDR. In granting a variance or special exception, the board may proscribe appropriate conditions and safeguards as are in their opinion necessary to protect the public interest and ensure harmony with the purposes and intent of the ULDR.

~~e.v.~~ If the board of adjustment determines that the applicant failed to meet the burden of demonstrating by a preponderance of the evidence that the application meets the criteria specified in the ULDR, the board of adjustment shall enter a final order denying the application.

~~f.vi.~~ The board of adjustment shall not be required to make findings of fact in the entry of any final order.

b. Administrative variance review process. For an existing single family residential dwelling or an existing accessory structure to an existing single family residential dwelling, the zoning administrator or designee may either approve, approve with conditions, or deny an application for a variance from the minimum or maximum dimensional requirements for yards, setbacks, or height specified in the ULDR that do not exceed twenty-five (25) percent or three (3) feet of the applicable ULDR dimensional requirement, whichever is less. Such variance requests are administrative variances for the purposes of the ULDR. The administrative variance process is not available or applicable to new construction or additions to existing structures. The administrative variance shall be reviewed as follows:

- i. An application for an administrative variance shall be submitted to the department for review to determine whether the request meets the criteria for an administrative variance.
- ii. Within thirty (30) business days of receipt of a complete application, the zoning administrator or his or her designee shall provide a decision regarding compliance with the criteria.
- iii. If the zoning administrator or his or her designee determines that the requested relief meets the criteria, the zoning administrator or his or her

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designee shall approve or approve with conditions the administrative variance.

- iv. If the zoning administrator or his or her designee determines that the request does not meet the criteria, the zoning administrator or his or her designee shall deny the administrative variance.
 - v. Mail notice shall be sent to the adjacent property owners of the subject property notifying them of the receipt of an application for administrative variance. Such notice shall be sent by the City, at the applicant's expense. Notification shall be sent out within ten (10) days of the application being deemed complete. Failure to receive notice shall not be grounds to invalidate the review and decision on the administrative variance application as this provision is directory and not mandatory.
 - vi. If an adjacent property owner opposes the administrative variance being sought, then the zoning administrator or his or her designee will automatically forward the application to the Board of Adjustment for their review of the variance. Such opposition shall be in writing and submitted to the department within seven (7) business days of receiving the mail notice.
 - vii. If the zoning administrator or his or her designee denies an administrative variance request, the applicant may file an application for a de novo hearing before the board of adjustment within thirty (30) days of denial. Such application shall be processed as a new variance application and subject to the variance review process provided in Section 47-24.12.A.3.a.
4. *Criteria—Variance.* A variance from the terms of the ULDR shall be granted only upon demonstrating a unique hardship attributable to the land by proving by a preponderance of the evidence all of the following criteria:
- a. That special conditions and circumstances affect the property at issue which prevent the reasonable use of such property; and
 - b. That the circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district; and

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- c. That the literal application of the provisions of the ULDR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district. It shall be of no importance to this criterion that a denial of the variance sought might deny to the owner a more profitable use of the property, provided the provisions of the ULDR still allow a reasonable use of the property; and
- d. That the unique hardship is not self-created by the applicant or his predecessors, nor is it the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations; and
- e. That the variance is the minimum variance that will make possible a reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.
- f. Supplemental criteria for administrative variances. In addition to other criteria for variances in this section, a variance from the terms of the ULDR shall be granted only upon demonstrating, in addition to a unique hardship attributable to the land by proving by a preponderance of the evidence, all of the following criteria:
 - i. The variance is from the minimum or maximum dimensional requirements for yards, setbacks, or height specified in the ULDR for an existing single family residential dwelling or an existing accessory structure to an existing single family residential dwelling;
 - ii. The requesting variance from the minimum or maximum dimensional requirements for yards, setbacks, or height specified in the ULDR does not exceed twenty-five (25) percent or three (3) feet of the ULDR dimensional requirement, whichever is less;
 - iii. A valid building permit and a certificate of occupancy was issued for the existing single family residential dwelling located on the property subject to the variance request; and

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- iv. The existing accessory structure that is the subject of the variance request was issued a valid building permit and a final inspection was completed.

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8. *Order.* If the temporary nonconforming use permit, variance, or special exception is granted, a final order shall be entered by the board, executed by the chairperson or vice-chairperson, and if an administrative variance is granted, a final order shall be entered and executed by the zoning administrator or designee, which ~~All~~ such final orders shall include a description of the relief granted, including conditions approved by the board or zoning administrator or designee, as applicable, a legal description of the property affected and the time within which the building permit to implement the improvements authorized by the variance or exception must be secured, which such period shall not exceed one hundred eighty (180) days from the date of the effective date of approval. All final orders granting or denying the relief requested shall be recorded in the public records of the county by the department at owner's expense, which such cost of recording shall accompany the application fee. A final order granting a temporary nonconforming use permit shall specify that such temporary nonconforming use permit shall expire within the time specified in the final order, which such time may not exceed one (1) year from the date of entry of the final order.
9. *Effective date of approval.* ~~The final order of the board of adjustment shall take effect~~ when such order has been written and signed by the chair or vice-chair of the board of adjustment or the zoning administrator or designee, or at such other date as may be proscribed in such order.
10. *Expiration of approval.* The variance shall expire and become null and void unless a building permit to implement the improvements authorized by the variance or special exception is secured within one hundred eighty (180) days from the effective date of approval, or within such lesser time as the board or zoning administrator or designee may proscribe, which such lesser period of time shall not be less than thirty (30) days from the effective date of approval. Upon a motion for extension of time being filed by an applicant, for good cause shown, the board may grant an additional extension of time beyond the time initially proscribed in the final order,

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such additional extension of time not to exceed one hundred eighty (180) days, within which the building permit must be secured.

11. *Successive applications.* Upon denial of an application for special exception or variance there shall be a ~~two (2)~~one (1) year waiting period before any applicant may submit an application for the same or substantially similar application as that which was initially denied. However, an applicant may submit an application within ~~two (2)~~one (1) years for the same or substantially the same relief for consideration by either the board of adjustment or the zoning administrator or designee upon showing any new evidence or information not considered by the board when the application was denied and why such new evidence or information must neither have been known to the applicant nor discoverable or obtainable through reasonable diligence on the part of the applicant prior to the hearing at which the application was denied.
12. *Amendment.*
 - a. If the applicant wishes to amend a variance or special exception for a variance or special exception, the proposed amendment will be required to be reviewed and approved by the board of adjustment as a new application for variance or special exception in accordance with the procedures in this section.
 - b. If the applicant wishes to amend or modify a condition to a variance, special exception or temporary nonconforming use permit, for good cause shown, the board may grant such relief, provided the variance, special exception or temporary nonconforming use permit, with the amended or modified condition, still meets the criteria necessary for the initial granting of the variance, special exception or temporary nonconforming use permit.
13. *Appeal.* An appeal of a final order of the board of adjustment shall be in accordance with Section 47-26B.1 by petition for writ of certiorari filed in the circuit court within the time proscribed by court rules. Notwithstanding any other provision of the ULDR, an applicant may appeal a final order of the board of adjustment issued within the year prior to the adoption of Ordinance No. C-25-40 on October 23, 2025, by providing the required notification pursuant to Section 47-26B.1.A. by November 22, 2025, which is calculated to be within thirty (30) days of the adoption of this ordinance.

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- B. *Appeal of interpretation or application of Unified Land Development Regulations (board of adjustment).*

...

8. *Appeal.* Any person who is a party to the appeal under this section and who is aggrieved by the decision of the board of adjustment therein may seek review of such decision in accordance with Section 47-26B.1. ~~the circuit court by filing a petition for a writ of certiorari within the time prescribed by court rules.~~

SECTION 3. Subsection 47-26B.1. of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, is hereby amended to provide as follows:

Sec. 47-26B.1. - Procedure

- A. *Appeal.* If an application for a development permit is denied or is approved with conditions unacceptable to the applicant by the department, DRC, ~~or~~ planning and zoning board, or board of adjustment and the ULDR provides for an appeal as provided in Table 1 of Section 47-24, Development Permits and Procedures, the applicant may, within thirty (30) days of the decision, appeal to the body provided in the ULDR for review of the decision. The appeal shall be made by letter to the city clerk and a copy filed with the department. If the department, DRC, historic preservation board, ~~or~~ planning and zoning board or board of adjustment denies an application for development permit filed by the city, which denial may be appealed under the ULDR such denial shall act as a recommendation and the application shall automatically be placed on the agenda of the reviewing body to which an appeal may be made and will be considered in a de novo proceeding.
1. *Appeal of planning and zoning board, ~~or~~ historic preservation board, or board of adjustment decision.* If an appeal is from a planning and zoning board, ~~or~~ historic preservation board, or board of adjustment decision to the city commission, the record compiled by the department, DRC, HPB, ~~and~~ planning and zoning board, and board of adjustment shall be forwarded to the city commission for review. The city commission shall hold a public meeting on the record and shall determine if:

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- a. There was a departure from the essential requirements of law in the proceedings appealed; or
- b. Competent substantial evidence does not exist to support the decision.

If the city commission determines that there was not a departure from the essential requirements of law or that competent substantial evidence exists to support the decision then the decision will be upheld. If the city commission finds either subsection A.1.a or b, then the city commission shall conduct a de novo hearing which may be immediately held or shall be set by resolution no later than sixty (60) days from the date of adoption of the resolution. At the conclusion of the hearing the city commission may reject, approve or amend the decision of the planning and zoning board, historic preservation board, or board of adjustment.

2. *Appeal of department or DRC decision.* If the appeal is from a department or DRC decision to the planning and zoning board the appeal shall be automatic and scheduled for a de novo hearing in front of the planning and zoning board no sooner than thirty (30) days or later than sixty (60) days from the date of request for appeal and the planning and zoning board may reject, approve or amend the decision of the department or DRC.
3. The time frames provided herein may be extended by written request of the applicant.
4. When the city commission conducts a meeting to determine if a new hearing will be granted based on their review of the record below, argument may be made and public input may be heard during the meeting limited solely to whether the record supports the decision of the body from which an appeal has been taken.
5. Appeal from a final decision by the city commission shall be to the circuit court by filing a petition for writ of certiorari within thirty (30) days of the decision.

SECTION 4. Subsection 47-29.3. of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, is hereby amended to provide as follows:

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Sec. 47-29.3. - Zoning administrator.

There shall be a zoning administrator in the department or such person or persons appointed by the director who will be responsible for answering all questions of interpretation and enforcement of the ULDR and shall be authorized to decide such questions as are involved in determining whether an administrative variance should be granted and to grant such administrative variances with conditions and safeguards as are appropriate under the ULDR.

SECTION 5. Subsection 47-33.2. of the City of Fort Lauderdale, Florida, Unified Land Development Regulations, is hereby amended to provide as follows:

Sec. 47-33.2. - Powers and duties.

A. The board of adjustment shall have ~~exclusive~~ jurisdiction to perform the following duties:

1. To grant temporary permits for nonconforming use of buildings or lands in the city for short periods of time, not exceeding one (1) year from the date of entry of the final order granting such relief and for which no extensions or additional nonconforming permits may be granted.
2. To hear and decide appeals by proper parties where it is alleged that there is error in any reviewable interpretation, application or determination made by an administrative official in the enforcement of the ULDR and to modify or reverse such ruling upon finding the interpretation of facts or interpretation of law clearly erroneous or to affirm such ruling upon interpretation of facts or law by such administrative official which is not clearly erroneous.
3. To hear and decide special exceptions, to decide such questions as are involved in determining whether special exceptions should be granted and to grant such special exceptions with conditions and safeguards as are appropriate under the ULDR.
4. To authorize upon application in specific cases such variances from the ULDR as are authorized under the ULDR, and to decide such questions as are involved in determining whether a variance should be granted and to grant such variances with conditions and safeguards as are appropriate under the ULDR.

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- B. The board of adjustment shall not have jurisdiction to grant any relief that does not conform to the city's comprehensive plan.

SECTION 6. At the direction of the City Attorney, the publisher of the Code of Ordinances of the City of Fort Lauderdale, Florida, is authorized to conform chapter, article, section, subsection, clause numbers and letters, and capitalization, as set forth in the Code of Ordinances of the City of Fort Lauderdale, Florida, and to correct any non-substantive scrivener's errors in the codification of this Ordinance.

SECTION 7. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION 8. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 9. That this Ordinance shall be effective immediately upon final passage.

PASSED FIRST READING this 7th day of October, 2025.

PASSED SECOND READING this _____ day of _____, 2025.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
DAVID R. SOLOMAN

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