

An amendment to the Cape Coral Land Development Code, Article 5, Section 5.1.6 Protection of Easements has been approved by the City Council. This amendment allows partial intrusions of various distances into the public utility easements (PUE) and side and rear setbacks of property in the R-1 zoning district, when these sites are improved with a principal residential structure. The purpose of this amendment is to allow construction of stairs, hardscape features, landscape features, fall-protection planters, elevated walkways, decks, and access ramps up to 36" into the 7.5-foot side yard setback and up to 18" into the side yard PUE, or be placed anywhere in the rear setback and PUE as long as no utilities or drainage improvements, above or below ground, are located in the subject PUE. The encroaching structures are required to be structurally independent of the primary residential structure so that removal of the material could occur without damage to the residential structure or pool deck.

If construction will be placed in the setbacks and/or PUE in accordance with the revised LDC, the homeowner must also sign and include a Hold Harmless Agreement with their permit application stating they will be responsible for paying for the removal and replacement of these structures in the event the City needs access to the area for utility maintenance. This Cape Coral Hold Harmless Agreement is located in the "Forms" section of the Building Division Online Permit Document Center:

https://www.capecoral.net/department/community_development/permitting/permitdocumentcenter.php#outer-822

This amendment also allows a "fall protection planter" to be installed directly adjacent to an open-sided walking surface (e.g., an elevated pool deck) in lieu of installing a railing or similar system (guard) along the edge of the pool deck, provided the width of the planter is between 36" and 48" as measured perpendicular to such walking surface. The top surface of the fall protection planter must be located no more than 30" measured vertically to the floor or grade below at any point within 36" horizontally to the edge of the open sided walking surface. This meets the intent of the guard requirement in the Florida Building Code - Residential, which is to reduce the chance of a fall to the floor or grade below of more than 30 inches from an open-sided walking surface.

This amendment is effective immediately. These changes to local construction regulation apply to permit applications in the approval process, construction which is currently underway, and future construction.