

THE CITY OF NEW SMYRNA BEACH - DEVELOPMENTAL SERVICES

ORDINANCE NO. 25-26: CONDUCT A SECOND READING AND PUBLIC HEARING OF AN ORDINANCE, WHICH, IF ADOPTED, WOULD AMEND LAND DEVELOPMENT REGULATIONS SECTION 504.02 (ZONING DISTRICTS), SECTION 505.05 (NONCONFORMING USES AND STRUCTURES), AND SECTION 201.00 (GENERAL DEFINITIONS) THAT DEFINE AVERAGE DAILY USERS, ESTABLISH USE NEUTRAL STANDARDS INCLUDING SETBACK REQUIREMENTS AND ALLOW THE RECONSTRUCTION OF SEVERELY DAMAGED NONCONFORMING BUILDINGS OF SPECIAL EXCEPTIONS OR CONDITIONAL USES.

May 26, 2026

Background:

Applicant: City of New Smyrna Beach, Development Services, 214 Sams Avenue, New Smyrna Beach, Florida 32168.

Request: Amend Sections 504.02 Zoning Districts, 505.05 Nonconforming Uses and Structures, and 201.00 General Definitions of the Land Development Regulations.

Exhibits:

Exhibit A: General Definitions

Exhibit B: District Regulation Requirements

Exhibit C: Non-Conforming Structures

Findings:

Under the current Land Development Regulations, 35-foot side and rear yard setbacks are required for Houses of Worship when approved as special exception uses in certain residential zoning districts. In September 2025, the Planning and Zoning Board considered a text amendment initiated by a church to reduce these required setbacks to 10 feet within their applicable zoning district. At that meeting, a motion to recommend approval to the City Commission failed with a 2-3 vote.

The proposed amendment was initially scheduled for consideration by the City Commission on October 14, 2025. Following public comment and discussion regarding potential neighborhood impacts and broader policy considerations, the applicant requested, and the City Commission granted, a continuance of the item. The continuance was intended to allow City staff additional time to evaluate the request in a broader context and to assess potential implications for other similarly situated properties throughout the City.

Following the continuance, City staff initiated a more comprehensive review of the Land Development Regulations as they relate to places of assembly, including houses of worship, schools, and public facilities, within residential zoning districts. Staff identified inconsistencies in setback requirements across multiple zoning districts and evaluated potential approaches to address those inconsistencies in a consistent and legally defensible manner. The review also included consideration of the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), a federal statute governing land use regulations affecting religious institutions. In addition, staff evaluated whether proposed amendments should include provisions allowing nonconforming special exception and conditional uses to rebuild or reinvest when structures were lawfully constructed prior to the adoption of current setback requirements.

Initially, City staff proposed applying a uniform 25 foot setback to all places of assembly as a means of addressing the issue in a manner that was intended to be equitable to all stakeholders. This approach was presented at a public information meeting held on December 9. However, feedback from both residents and representatives of religious institutions indicated limited support for this option. As a result, staff was directed to further evaluate the issue and explore alternative approaches that better address the scale and compatibility of places of assembly within residential zoning districts, while also ensuring the Land Development Code is compliant with the requirements of the RLUIPA.

During the additional review process, staff identified that the Land Development Regulations primarily regulated places of assembly based on building placement and buffering, with limited reference to the intensity of use associated with such facilities. To address this, staff developed proposed revisions that include the addition of a defined term, average daily users, to the Definitions section of the Land Development Regulations. The purpose of this definition is to provide a consistent and objective measure of use intensity that can be applied when evaluating individual places of

assembly in residential zoning districts, particularly with respect to transportation impacts, compatibility, and appropriate review thresholds.

The City initiated amendments were scheduled for review by the Planning and Zoning Board on January 5, 2026. At that meeting, the Board voted to continue the item in order to allow staff additional time to refine the proposed text amendment based on public feedback, legal considerations, and policy direction.

Between January and February 2026, staff continued refining the proposed text amendment. This work included development of a tiered regulatory framework for places of assembly that considers total daily users, transportation impacts, roadway classification, and access, in addition to building setbacks and buffering. The intent of this approach is to provide a consistent, legal, citywide framework that addresses both physical development standards and intensity of use.

A second public informational meeting was held on March 9, 2026. At that meeting, staff presented a refined version of the proposed text amendment, including the proposed definition of average daily users and its application to places of assembly within residential zoning districts. Draft ordinance language and visual exhibits were provided to illustrate how the proposed standards would be applied. Based on the feedback from that meeting and other communications with residents, this tiered approach is reflected in the proposed text amendments.

Below is a timeline of meetings:

ZT-12-25: Places of Assembly (City Proposed)

Workshop - December 19, 2025

P&Z Meeting – January 5, 2026 (Cont. February 2, 2026)

P&Z Meeting – February 2, 2026 (Cont. to March 2, 2026)

P&Z Meeting – March 2, 2026 (Cont. to April 6, 2026)

Workshop - March 9, 2026

P&Z Meeting – April 6, 2026

CC Meeting – April 14, 2026

Recommendation:

The Planning and Zoning Board recommended approval of the text amendments to the City Commission by a vote of 3-2.

Staff finds that the proposed text amendments, which establishes tiered standards based on average daily users, enhances neighborhood compatibility for places of assembly

through increased buffers and transportation impact controls, while maintaining compliance with RILUPA. Therefore, staff recommends approval.

Fiscal Analysis:

N/A

Strategic Plan Item:

No

Staff Report Created By: Shane Corbin - Developmental Services Director

Attachments:

[201.00. General Definitions](#)

[504.02 District regulations and requirements Amendment All Zoning Districts.5.5.26.pdf](#)

[505.05. Non-Conforming Structures](#)

[Business Impact Estimate - Ord 25-26 LDR House of Worship.pdf](#)

[Ord 25-26 LDR House of Worship.pdf](#)