

RESOLUTION OF THE LOCAL PLANNING AGENCY OF
THE TOWN OF FORT MYERS BEACH FLORIDA
RESOLUTION NUMBER 2013-022
Prohibiting Elevated Pools Ordinance

WHEREAS, the existence of the Local Planning Agency (LPA) is mandated by Florida Statutes Section 163.3174; and

WHEREAS, the Local Planning Agency is statutorily responsible under Chapter 163, Florida Statutes, and the Town of Fort Myers Beach Land Development Code (LDC) Section 34-120 for the review of proposed land development regulations, land development codes, or amendments thereto, and for making recommendations to the Town Council with regard thereto and performing such other reviews as are requested by the town Council; and

WHEREAS, following proper notice and as required under Florida Statute and the LDC, the LPA conducted a public hearing on November 12, 2013, to consider a proposed Town Ordinance amending the LDC with regard to Prohibition of Elevated Pools, specifically amending LDC Sec. 34-1173, adopting a new subsection C prohibiting elevated pools built higher than the height of the crown of the adjacent roadway; and

WHEREAS, a copy of the proposed Ordinance 13- is attached hereto as Exhibit A and is hereby incorporated by reference.

NOW THEREFORE BE IT RESOLVED, that the LPA recommends that the Town Council of the Town of Fort Myers Beach **APPROVE** and adopt a Town Ordinance amending the LDC with regard to Accessory Structures, as set forth in the Ordinance 13- attached as Exhibit A.

The foregoing Resolution was adopted by the LPA upon a motion by LPA Member Bodenhafer and seconded by LPA Member Kakatsch, and upon being put to a vote, the result was as follows:

Hank Zuba, Chair	AYE	Joanne Shamp, Vice Chair	AYE
Chuck Bodenhafer	AYE	Al Durrett	AYE
John Kakatsch	AYE	Jane Plummer	AYE
Jim Steele	AYE		

DULY PASSED AND ADOPTED THIS **12th** day of **NOVEMBER, 2013**.

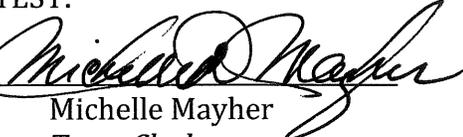
Local Planning Agency of the Town of Fort Myers Beach

By: 
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: 
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: 
Michelle Mayher
Town Clerk

Town of Fort Myers Beach
ORDINANCE NO. 13-

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE IV, DIVISION 2, IN THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE, "ACCESSORY USES, BUILDINGS, AND STRUCTURES;" AMENDING SECTION 34-1173, "DEVELOPMENT REGULATIONS;" ADDING A NEW SUBSECTION (3), "HEIGHT" TO PROVIDE THAT ACCESSORY STRUCTURES MUST COMPLY WITH THE HEIGHT LIMITATIONS FOR PRINCIPAL STRUCTURES AND PROVIDING THAT SWIMMING POOLS AND SWIMMING POOL DECKS CANNOT BE HIGHER THAN THE CROWN OF THE ADJACENT ROADWAY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes and other applicable provisions of law.

Section 2. Adoption of Amendments to Chapter 34 of the Town of Fort Myers Beach Land Development Code. Chapter 34, Article IV, Division 2, Section 34-1173 of the Town of Fort Myers Beach Land Development Code is hereby amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with strikethroughs. Existing language being retained is shown without underlining or strikethrough.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

Section 4. Effective Date. This Ordinance shall be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member _____ and seconded by Council Member _____ and, upon being put to a vote, the result was as follows:

Alan Mandel, Mayor
Joe Kosinski, Vice Mayor
Dan Andre

Bob Raymond
Jo List

Local Planning Agency of the Town of Fort Myers Beach

By: _____
Hank Zuba, LPA Chair

Approved as to legal sufficiency:

By: _____
Fowler White Boggs, P.A.
LPA Attorney

ATTEST:

By: _____
Michelle Mayher
Town Clerk

EXHIBIT "A"

Sec. 34-1173. Development regulations.

(a) Unless specifically indicated to the contrary, accessory uses and related buildings and structures that are customarily recognized as clearly incidental and subordinate to the principal use of the property are permitted by right when located on the same lot or parcel and in the same zoning category as the principal use, provided that:

- (1) Uses that are listed separately on Table 34-1 of this code, such as drive-throughs and automobile fuel pumps, are not accessory uses and are permitted only in zoning districts where they are explicitly identified in Tables 34-1 and 34-2. However, this limitation does not apply to uses that are explicitly listed in the definitions of residential, commercial, or resort accessory uses.
- (2) All uses, buildings, and structures must comply with all applicable development regulations and building codes.
- (3) Accessory buildings or structures may be built concurrently with a principal building or structure but, except as provided herein, no accessory use, building, or structure shall be commenced, erected, placed, or moved onto a lot or parcel prior to the principal use, building, or structure. Exceptions are as follows:
 - a. Fences or walls when in compliance with division 17 of this article.
 - b. Seawalls or retaining walls (see § 26-43(a)).
 - c. Docks accessory to residential uses (see § 26-43(a)). Only permitted if the lot meets the minimum lot size and dimensions required for a principal use.

(b) ***Attachment to principal building.*** Authorized accessory buildings or structures may be erected as part of the principal building or may be connected to it by a roofed porch, patio, or breezeway, or similar structure, or they may be completely detached, provided that:

- (1) Any accessory building or structure which is structurally a part of the principal building shall comply in all respects with the regulations for a principal building.
- (2) Any accessory building or structure not structurally made a part of the principal building shall comply with the location requirements set forth in § 34-1174.

(c) ***Height.*** Accessory structures shall comply with the height limitations for principal structures, provided, however, that in no event shall an accessory structure exceed the height of a principal structure located on the same lot or parcel. For swimming pools, whether the swimming pool is attached to the principal structure as part of the principal structure or is a freestanding accessory structure, the height of the swimming pool and swimming pool deck shall be no higher than the height of the crown of the adjacent roadway.