

RESOLUTION OF THE TOWN COUNCIL OF THE
THE TOWN OF FORT MYERS BEACH, FLORIDA
RESOLUTION NUMBER 13-26

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, ACKNOWLEDGING THAT THE DEPARTMENT OF COMMUNITY DEVELOPMENT, AT THE DIRECTION OF TOWN COUNCIL, IS DEVELOPING PROPOSED LAND USE REGULATIONS RELATING TO THE PROHIBITION OF ELEVATED SWIMMING POOLS AND THAT SUCH PROPOSED ORDINANCE IS BEING DRAFTED AND WILL BE PROMPTLY SUBMITTED TO THE TOWN LOCAL PLANNING AGENCY (LPA) FOR ITS CONSIDERATION AND RECOMMENDATION; DIRECTING THAT THE LPA PROVIDE RECOMMENDATIONS, AFTER ITS DUE CONSIDERATION, WITH REGARD TO SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS; DECLARING THAT THE DEVELOPMENT OF SUCH REGULATIONS AND THE ZONING PROCESS RELATED THERETO CONSTITUTES "ZONING IN PROGRESS;" DIRECTING THAT PERMITS FOR ELEVATED SWIMMING POOLS NOT BE ISSUED UNTIL THE "ZONING IN PROGRESS" HAS BEEN COMPLETED BY FINAL CONSIDERATION OF SUCH PROPOSED LAND USE AND DEVELOPMENT REGULATIONS BY TOWN COUNCIL; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council has directed that the Department of Community Development develop proposed land use regulations addressing the regulation or prohibition of elevated swimming pools; and

WHEREAS, the Department of Community Development is in the process of preparing a proposed Ordinance addressing elevated swimming pools; and

WHEREAS, the proposed ordinance will be considered by the Town's LPA as required by the Town's land development code; and

WHEREAS, no final consideration or decision can be made by the Town Council except through the legally required and publicly advertised zoning consideration process; and

WHEREAS, the Town Council finds that the issuance of any permits for the construction of elevated swimming pools during this "zoning in progress" is detrimental to the best interests of the citizens of the Town of Fort Myers Beach.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, LEE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. The Town Council hereby determines that it is appropriate and in the best interest of the citizens of the Town of Fort Myers Beach to study, consider and development land use regulation to address and/or prohibit the construction of elevated swimming pools within the Town of Fort Myers Beach. Until such time as the Town Council has an opportunity to consider the proposed land use regulations and the recommendations of staff and the LPA, the issuance of building permits for the construction of elevated swimming pools shall be prohibited.

Section 2. The Town Council hereby declares that the process currently in effect with regard to the development and consideration of land use regulations relating to elevated swimming pools constitutes "zoning in progress."

Section 3. In the event that any person or entity is denied a Development Order, Building Permit or other Town approval as a direct result of the prohibition set forth above, such person or entity may appeal such denial to Town Council. The fee for such appeal is hereby waived. For any appeal that is filed, the City Council shall consider same in a properly noticed meeting and, after due consideration, may authorize the approval of a building permit for an elevated pool upon a finding that such approval is not contrary to the long term goals of this Resolution and is not disadvantageous to the health, safety and welfare of the general public.

Section 4. It is the Town Council's position that this "zoning in progress" constitutes a priority and the timely preparation and processing of proposed land use regulations relating to elevated swimming pools shall be considered a priority by Town Staff and the LPA.

Section 5. Effective Date. This resolution is effective immediately upon adoption.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Andre and seconded by Council Member List and upon being put to a vote, the result was as follows:

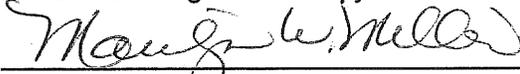
Alan Mandel, Mayor	aye
Joe Kosinski, Vice Mayor	aye
Jo List, Councilmember	aye
Dan Andre, Councilmember	aye
Bob Raymond, Councilmember	aye

DULY PASSED AND ADOPTED THIS 21st DAY OF OCTOBER, 2013, BY THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH

By: 
Alan Mandel, Mayor

ATTEST:
By: 
Michelle D. Mayher, Town Clerk

Approved as to legal sufficiency:

By: 
Fowler White Boggs, PA

NOTE: AT THE FEBRUARY 18, 2014 REGULAR TOWN COUNCIL MEETING, A MOTION BY VICE MAYOR JOE KOSINSKI AND A SECOND BY COUNCIL MEMBER JO LIST, UPON BEING PUT TO A VOTE THAT PASSED 5-0, RESOLUTION 13-26, "ZONING IN PROGRESS" RESOLUTION IS HERE-BY RESCINDED.