

**CITY OF SANIBEL**

**ORDINANCE 18-004**

**AN ORDINANCE AMENDING THE SANIBEL CODE, PART II, SUBPART B LAND DEVELOPMENT CODE, CHAPTER 126 ZONING, ARTICLE XIV SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 15 ELEVATED SWIMMING POOLS, TO ALLOW ELEVATED SWIMMING POOLS AND DECKS APPROVED AS PART OF A LONG-FORM DEVELOPMENT PERMIT APPLICATION TO BE CONSTRUCTED NO HIGHER THAN THE LOWEST FLOOR LEVEL OF THE PRINCIPAL STRUCTURE ON THE SAME PARCEL; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT AND SEVERANCE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, current land development regulations allow swimming pools to be elevated, partially or totally, above the ground; and

**WHEREAS**, a swimming pool basin and deck, including those that are significantly elevated above the ground, must not interrupt the rhythm of existing structures in the established neighborhood; and

**WHEREAS**, the size, bulk, mass, height, or location or orientation on the lot of a swimming pool basin and deck, particularly those that are significantly elevated above the ground, must not unreasonably infringe upon the adjoining property owner's enjoyment of his property in terms of air circulation and access to light and sunlight; and

**WHEREAS**, it is important that accessory structures, such as elevated swimming pools, be constructed in a manner that retains the rhythm of existing structures and is harmonious with the general atmosphere and character of the established neighborhood or where there is no established neighborhood, the City as a whole; and

**WHEREAS**, the current adopted regulations and procedures have effectively assured that elevated pools are constructed in a manner that does not infringe on adjoining property owners' peaceful enjoyment of their properties and is harmonious with the existing pattern of development in the neighborhoods in which they are located; and

**WHEREAS**, in a few cases where residences exceed the minimum required base flood elevation, the requirements of the Land Development Code have indicated a need

for applicants to include a variance request with their long-form applications for elevated pools; and

**WHEREAS**, the long-form application process for swimming pools and pool decks elevated higher than seven feet above predevelopment grade level involves a public hearing and consideration of a proposed elevated pool within the context of the architectural development pattern for the neighborhood in which it is located, regardless of a variance request; and

**WHEREAS**, a procedure has been established to revise and amend the Land Development Code in a manner consistent with the *Sanibel Plan*; and

**WHEREAS**, the revisions contained in this ordinance have been referred to the Planning Commission for a recommendation as to the consistency of the Amendment with the *Sanibel Plan*; and

**WHEREAS**, the City Council deems it necessary to make such revisions to the Land Development Code, as contained in this ordinance; and

**WHEREAS**, all required public notices and public hearings for such amendment have been properly given and held.

**NOW, THEREFORE, BE IT ORDAINED** by the Council for the City of Sanibel, Lee County, Florida:

**SECTION 1.** The Code of Ordinances of the City of Sanibel, Chapter 126 Zoning, Article XIV Supplementary District Regulations, Division 15 Elevated Swimming Pools, Section 126-1302 Requirements and Procedures, is hereby amended, with additions indicated by underlining and deletions indicated by ~~striketrough text~~, to read as follows:

**Section 126-1302. Requirements and procedures.**

...

(b) *Requirements.* All elevated swimming pools shall comply with the following requirements:

- (1) *Height.* Any swimming pool elevated higher than ~~seven~~ three feet, six inches above the ground cannot be higher than the lowest floor of the associated structure. For the purpose of this height limit, a mid-level entry or other area

~~devoted only to building access shall not be considered the lowest floor, even if constructed above the base flood elevation. more than six inches or one half foot above the base flood elevation established by the Federal Flood Insurance Rate Map (FIRM), adopted as part of Chapter 94 of this Code, or required by the Florida Building Code, whichever is higher. Where the base flood elevation applies to the lowest horizontal structural member of a habitable structure, rather than the lowest floor, the height of the swimming pool deck cannot be higher than two feet above the base flood elevation.~~

...

**SECTION 2. Codification.**

This ordinance shall be an amendment to the Code of Ordinances of the City of Sanibel. In Sanibel Code of Ordinances, Chapter 126 Zoning, a new Section 126-1301 and a new Section 126-1302 are added to a new Division 15.

**SECTION 3. Conflict.**

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed. If any part of this ordinance conflicts with any other part, it shall be severed and the remainder shall have full force and effect and be liberally construed.

**SECTION 4. Severance.**

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 of application hereof.

**SECTION 5. Effective date.**

This ordinance shall take effect immediately upon adoption.

**DULY PASSED AND ENACTED** by the Council of the City of Sanibel, Lee County, Florida, this 1<sup>st</sup> day of May, 2018.

