

ORDINANCE NO. 1035

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO SWIMMING POOLS, HOT TUBS, JACUZZI, AND SPAS; AMENDING SECTION 23-1 OF THE ZONING AND PLANNING CODE TO ADD NEW DEFINITIONS; AMENDING SECTION 23-12(15) OF THE ZONING AND PLANNING CODE TO MODIFY REGULATIONS FOR SWIMMING POOLS, BY ADDING PROVISIONS FOR HOT TUBS, JACUZZI AND SPAS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly; and

WHEREAS, the Town Council has been advised of an issue related to hot tubs, jacuzzi, spas and similar facilities, has studied the current Zoning and Planning Code provisions of the Town, and find that certain modifications are necessary and desirable to clarify that certain accessory uses are permitted, and to establish locational and other design requirements, by modifying the current regulations for swimming pools, by adding provisions for hot tubs, jacuzzi, and spas; and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) of the Town to review the proposed modifications to the Town's Land Development Regulations; and

WHEREAS, the Town Council held duly advertised public hearings to consider the proposed modifications to the Town's Land Development Regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to modify Section 23-1 entitled Definitions to add new definitions, and to amend Section 23-12(15) to modify the existing regulations for swimming pools, by adding provisions for hot tubs, jacuzzi and spas, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 2: That is any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.


Section 3: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 4: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

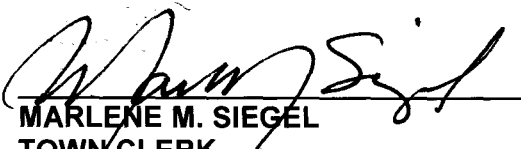
Section 5: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this 12th day of August, 2019.

PASSED on Second Reading this 9th day of September, 2019.


STEPHANIE BRUDER
MAYOR

ATTEST:


MARLENE M. SIEGEL
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



CRAIG SHERMAN, ESQ.
TOWN ATTORNEY

EXHIBIT "A"

The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:

CHAPTER 23

ZONING AND PLANNING

ARTICLE I. ZONING REGULATIONS

The following new Zoning Code Definitions are Adopted

Sec. 23-1. - Definitions.

For the purposes of this article, certain terms and words are herein defined. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used for" include the meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not discretionary; the word "lot" includes the words "plot" and tract "

Hot Tub, Jacuzzi, or Spa. A large tub or small pool, typically designed for more than one person and often heated, water-filled enclosure, permanently constructed below the level of the surrounding land or above surface, designed, used and maintained for hydrotherapy, relaxation or pleasure.

Swimming Pool. A water-filled enclosure, permanently constructed, having a depth of more than eighteen (18) inches below the level of the surrounding land, used and maintained for swimming.

Swimming Pool, Hot Tub, Jacuzzi or Spa Decks. A landscaped and/or surfaced area surrounding a swimming pool, hot tub, jacuzzi, or spa at grade level. Such decking can have multiple levels.

The following new Zoning Code Provisions are Adopted

Sec. 23-12. – General provisions.

(15) Projections into setback areas.

(g) Swimming pools, hot tubs, jacuzzi, or spas may be constructed on any waterfront or non-waterfront lot with following restrictions:

i. Swimming pools, hot tubs, jacuzzi, or spas may be constructed on waterfront lots on the side which abuts the water with the following restrictions:

- a. They must not exceed two feet above finish grade
- b. They must not be closer than five feet to the seawall.
- c. They must not be constructed in the side yard setback areas.

ii. Swimming pools, hot tubs, jacuzzi, or spas may be constructed on waterfront lots on the side or sides which abut the street with the following restrictions:

- a. They must not exceed two feet above finish grade

- b. They must not be closer than 20 feet to the rear lot line
 - c. They must not be constructed in the side yard setback areas
- iii. Swimming pools, hot tubs, jacuzzi, or spas may be constructed on non-waterfront lots on the side or sides which abut the street with the following restrictions:
 - a. They must not exceed two feet above finish grade
 - b. They must not be closer than 20 feet to the front yard lot line
 - c. They must not be constructed in the side yard setback areas
- iv. Swimming pools, hot tubs, jacuzzi, or spas may be constructed on non-waterfront lots in the rear yard setback with the following restrictions:
 - a. They must not exceed two feet above finish grade
 - b. They must not be closer than five feet to the rear yard lot line
 - c. They must not be constructed in the side yard setback areas
- v. Swimming pools, hot tubs, jacuzzi, or spas and equipment may be constructed in setback areas with the following restrictions:
 - a. Swimming pools, hot tubs, jacuzzi, or spas and pool equipment must not be closer than five feet to the side or rear yard lot line
 - b. [Reserved]
 - c. Swimming pool, hot tub, jacuzzi, or spa equipment must be screened from sight from adjacent property and from the street when viewed from ground level.
- vi. Except for the foregoing permitted construction and restrictions, no swimming pools, hot tubs, jacuzzi, or spas or pool equipment may be constructed in any setback area
- PPvii. All swimming pools, hot tubs, jacuzzi, or spas to be constructed in areas abutting a street shall be screened from the street by a wall or fence and landscaping so that the pool cannot be seen from the street. Further, there shall be full compliance with all provisions of the town's ordinances regulating fences and walls
- viii. The construction of swimming pool, hot tub, jacuzzi or spa decks shall be subject to prior approval by the town manager or the planning and zoning board. Plans showing the location of new or replacement decks shall be provided to the building department prior to issuance of a permit. A sample of the decking material will be required when submitting an application
- ix. No portion of a swimming pool, hot tub, jacuzzi, or spa deck shall be placed closer than five feet to a side or rear lot line. No portion of a swimming pool, hot tub, jacuzzi, or spa deck shall be placed in the minimum front yard setback area
- x. Notwithstanding the above restrictions, a swimming pool, hot tub, jacuzzi, spa and/or swimming pool decking may be constructed in a street

side yard of a corner lot in the RD Single-family district and RM-2 Multi-family district with the following restrictions:

a. Swimming pools, hot tubs, jacuzzi, or spas, and swimming pool decking shall not be closer than five feet to the street side lot line.

b. Swimming pools, hot tubs, jacuzzi, or spas, swimming pool equipment and swimming pool decking shall be screened from sight from adjacent property and from the street when viewed from ground level pursuant to the provisions of subsection vii above

c. The street side yard is the yard area of a corner lot other than the yard that the front of the building faces. If a building is placed on a corner lot in an angled configuration the town will designate the front and street side yards. Swimming pools, hot tubs, jacuzzi, or spas, and swimming pool decking shall not be placed in front yard areas on corner lots.