



2725 Malabar Road, Malabar, Florida 32950-4427  
(321) 723-3261 x 14 – Telephone  
(321) 727-9997 – Fax

**Building Department**  
**RESIDENTIAL IN GROUND POOLS, SPAS, HOT TUBS**  
**DOCUMENTS REQUIRED**

- \_\_\_\_\_ (1) Completed application, with notarized signatures of both the owner and pool contractor.
- \_\_\_\_\_ (2) Two sets of signed and sealed engineered drawings with the application.
- \_\_\_\_\_ (3) One certified survey of property (signed and sealed) showing all structures and improvements.
- \_\_\_\_\_ (4) Two copies of a site plan showing all setbacks to comply with Malabar Code. The site plan must further depict all existing and proposed structures, including fencing, with distances to property lines and water bodies. Location of all overhead electrical service lines is to be depicted as well as type of protective enclosure to be provided (screen enclosure or minimum 4' high fence).
- \_\_\_\_\_ (4) Plans must show any metal door frame or metal window frames that are within 5' horizontally of the inside walls of the pool and within 12' above the maximum water level of the pool.
- \_\_\_\_\_ (5) Where a wall of a dwelling serves as part of the pool barrier, all doors providing direct access to the pool through that wall shall be equipped with an alarm or other safety device approved by the Building Official. Please detail door locations on plans (if applicable).
- \_\_\_\_\_ (6) "Residential Swimming Pool, Spa and Hot Tub Safety Act" affidavit must be completed and signed.
- \_\_\_\_\_ (7) **State Certified Pool Contractors** must provide a copy of their:
  - Current license along with a copy of their current Worker's Compensation (or affidavit from the State of Florida for "NO EMPLOYEES");
  - Current Liability Certificate of Insurance and current Worker's Compensation.
- \_\_\_\_\_ (8) \*For **ABOVE GROUND POOLS**, in addition to the above, the following must be provided:
  - Two copies of pool manufacturer's installation instructions.
  - Wood deck must show height, wall section, steps, and guard rails.***\*Plans must include ladder, pump, filter, and electrical details.***
- \_\_\_\_\_ (9) Notice of Commencement (NOC) – A ***COPY*** of the recorded Notice of Commencement, signed by the owner – or a notarized statement that the NOC has been filed for recording, along with a copy thereof – must be presented to Building Code prior to issuance of the building permit for any construction work exceeding \$2,499.00.

Date: \_\_\_\_\_

\_\_\_\_\_  
Staff Person Accepting Application



2725 Malabar Road, Malabar, Florida 32950-4427  
(321) 723-7764 – x 14 Telephone  
(321) 727-9997 – Fax

## POOL BARRIER AFFADAVIT

I, \_\_\_\_\_

LEGAL OWNER OF

\_\_\_\_\_ STREET ADDRESS

\_\_\_\_\_ CITY STATE ZIP CODE

**HEREBY AFFIRM THE POOL UNDER CONSTRUCTION AT THE ABOVE REFERENCED STREET ADDRESS WILL BE PROVIDED WITH A BARRIER AS REQUIRED BY THE STANDARD SWIMMING POOL CODE.**

\_\_\_\_\_  
(PLEASE STATE THE TYPE OF BARRIER: FENCE, POOL ENCLOSURE, WALL)

\_\_\_\_\_  
PROPERTY OWNER'S SIGNATURE

SWORN AND SUBSCRIBED TO ME THIS \_\_\_\_\_ DAY OF

\_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
NOTARY SIGNATURE STAMP/SEAL

This Instrument Prepared By:

Name \_\_\_\_\_

Address \_\_\_\_\_

Permit No. \_\_\_\_\_

Tax Folio No. \_\_\_\_\_

**NOTICE OF COMMENCEMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

THE UNDERSIGNED hereby gives notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes, the following information is provided in this Notice of Commencement.

1. Description of property: (legal description of property, and street address if available)

2. General description of improvement

3. Owner information

a. Name and address:

b. Interest in property:

c. Name and address of fee simple titleholder (if other than owner):

4. Contractor:

a. Name and address:

b. Phone number:

5. Surety

a. Name and address:

b. Amount of bond \$ \_\_\_\_\_

c. Phone number:

6. Lender

a. Name and address:

b. Phone number:

7. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13(1)(a)7., Florida Statutes:

a. Name and address:

b. Phone number:

8. In addition to himself, Owner designates the following person(s) to receive a copy of the Lienor's Notice as provided in Section 713.3(1)(b), Florida Statutes:

a. Name and address

b. Phone number:

9. Expiration date of notice of commencement (the expiration date is 1 year from the date of recording unless a different date is specified) \_\_\_\_\_

WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTENDED TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.

\_\_\_\_\_  
Signature of Owner or Owner's Authorized Officer/Director/Partner/Manager

\_\_\_\_\_  
Signatory's Title/Office

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ (year) by \_\_\_\_\_ (name of person) as \_\_\_\_\_ (type of authority, ...e.g. officer, trustee, attorney in fact) for \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

\_\_\_\_\_  
Signature of Notary Public - State of Florida

Print, Type, or Stamp Commissioned Name of Notary Public Commission Number

Personally Known \_\_\_\_\_ or Produced Identification \_\_\_\_\_

Verification Pursuant to Section 92.525, Florida Statutes

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true to the best of my knowledge and belief.

\_\_\_\_\_  
Signature of Natural Person Signing Above



# TOWN OF MALABAR

2725 MALABAR ROAD, MALABAR, FLORIDA 32950  
(321)727-7764 x 13 OFFICE • (321)722-2234 FAX  
www.townofmalabar.org

## RESIDENTIAL SWIMMING POOL, SPA AND HOT TUB SAFETY ACT

Reference: Florida Building Code Residential R4101.17

Date: \_\_\_\_\_

Building Permit # \_\_\_\_\_

Property Owner: \_\_\_\_\_  
Last First Telephone Number

Site Address: \_\_\_\_\_  
Street City State Zip

We acknowledge that a new swimming pool, spa or hot tub will be constructed or installed at the above referenced property and hereby affirm that one of the following methods will be used to meet the minimum requirements of Chapter 515, Florida Statutes.

- The pool will be isolated from access to the home by an enclosure that meets the pool barrier requirements of Florida Statute 515.29.
- The pool will be equipped with an approved safety pool cover that complies with ASTM F1346-91 (Standard Performance Specifications for Safety Covers for Swimming Pools, Spas and Hot Tubs)
- All doors and windows providing direct access from the home to the pool will be equipped with an exit alarm that has a minimum sound pressure rating of 85 decibels at 10 feet.
- All doors providing direct access from the home to the pool will be equipped with self-closing, self-latching devices with release mechanisms placed no lower than 54" above the floor or deck.

I understand that not having one of the above installed at the time of final inspection, or when the pool is completed for contract purposes, will constitute a violation of Chapter 515, F.S. and will be considered as committing a misdemeanor of the second degree, punishable by fines up to \$500 and/or up to 60 days in jail as established in Chapter 775, F.S.

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

Select Year:  

## The 2021 Florida Statutes

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Title XXXIII  
REGULATION OF TRADE, COMMERCE, INVESTMENTS,  
AND SOLICITATIONS

Chapter 515  
RESIDENTIAL SWIMMING POOL  
SAFETY ACT

[View Entire  
Chapter](#)

### CHAPTER 515 RESIDENTIAL SWIMMING POOL SAFETY ACT

- 515.21 Short title.
- 515.23 Legislative findings and intent.
- 515.25 Definitions.
- 515.27 Residential swimming pool safety feature options; penalties.
- 515.29 Residential swimming pool barrier requirements.
- 515.31 Drowning prevention education program; public information publication.
- 515.33 Information required to be furnished to buyers.
- 515.35 Rulemaking authority.
- 515.37 Exemptions.

**515.21 Short title.**—This chapter may be cited as the “Preston de Ibern/McKenzie Merriam Residential Swimming Pool Safety Act.”

*History.*—s. 1, ch. 2000-143.

**515.23 Legislative findings and intent.**—The Legislature finds that drowning is the leading cause of death of young children in this state and is also a significant cause of death for medically frail elderly persons in this state, that constant adult supervision is the key to accomplishing the objective of reducing the number of submersion incidents, and that when lapses in supervision occur a pool safety feature designed to deny, delay, or detect unsupervised entry to the swimming pool, spa, or hot tub will reduce drowning and near-drowning incidents. In addition to the incalculable human cost of these submersion incidents, the health care costs, loss of lifetime productivity, and legal and administrative expenses associated with drownings of young children and medically frail elderly persons in this state each year and the lifetime costs for the care and treatment of young children who have suffered brain disability due to near-drowning incidents each year are enormous. Therefore, it is the intent of the Legislature that all new residential swimming pools, spas, and hot tubs be equipped with at least one pool safety feature as specified in this chapter. It is also the intent of the Legislature that the Department of Health be responsible for producing its own or adopting a nationally recognized publication that provides the public with information on drowning prevention and the responsibilities of pool ownership and also for developing its own or adopting a nationally recognized drowning prevention education program for the public and for persons violating the pool safety requirements of this chapter.

*History.*—s. 1, ch. 2000-143.

**515.25 Definitions.**—As used in this chapter, the term:

- (1) “Approved safety pool cover” means a manually or power-operated safety pool cover that meets all of the performance standards of the American Society for Testing and Materials (ASTM) in compliance with standard F1346-91.
- (2) “Barrier” means a fence, dwelling wall, or nondwelling wall, or any combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool, especially access from the residence or from the yard outside the barrier.
- (3) “Department” means the Department of Health.
- (4) “Exit alarm” means a device that makes audible, continuous alarm sounds when any door or window which permits access from the residence to any pool area that is without an intervening enclosure is opened or left ajar.

(5) “Indoor swimming pool” means a swimming pool that is totally contained within a building and surrounded on all four sides by walls of or within the building.

(6) “Medically frail elderly person” means any person who is at least 65 years of age and has a medical problem that affects balance, vision, or judgment, including, but not limited to, a heart condition, diabetes, or Alzheimer’s disease or any related disorder.

(7) “Outdoor swimming pool” means any swimming pool that is not an indoor swimming pool.

(8) “Portable spa” means a nonpermanent structure intended for recreational bathing, in which all controls and water-heating and water-circulating equipment are an integral part of the product and which is cord-connected and not permanently electrically wired.

(9) “Public swimming pool” means a swimming pool, as defined in s. 514.011(2), which is operated, with or without charge, for the use of the general public; however, the term does not include a swimming pool located on the grounds of a private residence.

(10) “Residential” means situated on the premises of a detached one-family or two-family dwelling or a one-family townhouse not more than three stories high.

(11) “Swimming pool” means any structure, located in a residential area, that is intended for swimming or recreational bathing and contains water over 24 inches deep, including, but not limited to, in-ground, aboveground, and on-ground swimming pools; hot tubs; and nonportable spas.

(12) “Young child” means any person under the age of 6 years.

History.—s. 1, ch. 2000-143.

#### **515.27 Residential swimming pool safety feature options; penalties.—**

(1) In order to pass final inspection and receive a certificate of completion, a residential swimming pool must meet at least one of the following requirements relating to pool safety features:

(a) The pool must be isolated from access to a home by an enclosure that meets the pool barrier requirements of s. 515.29;

(b) The pool must be equipped with an approved safety pool cover;

(c) All doors and windows providing direct access from the home to the pool must be equipped with an exit alarm that has a minimum sound pressure rating of 85 dB A at 10 feet;

(d) All doors providing direct access from the home to the pool must be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor; or

(e) A swimming pool alarm that, when placed in a pool, sounds an alarm upon detection of an accidental or unauthorized entrance into the water. Such pool alarm must meet and be independently certified to ASTM Standard F2208, titled “Standard Safety Specification for Residential Pool Alarms,” which includes surface motion, pressure, sonar, laser, and infrared alarms. For purposes of this paragraph, the term “swimming pool alarm” does not include any swimming protection alarm device designed for individual use, such as an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water.

(2) A person who fails to equip a new residential swimming pool with at least one pool safety feature as required in subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, except that no penalty shall be imposed if the person, within 45 days after arrest or issuance of a summons or a notice to appear, has equipped the pool with at least one safety feature as required in subsection (1) and has attended a drowning prevention education program established by s. 515.31. However, the requirement of attending a drowning prevention education program is waived if such program is not offered within 45 days after issuance of the citation.

History.—s. 1, ch. 2000-143; s. 14, ch. 2016-129.

#### **515.29 Residential swimming pool barrier requirements.—**

(1) A residential swimming pool barrier must have all of the following characteristics:

(a) The barrier must be at least 4 feet high on the outside.

(b) The barrier may not have any gaps, openings, indentations, protrusions, or structural components that could allow a young child to crawl under, squeeze through, or climb over the barrier.

(c) The barrier must be placed around the perimeter of the pool and must be separate from any fence, wall, or other enclosure surrounding the yard unless the fence, wall, or other enclosure or portion thereof is situated on the perimeter of the pool, is being used as part of the barrier, and meets the barrier requirements of this section.

(d) The barrier must be placed sufficiently away from the water's edge to prevent a young child or medically frail elderly person who may have managed to penetrate the barrier from immediately falling into the water.

(2) The structure of an aboveground swimming pool may be used as its barrier or the barrier for such a pool may be mounted on top of its structure; however, such structure or separately mounted barrier must meet all barrier requirements of this section. In addition, any ladder or steps that are the means of access to an aboveground pool must be capable of being secured, locked, or removed to prevent access or must be surrounded by a barrier that meets the requirements of this section.

(3) Gates that provide access to swimming pools must open outward away from the pool and be self-closing and equipped with a self-latching locking device, the release mechanism of which must be located on the pool side of the gate and so placed that it cannot be reached by a young child over the top or through any opening or gap.

(4) A wall of a dwelling may serve as part of the barrier if it does not contain any door or window that opens to provide access to the swimming pool.

(5) A barrier may not be located in a way that allows any permanent structure, equipment, or similar object to be used for climbing the barrier.

History.—s. 1, ch. 2000-143.

#### **515.31 Drowning prevention education program; public information publication.—**

(1) The department shall develop a drowning prevention education program, which shall be made available to the public at the state and local levels and which shall be required as set forth in s. 515.27(2) for persons in violation of the pool safety requirements of this chapter. The department may charge a fee, not to exceed \$100, for attendance at such a program. The drowning prevention education program shall be funded using fee proceeds, state funds appropriated for such purpose, and grants. The department, in lieu of developing its own program, may adopt a nationally recognized drowning prevention education program to be approved for use in local safety education programs, as provided in rule of the department.

(2) The department shall also produce, for distribution to the public at no charge, a publication that provides information on drowning prevention and the responsibilities of pool ownership. The department, in lieu of developing its own publication, may adopt a nationally recognized drowning prevention and responsibilities of pool ownership publication, as provided in rule of the department.

History.—s. 1, ch. 2000-143.

**515.33 Information required to be furnished to buyers.—**A licensed pool contractor, on entering into an agreement with a buyer to build a residential swimming pool, or a licensed home builder or developer, on entering into an agreement with a buyer to build a house that includes a residential swimming pool, must give the buyer a document containing the requirements of this chapter and a copy of the publication produced by the department under s. 515.31 that provides information on drowning prevention and the responsibilities of pool ownership.

History.—s. 1, ch. 2000-143.

**515.35 Rulemaking authority.—**The department shall adopt rules pursuant to the Administrative Procedure Act establishing the fees required to attend drowning prevention education programs and setting forth the information required under this chapter to be provided by licensed pool contractors and licensed home builders or developers.

History.—s. 1, ch. 2000-143.

**515.37 Exemptions.—**This chapter does not apply to:

(1) Any system of sumps, irrigation canals, or irrigation flood control or drainage works constructed or operated for the purpose of storing, delivering, distributing, or conveying water.

(2) Stock ponds, storage tanks, livestock operations, livestock watering troughs, or other structures used in normal agricultural practices.

(3) Public swimming pools.

(4) Any political subdivision that has adopted or adopts a residential pool safety ordinance, provided the ordinance is equal to or more stringent than the provisions of this chapter.

(5) Any portable spa with a safety cover that complies with ASTM F1346-91 (Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs).

(6) Small, temporary pools without motors, which are commonly referred to or known as "kiddie pools."

History.—s. 1, ch. 2000-143.





Section 1-5.26. - Swimming pools.

The following provisions shall be enforced in regulating the location and construction of swimming pools:

1. *Setbacks for swimming pools and pool enclosures.*
  - a. There shall be a minimum of ten (10) feet between any lot line and the water's edge of a pool.
  - b. There shall be a minimum of five (5) feet between any structure and the water's edge of a pool.
  - c. Screen enclosures and/or decking shall be a minimum of four (4) feet from any property line.
  - d. No portion of any pool, deck, or screen enclosure may encroach into an easement.
2. *Compliance with other applicable laws.* All swimming pools shall conform to the applicable provisions of the adopted model Swimming Pool Code and the applicable laws and rules of the State of Florida.

*(Ord. No. 98-3, § 2, 9-9-98)*

**Cross reference—** Buildings and building regulations, ch. 6.