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MEMORANDUM

TO: Marsha Segal-George, Fort Myers Beach Town Manager
FROM: Bill Spikowski
DATE: July 23, 2005
SUBJECT: Latest Update to Land Development Code for Fort Myers Beach

I am forwarding with this memo several replacement pages to the Fort Myers Beach Land Development Code for distribution to interested parties. These pages include all changes made by the Town Council on June 6, 2005 when the council adopted Ordinance 05-21. This ordinance added a new section 34-636 with requirements for redeveloping existing two-family and multiple-family buildings into separate dwelling units. These changes took effect immediately upon adoption.

Those holding LDC binders should use the attached pages to replace the matching pages in their code binder and should discard the obsolete pages.

The entire Land Development Code, including these latest revisions, can be downloaded and printed at no cost from this web page: <http://www.spikowski.com/beach.htm>

Also available on that page is a single Adobe PDF file with a compilation of the entire code that can be used for searching for words or other text strings throughout the code from most Adobe Acrobat/Reader products. In versions 5 and earlier, use "Find" on the "Edit" menu. In version 6, use "Search" on the "Edit" menu. This compilation of the entire code is available here: http://www.spikowski.com/New_CHnn-AllChaptersThru05-21.pdf

ATTACHMENTS:

- ▶ *Replacement Table of Contents for entire code*
- ▶ *Replacement pages for Chapter 34 (pages 1 and 2)*
- ▶ *Replacement pages for Chapter 34 (pages 63, 64a, and 64b)*

TOWN OF FORT MYERS BEACH, FLORIDA

LAND DEVELOPMENT CODE

CHAPTER 1	General Provisions	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 05-07, 4/18/05
CHAPTER 2	Administration	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-11, 6-29-00 Amended by Ord. No. 02-01, 2/4/02 (§§2-301– 459) Amended by Ord. No. 03-12, 12/15/03 (§§2-420–459) Amended by Ord. No. 05-07, 4/18/05
CHAPTER 6	Maintenance Codes, Building Codes, and Coastal Regulations	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 00-12, 6/29/00 Amended by Ord. No. 02-01, 2/4/02 (§§6-401–474) Amended by Ord. No. 04-09, 6/30/04 (§§6-401–474) Amended by Ord. No. 05-07, 4/18/05
CHAPTER 10	Development Orders and Engineering Standards	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 04-01, 1/5/04 Amended by Ord. No. 05-07, 4/18/05
CHAPTER 14	Environment and Natural Resources	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 98-3, 4/6/98 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 02-29, 9/26/02 (§§14-6, 14-78)
CHAPTER 22	Historic Preservation	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02
CHAPTER 26	Marine Facilities	Adopted by Town Charter, 12/31/95 Replaced by Ord. No. 02-01, 2/4/02 Amended by Ord. No. 05-07, 4/18/05
CHAPTER 27	Personal Watercraft and Parasailing	Adopted by Ord. No. 96-27, 12/2/96 Replaced by Ord. No. 01-05, 9/24/01
CHAPTER 28	Parasailing	Adopted by Ord. No. 97-2, 1/21/97 Amended by Ord. No. 99-4, 4/19/99 Repealed and then integrated into Chapter 27 by Ord. No. 01-05, 9/24/01
CHAPTER 30	Signs	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 99-1, 2/1/99 Amended by Ord. No. 99-11, 9/13/99 Amended by Ord. No. 99-14, 11/15/99 Amended by Ord. No. 03-06, 6/2/03 Amended by Ord. No. 05-07, 4/18/05
CHAPTER 34	Zoning Districts, Design Standards, and Nonconformities	Adopted by Town Charter, 12/31/95 Amended by Ord. No. 96-6, 7/1/96 Amended by Ord. No. 96-20, 9/3/96 Amended by Ord. No. 97-9, 8/11/97 Amended by Ord. No. 97-21, 12/15/97 Amended by Ord. No. 99-16, 12/20/99 Amended by Ord. No. 00-13, 6/29/00 Amended by Ord. No. 02-04, 6/24/02 Replaced by Ord. No. 03-03, 3/3/03 Amended by Ord. No. 03-11, 11/3/03 (§§34-3048, 51) Amended by Ord. No. 04-08, 6/30/04 (§§34-677, 678) Amended by Ord. No. 05-08, 4/18/05 Amended by Ord. No. 05-21, 6/6/05 (§34-636)

FORT MYERS BEACH LAND DEVELOPMENT CODE

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Property Development Regulations For All Zoning Districts

the width of adjoining streets and water bodies, but in no case may more than 35 feet be counted as the allowance for one-half of an adjoining water body.

- b. Computed densities greater than 1.5 DU/acre may be rounded up to two dwelling units where two-family and multifamily dwelling units are permitted.
- c. This method for determining densities cannot be used for:
 - 1. Three or more lots that are being combined into a development project; or
 - 2. Any lot that was created after December 31, 1995, as described in § 34-3272.
- (4) **Mixed-use buildings.** Residential densities may be computed without deleting any acreage for commercial uses that are located on other floors of mixed-use buildings. However, any acreage used primarily for commercial purposes cannot be included in computations of residential density.
- (5) **Adjustments to density computations.** The following rules shall apply when measuring density for living units or guest units that may not also qualify as dwelling units:
 - a. When permitted on a property, certain other land uses such as assisted living facilities and hotels/motels are limited by using equivalency factors between those uses and dwelling units, such as provided in §§ 34-1415 and 34-1803.
 - b. For density purposes, each living unit shall count as one dwelling unit except where this code explicitly provides a different measure for measuring density (see, for example, § 34-1178(d) regarding accessory apartments in owner-occupied homes).
 - c. Lock-off accommodations in multiple-family buildings and timeshare units are living units and are calculated as separate dwelling units for density purposes.
 - d. Live-boards are considered to be living units but not dwelling units as defined by the Fort Myers Beach Comprehensive Plan. Where live-boards are permitted in accordance with § 34-1861, they are not

subject to residential density computations.

- (6) **Density transfers.** The Town Council may, at its discretion, permit the transfer of residential and hotel/motel development rights from one parcel to another if the following conditions established by Policy 4-C-8 of the comprehensive plan are met:
 - a. the transfer is clearly in the public interest, as determined by the Town Council;
 - b. the parcels affected by the transfer are in close proximity to each other;
 - c. the density of residential or hotel/motel units being transferred is based upon allowable density levels in the comprehensive plan category from which the density is being transferred;
 - d. the transfer is approved through the planned development rezoning process; and
 - e. binding permanent restrictions are placed on the property from which development rights have been transferred to guarantee the permanence of the transfer.

Sec. 34-633. Intensity and floor area ratios.

Another measure of building intensity used in this code is the floor area ratio (FAR), which means the gross floor area of all buildings on a site divided by the site's lot area.

- (1) For purposes of this section, gross floor area includes the total floor area of all stories of a building within the surrounding exterior walls (whether the walls are solid or screened), plus all area below an elevated building that is 6 feet or more in height, plus all stories of covered parking, but not including any area whose roof is screened rather than solid (such as swimming pool enclosures).
- (2) For purposes of this section, a site's lot area includes the gross square footage within the site's private property line, minus wetlands, canals or other water bodies, and minus any land designated "Recreation" on the Comprehensive Plan's future land use map.

Property Development Regulations For All Zoning Districts

Sec. 34-634. Intensity and building coverage.

Another measure of building intensity used in this code is building coverage, which means the horizontal area of all principal and accessory buildings on a site divided by the site's lot area.

- (1) For purposes of this section, horizontal area means the area within the surrounding exterior walls (whether the walls are solid or screened). The term "horizontal area" does not include any area occupied by unroofed structures such as driveways, sidewalks, patios, outside stairways, or open swimming pools, and does not include any area whose roof is screened rather than solid such as swimming pool enclosures.
- (2) For purposes of this section, a site's lot area includes the gross square footage within the site's private property line, minus wetlands, canals, or other water bodies, and minus any land designated "Recreation" on the Comprehensive Plan's future land use map.

Sec. 34-635. Commercial design standards.

Except where this code specifically provides otherwise, the commercial design standards (see § 34-991–1010) apply to all commercial and mixed-use buildings or portions thereof that are being newly built, and to "substantial improvements" to such buildings as defined in § 6-405, on properties that are zoned in any of the following zoning districts:

- (1) SANTOS (§ 34-648);
- (2) DOWNTOWN (§ 34-671–680);
- (3) SANTINI (§ 34-681–690);
- (4) VILLAGE (§ 34-691–700);
- (5) CB (§ 34-701–710); and
- (6) CPD (commercial planned development) (§ 34-951–960).

Sec. 34-636. Parcelization or subdivision of existing buildings.

(a) **Two-family building.** When a building owner proposes further parcelization or subdivision of land in the RC zoning district into separate lots and separating two lawfully existing dwelling units into individual parcels, all of the following requirements

must be satisfied before the required limited review development order can be issued:

- (1) The building cannot exceed the density limits of the Fort Myers Beach Comprehensive Plan as they would apply to vacant land and the lots resulting from the subdivision must each conform to the dimensional regulations for lot size in the RC zoning district (see Table 34-3).
- (2) The building must comply with all floodplain requirements as provided in ch. 6 of this code.
- (3) The entire building must meet the coastal construction requirements that apply to new structures, as provided in article III of ch. 6 and in state regulations. Due to these requirements, habitable major structures and most minor structures must be located landward of the 1978 coastal construction control line (see §6-366).
- (4) The individual dwelling units must be separated by walls with not less than 1-hour fire resistance.
- (5) The development must meet all other requirements of this code, including Table 34-2.

(b) **Multiple-family building.** When a building owner proposes further parcelization or subdivision of lawfully existing dwelling units, all of the following requirements must be satisfied before the required development order can be issued:

- (1) The number of dwelling units in the existing building may exceed the density limits of the Fort Myers Beach Comprehensive Plan as they would apply to vacant land, but may not exceed the number of lawfully permitted units. The burden to demonstrate the lawful nature of the units is on the applicant. If the number of dwelling units exceeds the density limitations of the Fort Myers Beach Comprehensive Plan as they would apply to vacant land, the interior square footage of the building, as defined in §34-3238(2)d.1., may not be increased, but may be exchanged on a square-foot for square-foot basis to provide larger but fewer dwelling units within the same interior area.
- (2) Existing buildings must comply with all floodplain requirements as provided in ch. 6

Property Development Regulations For All Zoning Districts

of this code. Existing buildings that cannot comply with these requirements may seek to replace their building by obtaining approval for pre-disaster buildback in accordance with § 34-3237.

- (3) The entire building must meet the coastal construction requirements that apply to new structures, as provided in article III of ch. 6 and in state regulations. Due to these requirements, habitable major structures and most minor structures must be located landward of the 1978 coastal construction control line (see §6-366).
- (4) The individual dwelling units must be separated by walls with not less than 1-hour fire resistance.
- (5) The development must meet all other requirements of this code, including Table 34-2.

Sec. 34-637. Minimum lot sizes.

(a) All lot area, width, and depth dimensions in this code are mandatory minimums for newly created lots.

- (1) Minimum lot areas, width, and depths are specified for various zoning districts.
 - a. For all conventional zoning districts, see Table 34-3.
 - b. For redevelopment zoning districts, as described for the individual districts in division 5 of this chapter.
 - c. For PD districts, see §§ 34-943 and 34-953.
- (2) Definitions and methods of measuring lot widths and depths are provided in § 34-2.

(b) Where two or more dwelling units or guest units are proposed for a single lot or combination of lots, the lot(s) must also be large enough to comply with the density limitations of the Fort Myers Beach Comprehensive Plan, as computed in accordance with § 34-632.

(c) Division 4 of article V of this chapter defines nonconforming lots, which may be smaller than the minimum lot areas, widths, and/or depths specified in this code.

- (1) Certain nonconforming *residential* lots are subject to the smaller minimum lot areas,

widths, and depths that are found in § 34-3274.

- (2) Certain nonconforming *commercial* lots are subject to the smaller minimum lot areas, widths, and depths that are found in § 34-3277.

(d) Essential services and essential service equipment shall not be required to meet the minimum required lot dimensions for the district wherein located (see § 34-1617).

Sec. 34-638. Minimum setbacks.

(a) **Generally.** Most zoning districts require minimum setbacks between all buildings and structures and the street, the side lot line, the rear lot line, and any water body.

- (1) Setbacks are minimum horizontal distances between a property line and the nearest point of all structures that ensure a minimum area without buildings. Detailed definitions are provided under “setback” in § 34-2.
 - a. Where an unusual lot configuration or orientation makes it unclear which property lines are street, side, or rear lot lines, the director will establish street,

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