

TOWN OF FORT MYERS BEACH

May 6, 2003

memo

To:

Daniel Hughes, Mayor
Terry Cain, Vice Mayor
Howard Rynearson, Council Member
W. H. "Bill" Van Duzer, Council Member
Bill Thomas Council Member

Marsha Segal-George, Town Manager
John J. Gucciardo, Deputy Town Mgr.

Re: Corrections to Ord. 03-03

Attached are the correct provisions of Ordinance 03-03 for Sections 34-638, 34-3273 and Table 34-3. These corrections reflect the intent of the Town Council at the time of adoption of the ordinance but were inadvertently published in error after the final hearing.

RICHARD V.S. ROOSA
TOWN ATTORNEY

Sec. 34-638. Minimum setbacks.

- (a) **Generally.** [no change]
- (b) **Where to find minimum setback dimensions.** [no change]
- (c) **Additional wetlands buffers.** [no change]
- (d) **Exceptions to setback dimensions.** In addition to the following general exceptions to minimum setbacks, commercial buildings that are subject to the commercial design standards may encroach into certain setbacks as provided in § 34-991–1010.
 - (1) **Exceptions to all setbacks.** [no change]
 - (2) **Exceptions to street setbacks.**

Certain structures are exempt from the street setback requirements as follows:

 - a. **Build-to lines.** [no change]
 - b. **Reserved. Porches, balconies, and stoops.** Porches, balconies, and stoops may extend up to 10 feet into the street setback zone of residential buildings, provided that:
 1. Any walls, screened areas, or railings in the setback zone extend no higher than 42 inches above the floor of the porch, balcony, or stoop; and
 2. No portion of a porch or balcony and no walls or screened areas may be closer than 10 feet to the edge of any street right-of-way or street easement.
 - c. **Mail and newspaper delivery boxes.** [no change]
 - d. **Bus shelters, bus stop benches, and bicycle racks.** [no change]
 - e. **Telephone booths.** [no change].
 - (3) **Water body setbacks.** [no change]
 - (4) **Exceptions for certain nonconforming lots.**
 - a. Certain nonconforming *residential* lots are subject to the modified side and rear setback requirements that are found in § 34-3273.
 - b. Certain nonconforming *mobile home* lots in the VILLAGE zoning district are subject to the modified side and rear setback requirements that are found in § 34-694.
 - c. Certain nonconforming *commercial* lots are subject to the modified side and rear setback requirements that are found in § 34-3277.

Sec. 34-3273. General requirements for residential uses on nonconforming lots.

Nonconforming lots may be developed subject to the following provisions:

- (1) All other regulations of this chapter shall be met, except as modified by this division.
- (2) A residential building may be placed on a single nonconforming lot provided the lot has at least 40 feet in width, 75 feet in depth, and 4,000 square feet in area.
- (3) Minimum residential setbacks on nonconforming lots shall be as follows:
 - a. Street and water body setbacks shall be as set forth in the regulations for the applicable zoning district.
 - b. Side setbacks shall be 10% of lot width, or 5 feet, whichever is greater. , rear, and water body setbacks shall be as set forth for lots in the RC zoning district (see Table 34-3):
 - c. Rear setbacks shall be 25% of lot depth, or 20 feet, whichever is smaller.
 - d. ~~c.~~ Certain nonconforming lots may qualify for an administrative setback variance (see § 34-268).
- (4) Any development on nonconforming lots must comply with all density restrictions of the Fort Myers Beach Comprehensive Plan.
 - a. Density computations shall be in accordance with § 34-632.
 - b. If density computations do not allow even one dwelling unit on a nonconforming lot, one single-family residence may still be permitted if a minimum-use determination is obtained in accordance with § 34-3274.
- (5) No division of any nonconforming lot may be permitted which creates a lot with width, depth, or area below the minimum requirements stated in this chapter, except for combinations and redivisions in accordance with § 34-3275.
- (6) The burden of proof for demonstrating that a lot is a nonconforming lot in accordance with this division, and lawfully existed at the specified date, shall be with the owner.
- (7) The remaining lot after condemnation shall be treated in accordance with § 34-3206.

Table 34-3 — Dimensional Regulations in Conventional Zoning Districts

ZONING DISTRICT	side -waterfront lot			side -non-waterfront			water body (1) Gulf of Mexico (2)			width	depth	ratio	percentage	feet		stories
	street	rear	area	area	area	area	area	area	area					area	area	
	Setbacks (see § 34-638 for explanation and exceptions)						Lot size (see § 34-637 for explanations and exceptions)				F.A.R. §34-633	Building Coverage § 34-634	Density § 34-632	Height (see § 34-631)		
RS Residential Single-family	±0 25	±0 7.5 (8)	7 7.5 (8)	20	25	50	7,500	75	100	—	40%	(3), (4)	25	3		
RC Residential Conservation	±0 25	7 7.5	5 7.5	20	25	50	4,000	45	80	—	40%	(3), (4), (5)	25	3		
RM Residential Multifamily	±0 25	20 (6)	7 20 (6)	20	25	50	7,500	75	100	1.2	—	(3), (4), (5)	30	3		
CR Commercial Resort	10	20	15	20	25	50	20,000	100	100	1.2	—	(3)	30	3		
CM Commercial Marina	20	20	20	20	0	50	20,000	100	100	1.0	—	(3)	35	3		
CO Commercial Office	10	10	7	20	25	50	7,500	75	100	1.2	—	(3)	30	3		
SANTOS	10	7	5	20	25	50	5,000	50	100	0.5	—	(1), (2), (3)	25	3		
IN Institutional	20	10	7	20	25	50	7,500	75	100	0.8	—	(3)	35	3		
CF Community Facilities	20	15	10	20	25	50	N/A	N/A	N/A	0.1	—	(3)	35	3		
BB Bay Beach	— see § 34-651(b) —															
EC Environmen- tally Critical	20	25	—	25	20	50	(7)	N/A	N/A	.01	—	(7)	25	2		

Note (1): An additional wetland buffer is required for new development; see § 34-638(c).
 Note (2): See § 34-638(d)(3)a.
 Note (3): Maximum densities are established by the Fort Myers Beach Comprehensive Plan; see § 34-632.
 Note (4): Accessory apartments are allowed in owner-occupied homes under certain conditions; see §34-1178.
 Note (5): A second dwelling unit or accessory apartment may be allowed on larger lots; for details, see §§ 34-632, 34-1177, and 34-1178.
 Note (6): Single-family and two-family homes on waterfront lots in the RM zoning district must maintain only a 7.5-foot ~~10-foot~~ side setback.
 Note (7): See § 34-652(e)(3).
 Note (8): For all RS lots fronting on Matanzas Street and Matanzas Court, all side setbacks shall be at least 10 feet.