

ORDINANCE No. 05-21

AN ORDINANCE AMENDING ZONING REGULATIONS IN CHAPTER 34 OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO CHAPTER 34 OF THE LAND DEVELOPMENT CODE WHICH IS TITLED "ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES" TO REGULATE THE REDEVELOPMENT OF EXISTING TWO-FAMILY AND MULTIFAMILY BUILDINGS INTO SEPARATE DWELLING UNITS; PROVIDING SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE. IT IS HEREBY ORDAINED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to the provisions of Chapter 95-494, Laws of Florida, Chapters 163 and 166, Florida Statutes, and other applicable provisions of law.

SECTION 2. ADOPTION OF AMENDMENTS TO CHAPTER 34 OF THE LAND DEVELOPMENT CODE. Chapter 34 of the Town of Fort Myers Beach Land Development Code (LDC) is titled "ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES." Section 34-636 of Chapter 34 is hereby amended as shown in Exhibit A to regulate the conversion of existing two-family and multifamily buildings into separate dwelling units. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with strike throughs. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs.

SECTION 3. SEVERABILITY. If any one of the provisions of this ordinance should be held contrary to any express provision of law, or contrary to the policy of express law although not expressly prohibited, or against public policy, or for any reason whatsoever be held invalid, then such provision shall be null and void and shall be deemed separate from the remaining provisions of this ordinance, and in no way shall affect the validity of all other provisions of this ordinance.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect June 15, 2005 upon its adoption. The foregoing ordinance was enacted by the Town Council upon a motion by Council Member Rynearson and seconded by Council Member Don Massucco ; upon being put to a vote, the result was as follows:

Ken Katcko	<u>Nay</u>
Don Massucco	<u>Aye</u>
Garr Reynolds	<u>Aye</u>
Howard Rynearson	<u>Aye</u>
W. H. "Bill" Van Duzer	<u>Nay</u>

DULY PASSED AND ENACTED this 6th day of June, 2005.

ATTEST: TOWN OF FORT MYERS BEACH

By: Marsha Segal-George
Marsha Segal-George, Town Clerk

Approved as to form by:
Anne Dalton
Anne Dalton, Town Attorney

By: Bill Van Duzer
W. H. "Bill" VanDuzer, Mayor

EXHIBIT A

FORT MYERS BEACH LAND DEVELOPMENT CODE

CHAPTER 34 — ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES

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

(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) **[Option 1]** 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 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.