

Town of Fort Myers Beach
ORDINANCE NO. 10-06

AN ORDINANCE AMENDING REGULATIONS IN CHAPTER SIX AND THIRTY-FOUR OF THE TOWN OF FORT MYERS BEACH LAND DEVELOPMENT CODE; PROVIDING AUTHORITY; ADOPTING AMENDMENTS TO SECTION 6-11 (REFUSE CONTAINERS) OF ARTICLE I (PROPERTY MAINTENANCE CODE) OF CHAPTER SIX WHICH IS ENTITLED MAINTENANCE CODES, BUILDING CODES, AND COASTAL REGULATIONS; ADOPTING AMENDMENTS TO SECTION 34-1744 (LOCATION AND HEIGHT OF FENCES AND WALLS) AND SECTION 34-1745 (BUFFER FOR COMMERCIAL USES) OF DIVISION 17 (ENTITLED FENCES, WALLS AND ENTRANCE GATES) OF ARTICLE IV (ENTITLED SUPPLEMENTAL REGULATIONS) OF CHAPTER 34 (ZONING DISTRICTS, DESIGN STANDARDS, AND NONCONFORMITIES); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR 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 Six of the Town of Fort Myers Beach Land Development Code. Chapter Six of the Town of Fort Myers Beach Land Development Code is entitled "Maintenance Codes, Building Codes and Coastal Regulations." Article I of Chapter Six is hereby amended as set forth in **ATTACHMENT "A"**, attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strikethroughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs.

Section 3. Adoption of Amendments to Article IV of Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code. Chapter Thirty-four of the Town of Fort Myers Beach Land Development Code is entitled "Zoning Districts, Design Standards, and Nonconformities." Article IV of Chapter Thirty-four is hereby amended as set forth in **ATTACHMENT "B"**, attached hereto and incorporated herein by reference. Entirely new language is indicated with underlining. Language being repealed from the existing code is indicated with ~~strikethroughs~~. Existing language being retained is either omitted entirely or is shown without underlining or strike-throughs.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance, or application hereof, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion or application hereof.

Section 5. Effective Date. This Ordinance shall be effective immediately upon adoption.

The foregoing ordinance was enacted by the Town Council upon a motion by Council Member List and seconded by Vice-Mayor Raymond and, upon being put to a vote, the result was as follows:

Larry Kiker, Mayor aye
Bob Raymond, Vice Mayor aye
Tom Babcock aye

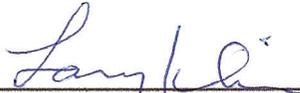
Alan Mandel aye
Jo List aye

DULY PASSED AND ENACTED by the Council of the Town of Fort Myers Beach, Florida, this 3rd day of May, 2010.

ATTEST:

TOWN OF FORT MYERS BEACH


Michelle D. Mayher, Town Clerk

BY: 
Larry Kiker, Mayor

Approved as to legal sufficiency by:


Anne Dalton, Esquire, Town Attorney

Ordinance 10-06
Attachment A

Sec. 6-11. Refuse containers

- (a) Refuse containers shall not be moved to the street more than 24 hours prior to scheduled curbside collections nor remain there more than 24 hours after scheduled collections.
- (b) Each refuse container that is not movable in accordance with subsection (a) shall be opaquely screened from view from streets and adjoining properties, at the full height of such container above the adjacent grade. This screening may be achieved by landscaping or by virtue of the location of the container on the site. Screening may also be achieved by walls or opaque fencing provided the wall or fence does not exceed the maximum height permitted for the location (see §§ 34-1171 et seq. and 34-1744).
- (c) Any refuse container not located within a roofed enclosure must have a lid that renders the interior of the container inaccessible to animals.

Ordinance 10-06
Attachment B

Sec. 34-1744 Location and height of fences and walls

(a) *Setbacks*. [No changes]

(b) *Height*. The maximum height for fences and walls, measured from the existing elevation of the abutting property, is illustrated in Figure 34-29 and described as follows:

[No changes to Figure 34-29]

- (1) *Front yards*. Any fence or wall located in a front yard (between a street right-of-way or easement and the minimum required street setback or build-to line) shall not exceed 42 inches in height, except as provided in subsection 34-1744(c)(4) below. This division does not excuse any fence or wall from compliance with any lesser height required to meet vehicle visibility requirements (see § 34-3131) at traffic access points.
- (2) *Side and rear yards*. Any fence or wall located in a side or rear yard shall not exceed six feet in height.
 - a. For purposes of this requirement, the side yard does not include any portion of the lot between a street and the minimum required street setback or build-to line.
 - b. Where a side yard or rear yard slopes downward from the street, a fence may be up to seven feet above the elevation of the abutting property to avoid unnecessary variations in the height of a fence.
- (3) *Near water bodies*. Within 25 feet of a body of water, those portions of a fence that exceed 42 inches in height cannot be more than 25% opaque (as viewed from perpendicular to the fence).
- (4) *Exceptions*:
 - a. *Architectural features*. Fences and walls may include occasional architectural features such as columns, posts, gates, and arbors at a height not exceeding 84 inches. All such features must be visually compatible with the fence or wall design.
 - b. *Administrative setback variances*. Under certain limited circumstances, administrative variances can be granted to minimum setbacks as provided in § 34-268.
 - c. *Enclosure of high-voltage transformers*. See § 34-1748.

- d. *Screening of refuse containers.* On sites where the location and configuration of existing structures and vehicle use areas prevent the placement of refuse containers outside the front yard, fences and/or walls erected for the sole purpose of providing reasonable screening of refuse containers located in a front yard may exceed 42 inches in height, but must not exceed six feet in height.

Sec. 34-1745. Buffer for commercial uses.

Some land uses are required to provide perimeter buffers in accordance with §§ 34-3005 or 10-416. Where buffers are required by other provisions of this code, this division will not be interpreted to restrict the height, location, or other features of required buffers.