

#7

**ORDINANCE 16-13**

**AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA CLARIFYING AND AMENDING PART III, LAND DEVELOPMENT CODE; ARTICLE VI, ZONING, DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS, SECTION 6.8.Z, YARD ENCROACHMENTS BY ADDING A NEW SUBSECTION 7 TO ALLOW, WITH CONDITIONS, CERTAIN ITEMS TO ENCROACH UP TO FIVE FEET INTO THE SECONDARY FRONT YARD.**

**WHEREAS**, the City Commission previously adopted Ordinance 16-07, which requires two front yards when a property fronts on more than one street, one of which will be the designated front yard and the other will be the secondary front yard; and

**WHEREAS**, Ordinance 16-07 also includes definitions for “designated front yard” and “secondary front yard”; and

**WHEREAS**, the definition of secondary front yard explicitly states that said yard shall be considered a front yard for setback purposes; and

**WHEREAS**, the Commission, after hearing testimony and evidence provided at work sessions and Commission meetings, determined that allowing limited encroachment into the secondary front yard for certain accessory items would provide flexibility for the property owner and could have a beneficial effect upon both the property owner and adjoining properties; and

**WHEREAS**, the Commission recognizes that certain accessory items, including but not limited to, pool heat pumps, air conditioning units and generators may emit bothersome noise levels; and

**WHEREAS**, the Commission also recognizes that allowing such items to encroach to a limited degree into the secondary front yard would result in less potential adverse effects upon adjacent neighbors than if these same items were placed as close as ten feet to the side or rear property lines; and

**WHEREAS**, the Commission recognizes that when such accessory items are allowed limited encroachment into the secondary front yard, they will not have any serious visual or other impact upon the city or the public at large; and

**WHEREAS**, the Commission finds that this ordinance is consistent with the City’s Comprehensive Plan; and

**WHEREAS**, the Commission finds that this ordinance will benefit the public health, safety or welfare of the citizens of Holmes Beach, Florida.

**NOW THEREFORE**, be it ordained by the City Commission of the City of Holmes Beach, the following:

**Section 1. Findings of Fact.** The above referenced “whereas” clauses are adopted herein as findings of fact.

**Section 2. Article VI, Zoning, Division 4, Supplemental Development Standards, Section 6.8.Z, Yard encroachments** by adding a new Subsection 7 to read as follows:

7. Allowable encroachments into the secondary front yard.  
Restrictions set forth in the preceding Subsections (1) through (6), notwithstanding, the following items may encroach up to, but not more than, five (5) feet into a secondary front yard:
- a. air conditioning unit;
  - b. generator; and
  - c. heat pump not exceeding 48 inches in height and used to heat a swimming pool, provided the unit is screened to a height equal to or greater than the height of the heat pump by a hedge along all sides of the heat pump that do not face an exterior wall of the principal structure.

**Section 3. Severability.** In the event that any word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance, or application thereof, is contrary to law, or against public policy, or shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and independent provision from the remaining provisions of this ordinance, and such holding shall in no manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as expressed herein.

**Section 4. Effective Date.** This Ordinance shall be effective upon adoption by the City Commission and approval by the Mayor in accordance with the Charter of the City of Holmes Beach.

**PASSED AND ADOPTED**, by the City Commission of the City of Holmes Beach, Florida, in regular session assembled, this \_\_\_\_ day of \_\_\_\_\_, 2016.

**First Reading:** \_\_\_\_\_

**Publication Date** \_\_\_\_\_

**Second Reading and Public Hearing Date** \_\_\_\_\_

\_\_\_\_\_  
**Patrick Morton**

\_\_\_\_\_  
**Carol Soustek**

\_\_\_\_\_  
**Marvin Grossman**

\_\_\_\_\_  
**Judy Titsworth**

\_\_\_\_\_  
**Jean Peelen**

**APPROVED BY ME THIS** \_\_\_\_\_ **DAY OF** \_\_\_\_\_, 2016

\_\_\_\_\_  
**Bob Johnson, Mayor**

**ATTEST:** \_\_\_\_\_  
**Stacey Johnston, MMC, City Clerk**