

ORDINANCE 16-07

AN ORDINANCE OF THE CITY OF HOLMES BEACH, FLORIDA CLARIFYING AND AMENDING PART III, LAND DEVELOPMENT CODE; ARTICLE I, GENERAL, SECTION 1.4, DEFINITIONS, BY ADDING NEW DEFINITIONS FOR CORNER LOT, THROUGH LOT, DESIGNATED FRONT YARD AND SECONDARY FRONT YARD, AND BY MODIFYING THE DEFINITIONS OF FRONT YARD AND REAR YARD; ARTICLE IV, NONCONFORMITIES, DIVISION 1, GENERALLY, SECTION 4.2, DEFINITION OF NONCONFORMITIES, BY ADDING A NEW SUBSECTION 4.2.E, YARD ENCROACHMENTS ON RESIDENTIAL LOTS FRONTING ON MORE THAN ONE STREET. ARTICLE VI, ZONING, DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS, SECTION 6.8.L, RESIDENTIAL LOTS FRONTING ON MORE THAN ONE STREET, BY ADDING NEW SUBSECTIONS 2 AND 3 LIMITING THE NUMBER OF REQUIRED FRONT YARDS TO NOT MORE THAN TWO ON LOTS OR PARCELS FACING ON THREE OR FOUR STREETS, AND BY DESIGNATING HOW EACH OF THESE STREET FRONTAGES SHALL BE TREATED WITH RESPECT TO SETBACK REQUIREMENTS; ARTICLE VI, ZONING, DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS, SECTION 6.8.L, RESIDENTIAL LOTS FRONTING ON MORE THAN ONE STREET BY ADDING A NEW SUBSECTION 4, EXCEPTIONS-DEAD-END STREETS, SETTING FORTH THE MINIMUM SETBACKS FOR BUILDINGS OR STRUCTURES LOCATED ON RESIDENTIAL PROPERTIES FRONTING ON MORE THAN ONE STREET, ONE OF WHICH IS A DEAD-END STREET; ARTICLE VI, ZONING, DIVISION 4, SUPPLEMENTAL DEVELOPMENT STANDARDS, SECTION 6.8.U, RECREATIONAL WATER FEATURES, BY MODIFYING SUBSECTION 6.8 U.1.b BY ADDING NEW SUBSECTIONS (3) AND (4) REGULATING THE LOCATION OF RECREATIONAL WATER FEATURES ON LOTS OR PARCELS FRONTING ON MORE THAN TWO STREETS, AND PROVIDING FOR EXCEPTIONS FOR CERTAIN FREE-STANDING RECREATIONAL WATER FEATURES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in Ordinance 15-19, the Commission revised the Land Development Code (LDC) to reinstate the pre March 27, 2007, requirement that required a front yard setback for all street yards; and

WHEREAS, subsequent to adoption of Ordinance 15-19, it was discovered that existing provisions in the LDC related to yard requirements on dead end streets were inadvertently deleted; and

WHEREAS, subsequent to adoption of Ordinance 15-19, it was determined that the yard requirements imposed by Ordinance 15-19 had a disparate impact on lots or parcels fronting on three or more streets; and

WHEREAS, the Commission wishes to reinstate the exceptions pertaining to dead end streets previously contained in the LDC; and

WHEREAS, the Commission, after hearing testimony and evidence provided at several work sessions and Commission meetings, determined to provide opportunities for relief to the front yard requirements on parcels with three or more street frontages; 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 not adversely impact 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 I, Definitions, shall be amended by adding or modifying the following definitions to read as follows:

Lot, corner: A lot or parcel of land abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot, through: A lot or parcel of land that fronts upon only two parallel streets or that fronts upon only two streets that do not intersect at the boundaries of the lot or parcel. One of the yards facing a street shall be the designated front yard, and the other yard facing a street shall be the secondary front yard.

Yard, designated front: The front yard facing the street upon which the property is addressed.

Yard, front: A yard across the full width of the parcel or lot, extended from a front building line to a front street line of the lot or parcel. On a lot or parcel facing on three or more streets, not more than two street frontages shall be considered a front yard, one of which shall be the designated front yard and the other shall be the secondary front yard.

Yard, secondary front: A yard facing on a city street, which is counted as a front yard for setback purposes, but which is not the designated front yard.

Yard, rear: A yard extending across the full width of a lot or parcel and measured between the rear line of the lot or parcel and the rear building line of the main building. In the case of corner lots or parcels, the rear yard shall be the yard opposite the designated front yard. In the case of a through lot, there is no rear yard because the yard opposite the designated front yard is the secondary front yard.

Section 3. Article IV, Nonconformities, Section 4.2, Definition of nonconformities, shall be amended by adding a new subsection 4.2.E to read as follows:

E. *Residential lots fronting on more than one street.*

The following provisions apply to a legally platted lot or parcel, upon which the principal structure was legally constructed and issued a building permit by the City, between March 27, 2007 and November 10, 2015, so as to have a side yard on a street which, by virtue of the passage of Ord. 16-07, would now require a 20-foot front yard setback:

1. Any existing accessory structure(s) that would be considered legally located within the aforesaid side yard, but has been located within one and only one front yard, may continue to be so located and shall not be considered a nonconforming structure with regards to its location in the front yard;
2. A new accessory structure or structures that would be considered legally located within the aforesaid side yard, may be located within one and only one front yard and shall not be considered a nonconforming structure with regards to its location in the front yard;
3. In the event a principal structure built during the above referenced time period is demolished, all future construction shall be in conformance with all provisions of the Land Development Code.

Section 4. Article VI, Section 6.8.L, Residential lots fronting on more than one street shall be amended by adding new subsections 6.8.L.2 and 3, to read as follows:

L. *Residential lots fronting on more than one street.*

1. Where a residential parcel or lot abuts two streets, a front yard shall be required on each street, and each front yard shall conform to the front yard requirements of the zoning district in which the lot or parcel is located except as otherwise provided in the specific district regulations.
2. Not more than two front yards shall be required on any platted lot or parcel of record. On a lot or parcel facing on three streets, the owner may choose which street shall be the designated front yard. The yard opposite the designated front yard shall be deemed a rear yard for setback purposes.
3. For lots fronting on four or more streets, the owner may choose which street shall be the designated front yard. The yard opposite the designated front yard shall be deemed a rear yard. One of the remaining yards shall be treated as a side yard for setback purposes and the other shall be the secondary front yard.

Section 5. Article VI Section 6.8.L, Residential lots fronting on more than one street, shall be amended by adding a new subsection 6.8.L.4, to read as follows:

4. Exceptions – Dead-end streets. The minimum setback for buildings or structures located on a lot or parcel which fronts on more than one street, one of which is a dead-end street, shall be as follows:
 - a. If the property owner chooses to have the property address on the dead-end street, the yard facing the dead-end street shall be the designated front yard and subject to the minimum front yard requirement. If the property owner chooses not to have the property address on the dead-end street, the setback from the dead-end street shall be the minimum side yard setback required in the district in which the property is located.
 - b. Setbacks from street frontages other than the dead-end street, shall be the minimum street yard required in the district in which the property is located. Provided, however, that not more than two front yards shall be required on any platted lot or parcel of record.

Section 6. Article VI, Zoning, Section 6.8.U, Recreational water features, shall be amended by modifying subsections 6.8.U.1.b to read as follows:

U. Recreational water features.

1. Location.

a. An in-ground pool and/or in-ground hot tub/spa located in a waterfront yard with seawalls is subject to the following conditions and limitations:

- (1) An in-ground pool may be constructed within the required yard provided the pool is set back at least six feet from the center of the seawall and the applicant obtains an engineer's signed and sealed certificate stating said pool will not jeopardize the structural integrity of the seawalls.
- (2) The setback of the pool shall be measured from the coping and concrete edges of the in-ground pool to the seawall.
- (3) A deck or patio associated with an in-ground pool is not required to be setback from the seawall.

b. Except for in-ground pools located in waterfront yards with seawalls, recreational water features and associated decks and ancillary structures, are subject to the following limitations and requirements:

- (1) No recreational water feature, deck or other structure ancillary to a recreational water feature may be located in any required yard.
- (2) No recreational water feature, deck or other structure ancillary to a recreational water feature may be located in the space, extending the full width of the lot, between any building and a lot line fronting on a street (i.e., front lot line) and measured perpendicular to the building; and also including any area between any portion of the face of a building and either front lot line
- (3) On a lot or parcel fronting on more than two streets, no recreational water feature, deck or other structure ancillary to a recreational water feature may be located in the space, extending the full width of the lot, between any building and the front lot line of the designated front yard or the secondary front yard.
- (4) Exception. A free-standing waterfall, grotto or fountain may be located within the areas described in subsections (2) and (3), above, provided the free-standing waterfall, grotto or fountain meets the following conditions:
 - (a) it does not meet the definition of a recreational water feature and,
 - (b) it is not ancillary to a recreational water feature.

Section 7. 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 8. 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 24th day of May, 2016.

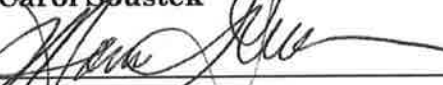
First Reading: 5-10-16

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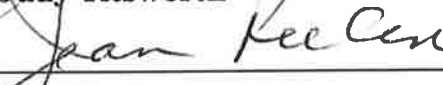
Second Reading and Public Hearing Date 5-24-16


Patrick Morton


Carol Soustek


Marvin Grossman


Judy Titsworth


Jean Peelen

APPROVED BY ME THIS 24th DAY OF may, 2016



Bob Johnson, Mayor

ATTEST:



Stacey Johnston, MMC, City Clerk