

**CITY OF BONITA SPRINGS, FLORIDA**

**ORDINANCE NO. 20-13**

**AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING CHAPTER 4 ZONING, ARTICLE VI SUPPLEMENTARY DISTRICT REGULATIONS, DIVISION 30 PROPERTY DEVELOPMENT REGULATIONS, SUBDIVISION III SETBACKS, OF THE LAND DEVELOPMENT CODE; PROVIDING FOR PERMITTED ENCROACHMENTS RELATING TO MECHANICAL EQUIPMENT; AND, PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

**WHEREAS**, the City of Bonita Springs desires to clarify regulations relating to the placement of mechanical equipment within building setbacks; and

**WHEREAS**, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

**WHEREAS**, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

**THE CITY OF BONITA SPRINGS HEREBY ORDAINS:**

**Section 1. Recitals Adopted.**

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

**Section 2. Amending Land Development Code**

The Bonita Springs City Code is hereby amending Chapter 4 - Zoning, Article VI – Supplementary District Regulations, Division 3 – Property Development Regulations, Subdivision III – Setbacks, of the City's Land Development Code, with deletions depicted with ~~strike throughs~~ and underlined language as additions, as follows:

Sec. 4-1892. - Measurement; permitted encroachments.

All setbacks shall be measured to the nearest point of a building or structure. Notwithstanding this section, none of these encroachments may be placed if the

structure will violate the state building code or the state fire prevention code. Encroachment into the setback shall be permitted as follows:

- (1) *Wing walls.*
  - a. A wing wall which is part of a building may be permitted to encroach into a side or rear setback, provided that such encroachment is no higher than would be permitted for a fence or wall.
  - b. When measuring the setback for a wing wall, the setback shall be measured from the property line to the nearest point of the wing wall which meets the maximum height permitted for a fence or wall within the side or rear setback.
- (2) *Overhangs.* An overhang which is part of a building may be permitted to encroach into any setback as long as the overhang does not extend more than three feet into the setback and does not permit any balcony, porch or living space located above the overhang to extend into the setback.
- (3) *Shutters.* A shutter which is attached to a building may be permitted to encroach one foot into the setbacks.
- (4) *Awnings and canopies.*
  - a. Awnings and canopies which are attached to a building may be permitted to encroach three feet into the setbacks, as long as their location does not interfere with traffic, ingress and egress, or life safety equipment.
  - b. For purposes of this section, awnings and canopies may be attached to a nonconforming building and shall not be considered an extension or enlargement of a nonconformity, as long as the building is properly zoned for its use and the conditions as set forth in this section are met.
- (5) *Open deck.* Elevated decks that are not enclosed may be permitted closer to the minimum rear setback as follows:
  - a. Minimum rear setback shall be 19 feet from the rear property line;
  - b. Side yard setbacks shall comply with property development regulations for the zoning district;
  - c. Decks must have a minimum eight foot clearance from grade to the lowest horizontal member (where uncertainty exists in determining grade, measurement shall be obtained from the centerline of the road fronting the subject property);
  - d. Base of the deck may not be higher than the door exiting the principal structure;
  - e. Stairs and landings which are above 3½ feet must satisfy the 19-rear-foot setback;
  - f. Railings may not exceed four feet from the top of the deck;
  - g. No roofed structure may be placed above the deck;

- h. No opaque material, including walls, may be placed below the deck, except for six-inch by six-inch maximum supporting columns.
- (6) *Stairways/steps.* Stairways or steps, including associated railings and landing area, which are attached to a building and provide for pedestrian/occupant access may be permitted to encroach a maximum of three linear feet into setbacks, provided that the setback is greater than 7½ feet.
- (7) *Mechanical equipment.* Mechanical equipment that is placed on an exterior concrete pad may be permitted to encroach a maximum of 3½ linear feet into the rear or side yard setbacks provided that the setback is greater than 7½ feet. For purposes of this section, mechanical equipment includes heating, ventilating and air-conditioning (HVAC) units, swimming pool equipment and back-up electrical generators. It does not include chimneys or oven exhaust systems.
- a. Encroachments are allowed for legally approved PUD's and PD's or specific portions thereof that require a side setback of less than 7 ½ feet as outlined in the development standards and conditions outlined below. This specifically prohibits property approved as part of a zero lot line pattern of development.
- b. Any new mechanical equipment must be offset and not directly aligned with other mechanical equipment on adjacent property. The offset measurement shall be no less than three (3) feet between equipment. The measurement must be indicated on the site plan and drainage exhibits provided to the City of Bonita Springs during the permitting process, as required in this subsection. This encroachment only applies to mechanical pads to be constructed at finished grade, or within 18" of finished grade. This does not permit the creation of cantilevered pads over 18" above finished grade.
- c. Generators:
- i. In addition to the above, every effort shall be made to site generators at the furthest possible distance from the abutting single-family dwelling unit's windows and/or doors; and
- ii. All generators shall have user preselected exercise times limited between the hours of 10:00 am – 4:00 pm; and
- d. At time of building permit, applicants shall submit a narrative and drainage exhibit showing how the installation of the mechanical equipment does not impede flow of drainage.
- i. The drainage exhibit shall show the following:
1. The location of the proposed mechanical equipment on the property and adjacent properties with full measurements.
  2. existing elevations; and
  3. drainage arrows; and
  4. existing landscaping; and

5. existing gutters; and
  6. a detailed cross section through the proposed mechanical pad, from the existing single-family building to the adjacent single-family building; and
  7. any other elements that are located between homes.
  8. These requirements may be modified if an acceptable alternate plan is provided
- e. In addition to the submittal requirements of Sec. 4-1892(7)(d), when mechanical equipment is proposed to be located less than 5' from the property line, the following are required:
- i. An elevated, open-style platform for the mechanical equipment to ensure drainage is not obstructed, as required. The elevated platform must provide a minimum of 1' of clearance area under the pad so drainage may pass. The area under the platform must be maintained at all times.
  - ii. Show the end or sidewall of the neighboring house or building adjacent to the applicant's home.
  - iii. Show all existing window and door openings on both the applicant's end wall and the adjacent properties end wall to scale.
  - iv. Show all existing equipment in plan view only and all existing exterior equipment, as well as the proposed mechanical pad location. Both existing and proposed mechanical pads must be to scale and be dimensioned as to distance from closest part of equipment to nearest window or door opening. In addition, dimension how close the equipment is to the rear corner and front corner of the home.
  - v. Gutters and downspouts on the side of the homes to reroute drainage to the front and back of the home, as required.
  - vi. Install yard drain(s) and piping, as required.
  - vii. Landscaping alterations to ensure proper drainage flow.
  - viii. Property line survey.
  - ix. A final grading/engineering inspection prior to Certificate of Completion of building permit.
  - x. Items i - ix may be modified if an acceptable alternate plan is provided.

-02, § 3(4-2191), 1-19-2011; Ord. No. 12-13, § 1(4-2191), 8-15-2012; Ord. No. 12-17, § 1(4-2091), 12-19-2012)

### **Section 3. SEVERABILITY**

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction

shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

**Section 4. CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

**Section 5. CODIFICATION AND SCRIVENER'S ERRORS**

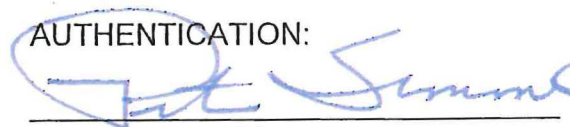
It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.


**Section 6. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 4<sup>th</sup> day of November 2020.

AUTHENTICATION:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

Vote:

Carr	Aye	Gibson	Aye
Purdon	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Corrie	Aye		

Date Filed with Clerk

11/6/2020