

ORDINANCE NO. 898

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, TO AMEND CHAPTER 23 OF THE TOWN'S ADOPTED CODE OF ORDINANCES ENTITLED ZONING AND PLANNING; AMENDING SECTION 23-1 ENTITLED DEFINITIONS TO ADD SEVERAL NEW DEFINITIONS; AMENDING SECTION 23-12 ENTITLED GENERAL PROVISIONS TO RENUMBER, MODIFY AND ADD NEW PROVISIONS TO SUB-SECTION 23-24 RELATED TO SHUTTERS, SCREENS, GLASS OR ANY OTHER MATERIALS WHICH ENCLOSE BALCONIES; ADDING NEW PROVISIONS FOR PORCHES; ADDING NEW PROVISIONS FOR APPEARANCE AND REQUIRED APPROVALS PRIOR TO INSTALLATION; ADDING NEW PROVISIONS FOR THE PLACEMENT AND REMOVAL OF SHUTTERS FOR STORM EVENTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands adopted the first Zoning and Planning Code for the community in June 1957; and

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Zoning and Planning Code accordingly; and

WHEREAS, much of the existing land development in the Town was constructed prior to the enactment of the current Zoning and Planning Code or Florida Building Code, including regulations governing the installation and appearance of storm shutters; and

WHEREAS, the Town has previously adopted standards for the installation of shutters, screens, glass and or any other materials which enclose balconies; and

WHEREAS, the Town believes the current Code language needs to be revised as related to balcony installations, does not adequately address similar criteria for porches, does not adequately address the design and appearance of shutters, and does not currently address the placement and removal of storm shutters before or after a storm event; and

WHEREAS, over the years owners and/or occupants of dwelling units have installed a wide variety of storm shutters and other storm protection devices, often resulting in unsafe, haphazard or uncoordinated appearances, mostly on multi-family residential buildings; and

WHEREAS, over the years the State of Florida, by updates to the Florida Building Code, have increased structural requirements for storm protection devices; and

WHEREAS, over the years the Town has created and modified requirements for storm protection devices and wishes to update the requirement at this time; and

WHEREAS, the Town Council desires to amend the Town's Zoning and Planning Code to modify the provisions related to shutters, screens, glass and or any other materials which enclose balconies, add new provisions for porches, add new provisions for the design, appearance and

approval method of shutters, and add new provisions for the placement and removal of shutters before and after storm events, and

WHEREAS, a public hearing was held before the Local Planning Agency (LPA) of the Town of Bay Harbor Islands to review the proposed modifications to the Town's Zoning and Planning Code; and

WHEREAS, the Town Council held duly advertised public hearings to consider the proposed modifications to the Town's Zoning and Planning Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA:

Section 1: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend Section 23-1 entitled "Definitions" to include several new definitions including the terms "balconies", "Florida Rooms", "Loggia", "porches" and "Terraces", as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend 23-12 which is entitled "General Provisions", to modify and renumber Subsection 23-12(24) as Subsection 23-12(24.1) related to the Code provisions for shutters, screens, glass and or any other materials which enclose balconies, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3. That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend 23-12 which is entitled "General Provisions", to create a new Subsection 23-12(24.2) related to the Code provisions for shutters, screens, glass and or any other materials which enclose porches, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 4. That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend 23-12 which is entitled "General Provisions", to create a new Subsection 23-12(24.3) related to the Code provisions for shutter appearance and approvals, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 5. That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend 23-12 which is entitled "General Provisions", to create a new Subsection 23-12(24.4) related to the Code provisions for shutter placement and removal, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 6: That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 7: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.


Section 9: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this 8th day of March, 2010.

PASSED AND ADOPTED on Second Reading this 12th day of April, 2010.


MAYOR

ATTEST:


TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


TOWN ATTORNEY

EXHIBIT A
Amendments to the Town of Bay Harbor Islands
Zoning and Planning Code – Chapter 23

Sec. 23-1. Definitions.

For the purposes of this article, certain terms and words are herein defined. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words “used for” include the meaning “designed for”; the word “structure” includes the work “building”; the word “shall” is mandatory and not discretionary; the word “lot” includes the words “plot” and “tract”.

Balcony. A platform projecting from the exterior walls of an upper story of a building enclosed by a low wall or railing. A balcony is an accessory structure that may extend into a minimum setback area pursuant to the applicable district or supplemental regulations.

Florida Room. An enclosed roofed area or room typically on the outside of a single-family house with direct access to or from the house (secondary access may also be provided directly to the outside as well) to allow enjoyment of the outdoors while being sheltered from adverse weather conditions such as rain and wind. Also referred to as a solarium or patio room. A Florida Room is typically considered part of the principal structure of a single-family dwelling; therefore, it must comply with the setback requirements of the applicable district regulations.

Loggia. On open sided (at least one side) roofed gallery or arcade, either free standing or along the front or side of a building serving as an open-air space or entrance typically at ground level but sometimes higher supported by columns or pierced openings in a wall. Typically found in commercial, community facility or multi-family structures.

Porch. An enclosed roofed area or room on the outside of the main living space (not heated or air-conditioned) within the exterior walls of a building on an upper story of a building with direct access to or from a building. A porch is considered part of the principal structure; therefore, it must comply with the setback requirements of the applicable district regulations.

Terrace. A landscaped and/or surfaced area, also referred to as a patio, directly adjacent to a principal building at or within three (3) feet of finished grade and not covered by a permanent roof.

Sec. 23-12. General provisions.

(24.1) Shutters, screens, glass or any material which enclose balconies.

(a) "Shutters, screens, glass or any material not flush with all original exterior walls of the building" are defined as covers, whether solid or partly solid, screens, glass, or any material any part of which projects beyond the original exterior walls of the building more than one inch.

(b) "Shutters, screens, glass and any material enclosing balconies" are defined as covers, whether solid or partly solid, screens, glass or any material placed on or near the perimeter or edge of balconies in such a manner as to partially or completely enclose the area contained on the balcony, thereby creating an enlarged, enclosed floor area of a building beyond its original exterior walls.

(c) No shutters, screens, glass or any material enclosing balconies or no shutters, screens, glass or any material not flush with all original exterior walls of the building may be installed on any building in the town. This prohibition shall not affect any shutters, screens, glass or any material which have been installed pursuant to a valid permit of the town prior to the passage of this subsection. Shutters shall be installed as close as practical to doors openings. An illustration containing examples of prohibited and permitted installations is incorporated herein.

(d) Shutters, screens, glass and any material enclosing balconies shall be subject to prior approval by the town manager or the planning and zoning board. See subsection 24.3 below for the Town's approval process.

(e) No balcony may be enclosed by jalousies or other types of windows. No wall and/or railings surrounding the balcony shall exceed four (4) feet in height from the balcony floor surface.

(f) Balconies may be screened only if all balconies on a building are screened at the same time. The architectural style and appearance of any screening shall be the same for all units in the building. If screening of balconies is provided the enclosed balcony must meet the primary building setback requirements.

(g) Balconies may be used for outdoor living and may contain lawn furniture and plants; however, plants shall not be placed on balcony railings, furniture or external ledges of said balcony so as to avoid objects falling.

(h) Balconies shall be specifically prohibited for the use of storage, laundry drying, barbecuing or cooking and sleeping quarters. Balconies are intended to be used for occasional use and as such, those activities that may lead to unsightly conditions to neighbors or passersby; will endanger the safety of the building; or will create weight loads beyond which the balcony was designed are prohibited.

(24.2) Shutters, screens, glass or any material which enclose porches.

(a) "Shutters, screens, glass or any material not flush with all original exterior walls of the building" are defined as covers, whether solid or partly solid, screens, glass, or any material any part of which projects beyond the original exterior walls of the building more than one inch.

(b) Shutters, screens, glass and any material enclosing porches or in openings to porches from the building exterior, installed in such a manner as to partially or completely enclose the area contained on the porch, thereby creating an enlarged, enclosed floor area of a building beyond its original exterior walls is prohibited. This provision shall not be construed to prohibit the uniform enclosing of porches into heated and/or air-conditioned living spaces if approved by the Planning and Zoning Board, provided all applicable principal building setbacks are met.

(c) No shutters, screens, glass or any material enclosing porch openings not flush with all original exterior walls of the building may be installed on any building, unless otherwise approved by the Planning and Zoning Board. See subsection 24.3 below for the Town's approval process. This prohibition shall not affect any shutters, screens, glass or any material which have been installed pursuant to a valid permit of the town prior to the passage of this subsection. An illustration containing examples of prohibited and permitted installations is incorporated herein.

(24.3) Shutter Appearance and Approvals.

(a) All permanent shutters are to be uniform in color, material, design, configuration and type for each building. The building owners (sole owner / association / majority vote) shall select a uniform color, material, design, configuration and type of shutter for all units which shall be submitted to the Town's Planning and Zoning Board for approval. Written evidence of the building owner's shutter selection shall be provided to the Town as part of the application. The Town is not obligated to approve the shutters as selected by the building owners and may require modifications for safety and appearance. Once approved by the Town, all future shutter installations shall comply with the uniform design.

(b) Permanently installed shutters, storage boxes and tracks should be installed and designed to compliment the principal buildings architectural design.

(c) Permanently installed wood shutters are prohibited. This shall not be construed to prohibit decorative non-functional shutters consistent with the buildings architectural design.

(d) All decorative shutters maintained on the exterior of buildings for periods in excess of five (5) business days, as opposed to temporary shutters installed for an impending storm event, shall be painted to match the exterior color scheme of the dwelling.

(e) Roll-up or accordion shutters should match the window or door size exactly. No part of the shutter, storage box, track or associated hardware should damage or obscure architectural, historical or decorative materials. Awnings or other decorative features are encouraged to screen the view of storage boxes or roll-up shutters.

(24.4) Shutter Placement and Removal.

Hurricane shutters and/or hurricane resistant windows and doors are encouraged for all structures in the Town. However, the placement and timely removal of shutters after storm events is essential for the safety of occupants and to preserve the high quality appearance of the community. It is prohibited to maintain storm shutters on a structure beyond the officially declared hurricane season, unless hurricane conditions are expected to occur within thirty-six (36) hours. In accordance with the provisions in the Florida Building Code, it is prohibited to maintain storm shutters during hurricane season in a closed / secured position on a structure for periods in excess of five (5) business days unless:

(a) A hurricane occurs during the five-day period, at which point the five-day period begins anew the day after hurricane conditions have subsided;

(b) Hurricane conditions are expected to occur within thirty-six (36) hours after the fifth day;

(c) The structure is used for residential purposes, but no person is in residence for a period in excess of five (5) business days and the owner/occupant registers with the police department on a form prepared by the Town; or

(d) At least two (2) means of ingress and egress are provided through a door, window or garage.

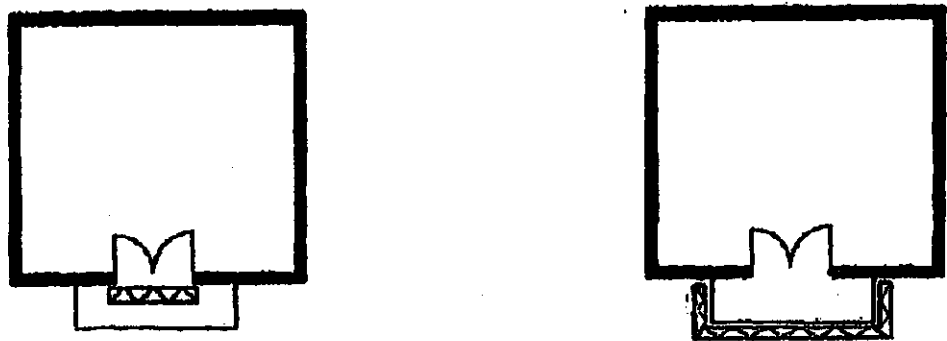
TOWN OF BAY HARBOR ISLANDS

Examples of Permitted and Prohibited Balcony and Porch Enclosures
(Note that some Porch Enclosures may be approved by Town – See Section 23-12(24.2))

PERMITTED

PROHIBITED

Example #1 Balcony



Example #2 Porch with Balcony



Example #3 Porch



FIGURES FEATURES



ENCLOSURE



BUILDING EXTERIOR WALL