

ORDINANCE NO. 922

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO AMEND SECTION 23-12(11) TO PROVIDE A MODIFICATION TO THE LIST OF EXCEPTIONS TO HEIGHT LIMITS FOR ROOF-MOUNTED ACCESSORY STRUCTURES; ALLOWING BATHROOM FACILITIES SUBJECT TO CERTAIN REQUIREMENTS; 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, the Town retains the services of an urban planning professional to study land development activities and land development regulations and recommend strategies and Code modifications to address identified problems; and

WHEREAS, the Town studied and modified permissible exceptions and design criteria for roof-mounted accessory uses and structures; and

WHEREAS, since creating the Code provisions in 2005 and after reviewing numerous development applications, the Town now believes that roof-mounted bathroom facilities are desirable as accessory structures to serve recreational facilities / uses, and

WHEREAS, the Town Council desires to amend the Town's Zoning and Planning Code to allow such roof-mounted accessory bathrooms; and

WHEREAS, a discussion was held at a public meeting of the Local Planning Agency (LPA) of the Town of Bay Harbor Islands, which reviews proposed modifications to the Town's Zoning and Planning Code; and

WHEREAS, the Town Council held a duly advertised public meeting 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 23-12(11) to provide a modification to the list of allowable exceptions of roof-mounted accessory structures to allow bathroom facilities for recreational uses, subject to certain design and placement criteria.

Section 2: That is 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 3: 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 4: 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 5: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this 12th day of September, 2011.

PASSED and **ADOPTED** on Second Reading this 10th day of October, 2011.


ILEENE S. WALLACE
Mayor

ATTEST:


MARLENE MARANTE
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

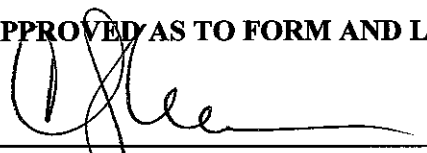

CRAIG SHERMAN, ESQ.
Town Attorney

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

Section 23-12. General Provisions.

(11) Exceptions and Guidelines from Height Limits.

The height of roof structures designed and utilized for the housing of mechanical equipment such as elevators, water storage, air conditioning and similar facilities, stairwells, chimneys, decorative architectural roof features, accessory recreational facilities, open-air trellis, canopies, fences, walls and similar facilities shall be limited to the following:

- a) The structure is fully enclosed or screened and does not exceed 20 feet in height.
- b) The outside walls of the roof structure are set back a minimum of 15 feet from the exterior walls of the principal structure. This provision shall not apply to parapet walls located at the edge of the building façade, open-air trellis located on roof surfaces at least 10 feet below the maximum allowable building height, elevator shafts, elevator machine rooms or stairwells, if approved by the Town during the Site Plan approval process.
- c) No guest rooms, dwelling units, business establishments or other accommodations or public spaces, are contained within the structure. This restriction shall include enclosed exercise rooms, gyms, spas or other recreational facilities other than an open swimming pool, spa and deck areas. Notwithstanding the above, a maximum of 2 separate bathrooms (men / women / unisex) not exceeding the greater of 150 square feet in area each, or as otherwise required by the Florida Building Code to accommodate the minimum number of required fixtures based on occupancy and use, or to meet accessibility requirements for disabled persons (Chapter 11 Florida Accessibility Code) may be permitted, provided their placement complies with the setback requirements listed in subsections (b) above the exterior wall(s) of any bathroom structure are set back a minimum of 15 feet from the exterior walls of the principal structure. Bathroom facilities shall be integrated architecturally and structurally with other roof-mounted structures such as elevator shafts, stairwells or screened mechanical equipment areas, if possible, away from the edges of a building facade.
- d) Rooftop accessory recreational facilities shall be visually screened horizontally from neighboring properties by fences, walls or other screening materials or features that are no shorter in height than the object to be screened, all as approved by the Town.
- e) Swimming pools, spas, accessory decks and any railings associated therewith shall not exceed 5 feet above the roof deck. Notwithstanding the above a safety railing, fence or wall surrounding a raised swimming pool, spa or deck as required by Section 5-8 of the Town Code shall be permitted; provided however, such safety barrier is placed no closer than 5 feet to the edge of the roof and it is not visible above the parapet wall.
- f) Trellis, pergolas and similar structures shall not exceed 10 feet in height above the roof deck.
- g) Skylights shall not exceed 5 feet in height above the roof deck.
- h) Parapet walls shall not exceed 5 feet in height as measured from the highest point of the roof deck to the highest point of the parapet wall. Notwithstanding the above provision, a parapet wall may exceed 5 feet in height to create architectural detailing on a building, if approved as part of a Site Plan by the Town.