

**ORDINANCE NO. 927**

**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 MODIFY THE EXISTING LIST OF EXCEPTIONS TO THE HEIGHT OF ROOF-MOUNTED ACCESSORY STRUCTURES; ADDING SPECIFIC PROVISIONS FOR SINGLE-FAMILY HOMES; ADDING LANGAUGE TO CLARIFY THAT THE EXISTING LIST OF HEIGHT EXCEPTIONS IS FOR COMMERCIAL, MULTIPLE-FAMILY AND OTHER DEVELOPMENT TYPES; 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 previously studied and modified permissible exceptions and design criteria for certain roof-mounted accessory uses and structures; and

**WHEREAS**, the Town's Code provisions previously adopted were intended primarily for commercial and multiple-family residential developments; and

**WHEREAS**, it has become evident that similar regulations are necessary and desired to set forth permissible exceptions and design criteria for certain roof-mounted accessory uses and structures for single-family homes, and

**WHEREAS**, the Town Council desires to amend the Town's Zoning and Planning Code to add such provisions for single-family residences and to clarify that the previously adopted regulations were for commercial and multiple-family developments; and

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

**WHEREAS**, the Town Council held a duly advertised public meeting(s) 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 add height exception provisions and criteria for single-family residences and to clarify that the previously adopted regulations were for commercial and multiple-family developments.

**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 14th day of November, 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**

**Sec. 23-1. Definitions.**

*Height of Building or Structure:* The vertical distance from the Base Flood Elevation (BFE) to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof or to the average height of the highest gable of a pitched, hip or gambrel roof. Decorative architectural roof features, mechanical equipment or rooms, elevator equipment rooms, water storage facilities, air conditioning equipment, accessory recreational facilities, fences, walls and similar facilities (non-habitable roof features) shall not be counted as part of the height. See Section 23-12(11) for design guidelines.

**Section 23-12. General Provisions.**

(11) Exceptions and Guidelines from Height Limits.

**Single-Family District.** The height of all accessory roof structures in the RD Single-Family Zoning District that are designed and utilized for any of the following may exceed the maximum allowable building height, provided such structure is architecturally compatible with the home design and the structure does not exceed five (5) feet above that point of a flat roof or pitched roof utilized to determine building height, except as may be required to minimally comply with building codes for functional chimneys or similar features: chimneys, dormers, domes, spires, decorative architectural roof features, non-habitable structures such as a tower or cupola limited to a maximum of 100 cubic feet, weather vanes, flag poles, sun lights, ventilating roof vents, roof-mounted decorative or functional walls or fences for roof decks, solar energy equipment, telecommunication equipment and antennas. Other items such as, weather stations and the like may be attached in a stealth manner to one or more of the above referenced structures. No security cameras or other surveillance devices shall be attached to any of the aforementioned accessory roof structures extending above the maximum allowable building height. All such security cameras and surveillance devices must be mounted on the dwelling façade or fascia below the maximum roof height and shall not be mounted to any roof surface. No equipment, fixtures or furniture shall be placed on any roof deck that exceeds the main roof height or any surrounding safety fence, railing or wall. All ventilating roof vents and equipment shall be painted to match the color of the roof material.

**Business, Causeway and Multiple-Family Districts.** The height of all accessory roof structures in the B-1, CA, RM-1, RM-2 and RM-3 Zoning Districts that are 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, 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.
- 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.

- 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.