

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS FLORIDA AMENDING SECTION 5-5 OF THE BAY HARBOR ISLANDS TOWN CODE WITH REGARD TO THE USE OF STATE CERTIFIED FLAGGERS AND OFF-DUTY POLICE OFFICERS AT CONSTRUCTION SITES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with protecting and preserving the public health, safety and welfare of the residents and those coming into the Town of Bay Harbor Islands; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands is charged with preserving and maintaining the high quality and standards and aesthetic beauty contained within the Town; and

WHEREAS, the regulation of construction site operations is necessary for preserving and maintaining the public health, safety, welfare and high quality and standards and aesthetic beauty within the Town; and

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

Section 1.

Section 5-5 of the Code of Bay Harbor Islands is hereby amended as follows:

ARTICLE I. IN GENERAL

Sec. 5-5. Construction site operations.

It is the purpose of this section to promote the public health, safety, and general welfare and to minimize public and private losses arising as a result of unauthorized access to construction sites, or from loose and unsecured materials at construction sites during emergency weather conditions, to minimize exposure and prohibit activities which may pose a danger to persons located off the construction site, from debris, materials or activities carried on at the construction site by enacting the following regulations.

- (a) **Definitions:** The following words or phrases when used in this section shall have the meanings ascribed to them herein:
- (1) "Construction Site" includes all sites where new construction, renovations, or additions take place, other than just interior work that is not visible to the exterior of the premises, and any construction that shall include excavation or exposure of the interior of an existing structure. A Construction Site shall not include paving or repaving of a driveway, or other re-surfacing and/or minor interior renovations or construction that is not exposed to the elements.
- (2) "Secure", in reference to items, includes fastening down or removing all hazardous objects, including but not limited to, such as construction shacks, temporary toilets, roofing tile, building materials, trash, forms, insecure structures, and temporary electric service poles. The term "Secure" as applied to Construction Site access, includes protecting the Construction Site, during the hours described herein in paragraph (i), by way of locked fence surrounding the perimeter of the site and/or the provision of a security.
- (b) **Debris control.** A Construction Site shall be maintained in a neat and orderly manner. A trash enclosure, dumpster, or other container shall be maintained in the Construction Site at all times. Loose debris shall be placed within the enclosure. A cover shall be maintained over such debris containers during periods when no construction activity is taking place and at the end of each construction day.

- (c) *Erosion and run-off control.* In compliance with the Town's National Pollution Discharge Elimination System (NPDES) permit requirements, prior to beginning any clearing, grubbing, or construction activities, as part of the building permit process, the contractor shall submit a plan (**Erosion and Sediment Control Plan**) detailing the location and handling of materials, soils and outlining the actions that will be taken to prohibit run-off of dirt, sand, fluids, vegetation or any other item into the town's stormwater system or onto adjacent property and waterways. Piles of soil, or any other methods approved by the Town, shall provide for a containment area to reduce run-off.
- (d) *Temporary bathroom facilities.* Temporary bathroom facilities shall be placed at a location that minimizes visibility from off-site. Any such facility shall be located behind a temporary construction fence, which shall completely screen the Construction Site on all sides. The bathroom facilities shall be maintained in sanitary condition and emptied on a regular basis. Failure to do so will constitute a violation of this section. No temporary bathroom facility may be kept on a Construction Site unless construction activities are actively occurring.
- (e) *Vegetation maintenance.* Vegetation such as grass, shrubs, trees and groundcovers shall be maintained in such a fashion so that the Construction Site does not appear overgrown or unkempt. Within 30 days of demolition of an existing structure, the Construction Site must be sodded and properly maintained, until such time as a Construction fence is erected and construction activity begins.
- (f) *Temporary construction fence.* A temporary construction fence screening the Construction Site shall be erected and maintained in good order at all times. The temporary construction fence shall be erected and completely in place as a requirement for the issuance of a building permit and prior to the beginning of construction activities. The temporary construction fence shall be 6 ft. chain fence link with a screening material attached to visually screen and minimize impact to neighboring properties which may be affected by Construction Site dust and debris. A fence permit is required to be issued for the temporary construction fence, and the fence installed, inspected, and the fence permit must be closed-out by the building department prior to the issuance of a building permit.
- (1) A temporary construction fence will be required for all new construction and substantial renovations.
 - (2) Work being done within the unit is exempt from this requirement. However, if a temporary bathroom facility and/or a dumpster is to be located on-site, the temporary Construction fence must be installed.
 - (3) Work on pools, pool installations or renovations will require a temporary construction fence at all times to avoid health and safety hazards. Also pools undergoing renovations and new pools being installed must be emptied of accumulated water at all times.
- (g) *Construction Staging Plan.* The owner, occupant or user of any Construction Site for a commercial and multifamily project, shall be required to present a plan to the Town Manager or his/her designee for approval prior to the issuance of a building permit by the Building Official. The Plan shall include, but shall not be limited to, the following elements:
- (1). Parking provisions for construction workers.
 - (2). General traffic and detours including specific routes to and from the construction site.
 - (3). Delivery and location of cranes.
 - (4). Delivery and storage of materials.
 - (5). Use of state certified flaggers with state approval equipment and/or off-duty police officers. Off-duty police officers will be required for the following activities: a complete street closure for more than 1 hour, a concrete pour lasting more than 6 hours, when cranes are delivered and set-up and when they are being removed from the Construction Site, and any other activity as may be required by the Town Manager or his designee. Certified flaggers may be used for normal deliveries and short time single lane closures.
 - (6). Construction fencing with visual/dust barrier.
 - (7). Construction signs.
 - (8). Temporary field-office - construction trailer approval required by Town Council Section 23-4(7)
 - (9). Use of meter parking spaces.
 - (10). Use of right-of-way.
 - (11). Provisions for pedestrian safety and pedestrian paths.
 - (12). Location of construction dumpsters and temporary bathroom facilities.
 - (13). Rodent control at the site shall be maintained for the duration of construction, until a Certificate of Occupancy is issued (photographs of traps and documentation of treatment by a certified company is required).

(14) Any other issues which may uniquely relate to a particular construction site.

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Section 2. Penalties

Violation of this Ordinance shall be subject to the imposition of penalties as provided by Dade County, Florida, and under Sections 1-8, 23-17, 23-37, and any other penalty section(s) of the Code of the Town of Bay Harbor Islands.

Section 3. Severability

The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion in the Code

It is the intention of the Town Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the Town of Bay Harbor Islands; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" may be changed to "Section" or any other appropriate word.

Section 5. Effective Date

This Ordinance shall be effective immediately upon passage by the Town Council on Second reading.

PASSED AND ADOPTED on first reading this 9th day of January, **2017**.

PASSED AND ADOPTED on second reading this 13th day of February, **2017**.


By: 

JORDAN W. LEONARD
Mayor

ATTEST:


MARLENE M. SIEGEL
Town Clerk

APPROVED AS TO FORM:


FRANK C. SIMONE, ESQ.
Assistant Town Attorney