

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO ZONING AND PLANNING REGULATIONS TO ADDRESS MINIMUM OPEN SPACE REQUIREMENTS AND SECOND STORY BUILDING AREA REQUIREMENTS IN THE RD SINGLE-FAMILY DISTRICT; AMENDING CHAPTER 23-1 OF THE ZONING AND PLANNING CODE ENTITLED DEFINITIONS; AMENDING CHAPTER 23-11 OF THE ZONING AND PLANNING CODE ENTITLED LAND DEVELOPMENT REGULATIONS; PROVIDING REQUIREMENTS AND STANDARDS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly; and

WHEREAS, the Town Council has studied the current Code provisions of the Town and find that certain modifications are necessary and desirable to further regulate single-family home development; and

WHEREAS, public meetings were held before the Planning and Zoning Board of the Town to discuss various options and recommend proposed modifications to the Town's Land Development Regulations; and

WHEREAS, the Town Council held duly advertised public meetings to consider the proposed modifications to the Town's Land Development Regulations.

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 Code of Ordinances is hereby amended to modify Section 23-1 and Section 23-11, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 2: 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 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Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.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 13th day of August, 2018.

PASSED on Second Reading this 17th day of September, 2018.



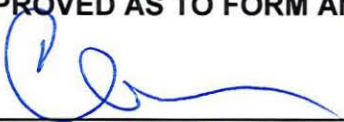
**STEPHANIE BRUDER
MAYOR**

ATTEST:



**MARLENE M. SIEGEL
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.

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 word “building”; the word “shall” is mandatory and not discretionary; the word lot includes the words “plot” or “tract”.

Open Space: Those areas on a plot that include permeable landscaped materials such as grass, trees, shrubs, ground covers, open earth with mulch or decorative materials, sand and any type of living landscaping. The term shall not include driveways, other paved areas, swimming pools, spas, ponds, walkways, patios and decks, and similar impervious areas. No partial credit shall be allowed for “pervious pavers”. Artificial turf shall not count toward any required open space.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it; or if there be no floor next above it, then the space between such floor and the ceiling next above it. A basement shall be counted as a story if its ceiling is equal to or greater than four feet above grade.

Sec. 23-11. - Land development regulations.

In all area districts hereinabove set forth and designated, there shall be front, rear and side yard setbacks provided for of not less than the dimensions specified, and other land development standards, as follows, to wit:

(A) RD-Single Family Area:

- (1) Front yard setback (any street frontage including corner lots).
All lots except Kane Concourse frontage: 25 feet.
All lots fronting Kane Concourse: 40 feet.
- (2) Rear yard setbacks (waterfront).
Block 23, Lots 29-95: 40 feet measured from the outside bulkhead wall.
Block 23, Lots 1-28 and Lots 96-104: 25 feet measured from the outside bulkhead wall.
- (3) Rear yard setbacks (non-waterfront).
Lots fronting Kane Concourse: Ten feet.
All other lots: 15 feet.
- (4) Side yard setbacks (all lots).
All lots: Ten feet.
- (5) Notwithstanding the above, as to triangular or otherwise odd-shaped lots, the town shall have the power to adjust the street or front yard setback restrictions in the interest of proper, useful and equitable planning.
- (6) Height limits.
 - a. No building in RD-Single Family area, shall exceed two and one-half stories or 25 feet in height above the base flood elevation (BFE) prescribed by United States, state or county flood control laws or regulations.

b. Notwithstanding the above, roofs with a slope exceeding two and one-half inches per foot may exceed the above height restriction to a maximum height of 35 feet on waterfront properties and a maximum height of 30 feet on non-waterfront properties, provided that the point on the roof at which the slope begins such excess height is no closer to the property lines than as described below:

- i. On all lots in the RD-Single Family district: 15 feet from each side property line.
- ii. Block 23, Lots 29-95: 45 feet from the outside bulkhead wall, 60 feet from any street.
- iii. Block 23, Lots 1-28: 30 feet from the outside bulkhead wall, 55 feet from any street.
- iv. Lots facing Kane Concourse: 15 feet from the rear property line, 30 feet from any street.
- v. Corner lots in Blocks 30, 31, 33 and 34: 35 feet from any street.
- vi. On all other lots in the RD-Single Family district: 40 feet from any street (front) property line, 20 feet from any rear property line.

(7) Building Articulation. Architectural embellishments, including but not be limited to, windows, eyebrows, material changes, reliefs, reveals, ornamentation, banding, canopies, copings, etc. must be incorporated into the design to avoid large flat uninterrupted wall surfaces for at least 50% of the length of all elevations of the main house and any accessory structures.

(8) Open Space Requirements.

- a. Each plot shall provide for a minimum of thirty-five (35) percent Open Space at ground level for one-story homes. Each plot shall provide for a minimum of forty (40) percent Open Space at ground level for homes with any portion of the home above one story.
- b. Each plot shall provide for a minimum of fifty (50) percent landscaped "green" pervious open space at ground level in the front yard area. The use of pervious pavers or landscape strips in driveways or walkways shall not be included in the fifty (50) percent landscaping requirement. Within front setback areas sufficient open space and landscaping materials shall be provided to break large expanses of hardscapes, screen parking areas and provide shade.

(9) Second story building area restrictions. For residences designed as two-story structures, the second story shall not exceed eighty (80%) percent of the first (ground) floor gross floor area inside exterior walls (air-conditioned / non-air-conditioned areas). The reduced secondary story percentage listed herein may be applied to the first floor, if approved by the Planning and Zoning Board. Notwithstanding the above, the Planning and Zoning Board may allow modifications to this requirement in instances where enhanced architectural articulation and detailing is provided on the exterior house facades to break the massing of the structure.