

NOTE: A request form is available from the Deputy Town Clerk or on the Town's website; please fill it in and return it no later than the "Public Comment" section of the meeting if you would like to address the Town Council. When you speak, you must come to the podium in the front and clearly state your name and address for the record. Please mute or turn off your cell phone or electronic devices at the start of the meeting. Thank you.

**TOWN OF BAY HARBOR ISLANDS
MORRIS N. BROAD COMMUNITY CENTER
1175 95TH STREET
BAY HARBOR ISLANDS, FL 33154**

REGULAR COUNCIL MEETING

REVISED

AGENDA

January 8, 2025
7:00 PM

STATEMENT OF DECORUM

All comments must be addressed to the Council as a body and not to individuals. Any person making a racial or slanderous remark or who becomes boisterous while addressing the Town Council, staff, etc. shall be barred from the audience by the presiding officer. No profanity, shouting, heckling, verbal outbursts, or disruptive behavior in support of or opposition to a speaker or his/her remarks is permitted. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chambers shall do so quietly.

SPECIAL NOTICE

A Regular Meeting of the Town Council of the Town of Bay Harbor Islands will take place in-person and virtually through the Zoom platform, on Wednesday, January 8, 2025, at 7:00 p.m.

"In an effort to provide greater public access and comment on pending matters, the Town of Bay Harbor Islands is providing a Zoom link to enable members of the public to comment on pending items on the Town Council agenda. Zoom access is provided under the same terms and conditions as in-person access, including length of time and decorum. Anyone desiring to be heard may utilize the Zoom link. However, members of the public must understand that the provision of Zoom access for comments is a courtesy, not a vested right, and that access is provided subject to the availability and functionality of the Town's equipment. There is no guarantee that internet service will be reliable or that the Town's equipment will function as intended. In the event that the Zoom access is unavailable or interrupted for any reason, the Town Council meeting will still proceed forward, and will not be stopped or rescheduled in any regard. Those wishing to be absolutely certain that their comments are heard by the Town Council should present themselves in person at the Council meeting and seek recognition, or alternatively, should submit their comments in advance of the meeting in writing to the Town Clerk, and ask that they be read into the record, subject to the above terms and conditions, such as length and decorum. The validity of any actions taken by the Town Council will in no way be affected by the use or functionality of Zoom access for comments."

Zoom Meeting Link: <https://us06web.zoom.us/j/89187101864>
Meeting ID: 891 8710 1864

To request to speak during Public Comment, please utilize the "raise your hand" Zoom feature on your electronic device. You will be recognized at the direction of the Zoom Meeting Host.

In addition, any member of the public who does not wish, or is unable to participate through the Zoom video conferencing platform, but would still like to participate can do so by listening to the meeting as it happens by dialing the Toll-free numbers below:

US Toll Free Numbers: 877 853 5247 or 888 788 0099

For higher quality, dial a number based on your current location):
US: 1 305 224 1968 or 1 646 558 8656 or 1 301 715 8592

Meeting ID: 891 8710 1864
Participant ID: Press the # key.

To request to speak: Dial *9 on your telephone device to activate the "Raise your Hand" feature on the Zoom platform.

Members of the Public can also submit their request to speak and/or comments via email to the Office of the Town Clerk at yhamilton@bayharborislands-fl.gov prior to 4:00 p.m. on the day of the meeting.

CALL TO ORDER: Approximately 7:00 p.m.:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Carmen Da Cruz, CITT Senior Executive Secretary - Citizens' Independent Transportation Trust. Enclosed is a copy of the presentation.
2. Vice President, Government Affairs, Eileen Damaso - Coastal Waste & Recycling. Enclosed is a copy of the recycling contract.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

TOWN MANAGER'S REPORT:

COUNCIL REPORTS:

PUBLIC COMMENT

There is a three (3) minute time limit for each speaker during public comment and a two (2) minute time limit for each speaker during all other agenda items. Your cooperation is appreciated in observing the three (3) minute rule. If you have a matter you would like to discuss which requires more than three (3) minutes, please arrange a meeting with the Town Manager or appropriate administrative official. A request form is available from staff or on the Town's website; please fill it in and return it to the Town Clerk no later than the conclusion of "Public Comment" section of the meeting, if you would like to address the Town Council. Please come forward to the podium, give your name and address, and the name and address of the organization you are representing if any.

COMMITTEE REPORTS:

CONSENT AGENDA: *(Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)*

- ~~3. Consideration and Approval of a resolution approving an employment agreement with Lindsley Noel as Interim Town Manager and approving modifications to his Chief of Police employment agreement.~~

~~A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING AN EMPLOYMENT AGREEMENT WITH INTERIM TOWN MANAGER LINDSLEY NOEL AND MODIFYING HIS POLICE CHIEF EMPLOYMENT AGREEMENT; PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING EXECUTION OF THE AGREEMENT, AUTHORIZING EXPENDITURE OF FUNDS; AND SETTING AN EFFECTIVE DATE.~~

4. **Consideration and Approval** of a resolution approving a combined voluntary cooperation and operational assistance Mutual Aid Agreement with Miami-Dade County Association of Chiefs of Police for Law Enforcement services. Enclosed are the proposed agreement and draft resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA APPROVING A COMBINED VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT WITH MIAMI-DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE FOR LAW ENFORCEMENT SERVICES; PROVIDING FOR INCORPORATION OF RECITALS; AND SETTING AN EFFECTIVE DATE.

5. **Consideration and Approval** of a resolution urging members of the Florida Legislature to support the 2025 Florida League of Cities Legislative Platform. Enclosed is the draft resolution. Sponsored by Mayor Joshua Fuller.

A RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE 2025 FLORIDA LEAGUE OF CITIES' LEGISLATIVE PLATFORM; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

6. **Consideration and Approval** of a resolution updating the signers on the Town's accounts with Bank of America. Enclosed is a draft resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AUTHORIZING DEPOSITS AND WITHDRAWALS OF TOWN FUNDS IN ACCOUNTS WITH BANK OF AMERICA; PROVIDING FOR AN EFFECTIVE DATE.

7. **Consideration and Approval** of a Resolution ratifying the appointment of Annette Epelbaum Cannon, Esq. as Special Magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, pursuant to Section 5¾-3 of the Town Code; and approval of a proposed agreement for such services. Enclosed are the draft resolution, proposed agreement, and other supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING THE APPOINTMENT OF ANNETTE EPELBAUM CANON AS SPECIAL MAGISTRATE TO CONDUCT ADMINISTRATIVE HEARINGS ON CODE VIOLATIONS FOR THE TOWN OF BAY HARBOR ISLANDS, PURSUANT TO ENFORCEMENT PROCEDURES SET FORTH IN SECTION 5¾-3 OF THE TOWN CODE; APPROVING AN AGREEMENT FOR THE RELATED SERVICES; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Approval

POLL VOTE

PUBLIC HEARING

8. **Public Comment** regarding consideration of an ordinance on First Reading amending Section 23-4 of the Town Code to establish additional permitted uses in the RM-1 and RM-2 Multiple Family Districts. Sponsored by Mayor Joshua Fuller. Enclosed are the proposed ordinance and Staff Report.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING THE TOWN'S CODE OF ORDINANCES; AMENDING CHAPTER 23 ENTITLED ZONING AND PLANNING; AMENDING ARTICLE I, SECTION 23-4 ENTITLED USE REGULATIONS, RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; TO ESTABLISH ADDITIONAL PERMITTED USES IN THE RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; PROVIDING FOR LIMITED COMMERCIAL USES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

9. **Approval** or **Denial** of the proposed ordinance on First Reading amending Section 23-4 of the Town Code providing for limited commercial uses in the RM-1 and RM-2 Zoning Districts.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

ORDINANCES ON SECOND READING:

10. **Consideration** and **Approval** of an ordinance on Second Reading amending Section 12-21 of the Town Code regarding Definitions for Construction Activity. Enclosed are the Staff Memo and proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO NUISANCES OF CONSTRUCTION ACTIVITIES; AMENDING ARTICLE II OF CHAPTER 12 ENTITLED NOISE; AMENDING SECTION 12-21 ENTITLED DEFINITIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

ORDINANCES ON FIRST READING:

11. **Consideration** and **Approval** of an ordinance on First Reading amending Section 11-8.2 of the Town Code regarding Adopted Levels of Service and Concurrency review requirements. Enclosed are the Staff Memo and proposed ordinance. Sponsored by Council Member Robert Yaffe.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 11-8.2 OF THE TOWN'S CODE OF ORDINANCES RELATED TO ADOPTED LEVELS OF SERVICE (LOS) AND CONCURRENCY REVIEW REQUIREMENTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING EXEMPTIONS AND ESTABLISHING DE-MINIMIS IMPACT THRESHOLDS FOR DEVELOPMENT APPROVAL REQUESTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

12. **Consideration and Approval** of an ordinance on First Reading amending Section 23-5 of the Zoning and Planning Code to prohibit the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles in the B-1 Business District. Enclosed are the Staff Memo and proposed ordinance. Sponsored by Mayor Joshua D. Fuller.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO THE LAND USES PERMITTED OR PROHIBITED IN THE B-1 BUSINESS DISTRICT; AMENDING SECTION 23-5 OF THE ZONING AND PLANNING CODE TO MODIFY THE LIST OF PROHIBITED USES IN THE B-1 BUSINESS DISTRICT TO INCLUDE THE SALE, LEASING, RENTAL, DISPLAY OR REPAIR OF AUTOMOBILES, TRUCKS, BOATS, TRAILERS OR RECREATIONAL VEHICLES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion

POLL VOTE

DEFERRED ITEMS:

TOWN MANAGER ITEMS: *(Town business items requiring Council approval)*

DISCUSSION ITEMS:

13. **Discussion and Possible** action regarding the Town's Policies & Procedures Manual. Enclosed is the Town of Bay Harbor Islands Employee Policies & Procedures Manual. Sponsored by Council Members Stephanie Bruder and Robert Yaffe.
14. ~~**Discussion and Possible Action** regarding weight restrictions on the bascule spans and approval of a resolution authorizing Ardurra Group, Inc. to design the required repairs for the bascule spans for an amount not to exceed \$200,000. Sponsored by Council Member Stephanie Bruder.~~

ADJOURNMENT: Approximately 11:00 p.m.

Pursuant to Florida Statutes 286.0105, the Town hereby advises the public that should any person decide to appeal any decision of the Town Council with respect to any matter to be considered at this meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 1.

ITEM: Carmen Da Cruz, CITT Senior Executive Secretary - Citizens' Independent Transportation Trust

DESCRIPTION:

Javier A. Betancourt, Executive Director, Citizens' Independent Transportation Trust (CITT) has requested to provide an update on the Trust's efforts to advance the People's Transportation Plan (PTP). Enclosed are the request and a copy of the presentation.

Carmen Da Cruz, CITT Senior Executive Secretary, will make the presentation.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

There is no financial impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	CITT_Bay Harbor Islands_10.15.24
2.	01-08-25 CITT2 PPTX -v12-Bay Harbor Islands



Citizens' Independent Transportation Trust

111 NW 1st Street • Suite 1661

Miami, Florida 33128

T 305-375-1357 F 305-375-4605

Transportation Trust @GoCITT

CITT Board Members

Chairperson

Robert Wolfarth

October 15, 2024

First Vice Chairperson

Mary Street, Esq.

The Honorable Joshua D. Fuller
Mayor

Second Vice Chairperson

Honorable Peggy Bell

Town of Bay Harbor Islands
1030 95th Street

Omar K. Bradford, Esq.

Bay Harbor Islands, FL 33154

Meg Daly

Qjuezari Harvey

Harry Hoffman

Kenneth Kilpatrick

David Marin

Miguel Murphy

Robert Ruano

*Paul J. Schwiep, Esq.

Dear Mayor Fuller:

On behalf of members of the Citizens' Independent Transportation Trust (CITT), we are requesting an opportunity to update your officials and citizens on the Trust's efforts to advance the People's Transportation Plan (PTP).

The PTP funds municipal projects in the Town of Bay Harbor Islands and throughout Miami-Dade County, along with county transit projects, such as the Strategic Miami Area Rapid Transit (SMART) Plan that will bring transit to all areas of the county. Many proposed projects, such as the SMART Plan corridors, directly or indirectly affect most of our municipalities, and your participation in the development and implementation of the PTP and SMART Plan is crucial to their success.

Executive Director

Javier A. Betancourt

**Past Chairperson*

We are requesting that your municipality allocate time at one of your upcoming Commission/Council meetings for us to provide a brief presentation on the status of the PTP and SMART Plan. We continue to focus on the technology, funding partnerships, project delivery systems, first/last-mile solutions and effective municipal and county partnerships.

Municipal participation is vital to the success of these plans, and it is imperative that our municipal partners be included in the decision-making process to ensure a successful transportation and transit program. We would also appreciate knowing of any civic or business groups of importance to your constituents that we should approach for a similar presentation.

Please contact my office to schedule a date for CITT to give this presentation. We look forward to updating your citizens and officials on the exciting plans currently in progress to address the mobility issues facing our community.

You may contact us by email at: CITT@miamidade.gov or by telephone at 305-375-1357.

Sincerely,

Javier A. Betancourt
Executive Director





CITIZENS' INDEPENDENT
TRANSPORTATION TRUST

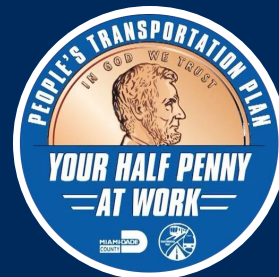
20+ Years of Connecting Miami-Dade



Javier A. Betancourt

Executive Director

CITT



-  @GoCITT
-  @TransportationTrust
-  Citizens' Independent
Transportation Trust
-  Citizens' Independent
Transportation Trust
-  @TransportationTrust



CITIZENS' INDEPENDENT
TRANSPORTATION TRUST





Overview of the Transportation Trust



Ballot Language – Nov. 5, 2002
General Election Sample Ballot

County

County Transportation Expansion Plan

Shall the County implement the People's Transportation Plan including: Plans to build rapid transit lines to West Dade, Kendall, Florida City, Miami Beach, & North Dade; Expand bus services; Add 635 buses; Improve traffic signalization to reduce traffic backups; Improve major & neighborhood roads & highways including drainage; Provide funding to municipalities for road & transportation projects by levying a .5% sales surtax whose proceeds will be overseen by Citizen's Independent Transportation Trust?

Yes



No





Overview of the Transportation Trust



The Start of PTP

- On November 5, 2002, Miami-Dade County voters approved an indefinite (no sunset provision) half-penny surtax to implement the People's Transportation Plan (PTP).
- The People's Transportation Plan (PTP) is a broad based and long-term program incorporating roadway and transit improvements.

The Creation of CITT

- Voters also approved the creation of a Citizens' Independent Transportation Trust (Transportation Trust), an independent entity comprised of citizens who serve as volunteers with the mission to oversee expenditure of surtax revenue.

CITT's Mission

- To monitor, audit, review, oversee and investigate the use of the Surtax proceeds and the implementation of the People's Transportation Plan (PTP).







Transportation Trust Members





Robert Wolfarth
Chair
District 4




Mary Street, Esq.
First Vice-Chair
District 5




Hon. Peggy Bell
Second Vice Chair
District 8




***Paul J. Schwiep, Esq.**
Mayoral Appointee




Miguel Murphy
District 1




Omar Bradford
District 2




Qjuezari Harvey
District 3




Robert Ruano
District 6



Meg Daly
District 7



Dr. Harry Hoffman
District 11



David Marin
District 13



Kenneth M. Kilpatrick
League of Cities Appointee



Javier A. Betancourt
Executive Director



Become a Transportation Trust Member



We are looking for engaged citizens with the interest, experience and insight needed to make informed decisions that will contribute to the development of a comprehensive and well-coordinated transportation system in Miami-Dade County.

Membership Requirements

- **15 seats representing 13 County Commission Districts, County Mayor, and Miami-Dade County League of Cities (MDCLC)**
- **District appointees must reside in the district they are appointed to represent; Mayoral and MDCLC appointees must reside in Miami-Dade County**
- **No elected officials or candidates for elected office**
- **No Conflicts of Interest**
- **Must demonstrate upstanding moral character**
- **Candidate Slate submitted by Nominating Committee for Commission, Mayor, MDCLC appointment**



How to apply

- Visit our website at: WWW.MIAMIDADE.GOV/CITT and click on the 'Member Recruitment' tab to download an application.
- Or call 305-375-1357 to request an application.



Citizens' Independent Transportation Trust

Existing FY 2024 Organizational Chart



- Exec. Dir. Reports directly to Transportation Trust
- Policy, Operations, & Engagement (POE) Team
- Planning, Programs, & Projects (PPP) Team



Javier A. Betancourt
CITT Executive Director



Monica D. Cejas, PE
CITT Deputy Director



Nya Lake
CITT Admin. Secretary
Trust Secretary



Joanna Santiago
CITT Projects Review &
Contracts Manager



Vontressia Walker
CITT Chief Financial Officer



Carmen Da Cruz
CITT Sr. Executive Secretary



Esther Peres
CITT Special
Projects Coord.



Kiranmai Chirumamilla, EI
CITT Strategic
Planning Analyst



Mariana Price
CITT Municipal
Program Manager



Karla Damian
CITT Chief Community
Engagement Officer

Fernando Herrera
College Intern

Priscilla Roche
College Intern



Cheryl Mizell
CITT Customer Advocate
Program Coordinator

- Project Review & Financial Analysis
- Strategic & Financial Planning
- Municipal Program
- Community Engagement / Customer Advocate
- Budget & Accounting
- Audit

~ \$4M Operating Budget
(less than 1% of annual
surtax proceeds)



Auditing the Use of Surtax Funds



2024 - 3rd Quarter (April 1, 2024 - June 30, 2024)							
As of 6/5/24							
Municipality	Last Audit Completed		Next Audit	# Prior Audits	Initiated	In Progress (Draft)	Final
	Through	Report Date					
MUNICIPALITY							
Aventura	9/30/2015	1/19/2017	2024	2	✓	-	-
Bal Harbour	9/30/2017	12/14/2018	2024	3	1/12/2024	-	-
Bay Harbor Islands	9/30/2020	4/6/2021	2026	4	-	-	-
Biscayne Park	9/30/2019	2/12/2021	2025	3	-	-	-
Coral Gables	9/30/2019	5/26/2020	2023	4	✓	9/29/2023	-
Cutler Bay	9/30/2021	7/6/2022	2026	3	-	-	-
Doral	9/30/2021	5/20/2022	2026	3	-	-	-
El Portal	9/30/2021	9/21/2023	2026	3	-	-	-
Florida City	9/30/2020	6/30/2021	2025	4	-	-	-
Golden Beach	9/30/2018	12/10/2019	2025	3	-	-	-
Hialeah	9/30/2018	1/28/2020	2024	3	-	-	-
Hialeah Gardens	9/30/2017	2/8/2019	2025	3	-	-	-
Homestead	9/30/2017	4/30/2019	2024	3	3/4/2024	-	-
Key Biscayne	9/30/2021	1/11/2023	2025	4	-	-	-
Medley	9/30/2020	3/19/2021	2026	4	-	-	-
Miami	9/30/2020	9/28/2021	2023	8	✓	3/31/2023	5/30/2024
Miami Beach	9/30/2021	8/30/2023	2026	4	-	-	-
Miami Gardens	9/30/2020	5/12/2021	2025	3	-	-	-
Miami Lakes	9/30/2022	3/14/2024	2026	5	-	-	-
Miami Shores	9/30/2021	4/29/2022	2026	4	-	-	-
Miami Springs	9/30/2019	10/7/2020	2025	3	-	-	-
North Bay Village	9/30/2020	8/30/2021	2026	4	-	-	-
North Miami	9/30/2021	9/20/2022	2026	4	-	-	-
North Miami Beach	9/30/2021	12/16/2022	2026	4	-	-	-
Opa-Locka	9/30/2019	1/31/2022	2024	5	-	-	-
Palmetto Bay	9/30/2021	3/29/2022	2026	4	-	-	-
Pinecrest	9/30/2020	4/6/2021	2026	4	-	-	-
South Miami	9/30/2021	9/11/2023	2026	5	-	-	-
Sunny Isles Beach	9/30/2019	6/15/2021	2025	3	-	-	-
Surfside	9/30/2022	1/10/2024	2027	4	-	-	-
Sweetwater	9/30/2020	8/8/2022	2026	5	-	-	-
Virginia Gardens	9/30/2021	10/26/2022	2026	4	-	-	-
West Miami	9/30/2019	4/6/2021	2025	3	-	-	-
COUNTY							
Transit	9/30/2019	10/23/2020	2024	3	✓	2/29/2024	4/8/2024
Public Works	9/30/2019	1/29/2021	2024	3	-	-	-
Total					3	1	2



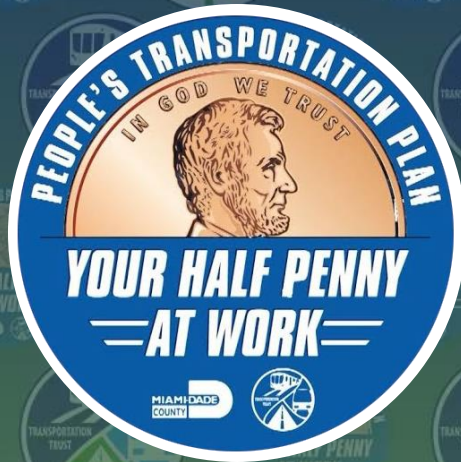
AUDIT AND MANAGEMENT SERVICES

Ofelia Tamayo
Director

Overtown Transit Village North

701 NW 1st Court, Miami, FL 33136

786-469-5900 | bemor@miamidade.gov



Charter County Transportation Surtax (Half-Penny)

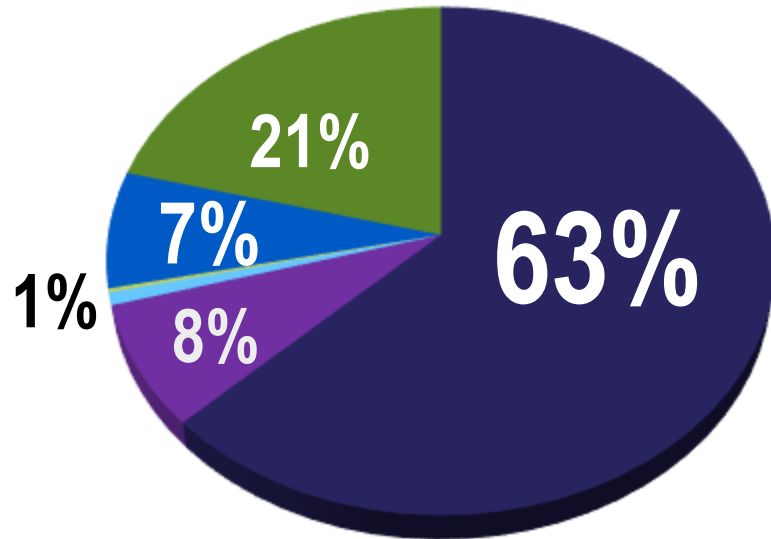


\$4.8 BILLION 2002-2023 Actual Surtax Expenditures



How your half penny has been spent

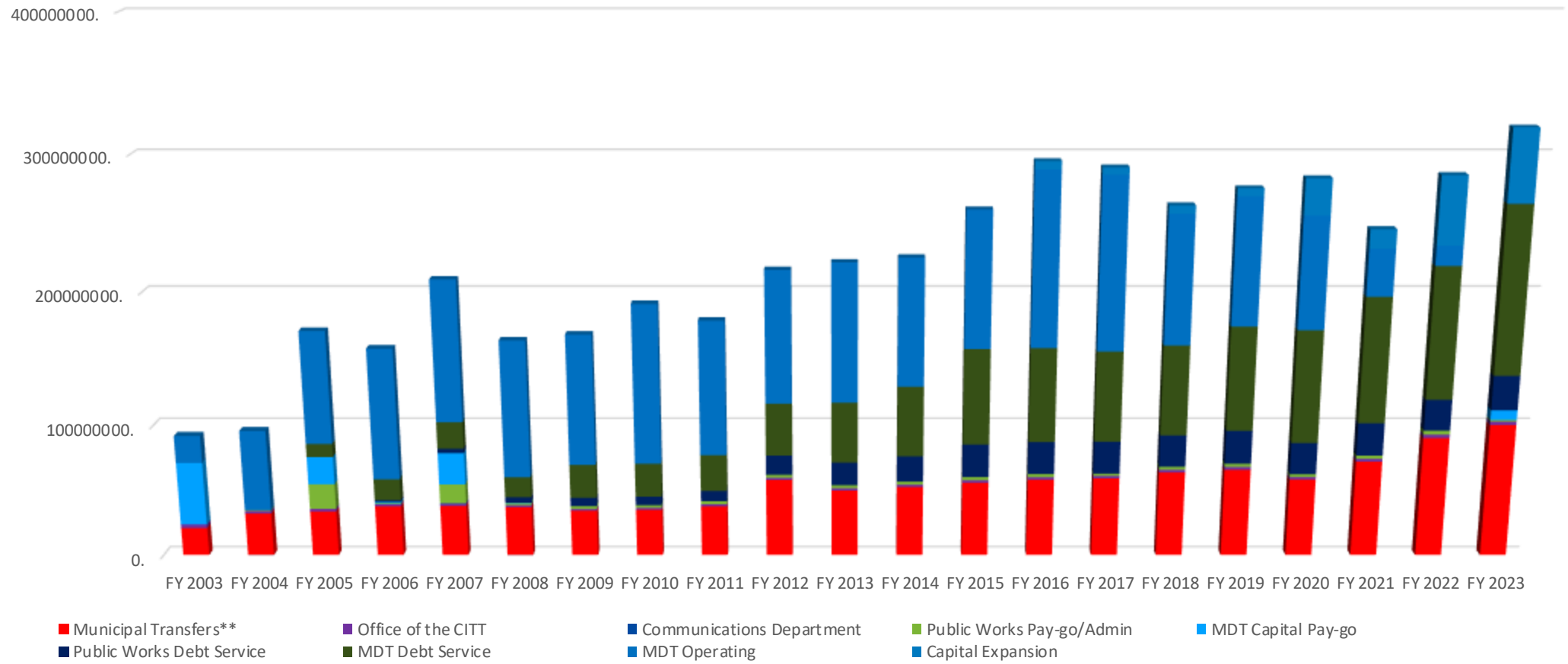
\$4.8 billion in cumulative surtax transfer/expenditures through FY 2023



Miami-Dade Transit	\$3.0B
Municipalities	\$1.0B
Public Works	\$373M
CITT Administration	\$38M
Capital Project	\$11.8M
Balance & Future Projects	\$354M



Actual Surtax Expenditures FY 2003-2023

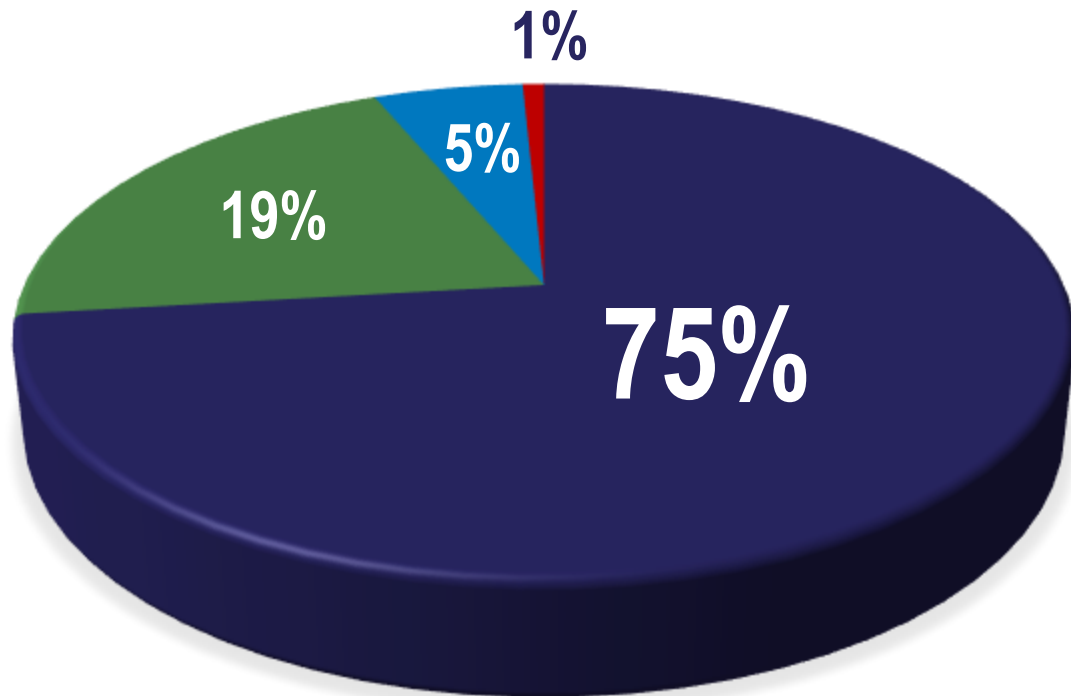




FY 2024 Surtax Budget



FY 2024 Budgeted Surtax Collection: \$424M



FY 2024 Budgeted Transfers/Expenditures: \$508M

Miami-Dade Transit	\$380 M
Municipalities	\$ 98 M
Public Works	\$ 26 M
CITT Administration	\$ 3.7M

Expenditure amounts over FY24 Budgeted Surtax Revenue will be paid using prior years carryover funds.

***Percentage less than 23% because FY24 expenditures exceed budgeted amount.*



40 Year Pro-Forma \$8 Billion Program



PTP and Transit Pro-Forma Funds	ALL-YEARS	1 2024	2 2025	3 2026	4 2027	5 2028
PTP Revenues						
PTP Revenue Fund Carryover	29,764,123,367	309,168,000	225,300,000	201,245,580	139,009,332	54,076,938
PTP Sales Surtax Revenue	31,519,293,000	424,000,000	434,600,000	445,465,000	456,602,000	470,300,000
Interest Earnings	8,000,000	200,000	200,000	200,000	200,000	200,000
Total PTP Revenues	61,291,416,367	733,368,000	660,100,000	646,910,580	595,811,332	524,576,938
Current PTP Debt Service Expenses						
Transfer for Current Transit PTP Debt Service Payments	3,264,240,000	130,458,000	126,562,000	126,561,000	127,972,000	127,965,000
Public Works Current PTP Debt Services Payments	581,173,000	25,914,000	25,908,000	25,907,000	25,388,000	25,387,000
Total Current PTP Debt Service Expenses	3,845,413,000	156,372,000	152,470,000	152,468,000	153,360,000	153,352,000
Future PTP Debt Service and Lease Financing Expenses						
Future DTPW PTP Debt Service Payments	7,059,519,000	-	58,970,000	96,838,000	121,985,000	147,949,000
Lease Financing Payments	3,577,382,000	-	7,808,000	20,091,000	25,028,000	36,521,000
Total Future PTP Debt Service and Lease Financing Expenses	10,636,901,000	-	66,778,000	116,929,000	147,013,000	184,470,000
PTP Transfer to Municipalities						
Transfer to Existing Municipalities	6,303,859,000	84,800,000	86,920,000	89,093,000	91,320,000	94,060,000
Transfer to New Municipalities	945,578,000	12,720,000	13,038,000	13,364,000	13,698,000	14,109,000
Total PTP Transfer to Municipalities	7,249,437,000	97,520,000	99,958,000	102,457,000	105,018,000	108,169,000
PTP Transfer to Other Funds and County Departments						
Transfer to PTP Capital Expansion Reserve Fund	1,073,317,000	18,283,000	12,843,000	8,698,000	6,491,000	3,842,000
Transfer to Office of the CITT	281,516,000	3,744,000	3,896,000	4,042,000	4,183,000	4,308,000
Transfer to Public Works Pay As You Go Projects	3,000,000	500,000	500,000	500,000	500,000	500,000
Transfer to Transit Operations and Maintenance	3,961,893,533	113,521,000	115,791,420	118,107,248	120,469,393	57,878,781
Transfer to PTP Revenue Fund Reserve	85,000,000	85,000,000	-	-	-	-
Total PTP Transfer to Other Funds and County Departments	5,404,726,533	221,048,000	133,030,420	131,347,248	131,643,393	66,528,781
PTP Reimbursement						
Future TPO Flexed Federal SU Grant Financing Reimbursement	(1,200,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)	(30,000,000)

FY 2023-24 PTP & Transit Pro-forma Summary



20+ Years of Connecting Miami-Dade

People's Transportation Plan (PTP)



Citizens' Independent Transportation Trust (CITT)

The People's Transportation Plan



Municipal



Golden Passport



Fare-free Metromover



Neighborhood Improvement Program



Maintenance of Effort



Bus Service Improvements



Expand Metrorail to 88.9 miles



Major Highway & Road Improvements



Citizens' Independent Transportation Trust (CITT)

Municipal Transit Program



11.78 MILLION passengers in FY 2024



Up 967K from last year!

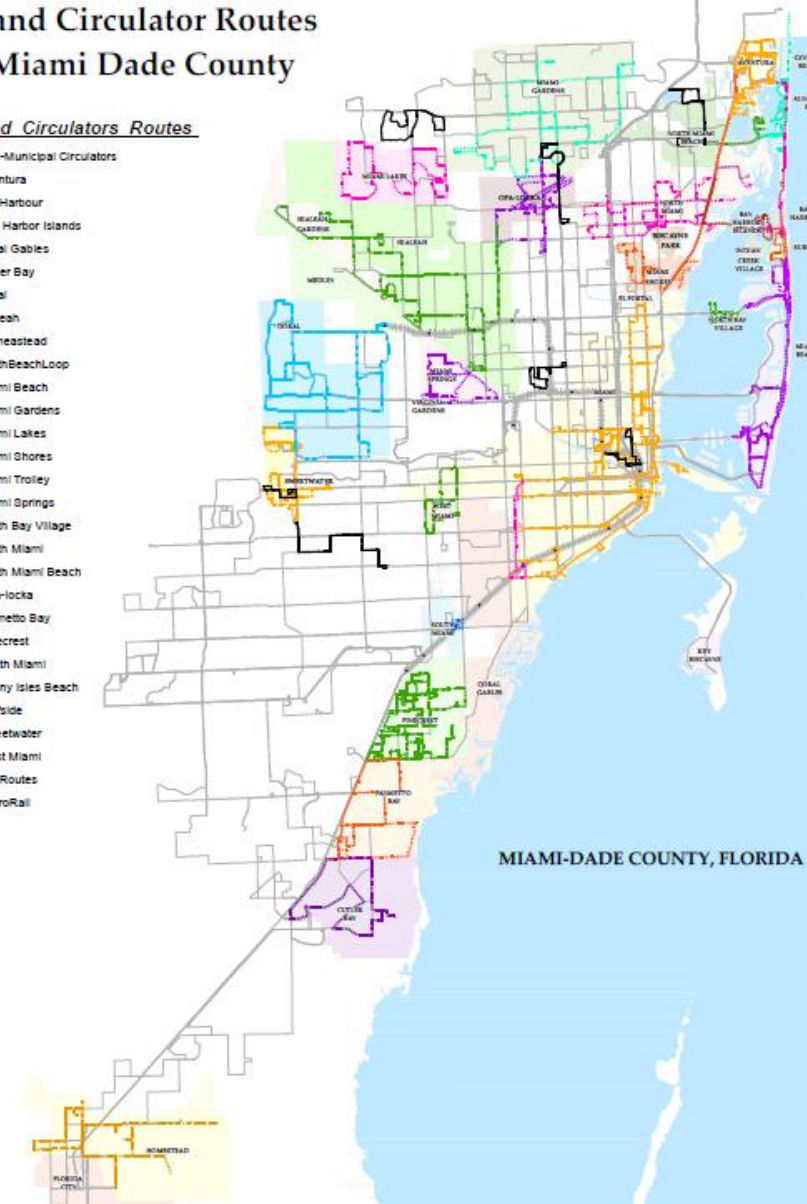
Municipal Transit Service Options as of October 1, 2024			
MUNICIPALITY	FIXED ROUTE	ON-DEMAND	BOTH
Aventura	✓	✓	•
Bal Harbour	✗	✓	
Bay Harbor Islands	✗	✓	
Biscayne Park	✗	✓	
Coral Gables	✓	✓	•
Cutler Bay	✓	✓	•
Doral	✓	✓	•
El Portal	✗	✗	
Florida City	✗	✓	
Golden Beach	✗	✗	
Hialeah	✓	✓	•
Hialeah Gardens	✓	✗	
Homestead	✓	✓	•
Key Biscayne	✗	✓	
Medley	✓	✗	
Miami	✓	✓	•
Miami Beach	✓	✓	•
Miami Gardens	✓	✗	
Miami Lakes	✗	✓	
Miami Shores	✓	✗	
Miami Springs	✓	✗	
North Bay Village	✗	✓	
North Miami	✓	✓	•
North Miami Beach	✓	✓	•
Opa-Locka	✓	✗	
Palmetto Bay	✓	✓	•
Pinecrest	✓	✓	•
South Miami	✗	✓	
Sunny Isles Beach	✗	✗	
Surfside	✗	✓	
Sweetwater	✓	✗	
Virginia Gardens	✓	✗	
West Miami	✗	✓	
Total:	21	22	12

Source: Office of the CITT

Bus and Circulator Routes in Miami Dade County

Bus and Circulators Routes

- Non-Municipal Circulators
- Aventura
- Bal Harbour
- Bay Harbor Islands
- Coral Gables
- Cutler Bay
- Doral
- Hialeah
- Homestead
- NorthBeachLoop
- Miami Beach
- Miami Gardens
- Miami Lakes
- Miami Shores
- Miami Trolley
- Miami Springs
- North Bay Village
- North Miami
- North Miami Beach
- Opa-locka
- Palmetto Bay
- Pinecrest
- South Miami
- Sunny Isles Beach
- Surfside
- Sweetwater
- West Miami
- BusRoutes
- MetroRail



MIAMI-DADE COUNTY, FLORIDA

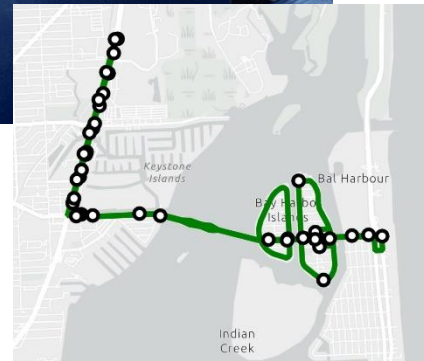
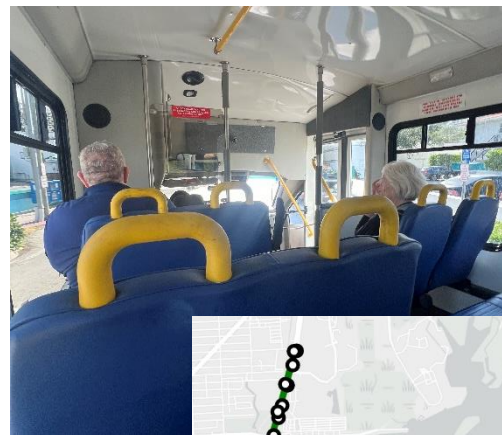


Town of Bay Harbor Islands



FY 2024	Received	Spent
Transit (min 20%)	\$74,532	\$163,688
Transportation (max 80%)	\$298,128	\$498,132
Total	\$372,660	\$661,820

Distributions	
FY24 Actuals	\$372,660
FY25 Projected	\$355,708



From fixed route to on-demand service

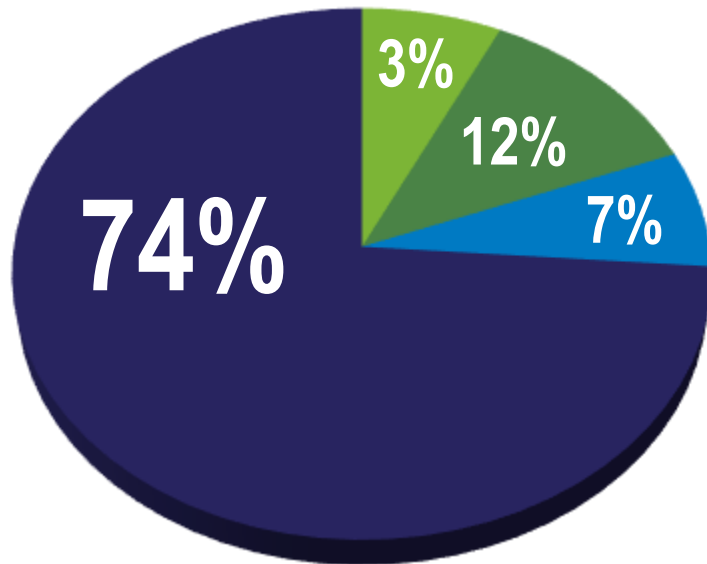
From 4,488 riders (fixed route for three quarters) to 25,715 riders (on-demand for all four quarters)



Major Roadway, Highway & Neighborhood Improvements



Less than 10% of Surtax



Completed Projects (31)	74%
Pending Projects (5)	12%
Ongoing Projects (3)	7%
Deleted Projects (3)	3%



Advanced Traffic Management System (ATMS)



Installation of new state-of-the-art Advanced Traffic Management System (ATMS) “signal system” to better enhance mobility for commuters, transit users, pedestrians, and bicyclists throughout Miami-Dade County.

- Phase 1: Traffic Central Control – completed
- Phases 2 and 3 delayed but underway



Photo credit: Miami-Dade Department of Transportation and Public Works



Transit Services Funded by the Half-Penny Surtax

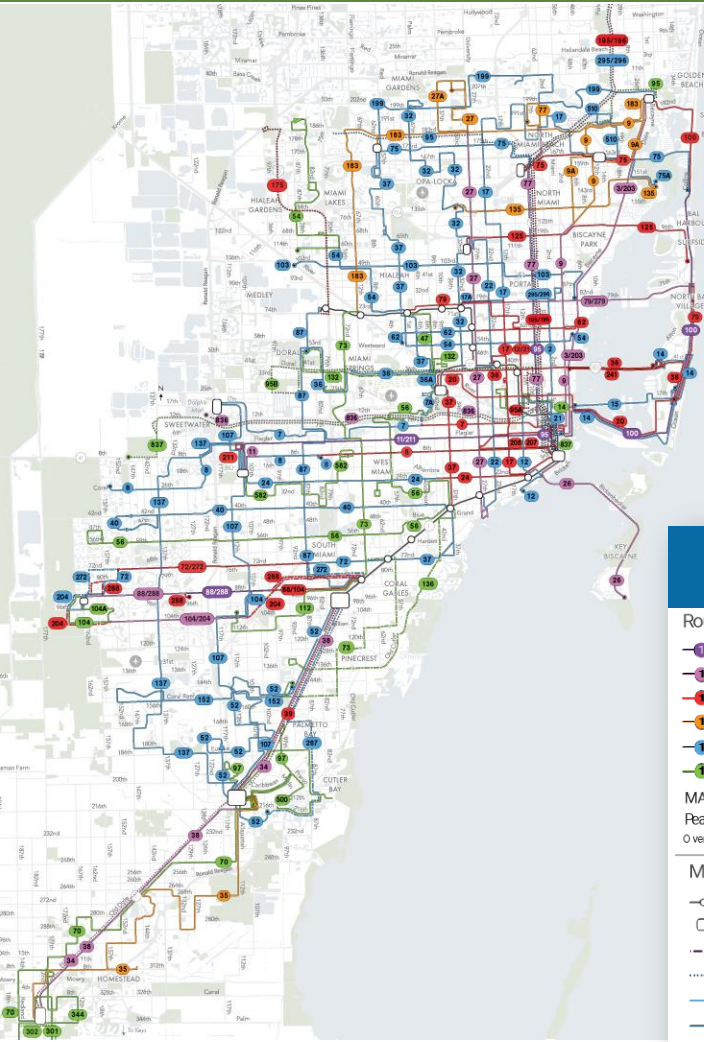


- New Fleet of CNG and all-electric buses
- New modern Metromover cars
- Metrorail extension to MIA
- Municipal trolleys and on-demand services
- Roadway improvements
- Bicycle and pedestrian trails
- Tri-Rail and Brightline connections





Enhanced Bus Fleet



MIAMI-DADE COUNTY BETTER BUS NETWORK

Routes by Weekday Peak Hour Frequency

- 7.5 minutes or less / 8 buses per hour
- 10 minutes / 6 buses per hour
- 15 minutes / 4 buses per hour
- 20 minutes / 3 buses per hour
- 30 minutes / 2 buses per hour
- 40-60 minutes / 1 bus per hour

MAX (M) Service – limited stop service.
 Peak (P) Service – Peak only all stop service.
 O overlapping MAX service based on buses per hour, actual frequencies may differ.

Map Symbols

- Rail
- Transit Hub
- Peak Hour Route
- Express Service
- End of route
- Route continues at lower frequency

0 1 2 3 4 5 miles



Better Bus Network

- All-day high frequency service in dense minority and low-income areas
- High frequency on all causeways
- Routes consolidated to reduce duplication, simplify, and improve service
- Bus stop consolidation to help speed up service
- Frequent service that runs later into the evening
- More accessibility to key locations throughout the county

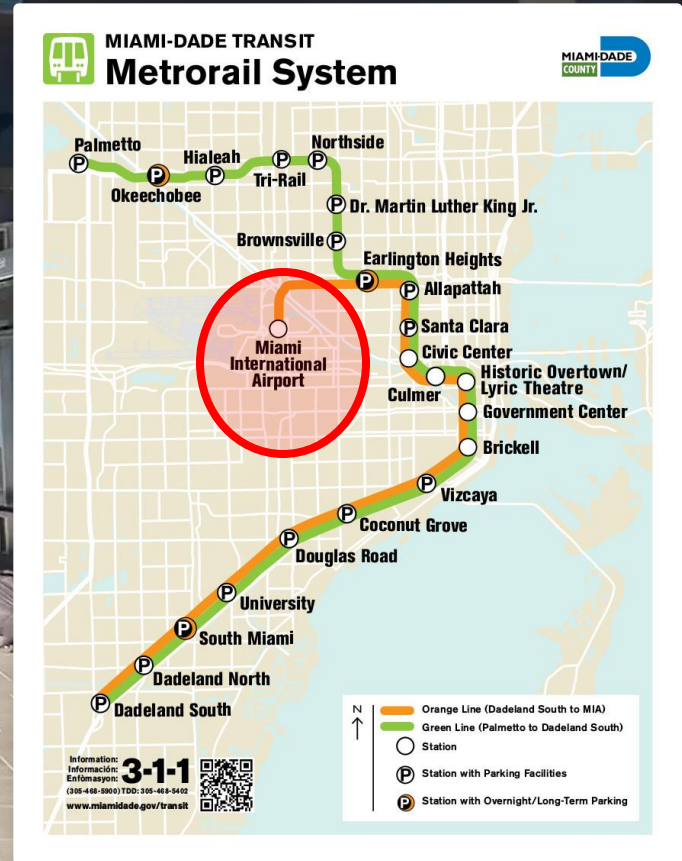


Citizens' Independent Transportation Trust (CITT)

MIA Metrorail Station



AN EXTENSION OF METRORAIL TO MIAMI INTERNATIONAL AIRPORT





Citizens' Independent Transportation Trust (CITT)

Smart Plan/Program



Miami-Dade County
SMART PROGRAM





Strategic Miami Area Rapid Transit (SMART) Plan/Program

The future: bringing transit to all areas of Miami-Dade



South Corridor: Bus Transit, under construction



Beach Corridor: Automated People Mover (BayLink and Design District extension), and Bus Rapid Transit (Miami Beach extension), in planning



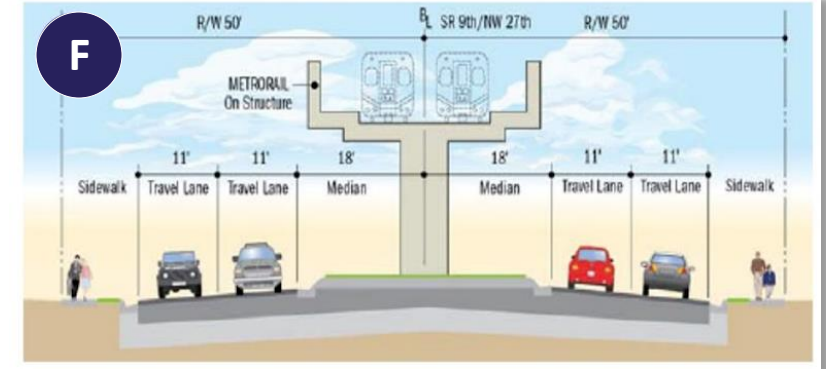
East-West Corridor: Bus Rapid Transit, in planning



Kendall Corridor: Bus Rapid Transit, in planning



Northeast Corridor: MiamiCentral Station completed, Aventura Station completed, Commuter Rail Service in planning



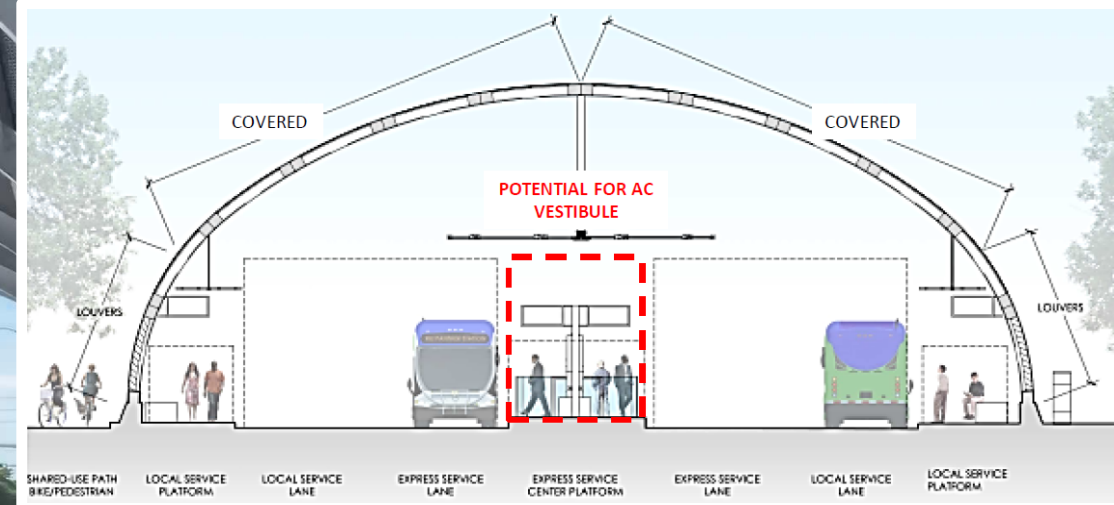
North Corridor: Elevated Guideway, in planning



South Corridor, Under Construction



Bus Rapid Transit along US 1 from the Dadeland South Metrorail station to Florida City.





Beach Corridor - (FKA BayLink)



Will extend Metromover to Miami Beach via the MacArthur Causeway, and also north to Edgewater, Midtown, Wynwood, Edgewater and the Design District.



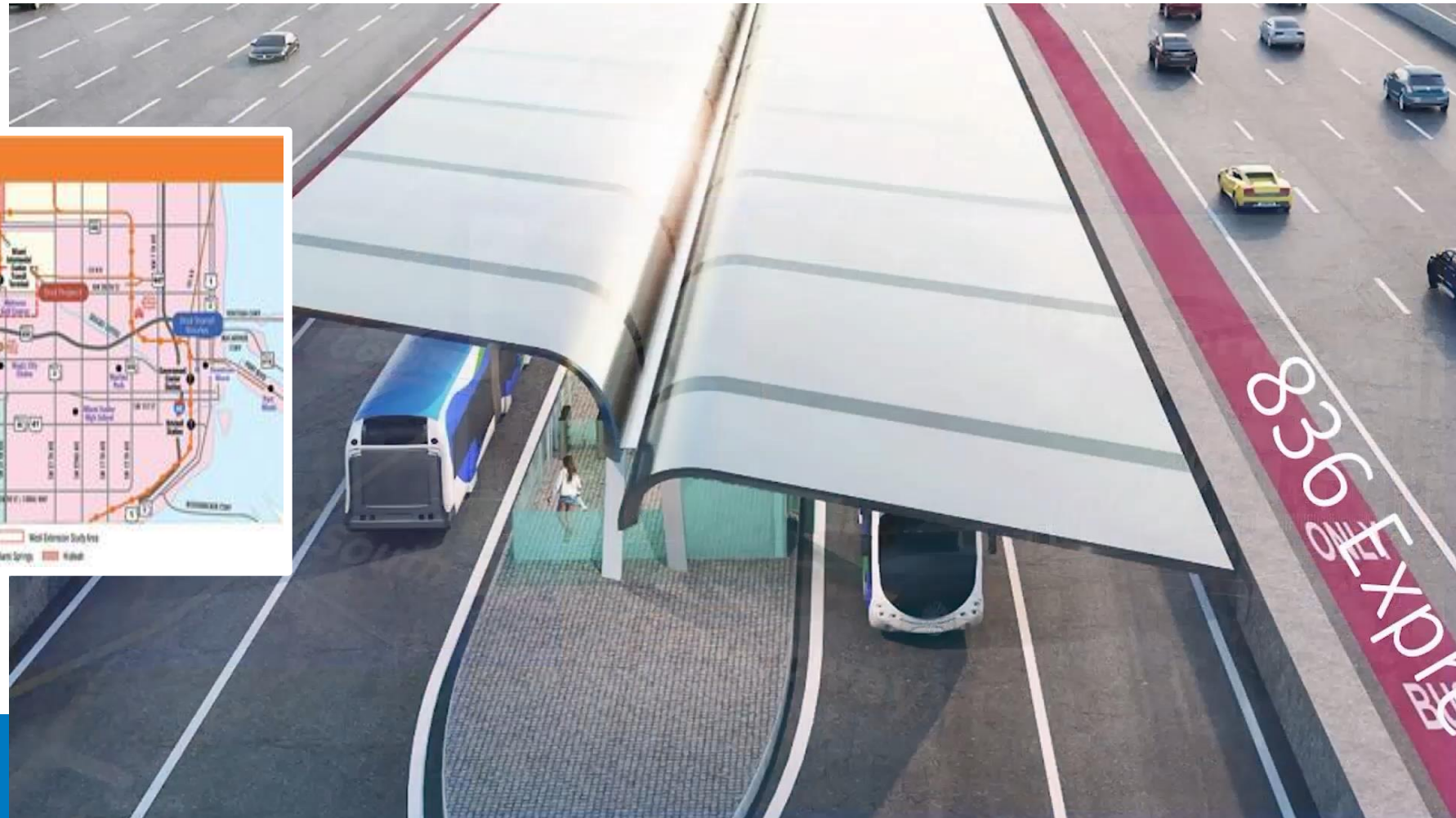


Citizens' Independent Transportation Trust (CITT)

East-West Corridor



Bus Rapid Transit along State Road 836, from downtown Miami, including stations at Miami International Airport, Florida International University, the Dolphin and Tamiami Park and Ride Facilities.

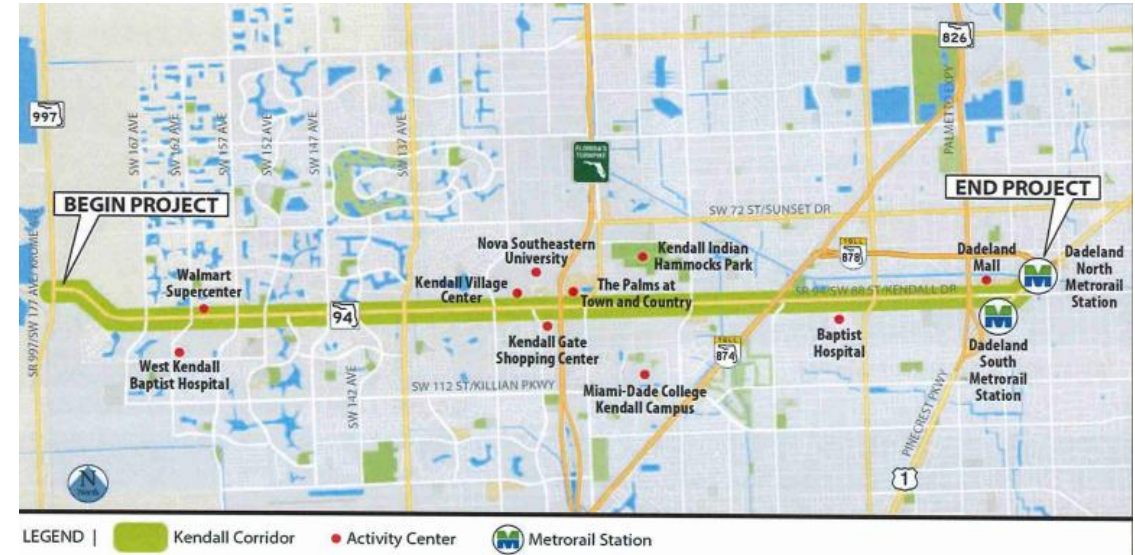




Kendall Corridor



Bus Rapid Transit along Kendall Drive from the Dadeland North Metrorail Station to Krome Avenue.





Northeast Corridor



A more accessible commuter rail option with neighborhood stations from downtown Miami to Aventura. Will link with Brightline intrastate passenger rail.





Citizens' Independent Transportation Trust (CITT)

North Corridor



Will feature an elevated rapid transit line, connecting the existing Metrorail system at the Martin Luther King Jr. Station to the Broward County line along Northwest 27th Avenue

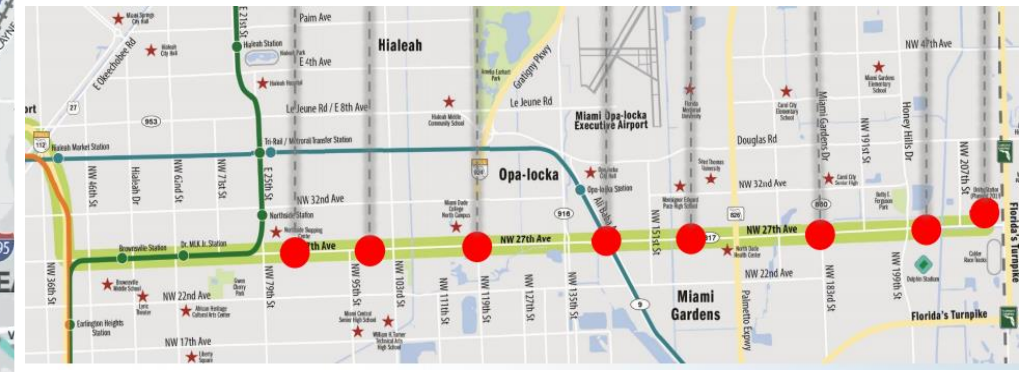
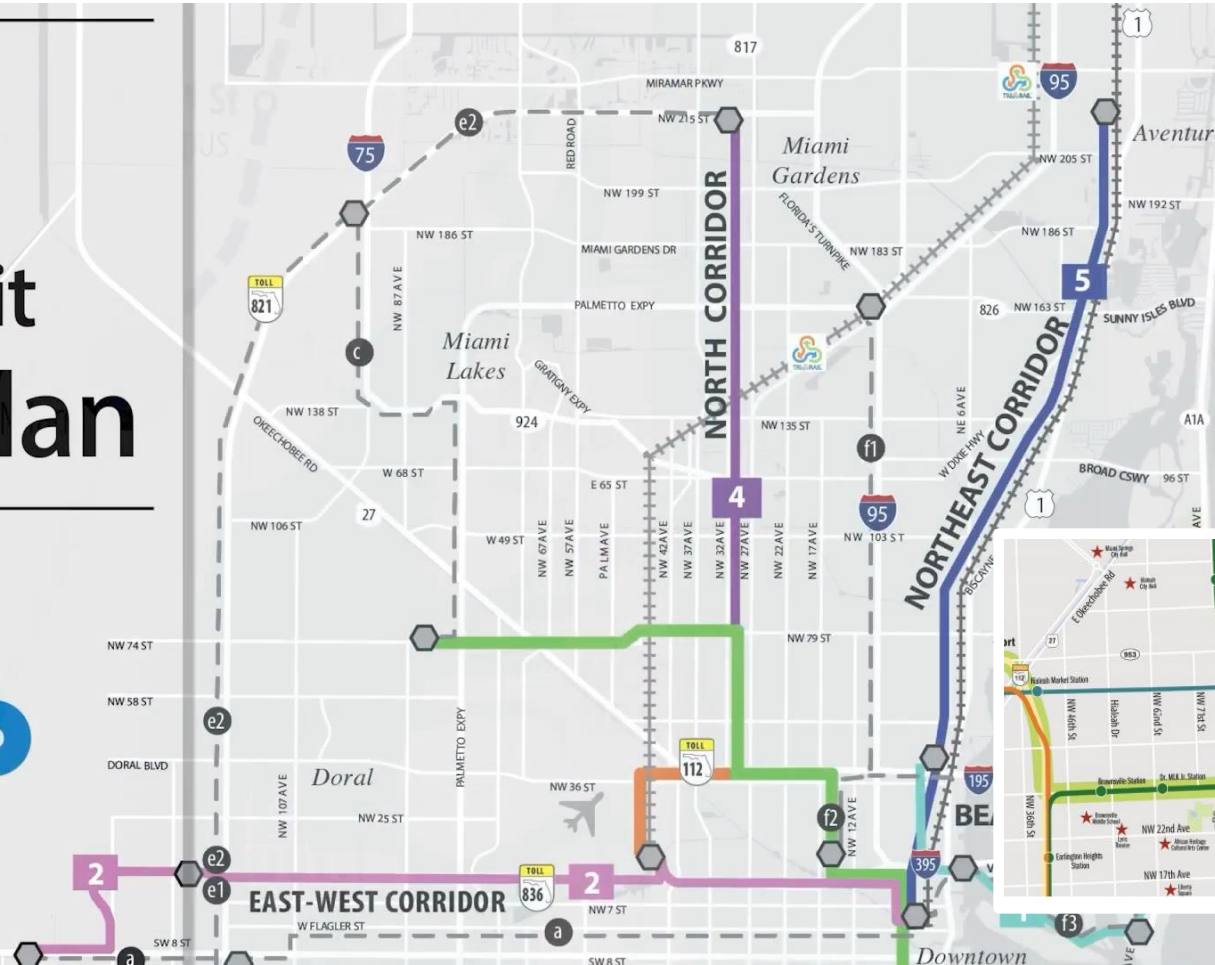
Strategic Miami Area Rapid Transit SMART Plan



Miami-Dade Transportation Planning Organization



TAMIAMI TRAIL





Park-and-Ride Facilities



The People's Transportation Plan funded three major Park-and-Ride facilities, offering commuters the ability to leave their cars away from the congested urban core and seamlessly transfer to transit.





Funding Lasagna



✓ PTP Surtax / Half-Penny

- Capital Expansion Reserve Fund
- Future Uncommitted Proceeds
- Municipal Share

✓ TPO Flexed SU Grant

✓ State/Federal Grants

Toll Revenue

- GMX fna MDX
- Florida's Turnpike
- Express Lanes

Local Option Gas Tax

- Restoration of 2 cents

Parking Revenue



Value Capture District

- ✓ Tax Increment Financing (TIF) District
 - Speed Assessment District
 - CRAs

Public & Private Partnerships

- ✓ Brightline
 - TODs / Adopt-A-Station
 - Port Tunnel Model (available payments)



Additional Areas of Focus



First / Last Mile Solutions
(Bike/Pedestrian, On-Demand...)



**Enhancing County/
Municipal Connectivity**

**Improving the
Customer Experience**
(Maintenance, Cleanliness,
Performance...)



**Community
Engagement**



Eligibility Requirements

- Ride Miami-Dade Transit at least three times per week

Provide Feedback

- Share your experiences via the app
- Help improve the system with your suggestions

Receive

- Points for transit passes, ride-share and more
- Community service hours

What MDC Service did you board? *

Metrobus
 Metrorail
 Metromover
 Trolley
 On-demand Services

If Trolley, what city, route, and stop did you board? *

(e.g. "Miami/Biscayne/1-Design District")

What time did you board? *

HH:MM PM

Hour Minutes

Where did you get off the Trolley (city/route/stop)? *

(e.g. "Miami/Biscayne/1-Design District")

What is the condition of the stop or station where you boarded? *

Excellent
 Good

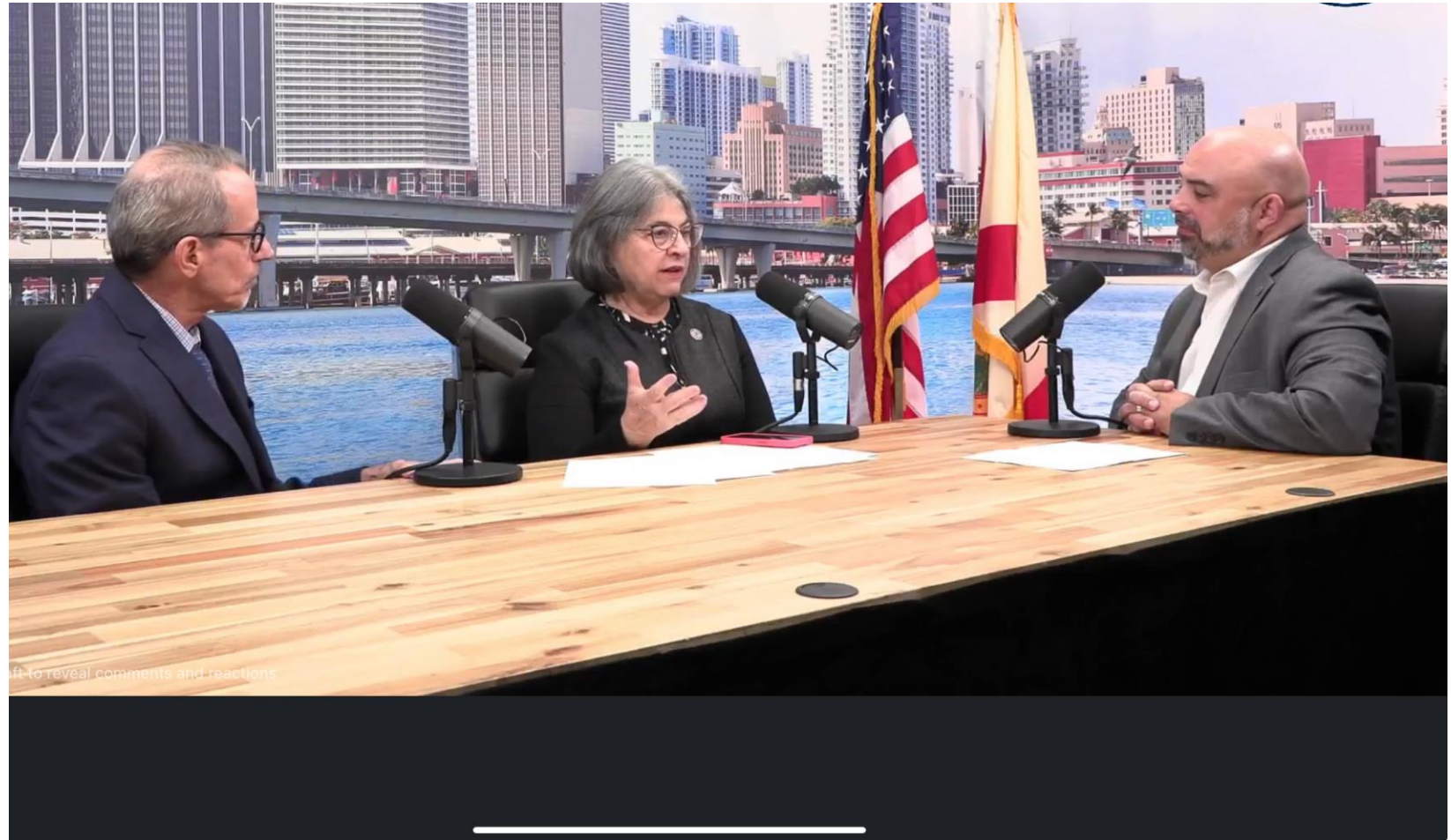


Our Talk Show

- Social Media program focused on mobility matters (*hence the name*)
- On Facebook Live & YouTube
- Every other Thursday at 9 am
- Miami's Community Newspapers Studio (South Miami)
- *Be Our Guest!*

[Facebook.com/TransportationTrust](https://www.facebook.com/TransportationTrust)

[YouTube.com/CommunityNewspaper1946](https://www.youtube.com/CommunityNewspaper1946)



Trust member Paul Schwiep, and Miami-Dade Mayor Daniella Levine Cava on a Mobility Matters podcast with Javier Betancourt.

Thank You



Javier A. Betancourt
Executive Director






 305-375-1375

 Javier.Betancourt@miamidade.gov



CITIZENS' INDEPENDENT
TRANSPORTATION TRUST

Let's Stay Connected!

-  @GoCITT
-  @TransportationTrust
-  Citizens' Independent Transportation Trust
-  Citizens' Independent Transportation Trust
-  @TransportationTrust



SCAN TO
LEARN
MORE



miamidade.gov/citt

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 2.

ITEM: Vice President, Government Affairs, Eileen Damaso - Coastal Waste & Recycling.
Enclosed is a copy of the recycling contract.

DESCRIPTION:

As a result of concerns regarding the recycling company comingling recyclable materials with trash, Ms. Damaso will provide an update.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

There is no financial impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Coastal Waste Recycling
----	-------------------------

**RESIDENTIAL SOLID WASTE, BULK WASTE, AND RECYCLING COLLECTION
AND DISPOSAL SERVICES AGREEMENT**

This Agreement for Solid Waste, Bulk Waste, and Recycling Collection and Disposal Services ("Agreement") is made and entered into on this 23 day of March 2017 ("Effective Date") by and between the Town of Bay Harbor Islands, Florida, a municipality existing under the law of the State of Florida ("TOWN"), and WORLD WASTE RECYCLING, INC. ("CONTRACTOR").

WHEREAS, TOWN desires to engage the services of CONTRACTOR for solid waste, bulk waste, and recycling collection and disposal services;

WHEREAS, CONTRACTOR desires to provide its services to the TOWN for solid waste, bulk waste, and recycling collection and disposal; and

WHEREAS, TOWN and CONTRACTOR have agreed upon the terms and conditions for the provision of solid waste, bulk waste, and recycling collection and disposal.

NOW THEREFORE, TOWN and CONTRACTOR agree as follows:

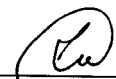
1. **RECITALS:** The above recitals are true, correct, and made a part of this Agreement.

2. **DEFINITIONS:** For the purpose of this Agreement, the definitions contained in this Section shall apply unless otherwise specifically stated. If a word or phrase is not defined in this Section, the definition of such word or phrase as contained in the Code of the TOWN shall apply. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural shall include the singular, and use of the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely discretionary.
 - a. **Back Door Services** shall mean the collection and disposal of Solid Waste and Recyclables from a location near or around the back door of Single Family Homes, Multi Family Buildings, Commercial Units, and Restaurants, including any designated solid waste or recycling storage area.

 - b. **Side Yard Services** shall mean the collection and disposal of Solid Waste and Recyclables from a location near or around the side yard of Single Family Homes and Multi Family Buildings, including any designated solid waste or recycling storage area.

 - c. **Bulk Waste** shall mean those wastes that may require special handling and management including, but not limited to: White Goods, furniture, equipment, and other similar items including materials resulting from minor home


Contractor


Town

repairs. Bulk Waste shall include all types of palm fronds and any vegetative matter resulting from normal yard and landscaping maintenance that exceeds six inches (6") in diameter. Bulk Waste must be generated by the customer for whom the Bulk Waste is collected. Bulk Waste does not include items herein defined as Contractor-Generated Waste or Exempt Waste.

d. **Business Day** shall mean any day, Monday through Saturday, from 9 a.m., EST or EDT (if applicable) until 6 p.m., EST or EDT (if applicable).

e. **Collection Services** shall mean the process whereby an unlimited amount of Solid Waste, Bulk Waste, and Recyclable Materials are removed by CONTRACTOR from the Customers of Single Family Homes, Multi Family Homes, Commercial Units, and Restaurants and from TOWN Facilities and Community Events within the Service Area, and transported to the Designated Disposal or Recycling Facility and CONTRACTOR shall pay for all Disposal Charges. Collection Services shall not include Exempt Waste.

f. **Commercial Units** shall mean all retail, professional, wholesale, institutional and industrial facilities offering goods or services to the public and any other commercial enterprises, including Hotels and Motels, located in the Service Area.

g. **Community Events** shall mean events sponsored or co-sponsored by the TOWN.

h. **Construction and Demolition Debris** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean discarded materials generally considered to be not water-soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soils, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site.

i. **Contractor-Generated Waste** shall mean Bulk Waste generated by builders, building contractors, privately employed tree trimmer and tree surgeons, landscape services, lawn or yard maintenance services, and nurseries.

j. **Customer** shall mean the owner or tenant of each Single Family Home, Multi Family Home, Commercial Unit, or Restaurant.


Contractor


Town

k. **Designated Disposal Facility** shall mean the facility designated by the CONTRACTOR which may include the requirements of the Miami-Dade County Department of Solid Waste Management and the State of Florida. CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Disposal Facility resulting from CONTRACTOR's Collection Services.

l. **Designated Recycling Facility** shall mean the Recovered Materials Processing Facility designated by the CONTRACTOR that may include the requirements of the Miami-Dade County Department of Solid Waste Management and the State of Florida. CONTRACTOR shall be responsible for all Disposal Charges owed to the Designated Recycling Facility resulting from CONTRACTOR's Collection Services.

m.

n. **Disposal Charges** shall mean the prevailing per-ton rate charged at the Designated Disposal Facility and Recovered Materials Processing Facility for the acceptance and disposal of Solid Waste, Bulk Waste, and Recyclable Materials. CONTRACTOR is responsible for all Disposal Charges.

o. **Exempt Waste** shall mean Construction and Demolition Debris, Contractor-Generated Waste, Hazardous Waste, automobile parts, boats, boat parts, boat trailers, internal combustion engines, lead-acid batteries, oil, tires, those wastes under the control of the Nuclear Regulatory Commission, and those other materials whose size, weight, or both are in excess of that allowed for Bulk Waste as defined herein.

p. **Garbage** shall mean all putrescible waste that generally includes, but is not limited to, kitchen and table food waste, animal, vegetative, food, or any organic waste that is attendant with or results from the storage, preparation, cooking, or handling of food materials.

q. **Holiday** shall mean Work Day(s) in which Collection(s) shall not occur which shall include, New Year's Day, Thanksgiving, and Christmas provided, however, that collection services shall occur on the next calendar day.

r. **Hazardous Waste** shall mean Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or


Contractor


Town

otherwise managed.

s. **Multi Family Home** shall mean each individual residential dwelling unit located within buildings that have two (2) or more residential dwelling units, including condominium and apartment rental buildings located in the Service Area.

t. **Multi Family Building** shall mean a building in which Multi Family Homes are located in the Service Area.

u. **Ordinance** shall mean all parts of the Code of the TOWN, including those governing Solid Waste Collection, Disposal, and Recycling activities within the TOWN.

v. **Rate Structure** shall mean the rates approved by the TOWN shown in Exhibit "A."

w. **Recovered Materials Processing Facility** shall mean a facility engaged in the storage, processing, resale, or reuse of Recyclable Materials and that meets the requirements of Section 403.7046, Florida Statutes.

x. **Recyclable Materials** shall mean those materials that are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste. Recyclable Materials to be collected shall include all materials that are accepted by the Recovered Materials Processing Facility. These materials may be re-defined by the TOWN from time-to-time, at the sole discretion of the TOWN, and shall initially include, but not be limited to, commingled paper (including, office paper, brown bags, newspaper, and magazines), glass, cardboard, paperboard, plastic bottles and containers, and steel, tin and aluminum cans.

y. **Recycling** shall mean any process by which materials which would otherwise have been Residential Solid Waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

z. **Standard Recycling Containers** shall mean "milk crate" containers that are approximately 12 gallons each and are supplied by the TOWN and shall at all times be the property of the TOWN.

aa. **Large Recycling Containers** shall mean any commonly available light-gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, and without any jagged or sharp edges, furnished with a closely fitted top or lid, and handle. A Large Recycling Container shall be of a capacity of not less than ninety six (96) gallons and have no Advertising upon


Contractor


Town

them. Large Recycling Containers shall be provided and maintained by CONTRACTOR at CONTRACTOR's sole cost and expense.

bb. **Scheduled Collection Day** shall mean any day in which Collection activities take place.

dd. **Service Area** shall mean the municipal limits of the TOWN.

ee. **Solid Waste** as defined in Chapter 403, Florida Statutes, as may be amended from time to time, shall mean Garbage, Yard Trash, and rubbish resulting from the normal activities of a Single Family Home, Multi Family Home, Commercial Service Unit, and Restaurant. Solid Waste must be generated by the Customer wherein the Solid Waste is collected and does not include items defined herein as Exempt Waste. Recyclable Materials are not Solid Waste unless included in the contents of the designated Solid Waste Container.

ff. **Solid Waste Container** shall mean any commonly available light-gauge steel, plastic or galvanized receptacle of a non-absorbent material, closed at one end and open at the other, and without any jagged or sharp edges, furnished with a closely fitted top or lid, and handle. A Solid Waste Container shall be of a capacity of not less than ninety six (96) gallons and have no Advertising upon them. Solid Waste Containers shall be provided and maintained by CONTRACTOR at CONTRACTOR's sole cost and expense.

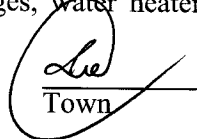
gg. **Special Material Station** shall mean those locations designated by the TOWN for the Collection of special household items including: paint containers, aerosol cans, pesticides, chemicals, batteries, lead acid batteries (including automotive), fluorescent light bulbs, automotive tires, used oil, etc. CONTRACTOR shall set up the Collection station, including providing containers for such articles, for this purpose on a schedule as requested by the TOWN. These stations shall be set up on a temporary basis, with the hours and duration to be specified by the TOWN. The frequency and number thereof shall be designated by the TOWN.

hh. **TOWN Facilities** shall mean the facilities used by the Town to administer the services for the Town and its common areas.

ii. **Unit** shall mean each Single Family Home, Multi Family Home, Commercial Unit, and Restaurant located in the Service Area and as set forth in Exhibit "A."

jj. **White Goods** shall mean discarded refrigerators, ranges, water heaters,


Contractor


Town

freezers, and other similar domestic appliances. White Goods must be generated by the Customer and at the location wherein the White Goods are collected.

kk. **Work Day** shall mean any day, Monday through Saturday.

ll. **Yard Trash** shall mean any vegetative matter resulting from normal yard and landscaping maintenance that is not more than six inches (6") in diameter. Yard Trash must be generated by the Customer and at the location wherein the Yard Trash is collected. Yard Trash does not include items herein defined as Contractor-Generated Waste or Exempt Waste.

3. **COLLECTION SERVICES:** CONTRACTOR shall provide Collection Services within the Service Area during a Business Day that is not a Holiday as follows:

a. **Solid Waste.**

i. **Single Family Homes.** CONTRACTOR shall provide Collection Services of Solid Waste via Side Yard Services and Back Door Services from Solid Waste Containers located at Single Family Homes three (3) times a week on Tuesdays, Thursdays, and Saturdays.

ii. **Multi Family Buildings, Multi Family Homes, and Commercial Units.** CONTRACTOR shall provide Collection Services of Solid Waste via Back Door Services and Side Yard Services from Solid Waste Containers and dumpsters located at Multi Family Buildings, Multi Family Homes, and Commercial Units three (3) times a week on Mondays, Wednesdays, and Fridays.

iii. **Restaurants.** CONTRACTOR shall provide Collection Services of Solid Waste via Back Door Services from Solid Waste Containers and dumpsters located at Restaurants on each Business Day.

iv. **TOWN Facilities.** CONTRACTOR shall provide Collection Services of Solid Waste from Solid Waste Containers and dumpsters located at TOWN Facilities at no additional charge to the TOWN three (3) times per week on Mondays, Wednesdays, and Fridays.

v. **Community Events.** CONTRACTOR shall provide Solid Waste Containers or their equivalent and Collection Services of Solid Waste from Community Events upon the request of the TOWN and at no additional charge to the TOWN.

vi. **Solid Waste Containers.** Solid Waste Containers shall be returned to their original location with the lid closed. Dumpsters shall be returned to their original location. In the event that a Solid Waste Container or dumpster is damaged beyond normal wear or tear or is lost, CONTRACTOR shall be responsible to replace or repair the Solid Waste Container or dumpster at CONTRACTOR's sole cost.


Contractor


Town

b. Recycling.

i. Single Family Homes, Multi Family Buildings, Multi Family Homes, Commercial Units, Restaurants, and TOWN Facilities. CONTRACTOR shall provide Collection Services of Recyclable Materials contained in Standard Recycling Containers via Side Yard Services and Back Door Services from Single Family Homes, Multi Family Buildings, Multi Family Homes, Commercial Units, Restaurants, and TOWN Facilities two (2) times per week.

ii. Recycling Containers. In the event that a Customer's Recycling Materials are expected to be more than that which will fit in a Standard Recycling Container, CONTRACTOR shall provide a Large Recycling Container to such a Customer. In the event that a Large Recycling Container is damaged beyond normal wear or tear or is lost, CONTRACTOR shall be responsible to replace or repair the Large Recycling Container at CONTRACTOR's sole cost. Recycling Containers shall be returned to their original location with the lid closed, if applicable. In the event that a Large Recycling Container is damaged beyond normal wear or tear or is lost, CONTRACTOR shall be responsible to replace or repair the Large Recycling Container at CONTRACTOR's sole cost.

iii. Community Events. CONTRACTOR shall provide Large Recycling Containers or their equivalent and Collection Services of Recyclable Materials from Community Events upon the request of the Town and at no additional charge to the Town.

iv. Batteries. CONTRACTOR shall provide Large Recycling Containers for household alkaline batteries including, but not limited to, the AA, AAA, 9 Volt, C, and at battery drop off sites that will be designated by TOWN and at no additional cost to the TOWN.

v. Routes and Customer Count. CONTRACTOR shall be responsible for counting the number of Recycling Customers. Contractor shall provide to the TOWN with a route map containing the Customer count within ninety (90) days from April 1, 2017, which shall serve as the initial count of Customers in the Recycling Services. To the extent that a new Customer is created as a result of new construction or the occupancy of a formerly vacant property, the TOWN shall provide the new Customer with a Standard Recycling Container and shall be included as a Recycling Customer within twenty one (21) days of notice from the TOWN to CONTRACTOR.

c. Bulk Waste

i. Single Family Homes, Multi Family Buildings, Multi Family Homes, Commercial Units, and Restaurants. CONTRACTOR shall provide Collection Services of Bulk Waste by Back Door Services for Customers located in Commercial Units, Restaurants, and Multi Family Buildings, and from the curbside of Customers located in Single Family Homes and Multi Family Homes one (1) time per week.


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Town

ii. TOWN Facilities. CONTRACTOR shall provide the TOWN with one (1) twenty (20) yard roll off container and one (1) thirty (30) yard roll off container for use of the TOWN shall provide Collection Services of Bulk Waste from said containers one (1) time per week.

iii. Emergency Collection Services of Solid Waste and Bulk Waste. CONTRACTOR shall provide Emergency Collection Services of Solid Waste and Bulk Waste (“Emergency Services”) in response to any emergency or storm within twenty-four (24) hours of receiving a request for Emergency Services from the TOWN. CONTRACTOR shall be responsible for the preparation of all documents and forms and support information required by the United States Federal Emergency Management Agency (“FEMA”) or other applicable governmental entities. Such documents, forms, and information shall be submitted to the TOWN by the CONTRACTOR within the time limits established for such filings. CONTRACTOR shall receive additional compensation, above the normal compensation contained in this Agreement, as set forth below, provided the CONTRACTOR has first secured written authorization and approval from the TOWN through the TOWN Manager, for such Emergency Services.

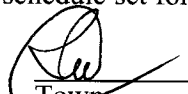
d. Hazardous Waste. In the event that CONTRACTOR identifies Hazardous Waste during its Collection Services, it shall notify the Customer of its finding, the TOWN, and any required governmental agency.

e. Special Material Stations. CONTRACTOR shall provide Special Material Stations and Collection Services at sites designated by the TOWN and at no additional charge to the TOWN.

f. Deficiencies. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or deficiencies in the Collection Services.

4. EQUIPMENT. CONTRACTOR shall provide and maintain and have available at all times the necessary amount of trucks and equipment to perform the Collection Services, including Emergency Services. CONTRACTOR shall provide new and sufficient equipment, in proper operating condition, so that regular schedules and routes of Collection Services shall be maintained. Equipment is to be maintained in reasonable and safe working condition. Vehicles used for Collection Services shall be painted uniformly in color, with the name of the CONTRACTOR and the number of the vehicle printed in letters not less than four inches (4”) high on each side of the vehicle and a record kept of the vehicle to which each number is assigned. No Advertising shall be permitted on such vehicles or any equipment or container used by CONTRACTOR in the Service Area. CONTRACTOR is required to keep vehicles and containers cleaned and painted to present a pleasing appearance. In the event that any of CONTRACTOR’s equipment shall fail, suffer a break down, or otherwise become inoperable, CONTRACTOR shall immediately notify the TOWN and shall immediately substitute such equipment in order to complete the Collection Services in accordance with the schedule set forth


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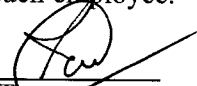
in this Agreement. Vehicles shall not be overloaded so as to scatter refuse; however, if refuse is scattered from the CONTRACTOR's vehicle for any reason, it shall be picked up immediately. Each vehicle shall have a fork and broom for this purpose. CONTRACTOR's vehicles shall not interfere unduly with vehicular or pedestrian traffic and are not to be left standing on streets unattended, except as is necessary by loading operations, and shall move with the traffic flow.

5. CONTRACTOR'S EMPLOYEES.

a. CONTRACTOR's Collection Services Employees. All employees and contractors of the CONTRACTOR shall be considered to be, at all times, the sole employees or contractors of the CONTRACTOR under its sole discretion and not an employee, contractor, or agent of the TOWN. CONTRACTOR shall only use personnel for Collection Services who are properly and duly licensed to operate the vehicles used to render the services specified in this Agreement, who are not registered sex offenders, and who have not had any felony conviction within two (2) years of employment, or who are not participating in or under any form of parole, supervised release, probation, or other form of supervision or monitoring by any court or criminal justice agency. CONTRACTOR shall assign a specifically designated crew for Collection Services, which shall remain constant, to render services to the TOWN. CONTRACTOR shall have a designated supervisor or Project Manager on-call at all hours who shall regularly confer with the TOWN regarding the Collection Services provided to the Town and CONTRACTOR's performance in accordance with this Agreement.

b. Competent Employees. The direction and supervision of Collection Services shall be by competent, qualified and sober personnel, and the CONTRACTOR shall devote sufficient personnel, time, and attention to the direction of the operation to assure performance satisfactory to the TOWN. All subcontractors, sub-consultants, superintendents, foremen, and workmen employed by the CONTRACTOR shall be careful and competent. The CONTRACTOR shall also provide uniforms that are clearly identified with the CONTRACTOR name. Employees and subcontractors of the CONTRACTOR shall have and wear proper dress attire at all times. Proper dress attire shall consist of industrial style work pants, a button front shirt or T-shirt with the CONTRACTOR's name or logo and the name of the shirt bearer, and appropriate footwear. All employees used by the CONTRACTOR during the term of the Agreement shall be of a standing or affiliation that will permit the CONTRACTOR's performance herein to be carried on harmoniously and without delay, and in no case, or in any circumstance, will such employees cause any disturbance, interference, or delay to any work or service rendered to the TOWN or by the TOWN, and in no case or in any circumstance will the employees conduct themselves negligently, disorderly, or dishonestly in the due and proper performance of the employee's duties. CONTRACTOR shall see to it that its employees serve the public in a courteous, helpful, and impartial manner. CONTRACTOR's employees shall not meddle with property that does not concern him or her. Care should be taken to prevent damage to property, including flowers, shrubs, and other plantings. After emptying Containers and roll-offs employees shall return them to the same location from which they were taken, in the proper position on the side of the dwelling or loading area and anything spilled shall be picked up immediately by such employee.


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Any damages caused by CONTRACTOR's employees shall be paid by CONTRACTOR.

c. Roster. Upon the Effective Date of this Agreement, CONTRACTOR shall provide the TOWN with the full name, date of birth, and social security number of each member of the designated crew and the supervisor. TOWN shall have the right to verify criminal history of each member of the crew and the supervisor assigned to the TOWN. CONTRACTOR shall update its roster and send the updated roster to the TOWN each time a new employee begins working within the TOWN during the term of the Agreement.

d. Compliance with Employment Law. CONTRACTOR shall comply with all applicable municipal, County, State and Federal laws relating to wages, hours and all other applicable laws relating to the employment or protection of employees, now or thereafter in effect and shall indemnify the TOWN against all claims made against the TOWN arising out of or relating to CONTRACTOR's employees and contractors.


6. COMMUNITY OUTREACH/MARKETING PROGRAM. In an effort to educate residents of the TOWN and ensure the success of the Collection Services, the TOWN will publish a Customer Guide ("Guide") detailing all of the information associated with the Collection Services. At the request of the TOWN, the CONTRACTOR shall partially sponsor the publication of the Guide in an amount not to exceed \$1,000.00. In the event that the Guide is not published, CONTRACTOR shall, at CONTRACTOR'S sole cost, publish an annual newsletter, providing Customers with information concerning a wide range of topics designed to facilitate the Collection Services, as well as to produce savings in the performance of CONTRACTOR'S services.

7. INDEPENDENT CONTRACTOR. Nothing in this Agreement shall create any kind of employer-employee, agency, partnership, or joint venture relationship between the TOWN and CONTRACTOR or any of CONTRACTOR's employees, agents, and independent contractors. It is agreed that CONTRACTOR is an independent contractor, who is providing its own equipment and facilities, and is solely responsible for selecting, directing, and supervising its employees, as well as complying with all relevant laws, codes, regulations, and rule pertaining to its operation, including employment and labor practice. The parties specifically intend that CONTRACTOR shall be an independent contractor for all purposes. The TOWN shall at no time be liable for any bodily or personal injury or property damage to any individual, firm, entity, or corporation resulting from any negligence or intentional acts on the part of the CONTRACTOR, its servants, employees, agents, and representatives.

8. COMPLIANCE WITH LAW. It is understood and agreed that CONTRACTOR shall have all licenses necessary to provide all Collection Services and shall fully comply with any and all Federal, State, County, and Municipal laws, codes, rules, and regulations, of any kind, which is applicable, in any manner, to the Collection Services.

9. ASSUMPTION OF RISK. CONTRACTOR assumes any and all risk of damage


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and injury to property and persons in connection with the Collection Services It is specifically agreed and understood that in no event shall the TOWN be liable for any injury, damage, or loss (including personal injury) to any person and property which in any manner arises out of or relates to this Agreement.

10. INDEMNIFICATION. CONTRACTOR shall indemnify, defend, and hold harmless the TOWN and its officials, employees and agents (collectively referred to as "Indemnities") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of the Collection Services contemplated by this Agreement which is or is alleged to be directly or indirectly caused, in whole or in part, by any act, omission, default or negligence (whether active or passive) of the CONTRACTOR or its employees, agents or subcontractors (collectively referred to as "CONTRACTOR"), regardless of whether it is, or is alleged to be, caused in whole or in part (whether joint, concurrent or contributing) by any act, omission, default or negligence (whether active or passive) of the Indemnities, or any of them or (ii) the failure of the CONTRACTOR to comply with any of the paragraphs herein or the failure of the CONTRACTOR to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal or state, in connection with the performance of this Agreement. CONTRACTOR expressly agrees to indemnify and hold harmless the Indemnities, or any of them, from and against all liabilities which may be asserted by an employee or former employee of the CONTRACTOR, or any of its subcontractors and independent contractors, as provided above.

11. INSURANCE. CONTRACTOR shall maintain during the term of the agreement the following insurance coverage:

a. Comprehensive General Liability Insurance of no less than one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

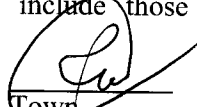
b. Automobile Liability Insurance covering all owned, leased, rented or otherwise hired vehicles in amounts not less than one million dollars (\$1,000,000.00) per occurrence combined single limit for bodily injury and property damage.

c. Umbrella Insurance of no less than one five million dollars (\$5,000,000.00) per occurrence for bodily injury and property damage.

d. Workers' Compensation Insurance in compliance with Chapter 440, Florida Statutes.

e. The TOWN shall be named as an additional named insured (and not merely a certificate holder) on the insurance policies required under subsections (a) through (c) above on a primary and non-contributory basis. The insurance policies required shall include those


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classifications as listed in Standard Liability Insurance manuals which most closely reflect performance under this agreement.

f. Each insurance policy shall state that it cannot be cancelled or modified without written notice to the TOWN at least 30 days prior to the effective date of cancellation or modification.

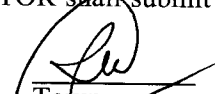
12. PROPERTY DAMAGE. CONTRACTOR shall be responsible for the repair or replacement if repair is not adequate, of any damages to public or private property caused by the CONTRACTOR or the CONTRACTOR's employees, agents, and contractors during the Collection Services.

13. COMPENSATION.

a. Collection Services. As compensation for all of services provided by the CONTRACTOR under this Agreement, including the Collection Services (but specifically **excluding** Emergency Services, as set forth below), the TOWN agrees to pay CONTRACTOR in accordance with the Rate Structure submitted by CONTRACTOR in response to the RFP and as set forth in Exhibit "A" attached hereto (The "Monthly Fee"). Any changes to the type and number of Units (and the Restaurant's associated Solid Waste Container price, per unit) shall result in a corresponding upward or downward adjustment of the Monthly Fee in accordance with Exhibit "A."

b. Adjustment to Monthly Fee. The Monthly Fee payable to CONTRACTOR under this Agreement, except for that portion of the monthly Unit price which is attributable to CONTRACTOR'S Disposal Charges for the tipping fee, shall be subject to annual price adjustments (increase or decrease), which shall be authorized by applying to the contract price, the ratio of change between the previous year and the current index of the Consumer Price Index for ALL ITEMS published by the U.S. Department of Labor, Bureau of Labor Statistics for the month ending sixty (60) days prior to the anniversary date of the Agreement. The parties hereby agree that for the purposes of calculating the exclusion from the CPI increase for tipping fees, the tipping fee is deemed to be fifty-five (55%) percent of the monthly unit price. In the event that tipping fees increase, the CONTRACTOR may request an adjustment to the Monthly Fee which shall be equal to the per ton increase in tipping fee times an assumed average monthly tonnage. The assumed average monthly tonnage for calculating any adjustment to the monthly fee due to increased tipping fees shall be tons estimated after three months of service. This assumption shall remain in force during the Initial Term of the Agreement and any Renewal Period(s). Any adjustment in the monthly fee due to increased tipping fees shall be calculated by multiplying the increase in per ton tipping fees by the assumed average monthly tonnage (tons estimated after three months of service). As an example, if tipping fees increase by \$1.50 per ton, the monthly fee would increase by **estimated monthly tons** times \$1.50 or \$DDD.CC. Any adjustment in the contract price must be supported by documentation of changes in the Consumer Price Index or tipping fees. To request an increase, the CONTRACTOR shall submit


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all records and information reasonably requested by the TOWN as would support the requested increase to the Town Manager for review and approval. The CPI adjustment for any year shall not exceed one hundred twenty five (125%) percent of the immediately prior year's CPI adjustment or five (5%) percent, whichever is less. All calculations pursuant to this paragraph shall be subject to confirmation by the TOWN'S Finance Director.

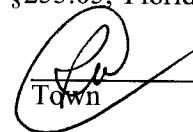
c. Emergency Services. Compensation for Emergency Services collections shall be in accordance with a fee schedule to be provided by the CONTRACTOR and agreed to by the TOWN at the time such Emergency Services are provided. CONTRACTOR shall supply detailed, itemized invoices for all Emergency Services. CONTRACTOR agrees that if the cost of Emergency Services pursuant to such fee schedule should be deemed by FEMA to exceed reasonable cost, the TOWN shall only be liable to the CONTRACTOR for the maximum amount deemed reasonable and reimbursable by FEMA. CONTRACTOR acknowledges that if the fee schedule for Emergency Services is based on volume of debris rather than actual measured tipping weight of debris, FEMA shall require independent monitors for debris volume. CONTRACTOR agrees to assist the Town in identifying, contacting, and engaging appropriate monitors, independent of the CONTRACTOR, to be compensated by the TOWN. CONTRACTOR acknowledges that if it anticipates providing Emergency Services on the basis of volume, it will contact the TOWN and begin discussions of monitoring arrangements within sixty days of the effective date of this contract.

14. PAYMENT OF COMPENSATION. Invoices shall be rendered to the TOWN every month for actual Collection Services rendered under this Agreement for the prior month period. Invoices shall be due and payable on or before the fifteenth (15th) day of the following month.

15. BREACH OF AGREEMENT. In the event that CONTRACTOR breaches this Agreement by failing to fully and completely perform Collection Services or any other services required of CONTRACTOR by this Agreement, the TOWN shall withhold payment of compensation which would otherwise have inured to the benefit of CONTRACTOR as a direct result of such breach, and should breach not be cured within ten (10) days of written notice by the TOWN to CONTRACTOR, the TOWN may, at its discretion, elect to cancel this Agreement without any further financial obligation of the TOWN from the date of termination.

16. PERFORMANCE BOND. CONTRACTOR shall furnish at its own cost, to the TOWN, an irrevocable Performance Bond, in form and content approved by the TOWN Attorney, for the faithful performance of this Agreement and all of its obligations arising hereunder in the amount of Three Hundred Thousand Dollars (\$300,000.00), which sum constitutes approximately six (6) months of Collection Services. Said bond shall be rated "A+" or better as to management and "FSC XV" or better as to the strength by A.M. Best's Insurance Guide; shall be listed on the U.S. Treasury Department's list of acceptable sureties for federal bonds or bonding limits shall not exceed 20% of its policy surplus (capital & surplus) as listed in Best's Insurance Guide; and, Surety shall have been in business and have a record of successful and continuous operation for at least five years; further, all bonds shall contain all provisions required by §255.05, Florida


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Statutes, guarantee the performance of the Agreement and serve as security for the payment of all persons performing labor and furnishing materials in connection with the Agreement. CONTRACTOR shall furnish to the TOWN proof of such bond within ten (10) calendar days after the Effective Date of this Agreement. Such proof shall include a statement that the policy or bond may not be canceled or altered without at least thirty (30) calendar days prior notice to the TOWN. Maintenance of said bond and the performance by the CONTRACTOR of all of the obligations under this paragraph shall not relieve the CONTRACTOR from any other liability as a result of any breach hereunder. The performance Bond may be "called" in the event of any default hereunder by the CONTRACTOR. The calling of the Bond shall in no manner restrict or preclude any additional or further remedies available to the TOWN against the CONTRACTOR for breach, default, or damages hereunder.

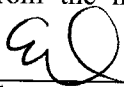
17. INCORPORATION OF THE REQUEST FOR PROPOSALS: The Request for Proposal entitled "Collection, Transportation and Disposal of Solid Waste" dated January 2017 is incorporated into this Agreement herein, by reference ("RPF").

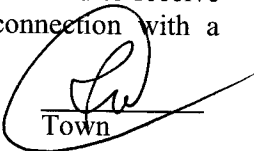
18. AMENDMENTS: This Agreement represents the entire understanding between the parties and may not be modified, altered or amended otherwise than in writing signed by all parties hereto.

19. TERM: This Agreement shall be for an initial term of five (5) years commencing on the 1st day of April, 2017, and shall continue in full force and effect through March 31, 2022 ("Initial Term"). After the Initial Term, the TOWN shall have the option, but not the obligation, to elect two (2) additional consecutive terms of two (2) years each under the same terms and conditions as set forth in this Agreement (each two (2) year period is referred to as a "Renewal Term"). The Renewal Terms shall be automatic unless the TOWN gives written notice to the CONTRACTOR of non-renewal, no less than 90 days prior to the end of the of the Initial Term or ninety (90) days prior to the end of the first Renewal Term.

20. PROBATIONARY PERIOD: Notwithstanding the Initial Term set forth above, there shall be a six (6) month probationary period beginning on the commencement of Collection Services by the CONTRACTOR (April 1, 2017) during which the TOWN shall have the right, in addition to any and all other rights provided in this Agreement, at the TOWN's sole and absolute discretion, to terminate the services of CONTRACTOR for any reason, without affording the CONTRACTOR any notice, explanation, or opportunity to cure any deficiency in the services provided by the CONTRACTOR upon providing written notice of termination.

21. ATTORNEYS' FEES AND COSTS. In the event of a dispute between the Parties that arises out of or relates to this Agreement, the prevailing party shall be entitled to recover against the non-prevailing party all reasonable legal fees and costs incurred by the prevailing party on all levels and proceedings including, but not limited to, all pre-litigation discussions and mediations, and in all trial courts and appellate courts. The prevailing party shall also be entitled to receive from the non-prevailing party all attorneys' fees and costs incurred in connection with a


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Town

determination by the court(s) as to the reasonable attorneys' fees and costs to be awarded pursuant to this paragraph.

22. LAWS OF FLORIDA: This Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida.

23. ASSIGNMENT. Neither this Agreement nor any portion or interest herein, shall, under any circumstances, be sublet, assigned, transferred, or otherwise encumbered by CONTRACTOR without the express written consent of the Town. For purposes of this Agreement, any transaction that results in the CONTRACTOR being purchased by, spun off, or merged with, another corporate entity or the sale of CONTRACTOR's assets, including this Agreement, shall constitute a non-permitted assignment and subject the CONTRACTOR to the Breach, Termination or default provisions of this Agreement at the TOWN's sole and absolute discretion.

24. VENUE. The parties understand and agreed that this Agreement was executed in Miami-Dade County, Florida and that all Collection Services shall be performed in Miami-Dade County, Florida. The parties further agree that, irrespective as to whether venue may also lie in any other county or jurisdiction, including but not limited to the county or jurisdiction within which the CONTRACTOR principal place of business is located, THE EXCLUSIVE VENUE for any action arising out of or relating to the instant Agreement SHALL be Miami-Dade County, Florida. The parties understand and agree that the instant paragraph is a material inducement for the execution of this Agreement.

25. **WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT ALLOWED BY LAW, THE RESPECTIVE PARTIES HERETO DO HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER PERTAINING TO ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.**

26. COUNTERPARTS. This Agreement may be executed in a number of counterparts and transmitted by facsimile or email as a .PDF attachment, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

27. NOTICE. All notice required by this Agreement shall be in writing and sent to the Party's addresses set forth below via hand delivery or by using a nationally recognized overnight carrier (FedEx, UPS, USPS, or DHL):

If to TOWN:

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
ATTN: Town Manager


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Town

With a copy to:

Frank C. Simone, Esquire
FRANK SIMONE, P.A.
701 Brickell Avenue, Suite 1550
Miami, Florida 33131

If to Contractor:

World Waste Recycling, Inc.
4701 NW 35 Ave.
Miami, FL 33142
Attn: Eileen Damaso

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature.

TOWN:

CONTRACTOR:

TOWN OF BAY HARBOR ISLANDS

WORLD WASTE RECYCLING, INC.

By:

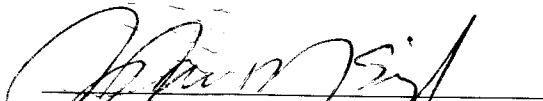

TOWN MANAGER

By:


Eileen Damaso, Vice President

ATTEST:

ATTEST:


Town Clerk, Bay Harbor Islands, Florida


Secretary Michael J Adams

Date

Date

March 23, 2017


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Exhibit "A"
Rate Structure

Monthly Price Schedule for Collection Services

(Per Unit. Per Month)

(Collection Services for Solid Waste (3 times per week),
Bulk Waste (1 time per week), and Recycling (2 times per week))

- | | | |
|----|---|-------------------------------|
| 1. | Multi Family Home and Single Family Home
(2668 Units, as of the Effective Date) | \$17.25, per Unit per Month |
| 2. | Commercial Unit
(19 Units, as of the Effective Date) | \$55.00, per Unit, per Month |
| 3. | Restaurants (and any other Units that have daily
Collection Services) based upon the size of the
Solid Waste Container:
(11 Units, as of the Effective Date) | |
| a. | 96 Gallon Solid Waste Container | \$132.00, per Unit, per Month |
| b. | One (1) Yard Solid Waste Container | \$242.48, per Unit, per Month |
| c. | Two (2) Yard Solid Waste Container | \$484.96, per Unit, per Month |
| d. | Four (4) Yard Solid Waste Container | \$969.92, per Unit, per Month |


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Exhibit "B"

The RFP


Contractor


Town



January 11, 2019

JC Jimenez
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands FL 33154

Re: Transfer of Interest in the Agreements (as defined below)

Mr. Jimenez,

I am writing to inform Town of Bay Harbor Islands (the "Contract Party") that on January 7, 2019 World Waste Recycling, Inc. ("World") entered into a Stock Purchase Agreement with Coastal Waste & Recycling Holdco, LLC ("Coastal") whereby Coastal will acquire all of the issued and outstanding stock of both World and Big Apple (the "Transaction"). This letter is to inform you that upon the closing of the Transaction, Coastal will become the parent entity, and sole shareholder, of World. Pursuant to the terms and conditions of the Transaction, Coastal will thereafter have an interest in World's customer and vendor agreements, including the following agreements with the Contract Party (the "Agreements"):

Residential Solid Waste, Bulk Waste, and Recycling Collection and Disposal Services Agreement by and between World Waste Recycling, Inc. and Town of Bay Harbor Islands, dated March 23, 2017, as amended.

In connection with the acquisition of such interest, the Contract Party agrees and acknowledges that:

1. The Contract Party hereby acknowledges the transfer of the interest in the Agreements to Coastal pursuant to the Transaction and agrees that the Agreements shall remain in full force and effect following the consummation of the Transaction.

2. As of the date hereof, there is no default or event of default under any of the Agreements and no set of facts or circumstances exists which would, but for the passage of time, or the giving of notice, or both, constitute a default under any of the Agreements.

3. There are no other representations, warranties, agreements, concessions, commitments or other understandings between World and the Contract Party, other than as set forth in the Agreements.

4. Neither the Contract Party nor the Company has commenced any action or given or received any notice for the purpose of terminating the Agreements.

5. The Agreements are in full force and effect, and have not been amended, modified, or supplemented in any way.

[Remainder of Page Intentionally Left Blank]


Please sign the enclosed copy of this letter in the space provided below, and return it to me by scan and email to edamaso@worldwasterecycling.com to acknowledge your consent to the assignment of the interest in Agreement by World to Coastal.

Sincerely,



Eileen Damaso
Vice President

AGREED AND ACKNOWLEDGED BY
Town of Bay Harbor Islands



Name

Title



Coastal Waste & Recycling was formed in August of 2017 by its CEO **Brendon J. Pantano** and industry veteran investors Summer Street Capital. Summer Street has been investing in the waste and recycling sector since 2004 partnering with talented leadership teams with several successful investments including, Action Environmental, Interstate Waste Services, Apple Valley Waste, Curtis Bay Medical Waste Services and now Coastal Waste & Recycling.

As a third-generation operator, Brendon grew up working in his family's waste hauling company. He continued his career in the industry, working at both large public and private waste and recycling companies. Most recently Brendon served as District Manager in Miami Dade County for Progressive Waste Solutions/Waste Connections from 2012-2017, prior to that he served as Vice President of Operations at Environmental Logistic Services from 2007-2012 and General Manager of Regus Industries from 2005-2007. From riding on the back of a truck, to environmental compliance and operations, Brendon has experience in every aspect of the business.

Since Coastal's inception we have completed several acquisitions including Nu-Way & Riteway Recycling in Martin County in November of 2017 (Hauling and Processing) , Aquarius Development in Palm Beach County in March 2018 (Processing), Thoroughbred Waste Services June 2018 (Commercial Hauling including Broward County Schools Recycling), Lindimar and Mammoth Recycling in Broward County (Hauling and Processing) in August of 2018 and CCR Recycling in August of 2018 (Hauling including Palm Beach County Schools Recycling) and most recently we were awarded and started implementation of Miami Dade County Schools Recycling.

In the short time from our inception Coastal has been growing and building a superior network of assets and operators. We are now over 70 employees strong with 4 operating locations and 3 post collection processing facilities over 3 counties with expansions coming in Miami Dade County. Not only have we been growing and acquiring assets, but we have been stacking our team with local industry professionals with a long list of accomplishments within south east Florida. In addition to our CEO mentioned above, our senior leadership team includes:

Brian Fleming, Corporate Controller

Brian is a finance and accounting professional with 8 years of experience in waste & recycling collection and disposal. Most recently with Republic services where he had oversight of the Hillsborough County hauling contract from 2010 to 2013 and Palm Beach County SWA zone 3 contract from 2013 to 2016. Brian is responsible for monitoring and maintaining an effective finance and accounting department to support Coastal Waste & Recycling's operations.

Chad Abell, Vice President of Operations

Chad began his operational role within the solid waste industry at Waste Management in Northeast Ohio as a Transfer Station Manager in 2003 and was soon transferred into the landfill line of business where he spent 10 years. He completed his tenure with Waste Management overseeing the construction and opening of a commercial recycling center in Cleveland, Ohio in 2014. Most recently, Chad relocated to South Florida with Waste Connections and was responsible for the operations of 5 transfer stations and 1 material recovery facility from 2014-2018 prior to joining the Coastal Waste & Recycling team.

John Casagrande, Vice President of Business Development

John brings over 40 years of proven experience in the solid waste and recycling industry to Coastal Waste and Recycling L.L.C. As part of the Executive team he is instrumental in the strategic planning and operation of all companies. John came to the South Florida market in 1979 to begin a family owned waste hauling company where he was instrumental in the growth and success of the business which led to the company being purchased by one of the world's largest public waste companies, Attwoods, PLC. In 1999 he moved to Waste Management where he joined the executive team as General Manager for the Southern Group. Throughout his 14-year career with WM, he was placed in roles of increasing levels of responsibility including General Manager, District Manager and ultimately Market Area Vice President. He was responsible for the strategic planning and complete operational execution of the hauling company, landfills, Material Recovery Facilities and transfer stations.

Kristin Stock, Director Billing and Customer Experience

Kristin joined Coastal in August 2018 bringing with her over 25 years of experience in the waste industry. Kristin has worked for many of the top companies such as BFI, Waste Management, Progressive Waste and Waste Connections, in positions ranging from Revenue Manager to Manager, Operations Applications, at Waste Connections (predecessor companies Progressive Waste, Waste Services of FL, Inc.). In her role as Revenue Manager at Waste Connections, Kristin and her team were responsible for billing and collection of large contracts such as Miami-Dade Curbside Recycling, City of Miami Beach residential contract, City of Fort Lauderdale residential contract and over 10,000 individual commercial customers. Kristin was responsible for developing standard policy & procedure,

spanning the entire customer life cycle from billing and routing to collections. Kristin has been able to function as liaison to both Operation and Finance, while supporting end users with the software. Kristin hails from SW Pennsylvania and has made her home in South Florida with her family since 2010.

Gerardo Cardona, Division Hauling Manager

Gerardo Cardona has almost 20 years of experience in the waste industry. Gerardo has focused his career in operations maximizing the efficiency of commercial, residential, roll off operations and running large facilities with a high degree of business expertise. Prior to joining Coastal Waste & Recycling, Inc. in 2018, Gerardo served as Operations Manager with Waste Connections where he managed operations in both Broward and Miami Dade County from 2010-2018. Prior to that he was an Operations Route Manager with Waste Management supervising both the city of Fort Lauderdale, Davie, and Cooper City 2000-2010. In addition to Coastal's robust management team discussed above we have placed a high level of importance on creating a Board of Director's that further compliments and adds to the overall experience of the team. Below are the Bio's of Coastal's current board members.

Michael DiBella, COO and Chairman of the Board of Directors, Action Environmental Group

Mike's career in the solid waste industry spans more than twenty-five years. In 1985, he started as a driver for a family-owned business, DiBella Sanitation, Inc. and eventually worked his way through all aspects of the operation. Mike left Di Bella in 1998 as General Manager. In 1992, Mike started his own solid waste collection company, Environmental Waste Industries, Inc. in Albany, NY where he was Chief Operating Officer until 1998. That same year, he founded Interstate Waste

Services, which serves northern New Jersey and southern New York State. Mike was Chief Operating Officer at Interstate for nearly six years. He joined Action in April 2007 and expanded the company into one of the largest private and innovative provider of non-hazardous waste management services for the City of New York. Today, the Action Environmental Group is a regional company with the purchase of Interstate Waste Services. Mike also led the innovation for the purchase and implementation of the Optical Sorter, a state-of-the-art recycling facility that will allow Action to divert more waste from the landfill.

John Decker, CEO, Oakridge Waste Services

John is a 25-year waste industry veteran who started out on collection routes, operating a transfer station, and working around the shop during the summers for a close family friend and the owner of Bria Carting Company located in the suburbs of New York City. While continuing to work his way through Mr. Bria's company John was also putting himself through college and eventually graduate school earning a BS from DeSales University and an MBA from Lehigh University. Never wanting to leave the industry, John went on to the New England market to develop a "startup" company in Massachusetts/ Cape Cod and has since held high level leadership positions with both public and private waste companies. Most recently, John was the Vice President of Operations for Casella Waste one of the nation's leading solid waste and recycling organizations. In 2010, John partnered with Summer Street Capital and acquired Apple Valley Waste, at the time a West Virginia based solid waste and recycling company, with a commitment to building a regional solid waste and recycling company founded on combining new technology with old fashion values. Apple Valley Waste (AVW) has since quadrupled in size, now ranks in the top 60 waste and recycling companies in the country and has been able to assemble a first-class management team that maintains collection and transfer operations in West

Virginia, Pennsylvania, and Maryland (including the Baltimore/ DC areas). In 2015, Apple Valley constructed and opened the first single stream MRF in its area and John was named the National Waste & Recycling Associations Leader of the Year for his efforts to promote the "Slow Down to get Around" employee safety program. Apple Valley and its business partners also recently broke ground on the first MBT waste to solid fuel plant in the Mid-Atlantic area.

Brian D'Amico, Managing Partner, Summer Street Capital Partners

Brian D' Amico is a founding and managing partner of Summer Street Capital Partners, a Buffalo, NY-based private equity fund focused on the environmental services industry. At Summer Street, Brian oversees the firm's investment activities, operations, and investor relations. Brian leads the firm's Environmental Services Investment Team and serves as Director at Summer Street portfolio companies Action Environmental Services, Apple Valley Waste and Curtis Bay Medical Waste Services. With his substantial experience in solid waste companies, Brian partners with talented managers, bringing capital and resources to support acquisitions and aggressive growth strategies of small to mid-market companies. Brian is a member of several industry associations, including WASTECC, NSWMA, and SWANA.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 4.

ITEM: Consideration and Approval of a resolution approving a combined voluntary cooperation and operational assistance Mutual Aid Agreement with Miami-Dade County Association of Chiefs of Police for Law Enforcement services. Enclosed are the proposed agreement and draft resolution.

DESCRIPTION:

The Town of Bay Harbor Islands periodically renews/implements Mutual Aid Agreements with neighboring agencies to ensure public safety of their respective citizens by providing adequate levels of police services to address any foreseeable routing or emergency situations. This MAA was developed in response to multiple requests for a simplified MAA process - the document addresses all current areas of LE Service, is uniform for all agencies and will be in effect upon signature till 2035 - no more having to address multiple MAA's with a variety of expiration dates, and endless modifications, when another situation / issue arises. The attachment is a Fillable PDF, ensuring that everyone signs the same version. A dozen agencies (Aventura PD, North Bay Village PD, Pinecrest PD, Key Biscayne PD, West Miami PD, Indian Creek PD, Sunny Isles Beach PD, Medley PD, North Miami PD, El Portal PD, Biscayne Park PD, Miami Springs PD), including all the agencies represented on the Executive Board, have executed the agreement. This matter is urgent and time sensitive, as the existing MAA with the Miami-Dade Police Department expires on 01/01/2025. That MAA is in the process of being extended until 01/06/2025 to ensure that there will not be a lapse in mutual aid during the Miami-Dade Police Department's transition to a sheriff's office. On 01/07/2025, the Miami-Dade Police Department will cease to exist, and the Miami-Dade County Sheriff's Office will assume responsibility for Law Enforcement Operations in Miami-Dade County, and the incoming Miami-Dade Sheriff will execute the attached Miami-Dade County Association of Chiefs of Police Combined Voluntary Cooperation and Operational Assistance Mutual Aid Agreement in and Between the Signatory Law Enforcement Agencies.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

There is no fiscal impact for entering into said agreement.

BUDGET IMPACT:

Submitted By: Analily Perez, Compliance Manager

Lindsley Noel

ATTACHMENTS

1.	Staff Memo for Council MOU MDCACP
2.	MDCACP Uniform Multi-Agency Mutual Aid Agreement - FINAL (For Distro) - FILLABLE
3.	Resolution - Miami-Dade County Association of Chiefs of Police



**TOWN OF BAY HARBOR ISLANDS
POLICE DEPARTMENT
MEMORANDUM**

TO:	Mayor and Town Council Members
THRU:	Jenice Rosado, ICMA-CM Town Manager
CC:	Joseph S. Geller, Esq., Town Attorney Yvonne P. Hamilton, CMC, Town Clerk
FROM:	Lindsley Noel Chief of Police
DATE:	December 16, 2024
SUBJECT:	Town of Bay Harbor Islands – Consideration and Approval of a resolution approving the implementation of a Mutual Aid Agreement and Joint Declaration between the Miami Dade County Association of Chiefs of Police Combined Voluntary Cooperation and Operational Assistance in and between all signatory law enforcement agencies. Enclosed are the agreement and proposed resolution.

RECOMMENDATION

Staff recommends that the Town Council approves and adopts the Mutual Aid Agreement which provides for rendering of assistance for routine and law enforcement intensive situations between the signatory law enforcement agencies. This Mutual Aid Agreement combines the elements of a Voluntary Cooperation Agreement, and a requested Operational Assistance Agreement as described in Chapter 23 Florida Statutes. Both the Mutual Aid Agreement and Joint Declaration are attached.

BACKGROUND / ANALYSIS

The Town of Bay Harbor Islands periodically renews/implements Mutual Aid Agreements with neighboring agencies to ensure public safety of their respective citizens by providing adequate levels of police services to address any foreseeable routing or emergency situations. This MAA was developed in response to multiple requests for a simplified MAA

process - the document addresses all current areas of LE Service, is uniform for all agencies and will be in effect upon signature till 2035 - no more having to address multiple MAA's with a variety of expiration dates, and endless modifications, when another situation / issue arises. The attachment is a Fillable PDF, ensuring that everyone signs the same version. A dozen agencies (Aventura PD, North Bay Village PD, Pinecrest PD, Key Biscayne PD, West Miami PD, Indian Creek PD, Sunny Isles Beach PD, Medley PD, North Miami PD, El Portal PD, Biscayne Park PD, Miami Springs PD), including all the agencies represented on the Executive Board, have executed the agreement. This matter is urgent and time sensitive, as the existing MAA with the Miami-Dade Police Department expires on 01/01/2025. That MAA is in the process of being extended until 01/06/2025 to ensure that there will not be a lapse in mutual aid during the Miami-Dade Police Department's transition to a sheriff's office. On 01/07/2025, the Miami-Dade Police Department will cease to exist, and the Miami-Dade County Sheriff's Office will assume responsibility for Law Enforcement Operations in Miami-Dade County, and the incoming Miami-Dade Sheriff will execute the attached Miami-Dade County Association of Chiefs of Police Combined Voluntary Cooperation and Operational Assistance Mutual Aid Agreement in and Between the Signatory Law Enforcement Agencies.

EXECUTE

This Mutual Aid Agreement shall be effective on the date of execution of all parties and, unless terminated or cancelled on an earlier date, will expire on January 1, 2035.

Resolution Wording:

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA APPROVING THE MUTUAL AID AGREEMENT AND JOINT DECLARATION BETWEEN THE TOWN OF BAY HARBOR ISLANDS AND THE MIAMI DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE FOR LAW ENFORCEMENT SERVICES BETWEEN ALL SIGNATORY LAW ENFORCEMENT AGENCIES; PROVIDING FOR INCORPORATION OF RECITALS; AND SETTING AN EFFECTIVE DATE.

FINANCIAL ANALYSIS

There is no fiscal impact for entering into said agreement.

ATTACHMENTS

1. Town Memorandum
2. Mutual Aid Agreement

**MIAMI-DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE
COMBINED VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE
MUTUAL AID AGREEMENT IN AND BETWEEN THE SIGNATORY LAW
ENFORCEMENT AGENCIES**

This Voluntary Cooperation and Operational Assistance Mutual Aid Agreement (“Agreement”) is made by and between the Signatory Law Enforcement Agencies, including the municipal governments / corporations / political subdivisions located within Miami-Dade County and the Constitutional Sheriff’s Office for Miami-Dade County, each having principal offices at the locations designated in their signature panels. The Signatory Law Enforcement Agencies state as follows:

WHEREAS, it is the responsibility of the municipal governments / corporations / political subdivisions located within the boundaries of Miami-Dade County, Florida, and of the Miami-Dade County Sheriff’s Office to ensure the public safety and welfare of their citizens by providing adequate levels of public safety and police services to address any foreseeable routine / emergency situation; and

WHEREAS, there exists a continuing possibility of the occurrence of situations / issues, and other natural / manmade conditions that require law enforcement response which are, or are likely to be, beyond the control of the capabilities, services, personnel, equipment or facilities of one or more of the Signatory Law Enforcement Agencies; and

WHEREAS, the Signatory Law Enforcement Agencies must ensure their preparations and operations will be adequate to address any and all of these conditions, to protect the public peace, safety and security, and to preserve the lives and property of the people of Miami-Dade County, Florida and of the municipal governments / corporations / political subdivisions located within Miami-Dade County; and

WHEREAS, the Signatory Law Enforcement Agencies are so located in relation to each other that it is in the best interest and advantage of each to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to:

- (1) Continuing, multi-jurisdictional criminal activity, so as to protect the public peace and safety, and preserve the lives and property of the people; and
- (2) Intensive situations including, but not limited to, natural or manmade disasters or emergencies as defined under Section 252.34, Florida Statutes; and
- (3) Joint provision of law enforcement services specified herein and allowed pursuant to Section 166.0495, Florida Statute; and

WHEREAS, the Signatory Law Enforcement Agencies have the authority under the Florida Mutual Aid Act, Chapter 23, Part I, Florida Statutes, to enter into a Mutual Aid Agreement for law enforcement services, which both:

- (1) Permits voluntary cooperation and operational assistance of a routine law enforcement nature across jurisdictional lines; and
- (2) Provides for rendering of assistance in a law enforcement emergency.

NOW, THEREFORE, BE IT KNOWN, that the Signatory Law Enforcement Agencies, and their respective political subdivisions of the State of Florida, in consideration of mutual promises to render valuable aid in daily operations and in times of necessity, do hereby agree to fully and faithfully abide by and be bound by the following terms and conditions:

1. **Provisions for Voluntary Cooperation:** the Signatory Law Enforcement Agencies hereby approve and enter into this Agreement whereby each of these agencies may provide voluntary cooperation and assistance of a routine or emergency law enforcement nature across jurisdictional lines. The nature of the law enforcement assistance to be rendered shall include but is not limited to:
 - A. Concurrent law enforcement jurisdiction in and throughout the jurisdictional limits of the Signatory Law Enforcement Agencies for arrests, made pursuant to the laws of arrest, for felonies and misdemeanors, including arrestable traffic offenses, which spontaneously take place in the presence of the arresting officer, at such times as the arresting officer is traveling from place to place on official business outside of their jurisdiction (e.g., to / from court, vehicle maintenance run, any authorized use / operation, per agency policy, of their law enforcement vehicle).
 - B. Concurrent law enforcement jurisdiction in and throughout the jurisdictional limits of the Signatory Law Enforcement Agencies for arrests, made pursuant to the laws of arrest, of persons identified because of investigations of any offense constituting a felony, violent misdemeanor or any act of Domestic Violence as defined in Section 741.28, Florida Statutes, when such offense occurred within the jurisdiction of the agency employing the arresting officer.
 - C. Concurrent law enforcement jurisdiction in and upon the jurisdictional waters of the Signatory Law Enforcement Agencies, for arrests, made pursuant to the laws of arrest, for felonies and misdemeanors and for boating infractions.
 - D. Concurrent law enforcement jurisdiction for certain exigent situations, without the need for a formal request, including, but not limited to, area searches for wanted subjects, perimeters, crimes in progress, escaped prisoners, requests for assistance when no available local units are nearby, calls indicating a crime or incident has occurred in which a citizen may likely be injured and the assisting municipality is closer to the area than the officer receiving the call.
 - E. Concurrent law enforcement jurisdiction in and throughout the jurisdictional limits of the Signatory Law Enforcement Agencies, for investigations of, but not limited to, homicides, sex offenses, robberies, assaults, batteries, burglaries, larcenies, frauds, gambling, motor vehicle thefts, drug violations pursuant to Chapter 893, Florida Statutes, Internal Affairs, and multi-agency task forces / joint investigations.

- F. Flagrant violations of Traffic Laws, that left unchecked could reasonably lead to the injury of people on / around the roadway upon which the violation is occurring (e.g. speeding through a school zone or weaving through heavy traffic).

Prior to any officer taking enforcement action pursuant to paragraphs (A) through (F) above, the officer shall notify the jurisdiction in which the action will be taken, unless exigent circumstances prevent such prior notification, in which case notification shall be made as soon after the action as practicable. If the agency having normal jurisdiction responds to the scene, they will have the absolute authority to decide whether to take over the situation. If the agency of normal jurisdiction decides to take over, then the assisting agency's officer(s) shall offer and are required to provide any assistance requested. The assisting agency's officer(s) shall, at a minimum, author a follow-up written report documenting the event and the actions taken.

These provisions are not intended to grant general law enforcement operational authority, or to respond without request to emergencies already being addressed by the agency of normal jurisdiction, but is intended to address critical, life-threatening, or public safety situations, prevent bodily injury to citizens, or secure apprehension of criminals whom the law enforcement officer may encounter.

2. Provisions for Operational Assistance: the Signatory Law Enforcement Agencies approve and enter into this Agreement whereby each of these agencies may request / render law enforcement assistance to the other to include, but not necessarily limited to, the following:

- A. Joint multi-jurisdictional criminal investigations.
- B. Civil affray or disobedience, disturbances, riots, large protest demonstrations, controversial trials, political conventions, labor disputes, and strikes.
- C. Any natural, technological, or manmade disaster.
- D. Incidents which may require rescue operations / crowd / traffic control measures, including, but not limited to, large-scale evacuations, aircraft and shipping disasters, fires, explosions, gas line leaks, radiological incidents, train wrecks and derailments, chemical or hazardous waste spills, and electrical power failures.
- E. Terroristic activities including, but not limited to, acts of sabotage.
- F. Escapes from or disturbances within detention facilities.
- G. Hostage and barricaded subject situations, and aircraft piracy.
- H. Control of major crime scenes, area searches, perimeter control, backups to emergency and in-progress calls, pursuits, and missing persons calls.
- I. Enemy attack / Active Shooter / Active Assailant.
- J. Transportation of evidence requiring security.
- K. Major events (e.g., sporting events, concerts, parades, fairs, festivals, and conventions).
- L. Security and escort duties for dignitaries.

- M. Situations in which one agency cannot perform its functional objective.
- N. Incidents requiring utilization of specialized units (e.g. underwater recovery, aircraft, canine, motorcycle, bicycle, mounted, SWAT, bomb, crime scene, marine patrol enforcement or investigation, intelligence, police / public information, DUI / BUI Investigators [BTO, SFST, DRE]).
- O. Joint training in areas of mutual interest.
- P. Exigent situations without a formal request which occur / arise from spontaneous occurrences (i.e. area searches for wanted subjects, perimeters, crimes in progress, escaped prisoners; traffic stops near municipal boundaries, request for assistance and no local unit is available or nearby, calls or transmissions indicating an officer is injured, calls indicating a crime or incident has occurred in which a citizen may likely be injured and the assisting agency is closer to the area than the officer receiving the call, active shooter / assailant situations).
- Q. Mutual enforcement of all existing applicable laws and ordinances and exercise of arrest powers within the area comprising the jurisdictional waters of the Signatory Law Enforcement Agencies.
- R. DUI checkpoints, Traffic Safety Checkpoints / Operation.
- S. Impaired Driving Investigations, including all aspects of DUI, BUI, and DRE.
- T. Extra-Duty Details / Special Events.

3. Procedure for Requesting Operational Assistance:

- A. If a Signatory Law Enforcement Agency needs assistance, the Chief Executive, or designee, of the law enforcement agency requiring assistance shall notify the agency from which such assistance is requested. The Chief Executive, or designee, whose assistance is sought shall evaluate the situation and available resources and will respond in a manner deemed appropriate. This authority may be granted either verbally or in writing as the situation dictates.
- B. Signatory Law Enforcement Agencies agree to furnish necessary manpower, equipment, facilities, and other resources and to render services to the requesting party(ies) as required to assist in addressing the situation which caused the request; provided, however, that no Signatory Law Enforcement Agencies shall be required to unreasonably deplete its own manpower, equipment, facilities, and other resources and services in rendering such assistance.
- C. Specific reporting instructions for personnel rendering mutual aid will be included in the request for mutual aid. In the absence of such reporting instructions, assisting personnel will report to the ranking supervisor on the scene.
- D. Communications instructions should be included in each request for mutual aid and each responding agency's communications centers will endeavor to maintain radio / telephone / other as appropriate contact with each other until the mutual aid situation has ended.

- E. Incidents requiring mass processing of arrestees, transporting prisoners, and operating temporary detention facilities will be handled per established procedures of the requesting agency or the direction of the Incident Commander.
- F. Agency Heads of Signatory Law Enforcement Agencies, or their designees, shall establish procedures for transferring control of the mission and for transferring tactical control of any assigned task, and supervisory control over personnel or equipment provided pursuant to this Agreement.

4. Command and Supervisory Responsibility:

- A. Command: The personnel and equipment that are assigned by the Assisting Agency shall be under the immediate command of a supervising officer designated by the Assisting Agency. Such supervising officer shall be under the direct supervision and command of the Chief Executive or designee of the agency requesting assistance.
- B. Conflicts: Whenever an officer is rendering assistance pursuant to this Agreement, the officer shall abide by and be subject to the rules and regulations, personnel policies, general orders, and standard operating procedures of their employer. If any such rule, regulation, personnel policy, general order or standing operating procedure is contradicted, contravened or otherwise in conflict with a direct order of a superior officer of the requesting agency, then the rule, regulation, policy, general order or procedure of the assisting officer's agency shall control and will supersede the direct order.
- C. Handling Complaints: For any complaints that are generated because of a cooperative effort under this Agreement, the Chief Executive, or designee, of the agency employing the subject officer shall be responsible for the investigation of the complaint. The Chief Executive, or designee of the requesting agency (receiving the complaint) should, at a minimum, determine:
 - 1. The identity of the complainant.
 - 2. Contact information for the complainant.
 - 3. The specific allegation.
 - 4. The identity of the accused employee(s) without regard as to agency affiliation.

If, during the investigation, it is determined that the subject officer is an employee of the Assisting Agency, all information and pertinent documentation gathered during the receipt and processing of the complaint, shall be forwarded, without delay, to the subject officer's employing agency for administrative review. The Requesting Agency may conduct a review of the complaint to determine if any factual basis for the complaint exists and / or whether any of the employees of the Requesting Agency violated any of their respective policies / procedures.

5. Powers, Privileges, Immunities, and Costs:

- A. All certified law enforcement employees, as defined in Chapter 943, Florida Statutes, of Signatory Law Enforcement Agencies, during such time that said employees are actually providing aid outside of the jurisdictional limits of the employing agency pursuant to the terms of this Agreement, shall pursuant to the provisions of Chapter 23, Florida Statutes, have the same powers, duties, rights, privileges, and immunities as if they were performing their duties in the political subdivision in which they are regularly employed.
- B. The political subdivision having financial responsibility for the law enforcement agency providing the services, personnel, equipment, or facilities pursuant to the provisions of this Agreement shall bear any loss or damage to same and shall pay any and all expenses incurred in the maintenance and operation of same.
- C. The political subdivision having financial responsibility for the law enforcement agency providing aid pursuant to this Agreement shall compensate its employees providing services pursuant to this Agreement, during the time of rendering of such services, and shall defray the actual travel and maintenance expenses of such employees while they are rendering such aid. Such compensation shall include any amounts paid or due for compensation due to personal injury or death while such employees are engaged in rendering such aid. Such compensation shall also include all benefits normally due such employees.
- D. All privileges and immunities from liability, exemptions from laws, ordinances and rules, and all pension, insurance, relief, disability, works compensation, salary, death, and other benefits which apply to the activity of such officers, agents, or employees of any such agency, when performing their respective functions within the jurisdictional limits of the employing agency, shall apply to the same degree, manner, and extent while engaged in the performance of their functions and duties extraterritorially under the provisions of this Agreement. The provisions of this Agreement shall apply with equal effect to paid, volunteer, reserve, and auxiliary employees.
- E. Nothing herein shall prevent the requesting agency from seeking supplemental appropriations from the governing authority having budgeting jurisdiction to reimburse the assisting agency for any actual costs or expenses incurred by the assisting agency performing hereunder.

6. Liability: Each Signatory Law Enforcement Agency engaging in any cooperation and assistance pursuant to this Agreement, agrees to assume responsibility for the acts, omissions or conduct of their own employees while engaged in rendering services pursuant to this Mutual Aid Agreement, subject to the provisions of Section 768.28, Florida Statutes, where applicable. Nothing in this Agreement shall be deemed or treated as a waiver of any immunity to which any party is entitled by law, including but not limited to the sovereign immunity protections as set forth in Section 768.28, Florida Statutes.

7. **Insurance:** Each Signatory Law Enforcement Agency shall provide, upon request, satisfactory proof of liability insurance by one or more of the means specified in Section 768.28, Florida Statutes.
8. **Forfeitures:** While operating under the auspices of this Agreement, property subject to forfeiture under Sections 932.701 - 932.707, Florida Statutes, known as the "Florida Contraband Forfeiture Act," may be seized. The agency initiating / pursuing the forfeiture action shall have the exclusive right to control, and the responsibility to maintain the property in accordance with Chapter 932, Florida Statutes, including, but not be limited to, the complete discretion to bring the action or dismiss the action. The proceeds from seized property that is successfully forfeited shall be distributed equitably among the participating agencies in proportion to the amount of investigation and participation performed by each agency, pursuant to the provisions of the Florida Contraband Forfeiture Act, less the costs and attorney's fees associated with the forfeiture action. The political subdivision / agency controlling the forfeiture may allow another Signatory Law Enforcement Agency to prosecute the forfeiture, subject to the written authorization of the Chief Executive and the legal counsel for each of the participating Signatory Law Enforcement Agencies.
9. **Conflicts:** Any conflict between this Agreement and the Florida Mutual Aid Act will be controlled by the provisions of the latter, whenever conditions exist that are within the definitions stated in Chapter 23, Florida Statutes.
10. **Effective Date and Duration:** This Agreement shall be in effect upon execution and approval by the hereinafter named officials of the Signatory Law Enforcement Agencies and their respective political subdivisions (where applicable) and shall continue in full force and effect until **January 1, 2035**. Under no circumstances may this Agreement be renewed, amended or extended except in writing.
11. **Supersedure:** Upon execution and approval by the hereinafter named officials of the Signatory Law Enforcement Agencies and their respective political subdivisions (where applicable), this Agreement will supersede any and all such agreement(s) of this nature and type, becoming the controlling document in consideration of mutual promises to render valuable aid in daily operations and in times of emergency, setting the terms and conditions by which the Signatory Law Enforcement Agencies will be bound.
12. **Nonexclusive Privilege:** Nothing herein shall preclude any Signatory Law Enforcement Agency from formulating additional specialty MOU / MAA with other Signatory Law Enforcement Agencies for the benefit of their collective operations. In instances where the terms / conditions of such specialty MOU / MAA overlap with the terms and conditions of this Agreement, the terms and conditions of this Agreement will take priority and bind the Signatory Law Enforcement Agencies.
13. **Cancellation:** Participation in this Agreement may be terminated by any Signatory Law Enforcement Agency and their respective political subdivision (where applicable) upon ninety (90) days written notice to the other Signatory Law Enforcement Agencies.

AGREED AND ACKNOWLEDGED this ____ day of _____, 2025.

Joshua D. Fuller
Mayor
Town of Bay Harbor Islands
1030 95th Street
Bay Harbor Islands, Florida 33154

Joe Locke
Acting Police Chief
Town of Bay Harbor Islands
1030 95th Street
Bay Harbor Islands, Florida 33154
Miami-Dade County, Florida

ATTEST:

Yvonne P. Hamilton
Town Clerk
Town of Bay Harbor Islands, Florida 33154
Miami-Dade County, Florida

**APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:**

Greenspoon Marder LLP
Town Attorneys
By: Joseph S. Geller

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA APPROVING A COMBINED VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT WITH MIAMI-DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE FOR LAW ENFORCEMENT SERVICES; PROVIDING FOR INCORPORATION OF RECITALS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, it is the responsibility of the governments of the Town of Bay Harbor Islands, and the Miami-Dade County Association of Chiefs of Police, to ensure the public safety of their respective citizens by providing adequate levels of public safety and police services to address any foreseeable routine or emergency situations; and

WHEREAS, because of the existing and continuing possibility of the occurrence of law enforcement problems and other natural and man-made conditions which are, or likely to be, beyond the control of the services, personnel, equipment, or facilities of the Town of Bay Harbor Islands' Police Department or Miami-Dade County Association of Chiefs of Police; and

WHEREAS, in order to ensure that preparation of these law enforcement agencies will be adequate to address any and all of these conditions, to protect the public peace and safety, and to preserve the lives and property of the people of the Town of Bay Harbor Islands, Florida and the people of Miami-Dade County, Florida; and

WHEREAS, it is to the advantage of each law enforcement agency to receive and extend mutual aid in the form of law enforcement services and resources to adequately respond to:

- (1) Continuing, multi-jurisdiction law enforcement problems, so as to protect the public peace and safety, and preserve the lives and property of the people; and

(2) Intensive situations including, but not limited to, emergencies as defined under Section 252.34 of the Florida Statutes, or requests for certain law enforcement services specified herein as defined under Section 23.1225 of the Florida Statutes; and

WHEREAS, the Town of Bay Harbor Islands and Miami-Dade County Association of Chiefs of Police have the voluntary cooperation and assistance authority under the Florida Mutual Aid Act, Section 23.12-23.127 of the Florida Statutes, to enter into this Voluntary Cooperation and Operational Assistance Mutual Aid Agreement (“Cooperation Agreement”) for law enforcement services which:

(1) Permits voluntary cooperation and operational assistance of a routine law enforcement nature across jurisdictional lines as allowed under Section 23.1225, of the Florida Statutes; and

(2) Provides for the rendering of assistance in law enforcement emergencies as defined in Section 252.34 of the Florida Statutes.

WHEREAS, the Town of Bay Harbor Islands and Miami-Dade County Association of Chiefs of Police are desirous of entering into a Mutual Aid Agreement and Joint Declaration (“Exhibit 1”) with each other to provide adequate levels of police service to ensure the public safety of their residents.

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

Section 1. Recitals: The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

Section 2. Approval. The Town Council hereby approves the Mutual Aid Agreement between the Town of Bay Harbor Islands and Miami-Dade County Association of Chiefs of

Police for law enforcement services, in substantially the form attached hereto as “Exhibit 1”.

Section 3. Authority of Town Manager. The Town Manager is authorized to execute this Mutual Aid Agreement.

Section 4. Effective Date. This Resolution shall be effective upon adoption.

PASSED and ADOPTED this 8th day of January 2025.

JOSHUA D. FULLER, MAYOR

ATTEST:

YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

**GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.**

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 5.

ITEM: Consideration and Approval of a resolution urging members of the Florida Legislature to support the 2025 Florida League of Cities Legislative Platform. Enclosed is the draft resolution. Sponsored by Mayor Joshua Fuller.

DESCRIPTION:

The membership of the Florida League of Cities (FLC) adopted its 2025 Legislative Platform during the FLC Legislative Conference on December 6, 2024.

The Town of Bay Harbor Islands supports the 2025 FLC Legislative Platform, which includes:

- Supporting legislation that allows for a collaborative approach that balances the pressing needs for affordable and workforce housing while respecting the ability of local governments to effectively manage growth to ensure developments align with the character, capabilities and resources of each community.
- Supporting legislation that ensures all vehicles, regardless of fuel type, contribute fairly to the funding of Florida's transportation infrastructure, which will allow cities to maintain safe and reliable roads for all residents.
- Supporting the preservation of municipal authority over utility revenues and the ability to realize a reasonable rate of return on utility assets. Legislation should honor current practices, existing contracts, utility operation and maintenance costs, service territory obligations and revenues obligated for debt service and planned projects.
- Supporting the levy of property taxes by municipalities to provide critical services such as infrastructure, police, fire and emergency services. Further changes or exemptions to the property tax system and tangible personal property taxes would create inequities and unfairly shift the tax burden onto families, homeowners, renters, businesses and our most vulnerable population.
- Supporting the preservation of reasonable sovereign immunity liability caps for municipal governments to protect taxpayer funds and ensure the delivery of public services.

The Town also supports the FLC policy positions relating to:

- Annexation
- Impact Fees
- Local Business Taxes
- One Water
- Public Safety Recruitment and Retention

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk
Joshua Fuller, Mayor

ATTACHMENTS

1. Resolution -Support of the 2025 FLC Legislative Platform

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, URGING MEMBERS OF THE FLORIDA LEGISLATURE TO SUPPORT THE 2025 FLORIDA LEAGUE OF CITIES' LEGISLATIVE PLATFORM; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature will convene the 2025 Legislative Session on March 4, 2025; and

WHEREAS, the membership of the Florida League of Cities (FLC) adopted its 2025 Legislative Platform during the FLC Legislative Conference on December 6, 2024; and

WHEREAS, the Town of Bay Harbor Islands supports the 2025 FLC Legislative Platform, which includes:

- Supporting legislation that allows for a collaborative approach that balances the pressing needs for affordable and workforce housing while respecting the ability of local governments to effectively manage growth to ensure developments align with the character, capabilities and resources of each community.
- Supporting legislation that ensures all vehicles, regardless of fuel type, contribute fairly to the funding of Florida's transportation infrastructure, which will allow cities to maintain safe and reliable roads for all residents.
- Supporting the preservation of municipal authority over utility revenues and the ability to realize a reasonable rate of return on utility assets. Legislation should honor current practices, existing contracts, utility operation and maintenance costs, service territory obligations and revenues obligated for debt service and planned projects.
- Supporting the levy of property taxes by municipalities to provide critical services such as infrastructure, police, fire and emergency services. Further changes or exemptions to the property tax system and tangible personal property taxes would create inequities and unfairly shift the tax burden onto families, homeowners, renters, businesses and our most vulnerable population.
- Supporting the preservation of reasonable sovereign immunity liability caps for municipal governments to protect taxpayer funds and ensure the delivery of public services.

WHEREAS, the Town of Bay Harbor Islands also supports the FLC policy positions relating to:

- Annexation
- Impact Fees

- Local Business Taxes
- One Water
- Public Safety Recruitment and Retention

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

Section 1. The Town of Bay Harbor Islands will work with our local legislative delegation in support of these and other issues affecting Florida's cities, towns and villages during the upcoming 2025 Legislative Session.

Section 2. A copy of this resolution shall be provided to the members of our local legislative delegation and the Florida League of Cities, Inc.

PASSED AND ADOPTED by the Town Council of the Town of Bay Harbor Islands, Florida this 8th day of January, 2025.

JOSHUA D. FULLER, MAYOR

ATTEST:

YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

**GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.**

AGENDA ITEM REPORT
January 8, 2025

ITEM NUMBER: 6.

ITEM: Consideration and Approval of a resolution updating the signers on the Town's accounts with Bank of America. Enclosed is a draft resolution.

DESCRIPTION:

The proposed resolution will update the list of signers on the accounts with Bank of America to add officials who are authorized to sign and to remove the names of individuals who are no longer with the town.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Staff Memo for Council Agenda Items - Signatures for Bank of America-
2.	Resolution - Town Signers on Bank of American Account - January 8 2025



**TOWN OF BAY HARBOR ISLANDS
TOWN CLERK'S OFFICE
MEMORANDUM**

TO:	Mayor and Town Council Members
THRU:	Jenice Rosado, ICMA-CM Town Manager David Hernandez, Assistant Town Manager Chief Lindsley Noel
CC:	Joseph S. Geller, Esq., Town Attorney Yvonne P. Hamilton, CMC, Town Clerk
FROM:	Sandra Siefken, Finance Director
DATE:	December 17, 2024
SUBJECT:	Approval of Resolution updating Authorized Signers on the Town's Bank of America Accounts

RECOMMENDATION

Staff recommends that the Town Council approves the attached Resolution updating the official signatures of the Town of Bay Harbor Islands for banking and depository purposes with Bank of America.

BACKGROUND

The Town of Bay Harbor Islands maintains bank accounts at the town's Depository Bank for the disbursement of funds in order to conduct business of the town. The Town Council is responsible for designating authorized signatories for checks drawn on the Town's bank accounts. When an event cause an authorized signatory to change, the town will notify the Depository Bank of the change and make appropriate revisions. It is now necessary to change authorized signers on the Town bank accounts due to the change in the Town Manager position.

ANALYSIS

This proposed resolution will supersede Resolution No. 2425 adopted on September 12, 2024.

CONCLUSION

The signature of two executive officers named in the resolution (Town Manager, Assistant Town manager, Town Clerk) are required on checks or drafts or in the case where two of these signers are not available, or in the case of emergency, a member of the Town Council is authorized to sign.

FINANCIAL ANAYSIS

GL Line Item Number: N/A

Total Amount Budgeted: N/A

Encumbered Amount: N/A

Balance Remaining: N/A

ATTACHMENTS

1. Draft Resolution

RESOLUTION NO. _____

**A RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF BAY HARBOR ISLANDS,
FLORIDA, AUTHORIZING DEPOSITS AND
WITHDRAWALS OF TOWN FUNDS IN
CERTAIN ACCOUNTS; PROVIDING FOR AN
EFFECTIVE DATE.**

BE IT RESOLVED that the executive officers of this Town, or their successors are authorized to sign, be and are hereby authorized to deposit the funds of the Town from time to time with BANK OF AMERICA, N.A., and until further order of the Town Council to withdraw same from time to time upon check or draft of the Town, or other orders for payment of money, signed in the name of the Town in the following manner:

1. Town of Bay Harbor Islands - General Fund - Operation Account
2. Town of Bay Harbor Islands - General Fund - Tax Receipts
3. Town of Bay Harbor Islands - General Fund - Accounts Payable
4. Town of Bay Harbor Islands - Broad Causeway - Revenue Fund
5. Town of Bay Harbor Islands - Broad Causeway - Debt Service Fund
6. Town of Bay Harbor Islands - Parking Meter Fund
7. Town of Bay Harbor Islands - Water Revenue Account
8. Town of Bay Harbor Islands - Sewer Operating Account
9. Town of Bay Harbor Islands - Deposit Fund
10. Town of Bay Harbor Islands - Law Enforcement Trust Fund
11. Town of Bay Harbor Islands - Federal Law Enforcement Trust Fund
12. Town of Bay Harbor Islands - S. Wright Services
13. Town of Bay Harbor Islands - Solid Waste Fund
14. Town of Bay Harbor Islands - Sewer Debt Service & Reserve

By Lindsley Noel, Interim Town Manager, or _____

By David Hernandez, Assistant Town Manager, or _____

By Yvonne P. Hamilton, Town Clerk _____

or in case two of the above signers are not available, or in case of an emergency, with one of the following Council Members:

Joshua D. Fuller _____

Isaac Salver _____

Stephanie Bruder _____

Teri D'Amico _____

Molly Diallo _____

Eric Rappaport _____

Robert Yaffe _____

Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 3. This resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this 8th day of January 2025.

JOSHUA D. FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON
TOWN CLERK

APPROVED AS TO FORM AND LEGAL
SUFFIENCY:

GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: JOSEPH S. GELLER, ESQ.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 7.

ITEM: Consideration and Approval of a Resolution ratifying the appointment of Annette Epelbaum Cannon, Esq. as Special Magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, pursuant to Section 5³/₄-3 of the Town Code; and approval of a proposed agreement for such services. Enclosed are the draft resolution, proposed agreement, and other supporting documents.

DESCRIPTION:

The Town employs the service of a special magistrate for the Town's Special Magistrate Hearings which are held on as necessary for an average of approximately 2 hours per hearing. The Town's prior special magistrate was Christopher Benjamin. The hourly rate for Mr. Benjamin's service was \$165 (see attached contract for details). Since Mr. Benjamin is no longer with the Town, the Town seeks the services of a new special magistrate to handle Town hearing matters, pursuant to Section 5³/₄-3 of the Town Code. Ms. Annette Epelbaum Cannon has expressed interest in the position of special magistrate for the Town. Ms. Cannon currently serves as special magistrate for the City of Fort Lauderdale and for the City of Miami Beach. Ms. Cannon brings a wealth of experience in the field as a special magistrate (see attached resume). Ms. Cannon's rate will be \$200 an hour. Seven Thousand (\$7,000) is budget annually for the services of special magistrate. Last fiscal year's total Town expenditures for the services of special magistrate were approximately \$1,980.00 and this year \$6,010.00 of the budget remains. Staff recommends the Town Council approve the Town Manager entering into contract for Special Magistrate and ratify the Town Manager's proposed employment of Ms. Annette Epelbaum Cannon, Esq. for the position of the Town's Special Magistrate.

RECOMMENDED ACTION:

Approval

FINANCIAL ANALYSIS:

FINANCIAL ANALYSIS

GL Line-Item Number:

Total Amount Budgeted: \$7,000 FY 24-25

Encumbered Amount: \$990

Balance Remaining: \$6,010

The hourly rate for the Special Magistrate services is \$200.

BUDGET IMPACT:

Submitted By: Jenice Rosado, Town Manager

ATTACHMENTS

1.	Staff Memo Special Magistrate-
2.	Resolution - Special Magistrate Annette Epelbaum Cannon
3.	Special Magistrate - Annette Epelbaum Cannon, Esq.
4.	Resume - Annette Epelbaum Cannon



TOWN OF BAY HARBOR ISLANDS MEMORANDUM

TO:	Mayor and Town Council Members
FROM:	Lindsley Noel, Interim Town Manager
CC:	Joseph S. Geller, Esq., Town Attorney Yvonne P. Hamilton, CMC, Town Clerk
DATE:	December 20, 2024
SUBJECT:	Special Magistrate

RECOMMENDATION

Council to approve the Town Manager entering into contract with Ms. Annette Epelbaum Cannon, Esq., for Special Magistrate and Council's ratification the Town Manager's proposed employment of Ms. Cannon for the position of the Town's Special Magistrate.

BACKGROUND / ANALYSIS

The Town employs the service of a special magistrate for the Town's Special Magistrate Hearings which are held on a monthly basis for an average of approximately 2 hours per hearing. The Town's prior special magistrate was Christopher Benjamin. Mr. Benjamin's hourly rate with our Town was \$165 an hour (see attached contract for details). Since Mr. Benjamin is no longer with the Town, the Town seeks the services of a new special magistrate to handle Town hearing matters. Ms. Annette Epelbaum Cannon has expressed her interest in the position of special magistrate for the Town. Ms. Cannon currently serves as special magistrate for the City of Fort Lauderdale and for the City of Miami Beach. Ms. Cannon brings a wealth of experience in the field as a special magistrate (see attached resume). The Town currently budgets \$7,000 annually for the services of special magistrate. Last fiscal year's total Town expenditures for the services of special magistrate were approximately \$1,980.00.

EXECUTE

The Town Manager will proceed to enter into contract with Ms. Cannon (see attached contract).

FINANCIAL ANALYSIS

GL Line-Item Number:

Total Amount Budgeted: \$7,000 FY 24-25

Encumbered Amount: \$990

Balance Remaining: \$6,010

The hourly rate for the Special Magistrate services will be \$200.

ATTACHMENTS

1. Annette Epelbaum Cannon Resume
2. Proposed Contract

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING THE APPOINTMENT OF ANNETTE EPELBAUM CANON AS SPECIAL MAGISTRATE TO CONDUCT ADMINISTRATIVE HEARINGS ON CODE VIOLATIONS FOR THE TOWN OF BAY HARBOR ISLANDS, PURSUANT TO ENFORCEMENT PROCEDURES SET FORTH IN SECTION 5¾-3 OF THE TOWN CODE; APPROVING AN AGREEMENT FOR THE RELATED SERVICES; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

WHEREAS, Christopher Benjamin, Esq. with International Law Partners, LLP acted as Special Magistrate for the Town to conduct administrative hearing on Code violations, pursuant to Section 5¾-3 of the Town Code, until his recent election to Miami-Dade County Court Judge; and

WHEREAS, in accordance with Section 5¾-4, the Town Manager shall appoint a special magistrate, subject to ratification by the Town Council;

WHEREAS, the Town Manager has appointed Annette Epelbaum Canon as special magistrate for the Town of Bay Harbor Islands for a one-year term at an hourly rate of \$200.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Ratification. The Town Council hereby ratifies the appointment of Annette Epelbaum Canon as special magistrate to conduct Administrative Hearings on Code Violations for the Town of Bay Harbor Islands, Florida; pursuant to the enforcement procedures set forth in Section 5¾ of the Town Code. The Manager is authorized to enter into an agreement in substantially the form as that attached hereto as Exhibit A.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED by the Town of Bay Harbor Islands this 8th day of January 2025.

JOSHUA D. FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON, CMC
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: JOSEPH S. GELLER,
ESQ.

ATTORNEY-CLIENT FEE CONTRACT

This document (the "Agreement") is the written fee contract between Annette Epelbaum Cannon, Esq. ("Counsel") and Town of Bay Harbor Islands ("Client").

1. CONDITIONS. This Agreement will take effect when both parties have signed this agreement.

2. SCOPE OF SERVICES. The Client is hiring Counsel, as a Special Magistrate representing the Town of Bay Harbor Islands, in connection with conducting hearings concerning code enforcement violations within the Town, per the Town's Code of Ordinances.

3. PROFESSIONAL FEES. The Client understands and agrees that charges for professional services rendered will be at a rate of \$200.00 per hour, for a minimum of two hours for each hearing. It is understood that Annette Epelbaum Cannon, Esq. is the responsible attorney.

4. FEE RETAINER. A fee retainer in the amount of \$0 is required in this case.

5. BILLING STATEMENTS. Periodic statements will be sent for fees and approved costs incurred. Each statement will be due within 30 days of its date.

6. DISCHARGE AND WITHDRAWAL. The Client may discharge the attorney at any time.

The attorney withdraw with the Client's consent or for good cause. Good cause includes a breach of this Agreement, the Client's refusal to cooperate with the law firm or to follow advice on a material matter or any fact or circumstance that would render the law firm's

continuing representation unlawful or unethical. At the conclusion of all services, all unpaid charges will immediately become due and payable. After the services conclude, the law firm will, upon your request, deliver a file to you, along with any funds or property of yours in the law firm's possession.

The foregoing terms are understood and accepted.

By: _____
Annette Epelbaum Cannon, Esq.

Date: _____

TOWN OF BAY HARBOR ISLANDS

By: _____
Lindsley Noel
Interim Town Manager

Date: _____

ATTEST:

Yvonne P. Hamilton, Town Clerk

ANNETTE EPELBAUM CANNON
103-7TH TERRACE
MIAMI BEACH, FLORIDA, 33139
305-613-2244
annette@annettecannonpa.com

EDUCATION

UNIVERSITY OF FLORIDA COLLEGE OF LAW, Gainesville, Florida. J.D.
May 1990.

FLORIDA STATE UNIVERSITY, Tallahassee, Florida.
B.A. in Political Science, minor in Communications, G.P.A. 3.8. Graduated
Magna Cum Laude and Phi Beta Kappa in December 1986.

CERTIFIED CIRCUIT COURT MEDIATOR, Tallahassee, Florida. 1998 to
date; CERTIFIED IN FORECLOSURE MEDIATIONS.

CERTIFIED FAMILY COURT MEDIATOR, Tallahassee, Florida. 2010 to
date.

LEGAL EXPERIENCE

SPECIAL MAGISTRATE FOR CITY OF FT. LAUDERDALE, Ft. Lauderdale,
Florida. From January 2024 to date. Areas of cases heard include building,
zoning and planning.

CHIEF SPECIAL MAGISTRATE FOR CITY OF MIAMI BEACH, Miami
Beach, Florida. From April 2014 to date. Chief as of August 2024. Areas of cases
heard include building, zoning and planning.

THE MEDIATION GROUP, North Miami Beach, Florida.
Private Mediator from February 2017 to date. Areas of mediation include
Workers compensation, Employment Discrimination, Mortgage Foreclosures,
Bankruptcy Mortgage Foreclosures and general civil litigation.
For scheduling please call (954) 474-8700.

RESOLUTION SOLUTION, North Miami Beach, Florida.
Private Mediator from February 2016 to February 2017. Areas of mediation
include Workers compensation, Employment Discrimination, Mortgage
Foreclosures, Bankruptcy Mortgage Foreclosures and general civil litigation.

CENTER FOR CONFLICT RESOLUTION, North Miami, Florida.
Private Mediator from February 1998 until February 2016. Areas of mediation
include Workers compensation, Employment Discrimination, Mortgage
Foreclosures, Bankruptcy Mortgage Foreclosures and general civil litigation.
Mediated over 5000 cases.

ANNETTE CANNON PA, Miami, Florida. Sole practitioner from February 1998 until present. Areas of practice include circuit civil mediations, Bankruptcy Foreclosure mediations, **Guardian Ad Litem appointments in Mortgage Foreclosure Actions.**

ARRICK & PEACOCK, PA., Miami, Florida.
Associate from September 1997 until February 1998. Areas of practice include workers compensation and labor.

ARRICK, LEVINE & PEACOCK, PA, Miami, Florida.
Associate from September 1994 until September 1997. Areas of practice include workers compensation and labor.

MARLOW, CONNELL, VALERIUS, ABRAMS, ADLER, PA. Miami, Florida.
Associate from March 1993 until September 1994. Areas of practice include workers compensation and labor.

WAMPLER, BUCHANAN & BREEN, P.A., Miami, Florida.
Associate from September 1990 until March 1993. Area of practice includes labor, health care, family and general civil litigation.

LEGAL ACTIVITIES AND MEMBERSHIPS

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT,
admitted 1992.

FLORIDA BAR MEMBER, admitted 1990.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT, admitted 1990.

WORKERS COMPENSATION SECTION OF FLORIDA BAR, presently.

FLORIDA ACADEMY OF PROFESSIONAL MEDIATORS, presently.

MIAMI BEACH BAR ASSOCIATION, Historian.

NON-LEGAL ACTIVITIES AND MEMBERSHIPS

CERTIFIED SUBSTITUTE TEACHER FOR DADE COUNTY PUBLIC
SCHOOLS, Miami, Florida, approved 2007.

TEMPLE BETH SHOLOM, Miami Beach, Florida, Sisterhood Board member.

FOREIGN LANGUAGES

FLUENT in Spanish

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 8.

ITEM: Public Comment regarding consideration of an ordinance on First Reading amending Section 23-4 of the Town Code to establish additional permitted uses in the RM-1 and RM-2 Multiple Family Districts. Sponsored by Mayor Joshua Fuller. Enclosed are the proposed ordinance and Staff Report.

DESCRIPTION:

The proposed amendment allows a small limited commercial use in the RM-1 and RM-2 Zoning Districts to allow buildings to be classified as mixed-use specifically for FEMA floodplain considerations. The only permitted uses would be a gym/fitness center, or real estate or property management office and limited to no more than 225 square feet in size.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk


ATTACHMENTS

1.	BHI TC Staff Report MFR UG Garage Issue Jan 8 2025
2.	Ordinance RM-1 RM-2 uses 11.13.24 DRAFT
3.	Proposed Code Amendment RM-1 RM-2 uses 07.24.24 DRAFT (003)
4.	BHI Bldg Official Email on Residentail UG Garages Nov 2017
5.	FBC 2017 Newsletter on Update to Flood Resistant Const

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Council Members
Town of Bay Harbor Islands

CC: Lindsley Noel – Acting Town Manager / Polic Chief
Mike Mesa – Asst. Town Manager / Building Official
Joseph S. Geller, Esq. - Town Attorney
Yvonne P. Hamilton, CMC - Town Clerk

From: Michael J. Miller, AICP 
Consultant Town Planner

Date: January 8th, 2025

Subject: Possible Zoning & Planning Code Amendments
RM-1 & RM-2 Multifamily Residential Districts – Accessory Commercial Uses
Intended to Address Previously Approved Below Grade Parking Facilities
Staff Analysis of Bercow Law Firm Draft Regulations (Representing Bijou)
MMPA Acct. No. 01-0702-0800

ISSUE / ANALYSIS:

The Town is located entirely on barrier islands between Biscayne Bay and the Atlantic Ocean. The underlying soils are sand or other unstable or caustic materials. Construction therefore requires the use of pilings driven into the soil to either bedrock or maximum specified pressure resistance with beam foundations. There are no proven methods to fully protect underground structures from eventual settling or saltwater intrusion. Engineers can inspect what is accessible and visible to provide opinions but, in the final analysis, it is impossible to directly inspect these materials years later and be certain of their continued structural integrity. Only those certifications and inspections that are completed before the structure is complete can assure the integrity of the construction. While periodic inspections are required by the State / County recertification process, the repairs that are identified can be costly or almost impossible for the current owners of buildings to implement. Newer structural materials are becoming more available that are less subject to corrosion in a marine environment, but these are difficult to add to a building after it is constructed.

FEMA regulations and the Florida Building Code (FBC) currently prohibit underground parking garages under “exclusively” residential developments in specified Flood Zones, including those residential developments with “commercial amenities” that only serve the residents of the development. Underground parking garages are permitted for Mixed-Use Development (mix of

**Town of Bay Harbor Islands
Town Council Staff Report – MFR Accessory Commercial Uses
Intended to Address Previously Approved Below Grade Parking Facilities
January 8th, 2024**

land uses such as Hotel / Residential / Commercial / Offices) and for any non-residential developments. The amount of non-residential use required to be considered "Mixed-Use" is not well-defined in the FEMA regulations or in the FBC. Why is it OK to have underground parking for residential uses in a Mixed-Use development but not a purely residential development? The FEMA / FBC rules have changed over the years, in prior years, residential amenities were considered acceptable in determining that a building was Mixed-Use and below grade structures were allowed. While FEMA has issued various Technical Bulletins for flood prevention construction / underground parking structures / other uses since their Flood Insurance program began, the FBC has not had specific detailed regulations until recent years (2017 6th Edition) – only references to FEMA / ASCE. The Town has several instances of depressed (below grade) surface parking lots and a few underground parking garages in residential complexes approved under the prior rules. The earliest known project is the 10000 WBHD complex (built 1977) that has a large underground parking garage. In recent years the Riva, Le Nautique, Bijou, and a few others have some underground parking structures. Two MFR complexes (Island House / Royal House now known as La Baia) that had underground parking structures in the PZB plans were required to delete them due to the newer FBC laws. Since 2017 some previously approved projects with underground parking garages were required to retrofit mechanical equipment and provide more flood-proofing prior to obtaining a Certificate of Occupancy (CO). As of January 2025, only one residential project with an underground parking garage (Bijou) does not have a final CO. There are also a number of complexes with slightly depressed (2'+/-) parking lots that technically do not meet the current Codes (below lot grade).

It is unknown why FEMA / FBC differentiates between land uses. Vehicles could be damaged or flooded in an underground parking garage regardless of the principal use of the structure. Moreover, expected sea level rise and potential storm surges from hurricanes and tropical storms, as vividly demonstrated by the October 2022 Southwest Florida Hurricane Ian scenario (10'-12' storm surges) can lead to large amounts of damage and flooding.

Importantly – over the years various Building Officials – who are solely charged with the enforcement and interpreting the FBC / other Building regulations - determined that underground parking structures were allowed for "solely" residential developments, as the FBC did not specifically ban them, and FEMA was not a Code but a flood insurance program. As I have repeatedly stated over the years FBC interpretations are made by the local government's Building Official / Flood Plain Administrator - not a City Planner or other staff. I had serious discussions with numerous Bldg. Officials over the years in BHI / other communities about this issue. I am not a big fan of underground parking on the barrier islands or low-lying flood prone areas - but technically a water-resistant structure can be built (i.e. a swimming pool). FEMA has changed their rules over the years too. While there have been FEMA / ASCE technical bulletins for years it was not until 2017 that the FBC was modified to include flood provisions. In 2017-18 FEMA contacted the Town to update our then out-of-date Flood Code based on the above 2017 FBC changes. MMPA prepared that Code update for the Town.

When Dale Lee was the Bldg. Official (passed away in 2019) he strongly believed underground parking was allowable under FEMA / FBC in the Town for a "residential" development. See the attached email between Mr. Lee and our firm from 2017. He frequently stated only the FBC governed his actions - not a federal flood insurance program. And he told me expressly he was the "sole authority" on building & flood matters - my opinion / zoning did not matter. Prior to Mr. Lee the former Bldg. Official was Charles Cangainelli who had the same interpretation.

**Town of Bay Harbor Islands
Town Council Staff Report – MFR Accessory Commercial Uses
Intended to Address Previously Approved Below Grade Parking Facilities
January 8th, 2024**

There has been no "error" by the Planner or others as alleged by some. Architects and builders followed the Bldg. Official's determinations as well. When the LDRs were rewritten in the mid / late 2000s the zoning regulations for underground parking was allowed for all land uses based on the then Bldg. Official's opinion. The Town Council agreed with the Bldg. Official at that time.

Since Eliezer Palacio & Mike Mesa arrived in the Town there was never any doubt by them that underground parking for a solely residential development was not allowed by FEMA and the FBC. But based on Mr. Lee's interpretation and many other "older" Bldg. Officials there was no problem. The Town officials / MMPA / Architects / Developers were guided by the Bldg. Official's determination when zoning codes were updated and projects approved. The Town Council acting as the PZB and earlier appointed Boards approved several residential projects with depressed or underground garages. In recent times both the Tauber Island House & Royal House MFR projects (now La Baia) originally had underground garages approved by Mr. Lee that are now removed.

While several existing projects with underground parking were able to modify their sites and obtain a final CO, only one project – the Bijou located at 9521 East Bay Harbor Drive – exists and is occupied with a TCO. They apparently cannot modify their building complex enough as others did to obtain a CO and are seeking a means to address this legally - and the Town is being requested to help. Other communities have faced this same issue and found ways to address this issue. As I understand Mr. Amster's current proposal this would apply only to pre-existing projects and from information provided by the Town's Bldg. Dept. staff – only to the Bijou – as it is the only residential complex with an underground parking garage without a CO. Mr. Amster suggests that a small building square footage limit (225+/-) be included and a cut-off year (no suggestion provided), but possibly the 2017 FBC update could suffice. The Bijou received a revised Site Development Plan approval from the Town's PZB on May 9th, 2016. The Bijou complex has had a TCO for several years (obtaining renewals) and is fully occupied. A solution must be found to address this site.

Approximately 4+/- years ago when the Bijou complex was completed (2021) this issue was brought before the Town Council for discussion and possible solutions – including the idea of allowing limited accessory commercial uses in the Town's multifamily areas to qualify for a "mixed-use" FEMA / FBC exemption, as some other communities have done. No solution was agreed to at that time. Mr. Amster states he and Mr. Mesa conferred with the State Floodplain Administrator, and it was agreed the concept would pass the state's guidelines.

Mr. Amster has provided some draft Zoning Code amendment text for the Town to consider.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AMENDING THE TOWN'S CODE OF ORDINANCES; AMENDING CHAPTER 23 ENTITLED ZONING AND PLANNING; AMENDING ARTICLE I, SECTION 23-4 ENTITLED USE REGULATIONS, RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; TO ESTABLISH ADDITIONAL PERMITTED USES IN THE RM-1 AND RM-2 MULTIPLE FAMILY DISTRICTS; PROVIDING FOR LIMITED COMMERCIAL USES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

WHEREAS, the Town Council often retains the services of professionals to recommend strategies and Code modifications to address identified problems; and

WHEREAS, currently occupied residential buildings in the RM-1 district with parking structures below Base Flood Elevation are unable to obtain Certificates of Occupancy or FEMA flood insurance; and

WHEREAS, the Town Council has studied the current Zoning and Planning Code provisions of the Town and finds a substantial interest in furthering the proper protection of buildings and the surrounding neighborhood, the public health, safety, and welfare by modernizing and updating the applicable land development regulations; 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: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Code of Ordinances is hereby amended to modify Chapter 23 entitled Zoning and Planning; Article I, Section 23-4 entitled Use Regulations, RM-1 and RM-2 Multiple Family Districts, as more fully set forth in the attached Exhibit "A", and by reference made a party hereof.

Section 3: 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 4: 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 5: 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 6: 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 January 2025

PASSED on Second Reading this __ day of _____2025

JOSHUA D. FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON, CMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GREENSPOON MARDER, LLP
TOWN ATTORNEYS
BY: JOSEPH S. GELLER, ESQ.

EXHIBIT “A”

The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:

CHAPTER 23

ZONING AND PLANNING

ARTICLE I. – ZONING REGULATIONS

Sec. 23-4. – Use regulations, RM-1 and RM-2 Multiple Family districts.

Bay Harbor Islands Code Amendment

Sec. 23-4. - Use regulations, RM-1 and RM-2 Multiple Family districts.

In the RM-1 and RM-2 Multiple Family districts, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

- (1) Two-family dwellings.
- (2) Multiple-family dwellings or apartments, including townhouses, and accessory buildings including duly licensed home occupation.
- (3) Accessory uses and site improvements, including outdoor recreational game court facilities, subject to the provisions specified in section 23-12.
- (4) Reserved.
- (5) Public schools, but only specific approval and permit of the town council.
- (6) Single-story drive-in bank tellers' structures and parking facilities for a national or state bank situated in an adjacent block of the national or state bank which block is zoned B-1, but only upon the specific approval and permit by the town council as to the precise location and type and kind of improvements as well as landscaping requirements.
- (7) Temporary sales and business offices, construction trailers, and model dwelling units, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion.
- (8) Parks, recreation and open space as either a primary use or accessory use.
- (9) Public or private off-street parking facilities as either a primary use or accessory use. Commercially owned and/or operated parking facilities are not permitted without the prior approval of the town council.
- (10) Vacation rentals subject to the provisions in Chapter 23, Article VI of the Code of Ordinances of the Town of Bay Harbor Islands.
- (11) Small-scale commercial uses with no greater than 225 square feet, limited only to buildings with valid development approvals and/or building permits showing below grade parking obtained prior to <date>, and that are required to maintain an annual business tax receipt at all times that residential uses exist at the property in which they are located. The small-scale commercial uses are limited to only the following uses:
 - a. Personal service uses: fitness, exercise, yoga, and/or meditation center.
 - b. Business and profession office uses: real estate or property management office.

Michael J. Miller

From: Dale Lee <dlee@bayharborislands-fl.gov>
Sent: Tuesday, November 21, 2017 3:50 PM
To: Michael J. Miller
Subject: RE: FEMA

That is my understanding that parking is allowed below BFE. I'll check further

From: Michael J. Miller [mailto:mmiller@michaelmillerplanning.com]
Sent: Thursday, November 09, 2017 12:24 PM
To: Dale Lee
Subject: FW: FEMA

Dale:

This architect called me today about below grade parking garages for residential uses. FYI.

He claimed they are not allowed via the FEMA Bulletin.

What is your opinion – I thought we could allow garages / storage / entry to a building.

MJM

From: Stallings, Ryce [mailto:Ryce.Stallings@stantec.com]
Sent: Thursday, November 09, 2017 11:51 AM
To: Michael J. Miller <mmiller@michaelmillerplanning.com>
Subject: FW: FEMA

Please read the first sentence on page 2.

Thanks

Ryce Stone Stallings, RA

Principal

Stantec Architecture Inc. - AA26000733

2 South Biscayne Blvd., Suite 1670, Miami, FL 33131

Phone: (305) 482-8704

Cell: (305) 205-2056

Fax: (305) 482-8770

Ryce.Stallings@stantec.com

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From: Sinis, Jimmy
Sent: Thursday, November 09, 2017 11:17 AM
To: Stallings, Ryce <Ryce.Stallings@stantec.com>
Subject: FW: FEMA

Jimmy Sinis, LEED AP

Associate Principal

Stantec Architecture Inc. - AA26000733

One Biscayne Tower Suite 1670, 2 South Biscayne Boulevard Miami FL 33131-1804

Phone: (305) 482-8714

Mobile: (305) 450-6259

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Jimmy.Sinis@stantec.com



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Flood Resistant Construction and the 6th Edition Florida Building Code (2017)

June 2017

Hurricanes and other storms that result in flooding have caused billions of dollars in damage across all parts of Florida. Local jurisdictions throughout the state recognize, plan for and manage development in flood hazard areas. To participate in the National Flood Insurance Program (NFIP), communities agree to regulate all development in flood hazard areas mapped by the Federal Emergency Management Agency (FEMA).

Once an owner or developer makes a decision to construct, add to or substantially improve a building in a flood hazard area, certain requirements intended to minimize future flood damage must be satisfied. Flood provisions for buildings are in the *Florida Building Code* (FBC), making it easier for design professionals and builders to address the requirements along with other applicable load and design requirements.

The flood provisions of the FBC achieve two broad objectives:

1. As with the rest of the code, the flood provisions help fulfill the purpose of safeguarding public health, safety, and general welfare. Many Florida communities and property owners can attest that designing and constructing buildings to account for flood loads and conditions significantly reduce damage. FEMA reports that structures built to NFIP criteria experience 80% less damage through reduced frequency and severity of losses. Buildings that sustain less damage are more quickly reoccupied, facilitating recovery.

Access to the FBC.

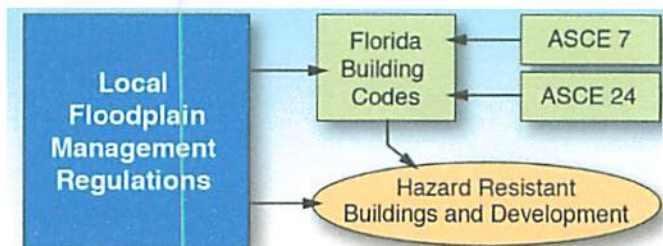
The FBC is accessible online through the Commission's webpage, listed under Resources.

Download excerpts of the 6th Edition FBC flood provisions from the Florida Division of Emergency Management webpage, listed under Resources.

2. The flood provisions fulfill some of the requirements necessary for communities that participate in the NFIP. FEMA states the flood provisions of the International Code Series[®], which is the foundation of the FBC, meet or exceed the NFIP requirements for buildings and structures. However, NFIP communities are responsible for regulating all development, including activities that are not within the scope of the codes.

Degree of Safety Warning. The degree of flood protection afforded by the flood provisions in the FBC is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, flooding land outside of mapped flood hazard areas.

This is accomplished by the adoption of local floodplain management regulations (see graphic). Relying on the model ordinance developed by the Florida Division of Emergency Management (DEM) and approved by FEMA, nearly all Florida communities have adopted local regulations explicitly written to rely on the FBC to satisfy the NFIP requirements for buildings (see last page).



Florida Statute s. 553.73(5) was amended in 2010 to allow communities to adopt local administrative amendments to implement the flood provisions of the FBC and local technical amendments to adopt flood provisions that are more stringent than the FBC (also called "higher standards"). Under most circumstances, local amendments will not sunset when the state adopts a new edition of the code. Model language for some higher standards is available on the DEM webpage (see Resources).

DISCLAIMER – This piece is intended to give the reader only general factual information current at the time of publication. This piece is not a substitute for professional advice and should not be used for guidance or decisions related to a specific design or construction project. This piece is not intended to reflect the opinion of any of the entities agencies or organizations identified in the materials and if any opinions appear are those of the individual author and should not be relied upon in any event. Applicable to 6th Edition Florida Building Code.

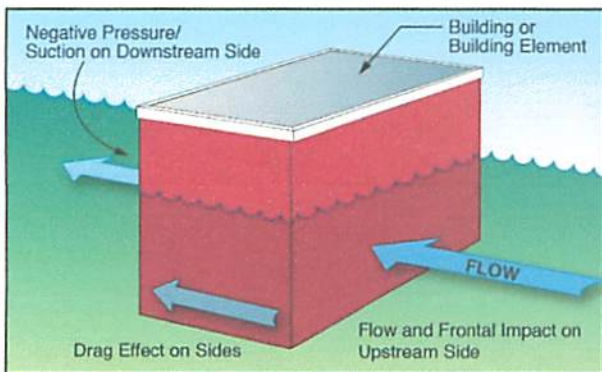
Flood Resistant Construction

The NFIP – and the FBC – requires communities to ensure that new buildings and structures in flood hazard areas are designed and constructed to resist the effects of flood hazards and flood loads. The same requirements apply to existing buildings if proposed work is determined to constitute substantial improvement or repair of substantial damage (both terms are defined in the FBC).

Chapter 16 of the *FBC, Building* requires designers to develop flood loads, which involves determining flood conditions (flood depth, velocity, scour/erosion, and wave/debris impact). Flood loads and load combinations are described in Chapter 5 of ASCE 7, *Minimum Design Loads for Buildings and Other Structures*. Section R322 of the FBC, Residential requires dwellings to be designed and constructed in accordance with specific provisions.

Although hydrostatic load, a function of water depth, is the most obvious load and the easiest to compute, other loads may be more important in final designs. Flood conditions necessary to compute hydrodynamic loads are more difficult to determine (see graphic) and may require consultation with civil or hydraulic engineers. The FBC, Residential requires a design professional to prepare designs for homes in coastal high-hazard areas and Coastal A Zones, but not in other flood zones (see next section for descriptions of flood zones). Designers and builders are cautioned to evaluate whether any flood conditions (such as velocities or waves) may warrant a closer look at flood loads.

Other aspects of flood-resistant construction found in the FBC include the use of flood damage-resistant materials, requirements for enclosures below elevated buildings, and the location of electrical, plumbing, heating, ventilation, and air-conditioning (HVAC) equipment, swimming pools, and tanks.



Flood Hazard Areas and Flood Conditions

Flood Insurance Rate Maps (FIRMs) prepared by FEMA are the most common flood hazard maps adopted by Florida communities. Designers and builders should check with individual communities to determine whether a locally-prepared map is used for regulatory purposes. FIRMs identify flood hazard areas associated with the base flood (the 1%-annual-chance or “100-year” flood). Some FIRMs also identify areas subject to flooding by the less frequent 500-year flood.

FIRMs identify flood hazard areas based on characteristics of flooding:

- Zone A, AE, A1–30, AO, and AH. These zones include flood hazard areas along rivers and streams, in isolated areas where floodwaters accumulate without draining to a waterway and in coastal areas inland of Zone V and along many shorelines. Floodways are designated along some rivers and streams.
- Zone V, VE, V1–30, and VO. These zones identify coastal high-hazard areas found along open coastlines where, during the base flood, waves are expected to be 3 feet and higher.
- Limit of Moderate Wave Action. When shown, the LiMWA identifies the inland extent of 1.5-foot waves and the area between the LiMWA and the Zone V boundary or shoreline is designated as Coastal A Zone.
- Zone X (shaded) identifies areas subject to flooding by the 500-year flood and Zone X (unshaded) identifies land areas that are outside of the 100- and 500-year flood hazard areas.

Coastal A Zone. Revised FIRMs for coastal communities may have a Limit of Moderate Wave Action (LiMWA) delivered. The area between the LiMWA and the Zone V boundary or the shore is designated the “Coastal A Zone.”

Some site-specific flood conditions can be determined using FIRMs and associated Flood Insurance Studies, while others can be estimated using the best available information (for a general discussion, see the checklist in Appendix C in FEMA P-936, *Floodproofing Non-Residential Buildings*):

- Flood depth, used to compute lateral and vertical hydrostatic loads, is determined by subtracting the ground elevation from the base flood elevation (BFE) shown on the FIRM. Lateral hydrostatic loads need not be considered for enclosures below elevated buildings that have flood openings to allow floodwater to flow in and out automatically. Vertical (buoyant) hydrostatic loads are calculated for

elements below the BFE and may be important when soils are saturated.

- Flood velocity, used to compute hydrodynamic load, may be estimated in riverine areas if the Flood Insurance Study has a floodway data table or by using standard methods for estimating open-channel flow velocities (see FEMA's *Recommended Procedures for Flood Velocity Data Development*. In coastal areas there is more uncertainty in estimating flood velocity, which is speed of the mass movement of floodwater, not breaking waves (e.g., as a storm surge moves onshore or recedes). A number of FEMA references include a graph showing velocity as a function of stillwater flood depth (see FEMA P-55, *Coastal Construction Manual*).
- Debris in moving water can impart a considerable impact load when it collides with buildings. Whether debris is likely to be present, and the types and sizes of debris, cannot be determined from flood maps and studies. ASCE 7 Chapter 5 commentary provides guidance for consideration of debris impact loads.
- Wave loads, important in coastal areas, depend largely on wave height. Wave height is a function of stillwater flood depth and may be approximated using information in Flood Insurance Studies. The magnitude of wave loads can be 10 times or more than wind forces. ASCE 7 Chapter 5 commentary provides guidance on determining wave loads.
- Erosion and scour may affect the stability of foundations and the loss of supporting soils should be considered because it affects flood loads. Refer to FEMA P-55 for guidance on the effects of erosion and scour.
- Duration of flooding, although not a direct contribution to flood loads, is a condition that warrants consideration. Long-duration flooding is more likely to delay reoccupancy and is a factor in whether dry floodproofing measures can be used for nonresidential buildings (not allowed in Zone V). Also, long-duration flooding is likely to cause nonstructural damage even if flood damage-resistant materials are used.

If BFEs are not shown on the flood hazard map, the FBC gives the building official the authority to require the permit applicant to obtain and use data from another source or to determine the design flood elevation (DFE) using accepted engineering practices. Many communities provide applicants with BFE or flood depth information, and some communities may allow the use of approximation methods, such as interpolating the special flood hazard area boundary based on topographic mapping.

New Flood Requirements in the 6th Ed. FBC. For easy identification in the following descriptions, underlining identifies the flood requirements that are new to the 6th Edition FBC.

FBC, Building – Chapter 1 Administration

Chapter 1 establishes the applicability of the code and describes how the code is to be applied and enforced. This chapter includes flood provisions in a number of sections:

- Hunting “camps” are exempt from the FBC unless certain conditions apply, including location in the “100-year floodplain” (Sec. 102.2).
- Site plans should show flood hazard areas, floodways, and DFEs (Sec. 107.2.5).

BFE and DFE. The codes use the term DFE, which is the same as the BFE unless the community adopts a map showing a more extensive flood hazard area than the SFHA with flood elevations higher than the BFE. Some communities adopt additional maps to show areas prone to flooding outside of the SFHA.

- The minimum plan review criteria include flood hazard areas, flood zones, DFE, lowest floor elevations, enclosures and flood damage-resistant materials (Sec. 107.3.5).
- The authority to issue permits on the basis of affidavits (Sec. 105.1 and Sec. 107.6.1) does not extend to the flood load and flood resistant requirements of the FBC to preserve the NFIP requirement that local officials review and approve permits.
- As part of required inspections, submission of certifications (prepared by a Florida licensed professional surveyor) of the lowest floor elevation are required upon placement of the lowest floor and prior to further vertical construction. Final (“as-built”) certifications must be submitted as part of the final inspection (Sec. 110.3).
- Certificates of occupancy are to include a statement that the elevation certificate has been provided and is retained in the community’s records (Sec. 111.2).

Also see flood provisions in Sec. 102.2.5 (certain exemptions that may be adopted by enforcement districts), Sec. 102.7 (relocation of manufactured buildings), and Sec. 117.1 (variances in flood hazard areas, which refers to local floodplain management regulations).

FBC, Building

Most, but not all, flood provisions in the FBC, Building are found in Sec. 1612, Flood Loads (see Table 1612.1 for a listing of all flood provisions in the FBC). The following highlight key provisions:

- In Sec. 1612.3, flood hazard areas are established by local floodplain management ordinances, which adopt flood hazard maps and supporting data. FEMA Flood Insurance Studies and Flood Insurance Rate Maps (FIRMs) are specified. Some Florida communities adopt locally prepared studies and maps.
- Detailed specifications for flood-resistant design are not included in the code. Rather, Sec. 1612.4 refers to ASCE 24, Flood Resistant Design and Construction, for specific requirements. A number of requirements in ASCE 24 are based on the Flood Design Class that is assigned in Sec. 1603.1.7 (see ASCE 24 for Flood Design Classes, which are similar to risk categories).

Special Detailed Requirements Based on Use and Occupancy. Special detailed requirements (Chapter 4) based on use and occupancy include flood provisions in Sec. 449 (hospitals), Sec. 450 (nursing homes), Sec. 453 (educational facilities), and Sec. 454 (pools).

Notice of Local Higher Standards (Freeboard). Many Florida communities adopt requirements for additional elevation above the minimum in the FBC, ranging from 2 to 4 feet above the BFE. This added factor of safety is called "freeboard." Buildings that are higher than the BFE sustain less damage and owners pay lower Federal flood insurance premiums (see graphic).

- Elevation requirements depend on flood zone. See the summary of elevation requirements in Highlights of ASCE 24-14 prepared by FEMA. Elevation requirements above the BFE start at +1 foot (Flood Design Class 2) and go up to +2 feet or the 500-year flood elevation, whichever is higher (Flood Design Class 4).
- Coastal A Zones, if designated, are treated as Zone V, although backfilled stemwalls are permitted if foundation designs account for scour.
- Specific requirements for enclosures below elevated buildings are based on flood zone. All enclosure walls must have flood openings, including walls intended to breakaway under wave loads. Enclosures are limited to uses for parking, storage and building access.

- The use of dry floodproofing (only nonresidential occupancies in Zone A) is limited depending on flood velocities and adequate warning time to implement measures that require human intervention. A Florida amendment to ASCE 24 permits dry floodproofing in Coastal A Zones provided designs account for wave loads and potential erosion and scour.
- Utility equipment and machinery that serve buildings are required to be elevated or meet a specific performance expectation. Similar requirements are found in the *FBC, Mechanical; FBC, Plumbing; and FBC, Fuel Gas*.
- Sec. 1612.5 requires submission of elevation certification (also see Sec. 110.3, Inspections) and, if pertinent to specific buildings, design documentation for dry floodproofing, engineered openings, foundation and anchorage, and breakaway walls. Design documentation must be prepared and sealed by registered design professionals.
- Sec. 1804.4 includes requirements for grading and fill. Where allowed in flood hazard areas, fill shall be placed, compacted, and sloped to be stable under flood conditions.
- Sec. 3109 includes requirements for buildings seaward of the Coastal Construction Control Line (CCCL). Areas seaward of the CCCL that are also mapped as flood hazard areas are subject to the more restrictive of the flood requirements. This section is revised in the 6th Edition FBC to minimize differences with Sec. 1612 and ASCE 24.
- Buildings in "high-velocity hurricane zones" (Broward and Miami-Dade counties) are required to comply with the specific provisions for those zones and also the requirements of Sec. 1612, if located in flood hazard areas (Sec. 1601.1).

BASF CCCL Fact Sheet. Visit www.buildingasafeflorida.org to download a fact sheet summary of the revised CCCL requirements.

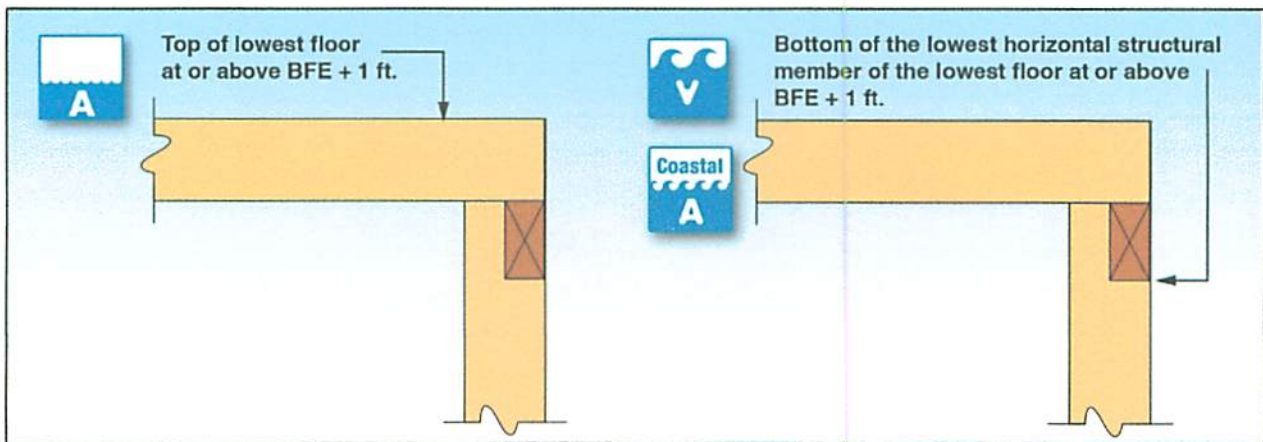
FBC, Residential

Most, but not all, flood provisions in the FBC, Residential are found in Sec. R322, *Flood-Resistant Construction* (see FBC, Building Table 1612.1 for a listing of all flood provisions in the *FBC, Residential*). Unlike the *FBC, Building*, which refers to ASCE 24, the *FBC, Residential* includes detailed requirements. Dwellings seaward of the CCCL must be in accordance with Sec. 3109 of the *FBC, Building*. The following highlight key provisions:

- New in the 6th Edition, areas subject to wave heights between 1 ½ and 3 feet are delineated (by Limit of Moderate Wave Action) or otherwise designated by the community are Coastal A Zones (CAZ). If CAZs are designated, dwellings in CAZs must comply with the requirements for Zone V in Sec. R322.3.
- In Table R301.2(1), communities adopt local floodplain management ordinances to specify the date of entry into the NFIP and the title and date of the current Flood Insurance Study and FIRMs.
- Sec. R309.3 requires garages to be elevated or, if below the BFE and used solely for parking, access or storage, meet the requirements of Sec. 322 (for enclosed areas below the BFE).
- Sec. R322.1 includes general provisions that apply to dwellings in all flood hazard areas (including Zone A, Zone V, and Coastal A Zones):
 - Dwellings proposed in identified floodways are required to be designed and constructed according to ASCE 24. This requirement recognizes that flooding is deeper and usually flows faster in floodways, which include the channel and adjacent lands that should be reserved to convey floodwaters. Obstructing flow in floodways can cause increases in flood depths, which may cause increased damage on adjacent properties.
 - Sec. R322.1.1 permits use of ASCE 24 in all flood hazard areas as an alternative to the requirements of Sec. R322.
 - In areas commonly referred to as “approximate Zone A” where FIRMs do not specify BFEs, the building official may require use of data available from another source or may require the applicant to

determine flood elevations using accepted engineering practices. Keeping a record of elevations used previously is a good practice so that future permit decisions can be based on the same data.

- The lowest floor is defined as the floor of the lowest enclosed area, but does not include unfinished enclosures below elevated dwellings that comply with the code (see graphic below).
- Unfinished enclosures under elevated buildings are permitted if used only for parking, building access or limited storage (or crawlspace). Building officials should ensure that plans specify enclosed areas are only for those uses. An owner who subsequently modifies an enclosure in any way that alters compliance with these requirements may be subject to higher Federal flood insurance premiums.
- Utility equipment and machinery that serve buildings must be elevated or meet a specific performance expectation that generally cannot be met by typical installations.
- Use of flood damage-resistant materials is required below the elevations required in R322.2 (Zone A) and R322.3 (Zone V and Coastal A Zone). These materials are capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, is referenced for materials and installation methods.
- Dwellings seaward of the CCCL that are also in mapped flood hazard areas must comply with the more restrictive of Sec. 3109 of the *FBC, Building* and Sec. R322.



• Sec. R322.2 includes specific requirements that apply in flood hazard areas commonly referred to as “Zone A.” (except in Coastal A Zones, which are subject to Sec. R322.3). The Zone A requirements include:

- Minimum elevation requirements call for the lowest floor (see graphic left, previous page), including basement, to be at or above the BFE plus 1 foot or DFE, whichever is higher. The additional elevation, called “freeboard,” is required in all flood hazard areas. (see graphic below) Basements and all areas that are below grade on all sides are not permitted.

- The area below elevated dwellings may be enclosed by foundation walls or framed walls. To minimize damage due to hydrostatic loads, flood openings are required (see FEMA Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Flood openings may be prescriptive (providing 1 square inch of net open area for each square foot of enclosed area) or engineered (requires design certification). Measurement of net open area must account for the presence of louvers, blades, screens, and faceplates.

Enclosures and Flood Insurance. Federal flood insurance is more expensive if Zone V buildings have enclosures below the BFE, even if the walls are compliant breakaway walls. Insurance is even more expensive if enclosures are larger than 300 square feet.

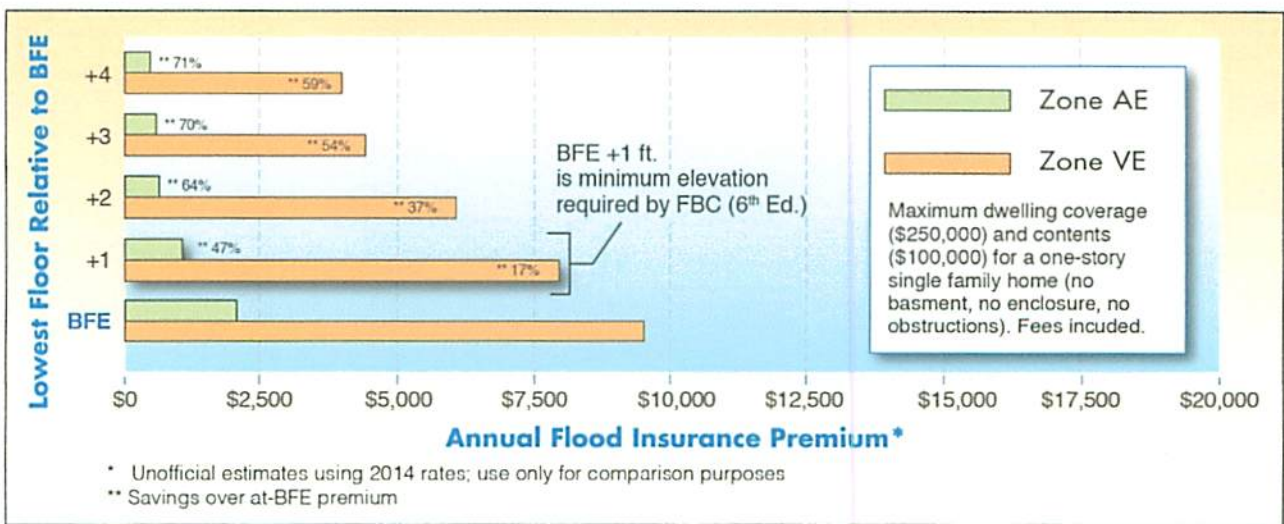
- Tanks may be installed underground or on-grade (if anchored to resist flood loads) or elevated on platforms.

• Sec. R322.3 includes specific requirements that apply in coastal high-hazard areas, commonly referred to as “Zone V,” and Coastal A Zones:

- Minimum elevation requirements call for the bottom of the lowest horizontal structural member of the lowest floor (see graphic previous page, right) to be elevated to or above the BFE plus 1 foot or DFE, whichever is higher. The additional elevation, called “freeboard,” is required in all flood hazard areas. (see graphic below)

- Foundations are limited to pilings or columns because they present the least obstruction to the passage of waves. In CAZ, backfilled stemwalls are permitted if foundations have deep footings to account for scour. Foundation designs are required to be certified by a registered design professional.

- The area under elevated homes must be free of obstruction (see FEMA Technical Bulletin 5, *Free-of-Obstruction Requirements*). The area may be enclosed with insect screening or open lattice or, if enclosed by walls, the walls must be designed to break away under flood loads without causing damage to the foundation or elevated building. FEMA Technical Bulletin 9, *Design and Construction Guidance for Breakaway Walls Below Elevated Coastal Buildings*, includes prescriptive requirements for breakaway walls. The code specifies that utility components are not permitted to be mounted on or penetrate breakaway walls because post-flood investigations have determined that walls with such components do not break away cleanly. Flood openings are required in breakaway walls to minimize wall failure under relatively shallow flooding.



- An exterior door is required in the doorway at the top of stairways that provide access to dwellings and that are enclosed by breakaway walls.
- Tanks may be installed underground (if anchored to resist flood loads) or elevated on platforms.
- Dwellings in flood hazard areas in “high-velocity hurricane zones” (Broward and Miami-Dade counties) are required to comply with the specific provisions for those zones and also the requirements of Sec. R322 (also see Sec. R301.1 and Sec. R401.1).
- In Zone A, above-ground pools, on-ground pools and in-ground pools that involve placement of fill are allowed without any special requirements unless located in a floodway, in which case documentation must be provided to evaluate the effects of the encroachment on flood elevations. Pools in Zone V are required to conform to the requirements of ASCE 24, which preclude obstructing flow that causes damage to other buildings. For consistency, Chapter 41, Swimming Pools, cross-references to Sec. R322.
- Chapters with specifications for mechanical systems, HVAC systems, duct construction, combustion air, boilers and water heaters, special piping and storage systems, fuel gas, plumbing, plumbing fixtures, sanitary drainage and vent systems all include flood provisions. In general, the pertinent sections refer to Sec. R322.1.6.

FBC, Existing Building

A fundamental premise of the FBC, Existing Building is that work on an existing building does not lessen the compliance or conformance of the structure. It is important to keep this in mind when considering projects that repair, alter, add to, or otherwise improve buildings in flood hazard areas that were originally built to comply with flood-resistant requirements. For example, the open area under buildings required to be elevated on pilings is permitted to be enclosed by walls only if the walls comply with the flood-resistant construction requirements and if the use of the resulting enclosure is limited only to parking, building access or storage.

The first step when considering work on an existing building in a flood hazard area is to determine whether the proposed work constitutes “substantial improvement” (SI) or repair of “substantial damage” (SD). If a proposal is determined to be SI/SD, then the existing building is required to be brought into compliance with the requirements for new construction found in Sec. 1612 of the FBC, Building or R322 of the FBC, Residential, as applicable.

The SI/SD determination is made by comparing the cost of all of the proposed work to the market value of the building (excluding land) before the work is undertaken. If a proposal

is to repair a damaged building, the market value is the value of the building before the damage occurred. When the cost equals or exceeds 50% of the market value, the work is determined to be substantial improvement or repair of substantial damage. In 2010, FEMA published FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference, to summarize extensive guidance, include sample letters and an informative sample packet for applicants, designers and builders (Appendix D). Communities should establish procedures for consistent handling of applications to do work on existing buildings.

Notice of Local Amendments (Cumulative SI). Some Florida communities enforce “cumulative” SI over a specified period of time (e.g., 1, 5 or 10 years or life of the building). These communities keep records and evaluate whether each subsequent proposal to improve or repair a building will trigger the SI requirement to bring the building into compliance with the requirements for new construction.

The flood provisions of the FBC, Existing Building are found in several chapters (see Table 1612.1 for a listing of all flood provisions in the FBC, Existing Building):

- Repairs. Chapter 6 has a general requirement that requires compliance when the repair of a building in a flood hazard area constitutes substantial improvement (Sec. 601.3). Sec. 606.2.4 also specifies that buildings that have sustained substantial damage shall be brought into compliance. Compliance refers to the requirements for new construction in Sec. 1612 of the FBC, Building or Sec. R322 of the FBC, Residential, as applicable.
- Alterations – Levels 1, 2, and 3. Chapter 7, Alterations – Level 1, has a general requirement that requires compliance when alterations constitute substantial improvement (Sec. 701.3). Because the requirements for alterations are cumulative, the requirement in Chapter 7 also applies to Level 2 alterations (Chapter 8) and Level 3 alterations (Chapter 9).
- Additions. Handling additions is complicated by the fact that some circumstances prompt compliance of the addition as well as the base building. Sec. 1103.5 distinguishes between horizontal additions that are structurally connected and those that are not structurally connected. It also specifies that if vertical additions or foundation work are determined to constitute substantial improvement, then base buildings must be brought into compliance. New or replacement foundations must

Reconstruction is New Construction. Reconstruction of a building that is demolished or so significantly damaged that it cannot be repaired is new construction, even if the old foundation can be reused.

comply, without requiring SI/SD determinations. DEM's guidance listed in Resources is based on FEMA P-758.

- **Historic Buildings.** The key to proper enforcement of the flood provisions is whether a historic building meets the exception in Sec. 1201.3. The FBC, Existing Building defines "historic buildings," however, the definition is not entirely consistent with the definition used by the NFIP. The NFIP allows historic buildings in flood hazard areas to be improved and repaired without bringing them into compliance provided the buildings are qualified. Importantly, any proposed work must not preclude such buildings from continued listing as historic. FEMA guidance suggests building officials require applicants to obtain evidence of continued designation from the appropriate authority or a qualified historic resources professional.
- **Relocated or Moved Buildings.** Sec. 1302.6 specifies that buildings relocated or moved into flood hazard areas are required to comply with the flood provisions of Sec. 1612 or R322, as applicable (no determination of substantial improvement). This means new foundations must meet the elevation and other requirements based on the flood zone of the new location.
- **Prescriptive Compliance.** The sections that articulate the prescriptive compliance method for additions, alterations, and repairs and each specify that if the work constitutes SI/SD, then the existing building must be brought into compliance with the requirements for new construction (Chapter 4). Similarly, the performance compliance method includes the same requirement (Chapter 14).

FBC, Mechanical, Plumbing, Fuel Gas

Each of the mechanical, plumbing and fuel gas codes includes similar provisions requiring equipment and systems to be located at or above the elevation specified in Sec. 1612.4 (thus matching the elevation of the building) or to meet a specific performance expectation that generally cannot be met by typical installations. See Table 1612.1 for a listing of all flood provisions in these codes. Of particular note:

- Each code specifies that systems and equipment shall not be mounted on or penetrate walls intended to break away under flood loads (applies in Zone V and Coastal A Zones).
- *FBC, Mechanical* requires ducts to be located above the elevation specified in Sec. 1612.4 or designed and constructed to prevent water from entering or accumulating and to resist flood loads.

Local Floodplain Management Regulations

Florida communities adopt local floodplain management regulations to regulate development activities in identified flood hazard areas. The regulations (typically called "ordinances"), in conjunction with the *Florida Building Code*, meet or exceed the minimum requirements of the NFIP. Development other than buildings includes subdivision of land; filling, grading, and other site improvements and utility installations; placement, installation, or replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development. Importantly, to fulfill the NFIP requirements, floodplain management ordinances also regulate structures, and facilities that are exempt from the *Florida Building Code*.

Local floodplain management regulations are administered in conjunction with the *Florida Building Code*. Key features include:

- Adoption of Flood Insurance Studies and FIRMs to establish flood hazard areas (flood zones).
- Designation of the Floodplain Administrator; in many communities, the Building Official is designated the Floodplain Administrator, while in others the position is assigned to a different office.
- Duties of the Floodplain Administrator, including review of applications for development other than buildings, inspection of permitted development and flood hazard areas, maintenance of records.
- Details of the process for making substantial damage and substantial improvement determinations.
- Specifications for determining flood elevations in areas without BFEs on FIRMs.
- Procedures, limitations, and conditions for evaluating requests for variances, including variances from the flood provisions of the *Florida Building Code*.
- Requirements for the following:
 - Subdivisions, including manufactured home parks and subdivisions
 - Site improvements and utilities (sanitary sewage facilities and water supply facilities)
 - Placement of fill
 - Manufactured homes, recreational vehicles (including park trailers)
 - Tanks (above-ground and underground)

- Limitations on development in floodways, including fill, fences, retaining walls, roads and watercourses, in addition to buildings and structures. Applications must be accompanied by analyses to determine proposed activities do not increase flood levels.
- General requirements for any development not specifically addressed, including:
 - Anchoring to prevent flotation, collapse or lateral movement resulting from flood loads
 - Use of flood damage-resistant materials
 - Mechanical, plumbing and electrical systems elevated or protected

Assistance from DEM. DEM is designated by the Governor to be the link between Florida communities and the NFIP. Changes to floodplain management ordinances should be reviewed by DEM prior to adoption. Contact the State Floodplain Management Office for guidance.

Resources

DBPR Building Code Information System, 6th Edition
Florida Building Code (2017), International Code Council, Inc.; www.FloridaBuilding.org.

DEM Local Ordinance & Building Code Resources (excerpts of the FBC and Highlights of ASCE 24-14); www.floridadisaster.org/Mitigation/SFMP/lobc_resources.htm.

ASCE 7, Minimum Design Loads for Buildings and Other Structures (2010).

ASCE 24, Flood Resistant Design and Construction (2014).

FEMA, Recommended Procedures for Flood Velocity Data Development (November 2012); www.fema.gov/media-library/assets/documents/29944.

FEMA P-55, Coastal Construction Manual (Fourth Edition, April 2011); www.fema.gov/media-library/assets/documents/3293.

FEMA P-936, Floodproofing Non-Residential Buildings (July 2013); www.fema.gov/media-library/assets/documents/34270.

FEMA P-758, Substantial Improvement/Substantial Damage Desk Reference (May 2010); www.fema.gov/media-library/assets/documents/18562.

NFIP Technical Bulletins: A series of guidance on a variety of floodplain management topics; www.fema.gov/media-library/resources-documents/collections/4.

Answers to Specific Questions

Florida Division of Emergency Management, State Floodplain Program Office: 1-850-487-4556 and floods@em.myflorida.com.

Florida Building Commission: 1-850-487-1824 and www.FloridaBuilding.org.

Don't know where to go for an answer to a specific question?

Contact Building A Safer Florida, Inc. 1-850-222-2772 and www.buildingasaferflorida.org.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 9.

ITEM: Approval or Denial of the proposed ordinance on First Reading amending Section 23-4 of the Town Code providing for limited commercial uses in the RM-1 and RM-2 Zoning Districts.

DESCRIPTION:

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

None

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 10.

ITEM: Consideration and Approval of an ordinance on Second Reading amending Section 12-21 of the Town Code regarding Definitions for Construction Activity. Enclosed are the Staff Memo and proposed ordinance.

DESCRIPTION:

On September 12, 2024, the Town Council approved updates to Sections 12-26 and 12-27 of the Town Code to regulate construction and landscaping activities more effectively. These updates established clear work hour restrictions, specific rules for different types of construction, and penalties for violations, including the issuance of "Stop Work Orders."

However, it was recognized that Section 12-21, which defines "Construction Activity," needed revision to better encompass all aspects of construction, especially the logistical component of material deliveries. The current definition focused mainly on physical construction tasks, such as demolition and excavation, but did not include the delivery of materials, which can impact noise, traffic, and safety.

The proposed revision to Section 12-21 would expand the definition of "Construction Activity" to include deliveries of materials and supplies. This change would:

- **Clarify the Scope** of construction activities, allowing for better oversight.
- **Streamline Enforcement** of regulations related to deliveries, including noise and traffic restrictions.
- **Enhance Compliance** by providing clear expectations for delivery times and conditions.
- **Improve Communication** between the Town and construction projects to prevent issues from escalating.

Overall, the update aims to improve the Town's ability to manage construction logistics and ensure better compliance with regulations.

Staff recommend that the Town Council approve the attached Ordinance amending Section 12-21 of the Town Code to expand the definition of "Construction Activity" to include deliveries. This update aims to clarify the scope of construction activities, streamline enforcement procedures, and improve compliance with regulations governing the construction, renovation, repair, alteration, or demolition of buildings and structures within the Town.

PREVIOUS MEETING VOTE:

Mayor Joshua Fuller - Yes

Vice Mayor Isaac Salver - Yes

Council Member Stephanie Bruder - Yes

Council Member Teri D'Amico - Yes

Council Member Molly Diallo - Yes

Council Member Eric Rappaport - Yes

Council Member Robert Yaffe - Yes

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Staff Memo for Council Agenda Items Construction Activity 2nd reading
2.	Chapter 12-21 Definitions 2nd Reading
3.	Staff Memo for Council Agenda Items Construction Activity 1st reading
4.	Chapter 12-21 Definitions 1st Reading



**TOWN OF BAY HARBOR ISLANDS
BUILDING, PLANNING AND ZONING DEPARTMENT
MEMORANDUM**

TO:	Mayor and Town Council Members
THRU:	Jenice Rosado, ICMA-CM Town Manager
CC:	Joseph S. Geller, Esq., Consultant Town Attorney Yvonne P. Hamilton, CMC, Town Clerk
FROM:	Lorrainia Belle Town Planner
DATE:	January 8, 2025
SUBJECT:	Town of Bay Harbor Islands – Amending the Town’s Code of ordinances Section 12-21 to Include Deliveries in the Definition of Construction Activity

RECOMMENDATION

Staff recommend that the Town Council approve the attached Ordinance amending Section 12-21 of the Town Code to expand the definition of "Construction Activity" to include deliveries. This update aims to clarify the scope of construction activities, streamline enforcement procedures, and improve compliance with regulations governing the construction, renovation, repair, alteration, or demolition of buildings and structures within the Town.

BACKGROUND

On September 12, 2024, the Town Council approved updates to Section 12-26 of the Town Code, which set clear parameters for permissible hours of construction and landscaping activities. These changes included restrictions on work hours, specific rules for each type of construction activity, and penalties for violations. Additionally, Section 12-27 was updated to introduce penalties for non-compliance, including the issuance of "Stop Work Orders" to address violations promptly.

While the updates to Section 12-26 and Section 12-27 improved the Town's ability to manage construction-related activities, it became evident that Section 12-21, which defines "Construction Activity," required revision to more comprehensively reflect the scope of such activities. Specifically, the definition did not fully encompass the logistical aspect of construction, such as the delivery of materials, supplies, or equipment to construction sites.

The existing definition of "Construction Activity" in Section 12-21 primarily focuses on physical work associated with construction, such as demolition, excavation, and building activities. However, it does not explicitly address the significant role that deliveries play in construction projects. These deliveries, while not part of the actual construction or demolition work, are integral to the process. They involve substantial movement of materials and supplies to the site, often during early or late hours, and can have an impact on noise levels, traffic, and safety in the surrounding areas.

The proposed revision of Section 12-21 seeks to include the delivery of materials and supplies within the definition of "Construction Activity." This change will:

Clarify the Scope of Construction Activities: By including deliveries in the definition, the Town will have a clearer understanding of all actions considered part of construction projects, improving oversight.

Streamline Enforcement: Expanding the definition will give the Town better tools for monitoring and enforcing regulations related to construction logistics, especially in terms of deliveries. It will allow for more consistent enforcement of restrictions related to delivery times, noise, and traffic impacts.

Enhance Compliance: By addressing deliveries explicitly in the Town Code, contractors, property owners, and delivery services will have clear expectations regarding permissible times and conditions for making deliveries, which will foster greater compliance with Town regulations.

Improve Communication: Including deliveries in the definition ensures better communication between the Town and construction projects, making it easier to identify and address potential issues before they escalate into larger problems.

ANALYSIS

The inclusion of deliveries in the definition of "Construction Activity" will provide significant benefits in the administration and enforcement of construction-related regulations. Several factors have been considered in the analysis of this amendment:

1. **Community Impact:** Construction deliveries can generate considerable traffic, noise, and congestion, especially in residential areas. Including deliveries in the definition of construction activities allows for better oversight and ensures that deliveries are scheduled during permissible hours to minimize disturbance to residents.
2. **Consistency and Enforcement:** Currently, deliveries are often not regulated under the same guidelines as construction work, creating enforcement challenges. By explicitly including deliveries, the Town can establish consistent

rules regarding when and how deliveries may occur, thus enabling more effective enforcement of those rules.

3. **Legal and Regulatory Clarity:** The expansion of the definition clarifies any ambiguity regarding what constitutes construction activity, making it easier for developers, contractors, and residents to understand and comply with the regulations. This reduces the likelihood of unintentional violations and improves overall compliance.
4. **Operational Efficiency:** The change will streamline the construction permitting and inspection process, as it will be easier for Town staff to monitor all aspects of construction activity, including deliveries. This can lead to more efficient use of resources in managing construction projects and responding to concerns from residents.
5. **Potential Challenges:** One potential challenge is the enforcement of delivery time restrictions, particularly during high-volume construction periods. However, with added clarity in the definition, enforcement staff will be better equipped to address complaints, track deliveries, and hold contractors accountable for non-compliance.

EXECUTE

To implement the proposed revisions effectively, the following steps will be taken:

1. **Public Notification and Communication:** Once the ordinance is approved, a public outreach program will be launched to inform contractors, construction firms, and residents about the updated definition and new regulations regarding deliveries. This will include notices on the Town's website, through social media channels, and via direct communications with local construction companies.
2. **Training for Staff and Enforcement Personnel:** Town staff, including those in code enforcement, permitting, and inspections, will be trained on the updated definition of "Construction Activity." This will ensure that all departments are aligned on the new regulations and can enforce them consistently across the Town.
3. **Update Permitting Processes:** The Town's construction permitting process will be updated to include a section specifically related to deliveries. Contractors and property owners applying for construction permits will be required to provide delivery schedules and any necessary mitigation plans for traffic or noise management.
4. **Enhanced Tracking of Deliveries:** A system will be implemented to monitor and track deliveries associated with construction projects. This may include requiring contractors to submit delivery schedules in advance, or using existing permit tracking software to flag construction sites with delivery-related restrictions.
5. **Community Engagement:** In addition to the public notification, the Town will offer a community feedback mechanism to allow residents to report issues related to construction deliveries, helping to identify and address potential violations or concerns in real time.

CONCLUSION

The proposed amendment to Section 12-21 of the Town Code will provide a clearer and more comprehensive definition of "Construction Activity," incorporating deliveries as an essential component of construction projects. This revision will improve the Town's ability to enforce regulations, ensure compliance, and better manage construction activities within the community.

FINANCIAL ANALYSIS

GL Line Item Number: N/A

Total Amount Budgeted: N/A

Encumbered Amount: N/A

Balance Remaining: N/A

ATTACHMENTS

2nd Draft Ordinance

ORDINANCE NO. ___

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO NUISANCES OF CONSTRUCTION ACTIVITIES; AMENDING THE ARTICLE II OF CHAPTER 12 ENTITLED NOISE; AMENDING SECTION 12-21 ENTITLED DEFINITIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands originally adopted a Nuisance Code in 1951 regulating construction activities among other activities for the community; and

WHEREAS, the Town Council periodically studies various land development trends and issues, and considers strategies and design guidelines to encourage the proper re-development of lands within the Town, and amends its Codes accordingly; and

WHEREAS, after studying of the existing Code provisions, the Town Council finds that a need exists to modify the existing Code provisions; and

Whereas, the Town of Bay Harbor Islands recognizes the importance of updating and clarifying definitions related to construction activity to ensure effective regulation and enforcement of construction-related processes; and

Whereas, it is in the public interest to provide a clear, comprehensive, and consistent definition of construction activity that reflects modern construction practices and processes; and

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

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

Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Code of Ordinances is hereby amended to modify Chapter 12 entitled "Nuisances" by amending Article II entitled "Noise", as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof

Section 3: 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 4: 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 5: 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 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this 14th day of August 2024

PASSED on Second Reading this_ day of September 2024.

JOSHUA D. FULLER

MAYOR

ATTEST:

YVONNE P. HAMILTON,

CMC TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GREENSPOON MARDER, LLP TOWN ATTORNEYS

BY: JOSEPH S. GELLER, ESQ.

Exhibit "A"

Amendments to the Town of Bay Harbor Islands Code of Ordinances

Chapter 12 - NUISANCES

ARTICLE II. - NOISE

Sec. 12-21. Definitions.

1. *Appliance* means any air conditioner, pool pump, clothes washer or clothes dryer in service within the town prior to the effective date of this section.
2. *Commercial landscaping* means the cutting or trimming of grass, trees, shrubs or other foliage by a business entity or individual other than the owner or resident of the property for a fee.
3. *Construction activity* means any activity associated with the construction, renovation, repair alteration or demolition of any building, structure or any part thereof. any work or operation associated with the planning, preparation, construction, alteration, or demolition of a building or structure, including but not limited to site preparation, excavation, grading, foundation work, structural work, installation of utilities, and exterior and interior building construction. "Construction activity" also includes any deliveries or transportation of materials, equipment, or supplies to the construction site, whether or not the delivery is related to ongoing work, provided that such deliveries are necessary for or incidental to the construction process.
4. *Noise* means any audible sound emanating from any source.
5. *Noise disturbance* means any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, or which unnecessarily interferes with the enjoyment of life or property, including outdoor recreation, of a reasonable person with normal sensitivities. Noises measured at an A-weighted equivalent sound level (Leq) in excess of 65 decibels between the hours of 9:00 a.m. and 10:00 p.m. (daytime decibel levels) or in excess of 60 decibels between the hours of 10:00 p.m. and 9:00 a.m. (nighttime decibel levels), taken with a calibrated sound level meter at the location of the dwelling unit or premises of the complaining party shall be considered prima facie evidence of a violation of this article. If there is no complaining party, the measurement shall be taken at approximately 100 feet from the property from which the noise is emanating.
6. *Sound level meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and A-weighted sound level network with fast and slow integrating time constants used to measure sound pressure levels. The sound level meter shall be capable of measuring the A-weighted equivalent sound level (Leq) and maximum sound level. The period of time over which sound levels are measured shall reflect the nature of the sound.

(Ord. No. 938, § 3, 8-6-2012; Ord. No. 1061, § 1(Exh. A), § 1(Exh. A), 6-23-21)

AGENDA ITEM REPORT
January 8, 2025

ITEM NUMBER: 11.

ITEM: Consideration and Approval of an ordinance on First Reading amending Section 11-8.2 of the Town Code regarding Adopted Levels of Service and Concurrency review requirements. Enclosed are the Staff Memo and proposed ordinance. Sponsored by Council Member Robert Yaffe.

DESCRIPTION:

Staff recommends that the Town Council approve an ordinance amending Section 11-8.2 of the Town Code to clarify concurrency review requirements for single-family homes. The amendment exempts single-family homes from concurrency review for public facilities like transportation and utilities but mandates compliance with stormwater management and drainage regulations to maintain the Town's adopted level of service (LOS) for drainage. The change aims to streamline the permitting process for single-family homes while ensuring that stormwater runoff does not negatively impact the local drainage system. It emphasizes the need for proper stormwater retention, especially when site elevation is raised, to safeguard the environment and public infrastructure. The Town will review stormwater plans and conduct inspections to ensure compliance with these updated requirements.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no financial impact.

BUDGET IMPACT:

Submitted By: Lorrainia Belle, Town Planner
 Robert Yaffe, Council Member

ATTACHMENTS

1.	Staff Memo for Council Agenda Items
2.	Section 11-8.2 1st Reading



**TOWN OF BAY HARBOR ISLANDS
BUILDING, PLANNING AND ZONING DEPARTMENT
MEMORANDUM**

TO:	Mayor and Town Council Members
THRU:	Jenice Rosado, ICMA-CM Town Manager David Hernandez, Assistant Town Manager
CC:	Joseph S. Geller, Esq., Consultant Town Attorney Yvonne P. Hamilton, CMC, Town Clerk
FROM:	Lorrainia Belle Town Planner
DATE:	January 8, 2025
SUBJECT:	Town of Bay Harbor Islands – Amending the Town’s Code of ordinances Section 11-8.2 Adopted levels of service shall not be degraded below standards.

RECOMMENDATION

Staff recommend that the Town Council approve the attached Ordinance amending Section 11-8.2 of the Town Code, which provides clarification on concurrency review requirements for single-family homes. The amendments ensure that single-family homes are exempt from concurrency review but still subject to stormwater management requirements to maintain the adopted level of service for drainage.

BACKGROUND

The Town of Bay Harbor Islands has established levels of service (LOS) standards to ensure the efficient and sustainable operation of public facilities, including transportation, utilities, and stormwater management. These standards ensure that development does not negatively impact public services or degrade the adopted LOS below the specified thresholds.

The Town’s Code of Ordinances, Section 11-8.2, currently requires that all development applications, including rezoning requests, changes to the future land use map (FLUM), and building permits, demonstrate that proposed developments will not degrade the

adopted LOS. However, mitigation may be allowed with Town approval if degradation occurs. Additionally, certain types of developments are subject to concurrency review, which is processed through the Town's Concurrency Management System (CMS).

The proposed updates to the ordinance are aimed at providing more specific guidance for single-family homes. Currently, single-family homes built on platted single-family lots are exempt from undergoing concurrency review. However, this exemption does not extend to stormwater management or drainage, which must still be addressed in relation to the LOS for these properties. The updated ordinance clarifies that while single-family homes are not required to undergo a concurrency review for public facilities like transportation or utilities, they must still comply with the Town's drainage and stormwater retention requirements in order to maintain the level of service standards, especially when the elevation of the site is raised.

These updates are designed to ensure that the Town's environmental standards are upheld, particularly regarding stormwater management, while also streamlining the process for the construction of single-family homes.

ANALYSIS

The proposed amendments to Section 11-8.2 of the Town Code focus on clarifying the concurrency review requirements for single-family homes and specifying the stormwater management requirements for these properties.

1. Concurrency Review Exemption for Single-Family Homes:

- Single-family homes constructed on platted single-family lots are exempt from concurrency review. This means these properties will not be required to undergo a detailed analysis regarding their impact on public facilities such as transportation and utilities, which typically delay the development approval process. This change is designed to streamline the permitting process and reduce administrative burdens for homeowners and developers.
- However, the exemption from concurrency review is not absolute. Specifically, the proposed amendments make clear that drainage, or stormwater management, must still be addressed in accordance with the Town's Code, Miami-Dade County regulations, and the Florida Building Code. The Town's stormwater management regulations are designed to ensure that developments do not contribute to degradation of the level of service (LOS) related to drainage and water retention, maintaining the environmental standards of the community.
- The ordinance requires that if the elevation of the site is raised during construction, proper stormwater retention systems must be designed and implemented to manage the runoff. This ensures that these residential developments do not negatively impact the local drainage system and water quality.

2. Clarification of Level of Service (LOS) for Single-Family Homes:

- The updated ordinance ensures that stormwater management remains a priority, particularly in areas where site grading is raised. Even though single-family homes are exempt from general concurrency review, it is critical that their development does not adversely affect stormwater runoff or exceed the capacity of existing drainage infrastructure.

- By maintaining stormwater retention requirements, the ordinance ensures that developments will not contribute to increased flooding risks or negatively impact the surrounding community's drainage system, thereby safeguarding public infrastructure and maintaining the adopted level of service for stormwater management.

EXECUTE

To implement the proposed revisions effectively, the following steps will be taken:

1. For single-family home developments, the Town will review the submitted stormwater and drainage plans to ensure compliance with the Town's Code, Miami-Dade County regulations, and the Florida Building Code.
2. Town staff will conduct inspections during and after construction to verify that the stormwater management systems are implemented as per the approved plans and meet the necessary standards.
3. Any discrepancies found during inspections will require corrective actions to ensure the property's stormwater management system is fully compliant with the regulations.

CONCLUSION

The proposed amendments to Section 11-8.2 are beneficial in clarifying and streamlining the development approval process for single-family homes while ensuring that critical stormwater management requirements are upheld. The exemption from concurrency review for single-family homes will make the permitting process more efficient and reduce unnecessary delays. At the same time, by maintaining stormwater management standards, the Town will ensure that new developments do not degrade drainage infrastructure or negatively affect the community's stormwater management systems.

It is recommended that the Town Council adopt the proposed resolution to amend Section 11-8.2 of the Town Code, as it provides clear, detailed guidance for single-family lots, while ensuring that essential public service standards, particularly in relation to drainage and stormwater management, are maintained.

FINANCIAL ANALYSIS

GL Line Item Number: N/A

Total Amount Budgeted: N/A

Encumbered Amount: N/A

Balance Remaining: N/A

ATTACHMENTS

1st Draft Ordinance

ORDINANCE NO. ___

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 11-8.2 OF THE TOWN'S CODE OF ORDINANCES RELATED TO ADOPTED LEVELS OF SERVICE (LOS) AND CONCURRENCY REVIEW REQUIREMENTS; PROVIDING EXEMPTIONS AND ESTABLISHING DE-MINIMIS IMPACT THRESHOLDS FOR DEVELOPMENT APPROVAL REQUESTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands originally adopted levels of service (LOS) standards for the efficient and sustainable operation of public facilities; and

WHEREAS, the Town Council has determined that certain types of developments should be exempt from concurrency review or subject to de-minimis impact thresholds; and

WHEREAS, the Town Council desires to amend Section 11-8.2 of the Town Code to incorporate these exemptions and impact thresholds.

WHEREAS, the Town desires to ensure that all new development or redevelopment does not degrade the adopted levels of service below the specified standards unless approved mitigation is provided; and

WHEREAS, after studying of the existing Code provisions, the Town Council finds that a need exists to modify the existing Code provisions; and

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

Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Code of Ordinances is hereby amended to modify Chapter 11 entitled "Land Development Regulations" by amending Article I entitled "General Provisions", as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3: 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 4: 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 5: 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 6: 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 January 2025

PASSED on Second Reading TBD.

JOSHUA D. FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON, CMC TOWN
CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GREENSPOON MARDER, LLP TOWN
ATTORNEYS
BY: JOSEPH S. GELLER, ESQ.

Exhibit "A"

Amendments to the Town of Bay Harbor Islands Code of Ordinances

Chapter 12 - LAND DEVELOPMENT REGULATIONS

ARTICLE I. – GENERAL PROVISIONS

Sec. 11-8.2. Adopted levels of service shall not be degraded below standards.

- (a) *General rule.* All applications for development orders, including but not limited to rezoning, changes to the future land use map (FLUM) designation and building permits shall demonstrate that the proposed development does not degrade the adopted level of service (LOS) below the adopted standard as specified below, unless mitigation as approved by the town and is provided. All development approval requests, other than those listed below shall be subject to concurrency review and processed through the concurrency management system (CMS).
- (b) *Exceptions.* Notwithstanding the provisions of subsection (a) of this section, the following types of development projects shall be exempt from concurrency review by the town:
- (1) Single-family homes built on a platted single-family lots are not required to undergo a concurrency review. However, the site must be designed to retain all stormwater on-site in accordance with the requirements of the Town's Code, Miami-Dade County regulations, and the Florida Building Code.
 - (2) Redevelopment of commercial development does not result in an increase in the gross building floor area of the project.
 - (3) All multi-family properties which do not increase the overall number of allowable bedrooms and unit total existing at the time of the redevelopment.
 - (4) Notwithstanding other provisions of this article, applications for development orders that will not have an impact on the affected public facilities, as determined by the town, are also exempt from concurrency requirements.
 - (5) De-minimis impacts. A development which meets any of the following de-minimis impact thresholds is also exempt from the requirements of this article, but only to the extent stated in an applicable certificate of exemption:
 - a. An impact that would not affect more than one percent of the maximum volume at the adopted level of service of the affected transportation facility as determined by the town's planner and/or traffic consultant.
 - b. An impact for which the sum of existing roadway volumes and the projected volumes from approved projects on a transportation facility does not exceed 110 percent of the maximum volume at the adopted level of service of the affected transportation facility.
 - c. An impact that would not exceed the adopted level of service standard of any affected designated hurricane evacuation routes.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 12.

ITEM: Consideration and Approval of an ordinance on First Reading amending Section 23-5 of the Zoning and Planning Code to prohibit the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles in the B-1 Business District. Enclosed are the Staff Memo and proposed ordinance. Sponsored by Mayor Joshua D. Fuller.

DESCRIPTION:

The Town's Zoning Code (Chapter 23) contains numerous Land Development Regulations (LDRs) affecting all lands within the Town. Each Zoning District has a section with lists of "Permitted" Uses, some Districts have lists of uses that require a "Special Review" by holding a Public Hearing by the Town Council prior to issuance of a Business Tax Receipt (BTR), and the 8-1 Business District has a section with a list of "Prohibited" Uses. The section of the B-1 Business District Code contains a brief list of specifically "Prohibited" uses, and a provision that states: "Any use not specifically listed, unless permitted by the Town Council." This means any use not listed as "Permitted" or that requires a "Special Use" approval is "Prohibited".

The proposed ordinance will clarify that the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles is not a permitted use in the B-1 Business District.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:


Submitted By: Yvonne Hamilton, Town Clerk
Joshua Fuller, Mayor

ATTACHMENTS

1.	BHI B-1 Dist Prohibited Uses Auto TC Staff Report Dec 18 2024
2.	BHI Draft Ord B-1 District - Auto Uses Dec 2024

**TOWN OF BAY HARBOR ISLANDS
COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Mayor and Town Councilmembers
Jenice Rosado – Town Manager
Town of Bay Harbor Islands

From: Michael J. Miller, AICP 
Consultant Town Planner

Date: December 18th, 2024

Subject: Town of Bay Harbor Islands
Proposed Zoning and Planning Code Revision
B-1 Business District – Prohibited Uses - Automotive Related
MMPA Acct. No. 01-0702-0500A

ISSUE:

The Town's Zoning Code (Chapter 23) contains numerous Land Development Regulations (LDRs) affecting all lands within the Town. Each Zoning District has a section with lists of "Permitted" Uses, some Districts have lists of uses that require a "Special Review" by holding a Public Hearing by the Town Council prior to issuance of a Business Tax Receipt (BTR), and the B-1 Business District has a section with a list of "Prohibited" Uses. The section of the B-1 Business District Code contains a brief list of specifically "Prohibited" uses, and a provision that states: "Any use not specifically listed, unless permitted by the Town Council." This means any use not listed as "Permitted" or that requires a "Special Use" approval is "Prohibited".

The Town was recently contacted through a law firm inquiring if an "Automotive Display Use possibly including Sales & Leasing activities" might be allowed at ground level within a building facing Kane Concourse. MMPA opined that such a use was not allowed by right nor via Subsection 23-5(14) as such a use would likely not be considered similar to any permitted use listed. We note the CBTS site was formerly occupied by the Ocean Cadillac Automobile Dealership. About 20 years ago when the Town updated many of its original LDRs, Auto Dealers were removed from the Code (the existing use was grandfathered). No specific location was mentioned in the recent discussions. In discussing this with the Town's administration some concern was raised about the appropriateness of such a land use.

MMPA was instructed to research this matter and draft some possible Zoning Code text amendment language for consideration at the January 2025 Town Council meeting banning such uses. Please see the attached draft Ordinance text.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO THE LAND USES PERMITTED OR PROHIBITED IN THE B-1 BUSINESS DISTRICT; AMENDING SECTION 23-5 OF THE ZONING AND PLANNING CODE TO MODIFY THE LIST OF PROHIBITED USES IN THE B-1 BUSINESS DISTRICT TO INCLUDE THE SALE, LEASING, RENTAL, DISPLAY OR REPAIR OF AUTOMOBILES, TRUCKS, BOATS, TRAILERS OR RECREATIONAL VEHICLES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands originally adopted a Zoning and Planning Code in 1957 to regulate and restrict the erection, construction, reconstruction, alteration, location and use of buildings, structures, land and water, for trade, business, residence or other purposes, and the location thereof, and to regulate the size of buildings and other structures hereafter erected or altered, to regulate and determine the size and dimensions of yards, courts and other open spaces, to regulate off-street parking, to limit the percentage of lot coverage, and other such regulations; and

WHEREAS, the Town Council periodically studies various land development trends and issues, and considers strategies and design guidelines to regulate the proper redevelopment of lands within the Town, and amends its Codes accordingly; and

WHEREAS, after studying the existing Code provisions, the Town Council finds that a need exists, and it is necessary and desirable to modify the types of land uses permitted or prohibited in the B-1 Business District to specially include a prohibition of the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles; 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: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to amend Section 23-5 to modify the list of Prohibited Uses in the B-1 Business District to include the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles, as more fully set forth in the attached Exhibit “A”, and by reference are made a part hereof.

Section 3: 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 4: 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 5: 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 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ___ day of _____, 2025.

PASSED on Second Reading this ___ day of _____, 2025.

JOSHUA D. FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON, CMC
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

GREENSPOON MARDER, LP
TOWN ATTORNEYS
BY: JOSEPH S. GELLER, ESQ.

EXHIBIT “A”

**The Town of Bay Harbor Islands, Florida Code of Ordinances
is hereby amended as follows:
CHAPTER 23**

ZONING AND PLANNING

ARTICLE I. ZONING REGULATIONS

Sec. 23-5. - Use regulations, B-1 Business district.

Intent. The purpose of the district is to provide appropriate land development regulations for the business/mixed-use properties on the eastern island of the town. The lots abut the Kane Concourse, the main roadway within the town. This area is the most urban in form with higher intensity development, narrow setbacks, on-street and/or garage parking facilities. The district regulations provide guidelines to encourage desired land uses such as restaurants and retail shops at street grade with other uses, including residential uses, above or behind the Kane Concourse frontage uses.

Permitted uses. In the B-1 business district, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed, or structurally altered which is designed, arranged, or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

- (1) Multiple-family dwellings including
- (1a) – (13)
- (14) Other similar uses as may be permitted by the town council, provided that such uses are compatible with and do not adversely affect the character of the district.
- (15) Activities occurring on the rooftop of the building shall be subject to the following restrictions:

Prohibited uses. In the B-1 business district, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed, or structurally altered which is designed, arranged, or intended to be used or occupied for any of the following uses: Thrift shops or stores selling secondhand merchandise; pawn stores, gas stations; the sale, leasing, rental, display or repair of automobiles, trucks, boats, trailers or recreational vehicles; tattoo parlors or body piercing; check cashing stores; psychic or fortune tellers; flea markets; adult entertainment establishments; shops or stores selling dogs and cats; any use not specifically listed, unless permitted by the town council. Notwithstanding the above, bona fide antique or vintage stores selling clothing, accessories, jewelry and furnishings may be permitted by the town council so long as such stores are compatible with and do not adversely affect the character of the district. Antique and vintage sale items, as opposed to thrift or secondhand stores, are characterized as items from earlier periods of time. By way of example (in 2011), vintage items are typically from the time period prior to 1980 and antique items are typically from the time period prior to 1920 having some intrinsic value.

AGENDA ITEM REPORT

January 8, 2025

ITEM NUMBER: 13.

ITEM: Discussion and Possible action regarding the Town's Policies & Procedures Manual. Enclosed is the Town of Bay Harbor Islands Employee Policies & Procedures Manual. Sponsored by Council Members Stephanie Bruder and Robert Yaffe.

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1. EMPLOYEE POLICIES AND PROCEDURES MANUAL 2024-1



Employee Policies & Procedures Manual

Prepared By: LagomHR, Inc.
Reviewed and edited by BHI Human Resources Director
Legal review and approval by Weiss Serota
Last revised September 2024

Town of Bay Harbor Islands Employee Policies & Procedures Manual

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SECTION 1: INTRODUCTION

1.1 WELCOME MESSAGE FROM THE TOWN MANAGER

Welcome to the Town of Bay Harbor Islands—our beautiful, close-knit community and one of the best-kept secrets on the water! Whether you're a new member of our team or a long-standing employee, we are excited to have you as part of our vibrant, growing town.

Bay Harbor Islands offers a unique blend of small-town charm with big-city amenities. Since our incorporation in 1947, we have thrived as a community with a neighborhood feel while providing excellent services to our residents. Our town is governed by a Council-Manager system, with seven elected Councilmembers who work closely with our administration to uphold our values of integrity and service. Home to over 6,000 residents, Bay Harbor Islands spans just under one square mile along the Biscayne Bay, and bordered by: North Miami, Bal Harbour, Surfside, and Indian Creek. With two islands—West Island, with its picturesque single-family homes, and East Island, home to our bustling business district, school, and multi-family residences—there's always something happening in our dynamic town.

As an employee, you are an essential part of the Town of Bay Harbor Islands' reputation for ethical leadership and exceptional resident services. Your daily contributions make a real difference in the lives of our residents and visitors, and we are committed to providing you with opportunities to grow professionally alongside a team of dedicated, high-caliber colleagues.

The Employee Policies & Procedures Manual will serve as your guide, outlining the expectations, responsibilities, and resources available to you. It is designed to support you throughout your journey with us, helping you navigate your role and maximize your potential.

For our new employees, we are thrilled to welcome you aboard and look forward to building a successful and rewarding relationship together. For our current team members, we truly value your hard work and dedication, and we are excited for what we will continue to achieve together.

At the Town of Bay Harbor Islands, we are committed to providing the highest level of service with transparency, ethics, and a shared goal of enhancing the quality of life for both our current and future generations. Thank you for being a part of this important mission!

Warm regards,

Jenice Rosado
Town Manager



1.2 ABOUT THE EMPLOYEE POLICIES & PROCEDURES MANUAL

The Town of Bay Harbor Islands has prepared this Employee Policies & Procedures Manual (the “Employee Manual” or the “Manual”) to acquaint employees with the Town’s employment policies and procedures and to provide highlights of certain benefits. The Town’s employment policies and procedures were developed to ensure a positive, productive and caring workplace for the benefit of the Town’s employees.

This Employee Manual supersedes all previously issued manuals and any contrary policy statements or memos. This Employee Manual serves as a resource of personnel policies, rules, and benefits for all employees of the Town of Bay Harbor Islands. Should any employee have questions on the individual policies within this Manual, seek clarification from the immediate supervisor, Department Head / Manager, and/or the Human Resources Director.

It is the responsibility of the employee to read this Employee Manual and adhere to the policies and procedures described herein, including any revisions or amendments adopted by the Town.

The Town Manager has the sole discretion to amend the Employee Manual or any other Town-issued policy at any time, with or without notice. None of the provisions in this Employee Manual should be construed in any way as limiting or altering whether an employee is considered an “at will employee,” or creating a contractual relationship between an employee and the Town of Bay Harbor Islands. For more information on employment at will, please see Policy No. 2.1 in this Manual.

The Employee Manual applies to all Town of Bay Harbor Islands employees, including employees covered by a collective bargaining agreement. To the extent that any portion of the Employee Manual conflicts with a collective bargaining agreement, the terms of the collective bargaining agreement will prevail.

The Town Manager has overall responsibility for the administration of the Employee Manual. The Town Manager (or the Town Manager’s designee) is responsible for clarification and interpretation of any of the policies and procedures in this Employee Manual.

The Town Manager has authority to modify, amend or rescind any part of this Employee Manual or any other Town-issued policy at any time, with or without notice. The Town Manager may, at any time, interpret the Employee Manual and develop procedural rules and other personnel policies. Any request for a waiver of any standard or requirement in this Manual may only be granted by the Town Manager. All employees and management team members should be aware that the Town generally will not grant such waivers and will do so only when there is a compelling reason.



Should any provisions of this Manual be rendered or declared invalid by reason of any existing or subsequently enacted legislation, or by any decree of a court of competent jurisdiction, all other articles and sections of these policies shall remain in full force and effect for the duration of the Agreement/Policies.



SECTION 2: GENERAL EMPLOYMENT POLICIES

2.1 EMPLOYMENT AT WILL

Unless expressly provided otherwise in an Employee Agreement or Bargaining Unit Agreement, Employment at the Town is at will and not guaranteed for a definite period of time or for any purpose. Either the Town or the employee may terminate the employment relationship at any time, with or without cause or prior notice.

The policies in this Employee Manual and any other policies issued by the Human Resources Director do not create, and shall not be construed as creating, a contractual relationship between the Town and any employee. The at-will status of an employee can be changed only by a document titled “Employee Agreement” or “Bargaining Unit Agreement” signed and approved by the employee and the Town Manager.

2.2 EQUAL EMPLOYMENT OPPORTUNITY

The Town of Bay Harbor Islands is committed to promoting and assuring equal employment opportunity for all current and prospective employees. It is the Town’s policy not to discriminate against any employee or applicant based on his or her race, color, age, sex, national origin, religion, marital status, sexual orientation, gender identity, pregnancy, disability, or any other legally recognized status entitled to protection under local, state or federal anti-discrimination laws in any of the following:

- All matters related to recruitment and advertising;
- All matters related to hiring and initial selection for employment;
- All aspects of employment, including, but not limited to, compensation, promotion, demotion, transfer, lay-offs, corrective action, termination, leaves of absence, training opportunities and other terms and conditions of employment.

Town employees do not have authority to engage in any conduct or activity which would constitute discrimination. **The Town does not condone such behavior and those found in violation will be subject to disciplinary action, up to termination.**

PROCEDURE FOR REPORTING DISCRIMINATION



Any employee who feels that he or she has not been treated in accordance with this policy should promptly report the incident(s), in writing following the chain of command: Supervisor, Department Head / Manager, Human Resources Director, Assistant Town Manager, or Town Manager. If the employee feels that he or she is being discriminated against by his or her immediate supervisor or anyone else in the employee's chain of command, the employee should report the incident(s) to the Human Resources Director or Town Manager.

All allegations brought forward will be investigated by the Human Resources Director, or the Director's designee. If the Human Resources Director is the subject of the report, the Town Manager (or the Town Manager's designee) shall be responsible for the investigation in accordance with this policy. The Town Manager shall review and approve recommended corrective actions.

INVESTIGATION AND CORRECTIVE ACTION

All reported complaints will be investigated thoroughly by the Department of Human Resources or a designee of the Human Resources Director or Town Manager. The complainant will be required to provide a statement (verbal or in writing) should it be deemed necessary by Human Resources based on the facts and allegations involved. The following information should be included in the employee's written report: the date(s) of the incident(s), identity of the person taking the action, identity of any witnesses, and as many details about the incident(s) as possible. In order to further investigate, the Town may request an employee who submitted a written report to attend an in-person meeting to provide additional details and information concerning the incident(s) identified in that report.

The Town will investigate reports of discrimination promptly. The Town will take prompt remedial action based on the specifics of the case to address any violation of this policy, including corrective action against any employee, which may include a warning, coaching, counseling, training, suspension or termination from employment depending on the circumstances surrounding the case and the employee(s)' history with the Town. If the Town's investigation does not disclose evidence of a violation of this policy, the Town reserves the





right to take preventative measures for future occurrences, which may include counseling, training, and/or reassignment of duties or transfer to another department/division.

Any job applicant who has questions regarding this policy, feels that his or her report was not appropriately addressed, that he or she is still being subject to discriminatory conduct, or believes that he or she has not been treated in accordance with this policy should contact the Human Resources Director, Assistant Town Manager, and/or Town Manager.

PROHIBITION AGAINST RETALIATION

The Town prohibits and will not tolerate retaliation against employees who in good faith bring discriminatory conduct to the Town's attention. There will be no retaliation for reporting discrimination or for cooperating in the Town's investigation of the report. An employee responsible for retaliatory conduct will be subject to corrective action, up to and including termination from employment. If an employee believes that he or she is being retaliated against in violation of this policy, the employee is encouraged to report the retaliation by using the same procedures discussed above for reporting discrimination.

PREVENTION

The Town will continue to monitor the employees involved with the report to ensure a working environment free of discrimination. An employee with a question concerning this policy should contact the Human Resources Director. It is important to note that the Human Resources Director is not solely responsible for maintaining an environment free of discrimination. All supervisors, and Department Head / Managers are responsible for promoting a healthy working environment. Employees at all levels are encouraged to speak out against discrimination.

2.3 AMERICANS WITH DISABILITIES ACT

The Town of Bay Harbor Islands is committed to complying with all applicable provisions of the Americans with Disabilities Act as amended ("ADA"). It is the Town's policy not to discriminate against any qualified individual on the basis of disability in regard to recruitment, hiring, advancement, termination or any terms or conditions of employment.

Consistent with this policy of non-discrimination, the Town will provide reasonable accommodations to an employee with a disability who is a qualified individual, as defined in the ADA, who has made the Town aware of his or her disability, provided such accommodation does not constitute an undue hardship to the Town. Any employee with a disability who believes that he or she needs a reasonable accommodation to perform the essential functions of the job should contact the Human Resources Director.

Any employee who feels that he or she has not been treated in accordance with this policy should contact the Department Head / Manager, Human Resources Director, Assistant Town



Manager or Town Manager. The Town prohibits and will not tolerate retaliation against any employee who requests a reasonable accommodation or makes a good faith complaint under this policy.

Any job applicant who has questions regarding this policy or believes that he or she has been discriminated against based on a disability should contact the Human Resources Director.

The Town of Bay Harbor Islands is committed to diversity and inclusion in efforts to build on collaboration, innovation, creativity, and belonging. Our collective success depends on the robust exchange of ideas—an exchange that is best when the rich diversity of our perspectives, backgrounds, and experiences flourishes.

2.4 PREGNANCY DISCRIMINATION ACT (PDA) AND REASONABLE ACCOMODATION

In accordance with the Pregnancy Discrimination Act of 1978, the Town treats women affected by pregnancy, childbirth, or medical conditions related to pregnancy and childbirth in the same manner as other applicants or employees who are similar in their ability or inability to work. The PDA covers all aspects of employment, including, but not limited to: firing, hiring, promotions, and fringe benefits (such as leave and health insurance benefits). Pregnant workers are protected from discrimination based on current pregnancy, past pregnancy, and potential pregnancy.

If an employee needs a temporary change to how, when, or where they work due to pregnancy or related conditions, the employee may request an accommodation under this policy in writing or orally to their immediate supervisor. Any applicants may request a reasonable accommodation to the Hiring Manager during the interview process. The Town will review each request for an accommodation on a case-by-case basis. Approval of such a request may be made so long as the accommodation requested is reasonable and will not create an undue hardship for the Town. The following will be reviewed to make a determination of the accommodation request: the nature of the accommodation, the business needs of the Town and its residents, the needs of the Town's other employees, the Town's operations, and the Town's resources. The employee is responsible for maintaining open and constant communication with their immediate supervisor regarding the length of the accommodation and notifying once the accommodation is no longer necessary. If the employee has questions or concerns about their pregnancy or pregnancy accommodation, or if the employee believes they have been discriminated or retaliated against, the employee should report the matter immediately to the Human Resources Director.

2.5 HARASSMENT-FREE WORKPLACE

The Town of Bay Harbor Islands is committed to ensure that all employees are treated with dignity and respect and be able to work in an environment free of harassment. The Town



prohibits and will not tolerate harassment based on race, color, age, sex, national origin, religion, marital status, sexual orientation, gender identity, pregnancy, disability, or any other legally recognized status entitled to protection under local, state or federal anti-discrimination laws.

Town employees, including, but not limited to, Department Head / Manager / Managers, managers and supervisors, do not have authority to engage in any conduct or activity which would constitute harassment. **The Town will not condone such behavior, and those found in violation will be subject to disciplinary action, up to termination.**

SEXUAL HARASSMENT

Definition: Unwelcome sexual advances, requests for sexual favors, and other verbal, written or physical conduct of a sexual nature is considered of sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile or offensive work environment.

Some of the more common examples of sexual harassment include, but are not limited to:

- Repeated unwelcome contact or touching.
- Repeated unwelcome and offensive sexual flirtations, staring or propositions.
- Continued and repeated abuse (verbal or written) of a sexual nature, such as sexually related comments or jokes, sexually suggestive comments, and requests for sexual favors.
- Continued and repeated graphic verbal or written commentaries about a person's body.
- Continued or repeated use (verbal or written) of sexually degrading words about a person or the person's body.
- Any of the above conduct that is conducted by voicemail, email, text message, instant message (IM) or other type of electronic communication.

The above list is not all inclusive and each situation will be considered in light of the specific facts and circumstances.

Sexual harassment refers to behavior that is not welcome, that is offensive both objectively and subjectively, that fails to respect the rights of others, that lowers morale, and that interferes with work effectiveness.



Normal courteous, mutually respectful, pleasant, non-coercive interactions between employees, including men and women, that are acceptable to and welcomed by both parties are not considered to be harassment.

Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior, which is not welcome, which is personally offensive, which debilitates morale, and which interferes with work effectiveness. Some behavior that may be acceptable in social settings is not appropriate in the workplace and is considered insulting and demeaning to the victim. In addition, no one should imply, joke about, or threaten that an applicant or individual's employment, assignment, compensation, advancement, career development or any other term or condition of employment is subject to submission or acquiescence to sexual harassment.

ANTI-HARASSMENT POLICY

At the Town of Bay Harbor Islands, discriminatory harassment is defined as unwelcome verbal, written or physical conduct which is directed at a person because of his or her race, color, age, sex, national origin, religion, marital status, sexual orientation, gender identity, pregnancy, disability, or any other legally recognized status entitled to protection under local, state or federal anti-discrimination laws, when:

- Such conduct has the purpose or effect of unreasonably interfering with the person's work performance, employment relationship, or lowers morale.
- Such conduct has the purpose or effect of creating an intimidating, hostile, or offensive work environment.

Examples of conduct that can constitute discriminatory harassment in violation of this Policy include, but are not limited to:

- Repeated unwelcome jokes or comments (verbal or written) about a person's legally protected status (e.g., racial or ethnic jokes or comments).
- Continued and repeated use (verbal or written) of slurs, epithets, derogatory terms or comments reflecting stereotypes based on a person's legally protected status.
- Continued and repeated use (verbal or written) of disparaging or degrading words about a person based on his or her legally protected status.
- Any of the above conduct that is conducted by voicemail, email, text message, instant message (IM) or other type of electronic communication.

The above list is not all inclusive and each situation will be considered in light of the specific facts and circumstances. Any discrimination and harassment is considered illegal and will not be tolerated.

ANTI-BULLYING



Town of Bay Harbor Islands is committed to providing all employees a healthy and safe work environment. The Town will ensure that procedures exist to allow complaints of bullying to be dealt with and resolved within Town of Bay Harbor Islands, without limiting any person's entitlement to pursue resolution of their complaint with the relevant statutory authority. Town of Bay Harbor Islands is committed to the elimination of all forms of bullying.

This policy applies to all employees of the Town. It applies during normal working hours, at work related or sponsored functions, and while traveling on work related business. There will be no recriminations for anyone who in good faith alleges bullying.

Bullying is unwelcome or unreasonable behavior that demeans, intimidates or humiliates people either as individuals or as a group. Bullying behavior is often persistent and part of a pattern, but it can also occur as a single incident. It is usually carried out by an individual but can also be an aspect of group behavior (see "mobbing" below). Some examples of bullying behavior are:

- Verbal communication
- Abusive and offensive language
- Insults
- Teasing
- Spreading rumor and innuendo
- Unreasonable criticism
- Trivializing of work and achievements
- Manipulating the work environment
- Isolating people from normal work interaction
- Excessive demands
- Setting impossible deadlines
- Psychological manipulation
- Unfairly blaming for mistakes
- Setting people up for failure
- Deliberate exclusion
- Excessive supervision
- Practical jokes
- Belittling or disregarding opinions or suggestions
- Criticizing in public



Context is important in understanding bullying, particularly verbal communication. There is a difference between friendly insults exchanged by long-time work colleagues and comments that are meant to be, or are taken as, demeaning. While care should be exercised, particularly if a person is reporting alleged bullying as a witness, it is better to be genuinely mistaken than to let actual bullying go unreported.



Mobbing is a particular type of bullying behavior carried out by a group rather than by an individual. Mobbing is the bullying or social isolation of a person through collective unjustified accusations, humiliation, general harassment or emotional abuse. Although it is group behavior, specific incidents such as an insult or a practical joke may be carried out by an individual as part of mobbing behavior.

Bullying is unacceptable behavior because it breaches principles of equality and fairness, and it frequently represents an abuse of power and authority. It also has potential consequences for everyone involved. People who have been bullied often suffer from a range of stress-related illness. They can lose confidence and withdraw from contact with people outside the workplace as well as at work. Their work performance can suffer, and they are at increased risk of workplace injury. People who witness bullying behaviors can also have their attitudes and work performance affected. They can suffer from feelings of guilt that they did nothing to stop the bullying, and they can become intimidated and perform less efficiently fearing that they may be the next to be bullied.

RESPONSIBILITIES

Managers and supervisors must:

- Ensure that all employees are aware of the anti-bullying policy and procedures
- Ensure that any incident of bullying is dealt with regardless of whether a complaint of bullying has been received
- Provide leadership and role-modeling in appropriate professional behavior
- Respond promptly, sensitively and confidentially to all situations where bullying behavior is observed or alleged to have occurred

Employees are highly encouraged to speak to the alleged bully(ies) to object to the behavior in a manner that is professional and does not violate any policies within the Manual, especially the Code of Ethics.

PROCEDURE FOR REPORTING HARASSMENT AND BULLYING



The Town requires that any employee who feels that he or she has been harassed and/or bullied by any employee, elected official, outside vendor or member of the public should promptly report the incident(s), either verbally or in writing, to any of the following individuals: Department Head / Manager, Human Resources Director, Assistant Town Manager, or Town Manager. Individuals who believe they have experienced, witnessed, or heard of conduct they believe is contrary to this policy by a Department Head / Manager must report it to the Human Resources Director, Assistant Town Manager, or Town Manager before the conduct becomes severe or pervasive.

Whenever an employee has a problem or complaint, the Town expects them to immediately speak up by taking the following steps:

- Tell the “violator” that such conduct/language is unacceptable and must be discontinued.
- Talk to the supervisor who is most familiar with the employee and is, therefore, in the best position to assist the employee. Since the supervisor works closely with the employee, he or she is interested in seeing that the employee is treated fairly and properly.
- If the supervisor cannot help the employee resolve the matter or is the cause of the problem, the employee should speak to the Human Resources Director. He or she will give the problem or complaint prompt consideration.
- If an employee notifies a supervisor of such a problem, the supervisor shall notify the Department Head / Manager immediately and in writing of the situation and shall provide a copy of the complaint form submitted by the employee. The Department Head / Manager shall notify the Human Resources Director as soon as he or she is made aware of such a situation.

Remember – it is best to resolve any problems as they arise. Small issues can easily escalate to larger ones; facts can easily become confused; tensions within the workplace rise. It is important to maintain a healthy working environment by resolving any issues before they escalate.

Employees who have experienced conduct they believe is contrary to this policy have an obligation to follow this reporting procedure.

The Town Manager, Assistant Town Manager and Department Head / Manager shall promptly convey any report of harassment and/or bullying received by the Human Resources Director for investigation, unless the Human Resources Director is the subject of the report. If the Human Resources Director is the subject of the report, the Town Manager (or the Town Manager’s designee) shall be responsible for the investigation of the report in accordance with this policy.

All complaints will be investigated thoroughly by the Department of Human Resources. The complainant may be required to provide a statement (verbal or in writing). The following



information should be included in the employee's written report: the date(s) of the incident(s), identity of the person taking the action, identity of any witnesses, and as many details about the incident(s) as possible. In order to further investigate, the Town may request an employee who submitted a written report to attend an in-person meeting to provide additional details and information concerning the incident(s) identified in that report.

An employee should follow this same reporting procedure if he or she observes or has direct knowledge of harassment and/or bullying of another Town employee.

THE TOWN'S INVESTIGATION

The Town will investigate all complaints of harassment and/or bullying promptly regardless of the identity of the alleged harasser or harassee. The investigation will include, for example, interviews of relevant witnesses and inquiry into the specific conduct complained of and the number of times the conduct has occurred. Confidentiality will be maintained throughout the investigatory process to the extent possible and in accordance with the Public Records Law, 119.07 (involves the inspection of copying of records, photographing public records, fees, and exemptions), Florida Statutes, consistent with adequate investigation and appropriate corrective action. Information concerning an active complaint will not be released by the Town to third parties or to anyone within the Town who is not directly involved in the investigation, except as may otherwise be required by law or by a court of competent jurisdiction. All participants involved in an investigation are expected to maintain their involvement in or discussion of the investigation confidential, except insofar as disclosure is required in obtaining or being represented by legal counsel. In determining whether the alleged conduct constitutes harassment and/or bullying in violation of this policy, the Town will consider the totality of the circumstances, the nature of the incident(s) and the context in which the alleged incident(s) occurred.

The investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. Tape recorded statement may be taken of any or all of the individuals involved. All employees will be guaranteed fair and impartial treatment, and shall be protected from coercion, intimidation, interference or discrimination for filing a complaint or participating in an investigation.

The Town will take action necessary to appropriately remedy. No adverse employment action will be taken against any employee who makes a good faith report of alleged harassment and/or bullying, discrimination, or retaliation. The Town will inform the alleged victim and the alleged harasser about the results of the investigation.

A determination will be made as to whether a complaint is sustained, not sustained or unsubstantiated. A complaint is sustained when there is sufficient evidence presented to reasonably establish that the allegations or charges made are true. A complaint is not sustained



when there is sufficient evidence presented to reasonably determine that the allegations or charges made are not true. Finally, a complaint is unsubstantiated when there is insufficient evidence presented to reasonably determine whether the allegations or charges are true or false.

If a complaint is sustained, the offender will be subject to disciplinary action which may include termination from employment. Any Department Head / Manager or supervisor is under a continuing duty to take immediate remedial action to stop or prevent discrimination and/or harassment and/or bullying. If the Department Head / Manager or supervisor fails to take such action, and the misconduct was known, or should have been known to him or her, the Department Head / Manager or supervisor in question shall be terminated from employment.

Even if the investigation fails to disclose the existence of any discrimination or harassment and/or bullying, the Town reserves the right to nonetheless take action. Such action may include, but is not limited to, counseling, a reminder of the Town's directive, a written warning, or termination. Additional mandatory training will be provided if, in the Town's discretion, such training is necessary.

Disciplinary action taken as a result of discrimination or harassment and/or bullying will become part of the personnel file of the offending employee and is subject to disclosure pursuant to Public Records Law.

CORRECTIVE ACTION

If the investigation discloses evidence supporting the occurrence of an incident of sexual or discriminatory harassment and/or bullying, the Town will take prompt remedial action based on the specifics of the case and the employee's disciplinary history with the Town to address any violation of this policy, including corrective action against any employee, which may include a warning, coaching, counseling, training, suspension or termination from employment depending on the severity. If the Town's investigation does not disclose evidence of a violation of this policy, the Town reserves the right to take preventative measures for future occurrences, which may include counseling and training.

An employee who feels that his or her report was not appropriately addressed or that he or she is still being subject to discriminatory conduct should immediately notify the Assistant Town Manager or Town Manager.

PROHIBITION AGAINST RETALIATION

Retaliation against persons who report or provide information about harassment and/or bullying or behavior that might constitute harassment and/or bullying is strictly prohibited. The Town prohibits retaliation against an individual for reporting harassment and/or bullying or



discrimination or for participating in the investigation of a claim of harassment and/or bullying or discrimination. Any act of retaliation, including interference, coercion, and restraint, by a Town employee or by one acting on behalf of the Town, violates this policy and will result in appropriate disciplinary action, up to and including discharge.

If an employee believes that he or she is being retaliated against in violation of this policy, the employee is encouraged to report the retaliation by using the same procedures discussed above for reporting discrimination.

PREVENTION

The Town will continue to monitor the employees involved with the report to ensure a working environment free of discrimination, harassment, and/or bullying so no future incidents occur. An employee with a question concerning this policy should contact the Human Resources Director. It is important to note that the Human Resources Director is not solely responsible for maintaining an environment free of discrimination. All supervisors, managers, and Department Heads are responsible for promoting a healthy working environment. Employees at all levels are encouraged to speak out against discrimination.

2.6 OPEN DOOR POLICY

It is the Town of Bay Harbor Islands' policy to welcome and encourage employees' ideas, suggestions, or concerns regarding the employee's job or the Town's operations.

The Town knows from experience that its success greatly depends upon the helpful thoughts and suggestions of its employees. Employees should follow the chain of command to bring ideas and suggestions to the attention of their Supervisor, Department Head / Manager, Human Resources Director, Assistant Town Manager, and/ or the Town Manager.

Additionally, the Town is interested in all employee concerns, no matter how big or small. The Town believes in open and clear communication with its employees. In most situations, a discussion between the employee and the supervisor is the most effective way to deal with a concern or question. However, the employee may discuss any concerns or questions with a higher-level manager, up to the Town Manager. All employees are highly encouraged to follow the chain of command; higher level management is accessible and welcome comments. It is the Town's policy that any concerns or questions raised by an employee will be reviewed and resolved in a timely matter within budgetary constraints and operations. The Town prohibits retaliation against any employee raising concerns or questions pursuant to this policy.



SECTION 3: WORKING AT THE TOWN OF BAY HARBOR ISLANDS

3.1 CATEGORIES OF EMPLOYMENT

Full-time:	An employee who is regularly scheduled to work a 35 or more hours per work week.
Part-time-with health benefits:	An employee who allowed to work between 30-34 hours per work week.
Part-time-without health benefits:	An employee who is allowed to work no more than 29 hours a week.
Seasonal:	An employee hired either full-time or part-time during one or more defined seasons (e.g. Summer Seasonal employee).
Temporary:	A temporary employee hired to fill an open position for a maximum of two (2) six-month periods. Temporary employees must meet the education, experience and other requirements for the position and be approved by the Town Manager.
Acting/Interim:	In the event of a vacancy in a Department Head / Manager position, the Town Manager may appoint an existing full-time employee to be the Acting Department Head / Manager for a maximum of two (2) six-month periods. Any employee appointed to an acting position may receive a temporary salary increase of fifteen percent (15%) above his/her current salary, but in no case shall the temporary salary be more than the salary budgeted for the Department Head / Manager position.



Part-time (without benefits), temporary, and seasonal employees do not qualify for benefits. temporary and acting employees do not qualify for benefits unless they are already existing full-time Town employees.

In compliance with the Affordable Care Act (ACA), a full or part time employee shall become eligible for health benefits only, if the employee works on average either 1) 30 hours or more per workweek or 2) 130 hours during per month during the initial measurement period or standard measurement period.

3.2 EXEMPT/NON-EXEMPT

The Fair Labor Standards Act divides all employees into two categories: exempt and non-exempt.

Exempt employees are classified as such if their job duties are exempt from the overtime provisions of the Act. Their salaries are calculated on an annual basis.

Non-exempt employees are eligible for overtime pay of not less than one-and-a-half times their hourly rate for any hours worked beyond 40 each week. *Employees on a 35-hour workweek schedule are only eligible for overtime after working 40 hours each week.*

3.3 PROBATIONARY PERIOD

This policy was established to ensure that all newly hired, promoted, or transferred Town of Bay Harbor Islands employees are provided a Probationary Period of employment. The Probationary Period is considered a continuation of the employment selection process. It provides the Town an opportunity to observe and evaluate the capabilities of the employee, which includes the employee's ability to satisfactorily perform the essential functions of his or her job; and to observe and evaluate the employee's work habits and conduct, including attendance and the employee's relationship with coworkers and superiors.

During the Probationary Period, the new employee and his/her supervisor shall evaluate employment suitability in terms of skill, knowledge, performance, and compatibility. During this period, the employee shall be given the support and resources needed to learn and demonstrate the duties and competencies required in the new position.

DURATION

New Hire, Rehire and Promotions

The probationary period for an employee shall be one (1) year for entrance, rehire, and promotional appointments for both full-time and part-time employees. In the event the employee accepts a promotional opportunity position within the Town before an initial probationary period is satisfactorily completed, the initial probationary period starts



over at the time the employee begins working in the new position. A probationary period may, at management's discretion, be extended for up to ninety (90) days to allow for additional evaluation of an employee whose job performance is considered marginal and who may otherwise not successfully pass the probationary period. Extensions of this nature shall be coordinated with the assistance of the Human Resources Director and documented and discussed with the employee prior to the expiration of the probationary period. See the Collective Bargaining Agreement for more information on Police probationary periods.

Transfers

An employee who transfers to another department after successfully completing his or her initial probationary period, shall be required to complete a six (6) month probationary period. This probationary period may also be extended for up to six (6) months to allow for additional evaluation of an employee whose job performance is considered marginal and who may otherwise not successfully pass the probationary period.

An employee who transfers to another position within his or her current department may serve an adjusted probationary period, which reflects the time completed in the position held prior to transfer.

Full Time Appointment

A part-time employee appointed to fill a full-time position in the same classification, may serve an adjusted probationary period, which reflects the time completed in part-time or temporary employment.

EVALUATION OF PERFORMANCE

During the first 30 days of the Probationary Period, the employee's supervisor should:

- a. Provide the employee with a copy of his/her job description and orient him/her to the position.
- b. Establish written performance expectations and goals for the position and identify criteria to be used to assess the employee's performance.

Throughout the Probationary Period the supervisor should meet regularly with the employee to discuss the employee's performance and provide constructive feedback. A performance evaluation should be completed at one (1) year from the date of hire. Performance evaluations shall be completed on annual basis unless a 6-month re-review is determined. See performance evaluation section for more information.



Prior to the conclusion of the Probationary Period, the supervisor must determine whether the new employee meets the required performance expectations for continued employment, as well as complete an evaluation of the employee using the performance evaluation form. The supervisor will then meet with the employee to discuss the evaluation and the Town's decision regarding his/her continued employment.

UNSATISFACTORY PERFORMANCE

The Town Manager may dismiss a probationary period employee at any time during a probationary period.

A promoted or transferred employee that does not successfully complete the probationary period may be returned to his/her prior position if the position is vacant, subject to approval from the Town Manager and recommendation of the Department Director. New hired (not transfer or promotion) employees may be terminated at any time while on probationary period.

AT-WILL EMPLOYMENT NOT AFFECTED

Nothing in this policy is intended to alter the at-will status of any Town employee. The Town of Bay Harbor Islands at all times retains the right to terminate the employment relationship at any time, with or without cause or prior notice.

3.4 TIMEKEEPING

PURPOSE AND OVERVIEW

The Town of Bay Harbor Islands is subject to numerous laws and regulations that govern the way we conduct our business. The laws that regulate employee's wages and hours are designed to ensure that employees are paid as specified, within these regulations. This policy outlines information pertaining to recording and tracking hours of work, accruals, and making manual edits.



The Time and Attendance System is designed with the purpose of providing accurate recordings of an employee's time. The time and attendance procedures/systems will be set by the Human Resources Director and instructions will be provided to all employees on timekeeping processes. Employees are paid according to the hours recorded in his/her time sheet (whether electronic or manual format).

In order to ensure consistency of treatment for employees, the data recorded in the Timekeeping system shall be considered as the "official" record of the workday. Any disputes over actual hours worked or attendance will be resolved by referring to the official timekeeping records.



It is recognized that in certain situations (e.g. clock malfunction, human error) that it will be necessary to correct or enter missing data. These changes will be carefully documented via email from the department Manager/Supervisor to the timekeeper, who will make edits and notes on the timecard.

DEFINITIONS

- A. Clock-In/Punch-In or Out – This term refers to the manual recording of time of arrival and time of departure of an employee at the workplace. This may either be one manually or electronically (as determined by the HR Department). Some examples of different ways to accomplish clocking-in or punching out are by: manual records, electronic time clock or a biometric index scan, time stamp method on their etc. Employees are required to adhere to the timekeeping regulations in order to maintain accurate payroll records.
- B. Actual Time In – After arriving at the workplace, the time an employee actually begins work. This does not include time spent driving to work.
- C. Actual Time Out – The time an employee actually completes his/her work duties. This does not include time spent driving home from work.
- D. FLSA – Fair Labor Standards Act.
- E. FLSA Cycle – The period of time on which overtime is calculated.
- F. Grace Period – IF electronic timekeeping-the period of time, currently 7 minutes, before and after a punch.



- G. Pay Period – Pay period is a recurring length of time over which employee time is recorded and paid. The current pay period for all employees is two weeks (14 days).
- H. Work Week – A fixed and regularly recurring period of work. The official workweek for the Town currently extends from 12:00 a.m. on Monday through 11:59 p.m. on the following Sunday for Administration and General employees. Public Works employees workweek extends from 12:00 a.m. on Tuesday through 11:59 p.m. on Monday.

FLSA Work Cycles/Periods are as follows:

- Sworn Non-Exempt Police Personnel – 14 Day Work Cycle or as provided in CBA.
- Unclassified Employees – 7 Day Work Cycle

Classified Employees- Please see Collective Bargaining Agreement for more information.

TIMEKEEPING ROLES

- A. Director/Manager - The individual within the department who has fiscal and operational authority.
- B. Designee - Any individual other than the timekeeper who has been given authority by the Director to approve changes in employee timecards within their division.
- C. Timekeeper - The individual assigned to maintain the timekeeping records for the department.
- D. Approver – Should be Department Director/Manager or designee.
- E. Employee - Individuals who work within the department who charge time against the departmental labor account.

REPONSIBILITIES

Responsibilities	Director	Designee	Timekeeper	Employee Non-Exempt	Employee Exempt
Record in/out times including lunch using designated timekeeping procedures.			X	X	
Submit time off requests using the time clock or computer.		X	X	X	X
Record exception time directly on the timecard.	X	X			
Review punches, and absences.	X	X	X	X	X
Enter corrections into timekeeping system for employees.	X	X	X		



Enter corrections into timekeeping system for Timekeeper.	X	X			
Approve timecard using time clock, computer or other designated system.	X	X	X	X	X
Verify employee approval and sign off on employee timecards.	X	X			

PROCEDURES

1. **Employee Responsibilities** – Exempt (salaried) and Non-Exempt (hourly) employees must record time and attendance via designated timekeeping system. The timecard must be approved by the Employee and designated Approver each pay period. The timekeeping system should be an accurate reflection of actual time worked and time off for each employee. Requests for time off require supervisory approval and therefore must be submitted in advance by completing designated time-off request forms either electronically or manually as required by timekeeping procedures or by contacting the supervisor directly. Employees are responsible for ensuring that the time reflected on their timecard is accurate

2. **Supervisor Responsibility** – Supervisors ensure that all employees in the department are educated regarding the Town’s timekeeping policy and that all employees comply with the policy. Supervisors ensure that the timekeeping policy is administered fairly and uniformly for all employees and consider requests from employees for time off. Managers/designees must verify the number of hours worked and leave taken by each of their employees. All time worked as well as time off must be approved by the manager/designee. Managers, who will knowingly be out of the office and unable to approve their employees time, must notify the Director or Timekeeper to complete approvals in their absence. Directors/Managers/Timekeepers are responsible for creating and maintaining schedules for their employees.

3. **Time Off and Timekeeping**– The employee must record the requested paid time-off using the designated timekeeping procedures established by the HR Department before the time is actually taken. If the employee was unable to request the time off in advance, the employee must email the Department Manager/Supervisor and the Department Manager/Supervisor will email the Timekeeper of what edit need to be made to the employees’ timecard.

The timekeeping system shall be up to date and an accurate reflection of the employee’s time of an available time (sick, vacation, personal). If an employee uses



more time than they have available (sick, vaca, personal etc.) it is within the discretion of the Human Resources Director to allow the employee to draw out on future time.

Paid Time Off any be affected in pay periods during which unpaid leave, short-term disability, long-term disability, or workers compensation leave are taken

4. **Time Off Requests During a Holiday** – Holiday pay will automatically be applied to eligible employees in the timekeeping system. Refer to the Holiday policy for eligibility requirements.

When requesting time off during a Holiday week, the employee must enter two (2) separate time-off requests differentiating the Holiday from any other type of Paid Time Off.

5. **Timecard Approval and Deadlines**– At the end of each pay period, all employees are required to approve / sign his/her time worked and leave hours recorded for the pay period. By approving the timecard, the employee is attesting to the best of their knowledge that the information submitted is complete and accurate. Employees are responsible for inaccuracy or omission of which they are aware at the time the timecard was approved and submitted.

All time must be approved by 9:00AM the day following the end of the pay period. All timecards must be reviewed and approved by the Employee and Designated Approver. Departments may establish earlier deadlines if administratively necessary.

All Timecards must be reviewed and approved by the Employee, Timekeeper, and Approver.

The deadline for Timecards to be submitted to Payroll after a Monday Holiday is 9:00 am on Tuesday following the Monday Holiday unless Payroll communicates otherwise.

Employees are strongly encouraged to check and approve his/her timecard at the end of the last shift of the pay period.

6. **Delegating Approval to another Supervisor** – In the event a supervisor will be out of the office it is the supervisor's responsibility to ensure that the delegate has the appropriate timekeeping access/ forms to perform the delegated responsibilities prior to being out of the office.



7. **Failure to Comply with Timekeeping and Attendance Policies** - If an employee fails to complete and submit the required timecard information by the deadline given, he or she may be required to wait until the next pay period to be compensated for the leave time taken or the time worked.

In situations where an employee has time and attendance problems and/or abuses their leave time, the manager/supervisor may institute a more structured reporting requirement for the employee until the problem is corrected. Examples may include but are not limited to:

- a. Report to manager/supervisor upon arrival and departure.
 - b. Report time spent on each task or assignment.
 - c. Complete a sign in/out sheet for each period of time away from work area.
 - d. Take disciplinary action when an employee's attendance record falls below acceptable standards.
8. **Exempt Employee Time Recording:**

Exempt employees are not required to punch in or out from the timekeeping system at the commencement or end of their workday, unless otherwise directed by the Department Head / Manager or Town Manager.

Exempt Employees are required to report and record time off (vacation, sick, etc.) via the designated time keeping system.

9. **Daily Clock In/Out for Non-Exempt Employees**

It is the responsibility of each non-exempt employee to clock in and out (record their time) at the beginning and end of each scheduled workday. Under certain conditions, such as a training course at a different location, the employee may be provided with different methods or instructions for recording time for that day, All employees leaving for personal reasons during the day must accurately record their time of departure and return.

Non-exempt employees are not permitted to perform any work at home or while off-duty unless approved in advance in writing by the Town Manager. If approved, the employees must submit an accurate written record of all time worked to the Department Head / Manager within twenty-four (24) hours of performing the work.



Timecard Approver/Manager/Supervisors are responsible for ensuring that the work and leave time reported accurately reflects each employee's activity for each pay period and validate this by approving the employees timecard.

10. **Clocking in Late** - Employees are expected to clock in and out (record time) at times designated by their manager/designee. Employees clocking in past the grace period are considered late. Absenteeism and tardiness will be handled by the employee's manager or supervisor accordingly and may negatively impact the employee's annual performance evaluation.
11. **Clocking in Early** - Employees must be clocked in during all hours worked. However, Employees are expected not to begin work, or clock in, before their scheduled work time without authorization from their manager or supervisor. Clocking in early will result in overtime or compensatory time and these types of time MUST be preapproved by the Department Head / Manager.
12. **Clocking Out Late** - Employees must be clocked in during all hours worked. However, employees are expected not to end work, or clock out, after the scheduled work end time without authorization from their manager or supervisor. Clocking out late will result in overtime or compensatory time and these types of time MUST be preapproved by the Department Head / Manager.
13. **Failure to Properly Clock in and Out** - For non-exempt employees, it is each employee's responsibility to clock in and out (record their time). If an employee fails to record their time via the established time keeping system, it is the responsibility of the employee to notify the Department Director, Supervisor, and Timekeeper in writing no later than twenty-four (24) hours after it occurred. If the employee fails to notify their supervisor by the payroll deadline, missed pay may not be paid until the following payday. The Supervisor will notify the Timekeeper via email, of any edits that need to be made to the timecard.

Under no circumstances can an employee adjust his/her own timecard. Corrections should be made by the Department Director, Manager/Supervisor, or Timekeeper.

a. **Guidelines for Edits:**

Employee shall e-mail all edits to the Timekeeper, Supervisor, and Department Manager in order to have a record.

- i. The employee should effectively communicate by e-mail the following:



1. Detailed information as to why there is a need for the manual punch.
 2. When (what time) the punch should have been for.
 - ii. All edits should be made within 24 hours.
 - iii. All edits have edit times logged in the audit trail.
14. **Tardiness** - Tracking tardiness will be the responsibility of managers and supervisors. Employees are expected to be ready to work at their designated/scheduled start times.
15. **Overtime & Compensatory time** - All overtime and compensatory time MUST be authorized in advance by the Department Head / Manager. Non-exempt employees who work overtime / compensatory time without authorization must still be paid for the time worked. However, the Employee may be subject to disciplinary action and may be negatively affected in their annual performance evaluation. Compensatory time shall not be used or recorded for time keeping purposes for any increments less than half hour.
16. **Work Schedules** - It is the responsibility of the hiring supervisor to communicate the work schedules for new hires and to ensure they are accurately reflected in the timekeeping system. Non-Exempt and Exempt employees' schedules are determined based on the requirements of the department. All full-time and eligible part-time non-exempt employees are required to take a lunch period (preferably away from the work area), unless pre-approved by manager/supervisor.
17. **Daylight Savings Time** – An employee working on a shift when daylight savings time goes into effect will be credited with the actual number of hours worked on that shift. An employee working on shift upon return to standard time is credited for the actual number of hours worked on that shift.
18. **Payroll Adjustments** – If an employee is not fully compensated for the payroll because of a data input error or a missed punch, the employee must contact the Timekeeper who will in turn contact the Payroll Office. An employee will either be cut a check for the error that was made or will be paid in the next pay period for the missing amount.
19. **Clock or System Problems (if using an electronic timekeeping system)** – Clocks will continue to collect data during times when it seems there are clock or system malfunctions, even during power outages. Employees should continue to make all



necessary punches, but also keep a physical record to ensure timecard accuracy. In this situation the Timekeeper will make a note of the times that may need adjusting but will not make adjustments until it is confirmed that the system did not collect the data. The Timekeeper will immediately notify the Payroll Office of any clock or system issues.

Order of Contact relating to Clock or System Technical Issues:

- Employee will contact Immediate Supervisor
- Supervisor will contact Payroll
- Payroll will contact timekeeping system account representative for technical support.

20. Unauthorized/Prohibited Actions – Employees are prohibited from the following actions:

- a. Any attempt to tamper with the timekeeping hardware, software or timesheet.
- b. Punching in/out or recording time for another employee (a.k.a. “buddy punching”)
- c. Interfering with another employee’s use of time clocks or timesheets.
- d. Falsifying another employee’s clocking transactions, timesheets and failure to use the timekeeping system properly.
- e. Failure to promptly verify and reconcile time and leave records in accordance with departmental policies and procedures.
- f. Falsification of hours actually worked.
- g. Excessive missed punches (failure to record time) without a valid (specific) reason.

3.5 ATTENDANCE AND PUNCTUALITY

Punctuality and regular attendance are essential to the proper operation of the Town of Bay Harbor Islands and employees are expected to be at work on all scheduled workdays, during all scheduled work hours and to report to work on time. The Town Hall hours of operation are Monday through Friday from 9:00 am to 5:00 pm. Schedules may be modified with the approval the Department Head/Manager in accordance with department operations and special requests. ANY modification to an employee’s schedule shall be pre-approved by the Department Head / Manager or designee. If an employee will be absent, tardy or must leave prior to the end of regular work day, the employee must contact his or her Supervisor or Department Head / Manager at least one (1) day in advance of the employee’s scheduled start time or end time, or as soon as reasonably feasible.



If an employee fails to provide reasonable notice to his or her Supervisor or Department Head / Manager /, the absence will be considered an unauthorized absence (will negatively affect annual performance evaluation). The only exception to this policy is a legitimate emergency which prevents an employee from providing prior notice.

If the employee fails to notify his or her Supervisor or Department Head / Manager of absences for three (3) or more consecutive workdays, the employee will be considered to have voluntarily abandoned his or her job.

NOTE: Authorized leaves under the Town's Family and Medical Leave Act (FMLA) policy or other leave policies, or under applicable state or local laws, will not be treated as excessive absenteeism or tardiness. See FMLA Section 7.1 for more details.

3.6 WORK FROM HOME/TELECOMMUTING

Telecommuting allows employees to work at home, on the road, or in a satellite location for all or part of the workweek. Telecommuting can be informal, such as working from home for a short-term project or on the road during business travel, or a formal set schedule of working away from the office as a temporary work arrangement.

The Town Manager in agreement with the Department Director / Manager at their discretion, may authorize telecommuting/working from home after evaluating the following:

- Employee suitability: The employee and the manager have assessed the needs and work habits of the employee and agree the work traits are appropriate for successful telecommuting.
- Job responsibilities: The employee and manager have discussed the job responsibilities to ensure that the job may be performed successfully to the maximum potential.
- Legal implications: An evaluation has been conducted by the Town Manager or his/her designee in order to assess tax and legal implications under IRS, and state and local government laws.

The work from home/telecommuting arrangement is 100% discretionary and must be pre-approved by the Department Director / Manager in agreement with the Town Manager, on a case by case basis.

3.7 OVERTIME

Overtime is paid to non-exempt employees at a rate of one and one-half times the employee's regular rate of pay.

Non-exempt employees with a five (5) day work period are eligible for overtime time pay for all hours worked over 40 hours per work week. Non-exempt positions with normal workweeks of 35 hours will be paid overtime at 1 ½ times the employee's regular pay rate for hours worked



over 40 and will be paid straight time rate of pay for any hours worked past 35 up to 40. Employees are compensated as follows:

1. An hourly rate of at least the statutory minimum wage for all hours worked up to 40 hours per work week; and
2. One and one-half (1½) times the employee's regular pay rate for all "actual hours worked" over 40 hours per work week.
3. Overtime is based on "actual hours worked", therefore, vacation, sick, holiday, personal day, compensatory time and other such leaves will not be used in the computation of overtime worked.

It is the Town's policy to keep overtime work to a minimum and supervisors are responsible for planning and scheduling work assignments and projects so that they can be performed within the non-exempt employees' regularly scheduled hours. All hours that exceed an employee's regularly scheduled hours, including all overtime work, must be approved in advance by the Department Head / Manager. If an employee works additional hours or overtime hours that are not approved by the Department Head / Manager, the employee will be paid for those hours and the employee may be subject to corrective action. All non-exempt employees are expected to work additional hours or overtime when needed to meet the needs of the Town. The Town will provide as much advance notice as practicable for mandatory additional hours or overtime work. Department Heads / Managers shall rotate overtime in a fair manner as to allow every department member the opportunity to obtain additional work hours if they so desire. Refusal of an employee to work mandatory additional hours or overtime may result in corrective action, up to and including, termination from employment.



3.8 CALL BACK TIME

If a full-time non-exempt employee is called back to work at a time outside normal working hours, the employee shall be paid for the actual time worked at one and one-half times the employee's regular rate of pay or a minimum of two (2) hours at the employee's regular rate of pay, whichever is greater, for each callback. For callbacks on Sundays and legal holidays, the employee's regular pay rate will be doubled for a minimum of two (2) hours.

Time will start when the employee reports to work. This provision does not apply to situations where the employee is called in early for his/her shift or held over after the end of the regular shift (contiguous service).



Hours paid as call back that were not actual work hours (e.g. when an employee is paid for two hours of work at their regular pay rate because the employee's actual time worked at one- and one-half times that rate would result in lower pay) will not be used in the computation of overtime worked.

Hours must be accurately recorded via the established time keeping system.

No employee is eligible for call back pay during a period of civil emergency as declared by the Town Manager.

3.9 REST AND MEAL PERIODS FOR NON-EXEMPT EMPLOYEES

NON-SWORN EMPLOYEES

Rest Periods: Rest periods are paid breaks. The Town permits non-exempt employees to take reasonable rest periods during the workday as permitted by the employee's work duties and as approved by the Department. An individual rest period shall not exceed 15 minutes in length. There shall be a maximum of two (2) rest periods per workday.

Employees are not required to punch out for rest periods. However, employees are expected to be punctual in starting and ending their breaks and may be subject to corrective action for tardiness. Employees on rest breaks may not interfere with other employees who are continuing to work.

Meal Periods: The Town provides non-exempt full-time employees and exempt employees with a paid meal period up to sixty (60) minutes. Non-exempt part-time employees who work at least five hours per shift receive a paid lunch break up to thirty (30) minutes.

Minors seventeen (17) years of age or younger shall not be permitted to work for more than four (4) hours continuously without an interval of at least thirty (30) minutes for a meal period.

Employees are not required to punch in / out for meal periods but employees are expected to comply with the prescribed times.

Non-exempt employees are not permitted to perform work during their meal period. Should any employee leave Town Hall or any other Town premises for personal business during his/her paid meal/rest period, any/all injuries incurred, including vehicle accidents, are not covered by workers compensation and instead are covered by the employee's individual health/automobile insurance policies.

The maximum meal period is sixty (60) minutes for full-time non-exempt employees and thirty (30) minutes for part-time non-exempt employees.

SWORN EMPLOYEES



Sworn personnel must refer to the collective bargaining agreement for more information on meal and rest periods.

3.10 BREAKS FOR NURSING MOTHERS

The Town of Bay Harbor Islands fully supports breastfeeding mothers by providing reasonable break time for an employee to express breast milk for up to one (1) year after the child's birth, in accordance with the Department of Labor's Providing Urgent Maternal Protections (PUMP) Act and the Equal Employment Opportunity Commission's Pregnant Workers Fairness Act (PWFA).



For both non-exempt and exempt employees, this break time is paid, and employees are not required to clock out. All employees, whether exempt or non-exempt, must coordinate with their supervisor to schedule break times for expressing breast milk.

Upon notice, the employee's Department Director or the Human Resources Director will provide the employee with a private, comfortable space that is not a bathroom, to express breast milk, as required by the PUMP Act. Employees covered by collective bargaining agreements should refer to their agreement for specific provisions related to breaks for nursing mothers.

In addition, under the Pregnant Workers Fairness Act (PWFA), the Town will ensure reasonable accommodations are provided to breastfeeding mothers, including additional breaks or other necessary adjustments, to support them in the workplace.

3.11 POLICY PROHIBITING DEDUCTIONS FROM COMPENSATION OF SALARIED, EXEMPT EMPLOYEES

The Town prohibits any improper deductions from the compensation of any exempt employee. A salaried exempt employee will regularly receive his or her full compensation, less applicable wage-related taxes and other deductions authorized by the employee or required by law, subject to the limited exceptions set forth below.

A salaried exempt employee's compensation will not be subject to reduction based on variations in the quality or quantity of the work performed by that employee. A salaried exempt employee may be required to work hours / days above the standard workweek; their supervisor will take those extra hours / days worked into consideration for allowance of flex time and future time off. A salaried exempt employee will receive his or her full salary for any week in which the employee performs any work, without regard to the number of days or hours worked but will not be paid for any workweek in which he or she performs no work. No deductions will be made from any salaried exempt employee's compensation for absences



occasioned by the Town or by the operating requirements of the Town's business. If the employee is ready, willing and able to work, deductions will not be made for time when work is not available.

EXCEPTIONS

The prohibition against deductions from the pay of a salaried exempt employee is subject to the following exceptions:

- Deductions from pay may be made when the employee is absent from work for one or more full days for personal reasons, other than sickness or disability.
- Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with the Town's plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. Deductions from pay may also be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance there under.
- No deductions from pay will be made for absences occasioned by jury duty, attendance as a witness, or temporary military leave. An offset of any amounts received by an employee as jury fees, witness fees, or military pay for a particular week against the salary due for that week may be made.
- Deductions from pay may be made for penalties imposed in good faith against an employee for violation or infractions of safety rules of major significance (i.e., those rules relating to the prevention of serious danger in the workplace or to other employees), if the Town concludes in good faith after its investigation that the employee committed such violation.
- Deductions from pay may be made for unpaid disciplinary suspensions of one or more full days for violation of workplace conduct rules which are reflected in the Town's written policies applicable to all employees (including, but not limited to, violation of the Town's Equal Employment Opportunity, Americans With Disabilities Act, Harassment-Free Workplace, Workplace Violence and/or Drug-Free Workplace policies), if the Town concludes after its investigation that the employee committed such a violation.
- Employees in their first or last weeks of employment may not be paid their full salary, but instead will be paid a proportionate part of the employee's salary for the time actually worked.
- Employees may not be paid their full salary for weeks in which they take unpaid leave under the Family and Medical Leave Act and instead, will be paid a proportionate part of their salary for time actually worked.

If a salaried, exempt employee believes that an unauthorized or improper deduction has been made from his or her salary or the salary of anyone he or she supervises, the employee should



notify the Town immediately by bringing the matter to the attention of the Department Head / Manager or the Human Resources Director.

The Town is committed in good faith to comply with the Fair Labor Standards Act at all times. If the Town concludes that the deduction was unauthorized or improper, the employee will be promptly reimbursed for any amount(s) incorrectly deducted. The Town prohibits and will not tolerate retaliation against any employee who raises any concern under this policy

DRESS APPROPRIATELY - DRESS FOR

3.12 DRESS CODE

Employee attire is a direct reflection on individual professionalism and the Town's image and reputation. ***The Dress Code policy has one (1) primary rule of thumb: Dress appropriately.***

The Town of Bay Harbor Islands expects all employees to exercise appropriate judgement with regard to personal appearance, dress and grooming to be most effective in the performance of their workplace duties. The Town recognizes that personal appearance is an important element of self-expression and strives not to control or dictate appropriate employee appearance with regard to attire, jewelry, or tattoos worn as a matter of personal choice.

In keeping with this approach, The Town of Bay Harbor Islands allows reasonable self-expression through personal appearance, unless

- A) It conflicts with an employee's ability to perform his or her position effectively or with his or her specific work environment, or
- B) It is regarded as offensive or harassing toward co-workers or others with whom the Town of Bay Harbor Islands conducts business and has contact with employees

The Town requires certain employees to wear uniforms at all times while on duty. Employees are expected to wear their complete uniform as specified by their department. Uniforms are to be kept clean and in good repair at all times. The Town will make a reasonable effort to ensure that its equipment, working conditions and the job environment will not jeopardize the health or safety of employees. Damage to or loss of uniforms or any part thereof is to be reported immediately to the employee's immediate supervisor. If an employee's personal property is lost or damaged, except in instances involving negligence, and no other reimbursement source is available, the Town, upon approval by the Manager, will reimburse the employee for the replacement of property to a maximum of one hundred percent (100%) of replacement cost or one hundred fifty



dollars (\$150.00), whichever is less. (for more information on sworn personnel uniforms, refer to the Collective Bargaining Agreement) Uniforms shall be replaced as necessary due to wear and tear. All uniforms are supplied by the employer.

Town employees who are not required to wear uniforms are expected to maintain a standard of dress appropriate to the Town's business operations. Employees are required to maintain a neat, clean and professional appearance at all times.

Listed below is a general overview of acceptable business wear as well as a listing of some of the more common items that are not appropriate for the office. Neither list is intended to be all-inclusive. Rather, these items should help set the general parameters for proper business wear and assist employees to make good judgments about items that are not specifically addressed.

1. Slacks — Cotton slacks are acceptable provided they are clean and wrinkle-free. Inappropriate items include jeans of any color, sweatpants, wind suits, shorts of any kind, overalls, Capri pants, leggings, spandex or other form-fitting pants. Ripped, wrinkled, torn, or faded clothing is not acceptable.
2. Shirts — Dress shirts, sweaters and turtlenecks are acceptable. Inappropriate items include tank tops, sweatshirts, shirts with large lettering, logos or slogans, low cut shirts or blouses, halter-tops, tops with bare shoulders, see-through garments, and t-shirts unless worn under another blouse, shirt, or jacket.
3. Dresses and Skirts — Dresses and skirts of an appropriate length are acceptable. Mini-skirts and spaghetti-strap dresses should not be worn to the office.
4. Shoes – Acceptable for Women: High and mid-heeled shoes and sandals, and dressy flats and open toed shoes. Not acceptable for all employees: flip flops, flat sandals, athletic shoes (unless it is part of an assigned uniform) and over-accessorized sandals.
5. Tattoos and Jewelry — The Town of Bay Harbor Islands permits employees to wear jewelry or to display tattoos at the workplace within the following guidelines. Factors that management will consider determining whether jewelry or tattoos may pose a conflict with the employee's job or work environment include:
 1. Personal safety of self or others, or damage to company property
 2. Productivity or performance expectations
 3. Offensiveness to co-workers, customers, vendors, or others in the workplace based on racial, sexual, religious, ethnic, or other



characteristics or attributes of a sensitive or legally protected nature.

4. Corporate or societal norms
5. Customer complaints

If management determines an employee's jewelry or tattoos, may present such a conflict, the employee will be encouraged to identify appropriate options, such as removal of excess or offensive jewelry, covering of tattoos, transfer to an alternative position, or other reasonable means to resolve the conflict.

An environment of mutual cooperation, respect, and fair and consistent treatment for all employees is the Town's goal. Nonetheless, the Town is legally responsible for ensuring that no employees are subject to harassment or a hostile work environment. As an initial step toward resolution of any complaint or offense under this policy, supervisors and managers will be responsible for explaining the policy and answering employee questions. If an agreeable solution cannot be reached at that stage, the Human Resources Director will follow company procedures to resolve the issue.

6. Employees should not wear any item of ornamentation in their nose, eyebrow, tongue, or any other location of their body that is visible during work hours or any work-related function. Exception: earrings are permitted; however, excessive ear piercings are prohibited.
7. Personal hygiene — Hairstyles, make-up, nails, grooming of beards and mustaches, and personal hygiene should be reasonable and in accordance with customary business practices. An employee's personal grooming and hygiene should reflect a clean and neat appearance and impression.
8. Town Events – The Town's Dress Code policy also applies for all Town events and other meetings outside of Town Hall in which the employee will serve as a representative of the Town.
9. Business Casual - Business casual dress will be permitted on Fridays, except during specified and announced periods when casual days will be suspended. Some departments may require specific guidelines that differ from the business casual guidelines. Employees who must leave work to change clothes for business reasons will use personal time or vacation time to do so. When participating in professional meetings with customers or members of the public, the above business dress code shall be observed.

Business casual for Fridays is defined as follows:



- Casual shirts: All shirts with collars, business casual crewneck or V-neck shirts, blouses, golf and polo shirts. Examples of inappropriate shirts include T-shirts, shirts with slogans, tank tops, muscle shirts, camouflage, crop tops, and any other sport attire.
- Pants: Casual slacks and trousers and jeans without holes, frays, etc. Examples of inappropriate pants include shorts, camouflage, skintight pants, pants worn below the waist or hip line, and any other sport attire.

If an item of clothing is deemed to be inappropriate for the office by the employee's supervisor and/or the Human Resources Director, the employee may be sent home to change clothes and return back to work dressed appropriately. Non-exempt employees (those employees subject to the minimum wage and overtime requirements of the Fair Labor Standards Act) will not be compensated for any work time missed because of their failure to comply with this policy. Violations of this policy may result in corrective action & penalties on the employee performance evaluation.

Supervisors or other management personnel can specify additional or alternative dress and grooming requirements for employees for safety reasons or based on the business needs of their departments (e.g. Parks and Recreation personnel).

Employees shall not purchase, consume or be under the influence of alcoholic beverages, while on duty or in Town uniform, nor shall they consume or possess illegal substances while on duty, or in Town uniform.

Any employee who requires an exception to the Dress Code based on a bona fide religious belief, ethnicity or disability, should contact the Human Resources Director to discuss a reasonable accommodation.

Retaliation against persons who requires an exception to the Dress Code on a bona fide religious belief, ethnicity, or disability is strictly prohibited. Any act of retaliation, including interference, coercion, and restraint, by a Town employee or by one acting on behalf of the Town, violates this policy and will result in appropriate disciplinary action, up to and including discharge.

This organization is pledged to take positive action to assure that equal opportunity is granted to all. Every member of our management team has a personal responsibility for the implementation of our Equal Employment Opportunity Policy. Every employee has an obligation to assist in maintaining a nondiscriminatory working environment.



3.13 OUTSIDE EMPLOYMENT

The purpose of this Policy is to provide guidelines regarding outside employment performed by any Town of Bay Harbor Islands employee. Outside employment is employment in outside work, including without limitation self-employment, consulting or contract labor, which involves activities or duties separate and apart from the employee's official assigned duties at the Town of Bay Harbor Islands and which may result in compensation to the employee beyond that provided by the Town of Bay Harbor Islands. Town of Bay Harbor Islands Employees may engage in outside employment with the approval of the Town Manager and with the understanding that their primary duty, obligation and responsibility is to the Town of Bay Harbor Islands.

Procedure

All full-time and part-time Town of Bay Harbor Islands employees who engage in any outside employment must request permission from their Department Head / Manager before engaging in outside employment. To obtain prior written approval, the employee must file an *Outside Employment Request* form with their Department Head / Manager no later than ten (10) business days prior to accepting outside employment. The Department Head / Manager will then submit the form to the Human Resources office. The Human Resources office will submit the form to the Town Manager for final approval who will then provide a copy to the Town Clerks office for processing.

The request shall state the name and place of employment, the maximum hours of work, the expected duties and work schedule, the date of hire, and the name and telephone number of a supervisor and/or the person to whom the employee shall report while performing outside employment duties or activities. A duplicate copy of the *Outside Employment Request* form shall be returned to the employee providing information on whether the request has been approved or denied. Employees engaging in outside employment without the prior written approval of the Town Manager may be subject to disciplinary action up to and including discharge.

Guidelines

- Employees may not engage in any outside employment that creates a conflict of interest with their Town employment or a justifiable impression that such a conflict of interest may exist.
- Employees may not engage in any outside employment related duties and/or activities on Town time.



- Employees must avoid schedule conflicts and report to work with the Town in the event of any conflict with their outside employment work schedules.
- Employees may not engage in any outside employment where Town equipment, supplies, staff, facilities or material is to be used.
- Employees may not use confidential information obtained through their position as a Town employee to benefit their outside employment or for any other purpose other than as required by their regularly assigned duties as a Town employee.
- Outside employment may not interfere with the employee's performance of functions for the Town of Bay Harbor Islands.
- Employees who engage in outside employment may not use the Town of Bay Harbor Islands' name in such a manner that suggests institutional endorsement.
- The employee must keep his or her Department Head / Manager notified of any changes in outside employment status or duties.
- Absolutely no work shall be conducted by actions of contracting, performing, representing, or consulting within the Town of Bay Harbor Islands boundaries, directly or indirectly

State Regulated Licensees

It is the intent of this policy to eliminate the perception and possibility that any State regulated licensee employed by the Town of Bay Harbor Islands is participating or engaging in business within the Town boundaries. Furthermore, it is encouraged that the licensee places all their applicable licenses in inactive status while employed with the Town.

If a State regulated licensed employee wishes to engage in an outside employment opportunity, the employee must notify the Department Director by completing an Outside Employment Affidavit available from either the Director's Office or Human Resources Director for each separate employment opportunity. The Department Head / Manager and the Town Manager must approve the disclosure form prior to the employee engaging in any outside employment activities. When engaging in outside employment, the employee must observe the following conditions:

1. Absolutely no work shall be conducted by actions of contracting, performing, representing, or consulting within the Town of Bay Harbor Islands boundaries, directly or indirectly.
2. No work shall be contracted, performed, represented, or consulted outside of the Town boundaries with any business entity or resident established within the Town of Bay Harbor Islands.



3. When engaging in outside employment, no business shall be conducted during Town of Bay Harbor Islands work hours. This would include using your personal or Town issued communication device, computer, or any other office machine for transacting any outside business.

When engaged in an outside employment opportunity, the employee must always give priority to the Town of Bay Harbor Islands. As requested on the Employment Disclosure Form, the employee must disclose any potential conflict(s) of interest when disclosing any outside employment opportunity. Actions or business affairs that may be interpreted as a conflict of interest and subject to disciplinary actions must be consulted with the Town Manager prior to engagement. All State regulated licensed employees must have a signed copy of this policy in their personnel folder. Violation of any of the above-mentioned conditions may result in immediate dismissal.

Responsibilities

A. Annual Financial Report: Outside Employment Statement

In accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code, full-time Town employees engaging in outside employment shall file by July 1st of each year an annual financial report also known as Outside Employment Statement with the Town of Bay Harbor Islands Clerk. Applicable forms may be requested from the Town's Human Resources office and/or Town Clerks office.

B. Workers' Compensation/Disability Benefits

All injuries sustained during outside employment must be reported to the employee's supervisor prior to the next working day. An employee's failure to report an injury sustained during outside employment shall be grounds for disciplinary action up to and including dismissal from Town employment. Furthermore, employees engaging in outside employment shall be ineligible to receive workers' compensation or disability benefits under the Town's workers' compensation or disability plans when illness, injury or disability results from outside employment.

C. Department Heads / Managers

Department Heads / Managers must assure adherence to this Policy and ensure that employees requesting approval of outside employment follow this policy and procedure.

3.14 EMPLOYMENT OF RELATIVES



A. PURPOSE

The Town of Bay Harbor Islands is committed to a policy of employment and advancement based on qualifications and merit and does not discriminate in favor of or in opposition to the employment of relatives.

Due to potential for perceived or actual conflicts, such as favoritism or personal conflicts from outside the work environment, which can be carried into the daily working relationship, the Town of Bay Harbor Islands will hire relatives of persons currently employed only if:

- a) Candidates for employment will not be working directly for or supervising a relative, and
- b) Candidates for employment will not occupy a position in the same line of authority in which employees can initiate or participate in decisions involving a direct benefit to the relative. Such decisions include hiring, retention, transfer, promotion, wages and leave requests.
- c) The candidate must meet all of the minimum qualifications required to successfully perform the role. All Town positions are filled with the intention of selecting the best candidate in regard to work history, relevant experience, educational credentials, knowledge, skills, and abilities.

B. DEFINITIONS

The following words, terms and phrases, when used in this policy, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: *“Employee”* means every person engaged in any employment with the Town under any appointment or contract of hire, express or implied, oral or written, for remuneration, including without limitation all full-time, part-time, seasonal, permanent and temporary employees.

“Public official” means an officer or an employee of the Town in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment at the Town. *“Public Official”* includes, but is not limited to, the Town Manager, Assistant Town Manager, Department Head / Manager / and any managers or supervisors who are delegated authority to recommend individuals for appointment, employment, promotion, or advancement.

“Relative” means an individual who is related to the public official or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-



sister, or other members of employee's household. This specifically includes all such relationships established through adoption or marriage.

The employment application has a designated section for candidates to disclose any relative relationships with existing Town of Bay Harbor Islands employees. Failure to submit the signed application to the Human Resources Director may result in disqualification from employment.

The hiring supervisor is responsible for ensuring policy compliance. Department directors are responsible for monitoring changes in employee reporting relations after initial hire to ensure compliance with this policy. Employees are responsible for immediately reporting any change to their supervisor.

Related persons employed as of October 1, 2019, may continue their employment in their respective department, subject to Town Manager approval with recommendation from the Human Resources Director and Department Head / Manager, provided that no conflict of interest occurs, and the relationship is in compliance with Florida Statute 112.3135.

If transfer is required or recommended, it shall be within the sole discretion of the Town Manager to determine which relative-employee to transfer.

In the event that no such transfer is possible, or if such a transfer is not accepted by the employees, and if neither employee will resign, the Town shall terminate the employment of one of the relative-employees. In that circumstance, it shall be within the sole discretion of the Town Manager to determine which relative-employee to terminate.

C. **COMPLIANCE**

1. Department Heads / Managers are responsible for ensuring policy compliance, including monitoring changes in employee reporting relations after initial hire.
2. Employees have the responsibility to notify their supervisor or Department Head / Manager of any potential or existing relationship which falls under the definitions provided in this policy.

3.15 FRATERNIZATION

The Town believes that romantic relationships create a conflict of interest (actual or perceived) or adversely affect work performance and employee morale, create concerns of favoritism, and potentially result in claims of harassment. As such, the Town prohibits employees from having romantic relationships with other Town employees. For purposes of this policy, a "romantic relationship" includes marriage, dating, sexual relationships, domestic partnerships, and employees who share the same household as a couple. If the Town determines that employees are engaged in a prohibited romantic relationship, the employees involved in said



relationship shall be subject to disciplinary action, up to and including termination. If said relationship involves any Town charter officer, the Town Council will be promptly notified and will determine the appropriate course of action.

3.16 COLLECTIVE BARGAINING AGREEMENTS

In the event of a conflict between a collective bargaining agreement covering any Town employees and this Employee Manual or any other policy issued by the Human Resources Director, the applicable provision(s) of the collective bargaining agreement provisions shall take precedence.

3.17 EMPLOYEE WORKSPACE

The Town provides offices and other workspace, including but not limited to, desks and Town vehicles, for use by employees for business purposes only. The Town's employee workspaces are not private and are subject to inspection by the Town at any time. Management may at any time inspect and review any and all files (hard copy or electronic), desks, drawers, filing cabinets, lockers, storage areas, compartments and all other areas of an employee's workspace and their contents, with or without the employee's knowledge.

The Town establishes a neat workspace policy in accordance with its values of efficiency and professionalism. As an expression of those values, all office areas, including employee workspaces and common areas, should be kept neat, orderly, and free of clutter. Before leaving the work area at the end of the workday, the Town requires employees to organize their areas to secure work materials, including storing files inside desk drawers and cabinets.

Employees are also encouraged to decorate their workspaces. However, employees must ensure that any/all workspace decorations are not offensive in nature and are in compliance with the Town's anti-discrimination, anti-harassment, and anti-bullying policies.

3.18 EMPLOYEE RECORDS AND EMERGENCY CONTACT INFORMATION

Employees should be aware of the importance of keeping their personnel records current. This means immediately notifying their department and the Human Resources Director of any changes, such as changes of address (even if temporary); telephone number; emergency contact(s); beneficiary; number of dependents; divorce; marriage; or any change of status not



previously reported that was originally given at time of employment. This is the responsibility of the employee and failure to comply may result in loss of employee benefits and/or disciplinary action.

3.19 COMPLIANCE WITH THE PUBLIC RECORDS LAW

The Public Records Act, codified in Chapter 119, Florida Statutes, entitles any individual access to Town public records. Public records are defined as [1] materials made or received by the Town [2] in connection with official Town business and used to [3] perpetuate, communicate or formalize knowledge of some type.

Examples of materials include papers, emails, electronic files, photographs, videos, text messages, and audio. If these materials are made or received by Town employees, have a connection to Town business, and were intended to communicate or formalize knowledge, any person may inspect or receive a copy of these materials.

EMPLOYEE OBLIGATIONS

An employee who receives a verbal or written request for public records must promptly respond based on the circumstances. For the inspection of records, this may entail compiling the requested records and providing an inspection site (i.e., a room). For copies, this will entail making legible photocopies or providing said records in electronic form.

Town employees are required to store public records in their control in a manner such that they can be accessed. This may include the creation of a filing system (physical and digital). As such, **Town employees must not destroy public records unless it is done so in accordance with law.**

A deposit may be required before resources are expended. For copies of standard papers, a cost of 15 cents per page may be imposed. Copying other materials (e.g., large maps, videos) may require the imposition of additional costs as determined by the Town Manager.

EXEMPTIONS & NOTICE

The Town will not provide public records to requestors if they are exempt and/or confidential, as defined by law. Examples of exempt records include the social security numbers of all current and former Town personnel, direct deposit records identifying banking institutions and account numbers, discrimination complaints and investigations (this exemption is temporary), and contact information of public safety employees, their spouses and/or children. Because the number of exemptions is voluminous, employees must contact a supervisor if they are unsure whether a record falls under an exemption.



If a public record request is received for any active Town employee, the Town will notify the employee as soon as possible that such request was received.

VIOLATIONS

Florida law provides that a “knowing” violation of the Public Records Act is a criminal offense. All other violations are noncriminal, but punishable by fines. A violation of this policy may subject employees to discipline up to and including termination.

3.20 PAYROLL

PAY PERIOD

The payroll period is biweekly, although each week stands alone for compensation purposes (FLSA work cycles may differ for employees covered by a CBA). Employees will receive their paycheck on Friday, for the pay period ending the previous Sunday, for a total of twenty-six (26) pay periods per year. The official workweek extends from 12:00 a.m. on Monday through 11:59p.m. on the following Sunday for Administration and General Employees. Public Works employee’s workweek extends from 12:00 a.m. on Tuesday through 11:59 p.m. on Monday. If the payday falls on an official Town holiday, employees will be paid on the preceding workday.

PAYROLL DEDUCTIONS

Employee pay represents the full amount of earnings each pay period, minus the appropriate required federal deductions, such as federal withholding (income tax), social security, and Medicare taxes. The Town deposits this deducted amount with the U.S. Treasury for credit on employee income tax calculations at the end of the year. Employees are responsible for completing a W-4 form properly and updating it when necessary. The Town will provide Form W-2 showing total earnings for the year and the amount of taxes that have been withheld. Employees eligible to carry Town benefits will have payments for these items deducted from their pay based on the completed benefit enrollment form. Each employee is responsible for confirm that deductions are correct and shall notify when there is a change in status that may impact benefit participation eligibility or deduction amounts.

Underpayment

If an employee is paid less than the compensation to which the employee is entitled or has been overcharged for coverage in an employee benefit plan, the Town shall correct the



situation by paying any funds due to the employee in the next payroll check after the proper determination and corrective calculations have been made and processed.

Overpayment



If an employee has been compensated above the appropriate pay rate or has not paid the proper deduction for coverage in an employee benefit plan, financial restitution is due the Town. Generally, such restitution shall be made immediately by personal check to the Town or by payroll deduction from the next payroll check after the proper determination has been made. At the employee's option, restitution may be accomplished through payroll deduction over the same period of time as the employee received the overpayment.

Questions Regarding Employee Paychecks

The Town takes every precaution to avoid errors in pay. However, if an error does occur inadvertently, the employee should inform his/her supervisor who will contact the Finance Department and determine whether an adjustment is appropriate. If the paycheck contains an error, an adjustment will be made as soon as feasible.

3.21 TOWN VEHICLES

If determined to be operationally necessary, some employees will be issued Town Vehicles. If an employee is allowed to drive a Town vehicle or if an employee is issued a Town take home vehicle, it is the responsibility of the employee to drive that vehicle for Town related business ONLY and not for personal use of any kind. Furthermore, those employees allowed to drive a Town vehicle shall be required to maintain a valid driver's license and must provide the Human Resource Department with a copy of the driver's license on October 1st of each year or as required upon random inspection. The loss or failure to maintain a current Florida driver's license may result in disciplinary action up to and including termination. Any change in status of the driver's license must be immediately reported to the Human Resource Department no later than the next day after occurrence.

3.22 EMPLOYEE REFERRALS

Employees who refer applicants for open positions of employment with the Town shall receive a \$200 referral bonus for each person they refer that gets hired by the Town.



3.23 EMPLOYEE RECOGNITION PROGRAM

Employees who are nominated by the Town's Recognition Awards Committee to have performed above and beyond throughout the year in their area of work will be acknowledged and receive recognition for their exemplary service at the annual Employee Awards Banquet.

3.24 BROAD CAUSEWAY SUNPASS

Employees who are actively employed by the Town and will be driving into work, will receive a sun pass exemption for the Toll located on Broad Causeway for the duration of their employment with the Town. The sun pass account must be and remain in good standing with sufficient funds and must be registered under the employee's name.

3.25 BENEFICIARIES

If an employee passes away while employed with the Town, the beneficiaries on file for the life insurance policy will be the beneficiaries who will receive payment for any unused time off in the employee's time banks (sick, vaca, personal, admin, comp etc.)

3.26 TOWN RECORDS

The designated custodian of public records for the Town is the Town Clerk and Deputy Town Clerk. Any requests for public records will need to be answered in consultation with the Town Clerk's office, who might require a review of the public records being provided depending on the type of record. Many records contain information that is exempt from public disclosure and will need to be redacted. Each redaction on a document must cite the specific exemption that applies to that portion of the document. Routine requests are not to be delayed and it is still your responsibility to provide the records (example: copies of water bills, code enforcement violations, building permits, or any blank forms or informational brochures). Public Records requests must be responded to timely. Any questions with regard to public records and exemptions can be addressed to the Town Clerk or Deputy Town Clerk. Certification of public records can only be done by the Office of the Town Clerk.

Records Retention – Employees shall follow the record retention schedule in consultation with the Town Clerk's office. The Town Clerk is the designated Records Manager Liaison Officer for the Town with the State of Florida and must report and document the destruction of public records in accordance with the schedule and state law. Any employee who knowingly destroys public records in their custody will be subject to disciplinary action which may include termination.



SECTION 4: STANDARDS OF CONDUCT

4.1 CONFLICT OF INTEREST

The Town expects its employees to adhere to the highest ethical standards of conduct in performing their duties and to devote their best efforts to the interests of the Town and its residents. Activities and dealings by employees that appear to create a conflict between the Town and the employee are unacceptable. The Town recognizes that employees can engage in activities outside of their employment which are private in nature and unrelated to the Town's operations. However, no officer or employee of the Town shall have any interest (financial or otherwise, direct or indirect), engage in any business transaction or professional or personal activity, or incur any obligation of any nature, which conflicts with the proper discharge of the employee's duties in the public interest, or which violates the State of Florida Code of Ethics for Public Officers and Employees (Chapter 112, Florida Statutes), or the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

An employee must disclose any possible conflicts to the Department Head / Manager, Human Resources Director, Assistant Town Manager, or Town Manager. If an employee has any question whether an activity or proposed activity would create a conflict of interest, he or she should immediately contact his/her Department Head / Manager, Human Resources Director, Assistant Town Manager, or Town Manager.

Because of the potential for a conflict of interest, an employee must disclose at least 10 days prior or as early as practicable if he or she is a board member or holds a leadership and/or elected official position with any condominium association or homeowner's association for a community located within the Town of Bay Harbor Islands.

Employees are prohibited from meeting with any person required to register as a lobbyist pursuant to Section 2-11.1 of the Miami-Dade County Code without verifying that the person has registered with the Town of Bay Harbor Islands' Town Clerk.

Violation of this policy will result in corrective action, up to and including termination from employment.

4.2 CODE OF CONDUCT

The Town of Bay Harbor Islands maintains a single high standard of integrity in all activities. High moral and ethical standards among public officials, both elected and appointed, and public employees are essential to gain and maintain the confidence of the public. It is the policy of the Town of Bay Harbor Islands to maintain an ethical and accountable local government which earns the public's full confidence for integrity. This policy governs the conduct of all Town employees at all times.



The success of the Town and our ability to provide meaningful, rewarding work depends upon the commitment of each employee to the Code of Conduct.

The Code of Conduct is as follows:

- Give willingly a full day's effort as demonstrated by punctual and regular attendance; apply individual skills, training, abilities and conscientious care in avoiding the waste of time, effort, facilities or materials in both scheduling and performing work.
- Deal fairly, reasonably, considerately and honestly with all persons engaged in Town activities or associated with it in any way -- fellow employees, including supervisors and subordinates as well as residents and guests, suppliers and the general public.
- Comply fully with the principles, policies and instructions which are established for conducting the activities of the Town and the approved methods and procedures provided to assure that standards of quality and safety are met.
- Act with the recognition that together we are the Town and are associated for the purpose of serving the residents and guests of the Town, and that our success and that of the Town are determined and measured by the extent to which the residents and guests are served.
- Abide by the established ethical, moral and legal codes of the Miami-Dade County Commission on Ethics, which govern the behavior of government employees and officials.

The Town maintains confidence in its employees and in their honesty in all Town related activities and relies on them to follow specified safety and operating procedures. Town rules and regulations have been established in the best interest of the Town and its employees. The Town rules attempt to assure fair practices for all employees regardless of race, religion, color, sex, national origin, sexual orientation, gender identity, pregnancy, age, marital status, disability, and Veteran status, and to maintain a safe and smoothly functioning work environment.

All employees with the responsibility and authority to supervise and direct employees under their control shall: administer policies and procedures within their scope of authority; document their subordinates' job performance, conduct, and behavior as appropriate; properly conduct evaluations of subordinates in a timely manner; discipline their subordinates as required under their departmental and/or Town policies and procedures; and address performance appeals submitted to them as provided by policy in a professional manner, in an attempt to resolve such issues at the lowest possible supervisory level.



PROHIBITED BEHAVIORS

Each employee is responsible for his or her compliance with the Town's policies and procedures and applicable federal, state and local laws and regulations and will be held accountable for any violations, including appropriate corrective action.

The Town has the right to discharge an employee immediately for infractions specified below. This sample list is **not all inclusive** and an employee may be disciplined or discharged without warning for a serious offense which is not listed below. The Town also reserves the right to use discretion in determining appropriate disciplinary action when mitigating circumstances are present. The Town may act in sole discretion and without advance notice except as limited by provisions of valid federal or state statutes. Nothing in this policy is intended to be or should be construed as being contractual in nature.

The Town will take disciplinary action in any case where the conduct of the employee is detrimental to the Town or other employees. Whenever possible the Town will use a progressive disciplinary system. The Town is not obligated to use all of the progressive disciplinary steps available, and may begin the disciplinary process at any level, up to and including immediate discharge, depending upon the severity of the conduct, the employee's work performance and prior disciplinary history, the employee's length of service, and any mitigating circumstances. All disciplinary actions as well as memos clearing the record must be clearly documented and shall become a part of the employee's personnel folder, and subject to removal in accordance with Florida public records retention schedule. Employees must be given every opportunity to explain their actions.

During an investigation into alleged offenses or violations of Town policies, the Town may, in its sole discretion, place the employee on administrative leave. Such leave must be pre-approved by the Town Manager or his/her designee. The leave may be with or without pay and may be charged to available accrued leave if authorized by the Town Manager. These policies shall apply to all employees unless an applicable collective bargaining agreement expressly provides to the contrary.

An employee found to have committed any of the below listed offenses will be subject to appropriate corrective action, up to and including termination from employment, including first offense situations. The list below is illustrative, not exhaustive.

Crimes, including but not limited to robbery, embezzlement, forgery, perjury, drugs, tax evasion, fraud, or any criminal offense involving dishonesty, breach of trust, or violence, resulting in conviction, adjudication withheld, or a plea nolo contendere (no contest). .



<i>Violation of the provisions of the Charter of the Town of Bay Harbor Islands, the Employee Manual, any other policy or procedure of the Town of Bay Harbor Islands, and/or ethical behavior. Act of incompetence or chronic inefficiency in the performance of assigned duties.</i>
<i>Neglect of duty or loitering while on duty.</i>
<i>Insubordination (defiance of authority; refusal to obey orders)</i>
<i>Failure to carry out instructions.</i>
<i>Deliberate misuse, destruction, or damaging any Town property (including Town records under your care) or the property of another employee.</i>
<i>Misappropriation, theft, conversion, or removal of any Town funds, Town property, or the property of another employee without proper authorization.</i>
<i>Unauthorized possession of firearms, explosives or weapons on Town property in violation of the Town's Workplace Violence policy.</i>
<i>Receipt of any gift, favor or benefit or engagement in any conduct, activity, enterprise or outside employment that is inconsistent, incompatible or immoral, or in legal or technical conflict with your duties, functions and responsibilities as a Town employee, or in violation of the Town of Bay Harbor Islands' Code of Ethics, Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, or the State of Florida Code of Ethics for Public Officers and Employees (Ch. 112, Florida Statutes).</i>
<i>Acts of employee showing lack of good moral character and good judgment resulting in an organizational impact.</i>
<i>Unauthorized alteration of time records, failure to accurately record or report time worked, and working overtime without prior authorization.</i>
<i>Absence without leave or failure to report for duty after an administrative leave, medical leave, suspension, or any other type of approved leave has expired; abandonment of position.</i>
<i>Making false claims or misrepresentations to obtain sickness, disability, workers' compensation or any other benefits.</i>
<i>Dishonesty or untruthfulness.</i>
<i>Use or attempted use of political influence or bribery to secure an advantage of any manner.</i>
<i>Excessive tardiness and/or absenteeism in violation of the Town's Attendance and Punctuality policy.</i>
<i>Falsifying personnel or other Town records, including, but not limited to, employment applications, accident records, work records, purchase orders, time and attendance records, or any other report, record or application.</i>
<i>Refusal to testify before a judicial proceeding or any other investigating committee concerning a matter within the scope of the employee's job duties (except as permitted by law).</i>



<i>Having been refused a surety bond, if required for employment.</i>
<i>Failure to obtain or maintain any license or certification required for employment.</i>
<i>Instigating or participating in a walkout, strike, unlawful picketing, slow-down, or other concerted stoppage of work.</i>
<i>Having been involved in an excessive number of accidents resulting in injuries or property damage.</i>
<i>Violation of the Town's Drug-Free Workplace policy.</i>
<i>Smoking of any tobacco products, including electronic cigarettes, in violation of the Smoke Free Workplace Policy.</i>
<i>Failure to notify immediate supervisors, not later than the next working day, when an employee has been arrested or when information has been filed by a prosecuting official against him/her for an offense or violation of law and/or when the employee is indicted by a Grand Jury. See Section 4.6 Employee Arrest or Charge.</i>
<i>Failure to report to the Town when employee's driver's license is revoked or suspended when the employee's position requires the operation of a motor vehicle.</i>
<i>Allowing hitchhikers or otherwise unauthorized persons to ride in Town vehicles.</i>
<i>Acts of misconduct while on duty.</i>
<i>Violating a safety rule, departmental rule, Town policy, or special orders.</i>
<i>Provoking or instigating a fight or fighting at any time on Town property or while on duty.</i>
<i>Threatening, intimidating, coercing, or abusing fellow employees, supervisors or the public in the line of duty; behaving in a way that interferes with the cooperation of employees or impairs the efficiency of municipal service.</i>
<i>Use of profane, abusive or offensive language in the workplace or directed toward co-workers, elected officials, or members of the public.</i>
<i>Posting or removing any matter on bulletin boards or Town property at any time unless authorized.</i>
<i>Unauthorized release of confidential information.</i>
<i>Distributing or causing to be distributed, during normal working hours, written matter of any kind on Town premises without proper authorization. The purpose of this provision is to prohibit interference by one or more employees with the work of other employees or with the operation of the Town's business.</i>
<i>Violation of federal, state or local law, including, but not limited to, Town of Bay Harbor Islands' Codes and Ordinances, the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, or the State of Florida Code of Ethics for Public Officers and Employees (Ch. 112, Florida Statutes).</i>
<i>Gambling or engaging in any other game of chance during working hours, while in a Town</i>



<i>uniform or on Town property.</i>
<i>Failure to act through appropriate means and channels when witnessing and/or being aware of corruption, misconduct, harassment, discrimination, bullying, or neglect of duty whenever discovered.</i>
<i>Using a position of public trust to gain access to the media for the purposes of criticizing colleagues, other public officials, citizens, or staff, impugning their integrity or vilifying their professional beliefs.</i>
<i>Using information gained confidentially in the performance of governmental duties as a means of making private profit.</i>
<i>All Town employees shall practice civility and decorum in their dealings with others. Belligerent, personal, derogatory, impertinent, slanderous, threatening, abusive or disparaging comments will not be tolerated. No shouting or physical actions that could be construed as threatening will be tolerated.</i>
<i>Unauthorized absence from work for a period of three (3) or more workdays will be considered as the employee's voluntary abandonment of his or her position.</i>
<i>Conduct unbecoming a public employee.</i>
<i>Engaging in any other actions which are determined by the Town Manager to be a poor representation of the Town of Bay Harbor Islands and warrants corrective action.</i>

Department Heads / Managers, and supervisors are expected to set an example and to enforce the Code of Conduct rules based on facts, uniformly, with fairness and impartiality.

4.3 CORRECTIVE ACTION

The Town expects employees to perform their job duties in accordance with the law and the established performance and attendance standards for their positions, to conduct themselves appropriately in the workplace and to comply with Town policies, including, but not limited to, the employee code of conduct. It is critical for all Management to be aware that continuous supervision and two – way communication related to performance can effectively minimize performance issues that would require corrective action.

Employees who are unresponsive and do not satisfy the applicable performance, attendance and conduct expectations are subject to appropriate corrective action. The purpose of such corrective action is to identify and correct the issue, prevent recurrence, and improve the employee's job-related performance and workplace conduct.

The Town's corrective action process generally will proceed in four steps:

1. Counseling and Verbal Warning
2. Written Warning



- 3. Final Warning and/or Suspension
- 4. Recommendation for Termination from Employment

This sequence for the corrective action process is recommended in order to grant employees the opportunity to correct any behavior or performance issues, but not mandatory. The Town reserves the right to skip or repeat steps in the corrective action process based on the facts and circumstances of the individual situation. For certain offenses, a written warning, final warning or termination from employment may be the first corrective action step taken by the Town.

Corrective action may also include a performance improvement plan, suspension (unpaid), demotion, reassignment, probation, training, or other appropriate action, whether separate from or in combination with the steps listed above.

The determination of the appropriate corrective action step will be at the discretion of the Department Head / Manager following a recommendation from the employee's immediate supervisor/manager, with the exception of suspension and termination. Recommendation for suspension and termination shall be determined by the Department Head / Manager in consultation with Human Resources Director and presented to the Town Manager for final approval. For employees reporting directly to the Town Manager, the appropriate corrective action step will be at the discretion of the Town Manager. For sworn personnel, this policy will also be administered in accordance with the Collective Bargaining Agreement.

Nothing in this policy alters the at-will nature of an employee's employment with the Town.

4.4 **SUSPENSIONS**

An employee may be suspended for up to twenty (20) workdays without pay for violation of the Employee Code of Conduct or any other departmental or Town policy, including but not limited to, the policies in the Employee Manual.

Where circumstances warrant such as the employee being indicted by any grand jury or upon information being filed against him/her by any prosecuting official; the Town Manager, Assistant Town Manager, Human Resources Director or responsible Department Head / Manager may immediately suspend an employee. If the Department Head / Manager and/or Human Resources Director suspends an employee in an emergency or hostile situation, the Department Head / Manager must notify the Town Manager or Assistant Town Manager immediately.



4.5 INTERNAL INVESTIGATIONS

The Town may conduct internal investigations pertaining to security, employee conduct, alleged violation of the Employee Code of Conduct or any other departmental Town policy or other work-related matters. Employees are required to cooperate fully with and assist in such investigations if requested to do so and are required to provide honest and truthful information. Refusal to cooperate in an investigation, providing dishonest or false information in an investigation, or retaliating against any employee who participates in an investigation may result in corrective action, up to and including termination from employment.

Where circumstances warrant, the Town Manager may place an employee on administrative leave pending the Town's investigation. Internal investigations may be conducted by the Police Department, Human Resources Director, or outside investigative agency at the request of the Town Manager.

4.6 EMPLOYEE ARREST OR CHARGE

Policy

As a condition of employment with the Town of Bay Harbor Islands, employees are required to notify their immediate supervisors, no later than the next working day, when an employee has been arrested or when information has been filed by a prosecuting official against him/her for an offense or violation of law and/or when the employee is indicted by a Grand Jury. This shall include, but not be limited to violation of probation, promise/notice to appear, injunction for any prohibited violent or threatening behavior, or moving traffic violations. Failure to notify shall result in appropriate disciplinary action, including termination of employment.

Under no circumstances may the employee report for duty without prior consent from the Human Resources Director following an arrest/indictment, promise to appear, or conviction.

Procedure

The Town will conduct its own independent investigation taking into consideration the employee's testimony and will review any police report or other available documents. The Town will evaluate each arrest/indictment on a case by case basis taking into consideration multiple factors including:

- The nature and severity of the alleged incident or crime,
- The totality of circumstances surrounding the incident,
- The employee's job responsibilities, job location, and potential interaction with employees and the public,
- Employment record of the employee (e.g., performance, length of service, etc.)



- Circumstances that adversely affect the staff member's attendance,
- The future potential for conflict that may arise,
- Any other factors the Town, in its sole discretion, deems relevant.

If the employee pleads nolo contendere or guilty, enters into a plea agreement including pre-trial intervention or is tried and found guilty of any felonious charge and/or crime involving dishonesty or moral turpitude, the employee may be immediately terminated from Town of Bay Harbor Islands employment. In the event such person is tried and acquitted, or the information or indictment is dismissed or quashed, the Town Manager will review his/her employment status to determine whether reinstatement or continuing employment is appropriate.

Employees arrested or indicted by a Grand Jury or on whom information has been filed by a prosecuting official for a felonious offense, a crime involving dishonesty or moral turpitude, or a charge that could be related to their work, may be placed on Administrative Leave with or without pay with approval of the Town Manager.

If an incident or charge is directly work related, or the offense is of a serious nature, nothing shall preclude the Town from initiating disciplinary action independent of any judicial hearing or proceeding.

Employees are also required to notify the Human Resources Director of the outcome of all criminal drug statute or alcohol related criminal charges on the next business day after any change in status, including the notification of a conviction, a plea of guilty, an adjudication of guilt, a plea of nolo contendere, an adjudication withheld, an acquittal or a dismissal of the charges. A failure to report a drug or alcohol conviction to the Town within the applicable time periods will result in immediate termination of the employee, unless good cause exists for the employee's failure to report the conviction to the Town

4.7 SOLICITATION/DISTRIBUTION

Solicitations of any type are not permitted by an employee on the Town's premises when the employee is engaged in performing his or her work tasks. Any employee who does so and thereby neglects his or her work, or interferes with the work of others, will be subject to corrective action. Solicitations are not permitted at any time on the Town's premises by persons not employed by the Town.

Distributions of pamphlets, handbills, flyers, folders, or other materials by an employee in Town premises are not permitted when the employee is engaged in performing his or her work tasks. Distributions, as described above, are not permitted by employees at any time in working areas. Any employee who violates this policy will be subject to corrective action. Distributions, as



described above, are not permitted at any time on Town premises by persons not employed by the Town.

Solicitation which is prohibited also includes the act of requesting donations, contributions from any other employee, resident, vendor or anyone who does any type of business with the Town. (example: an employee asking for donations for their child's sports team from other employees)

Employees may not post any notice or other literature on Town property without prior approval by the Town Manager, Assistant Town Manager, or Human Resources Director.

Solicitation or distribution must not impede access in or out of the Town's buildings or other premises, impede physical movement within the building or premises, or interfere with work being performed by the Town's employees and public officials.

Any employee who observes a violation of this policy should report it immediately to the Human Resources Director.

4.8 GIFTS

It is the policy of the Town that all employees are prohibited from soliciting, demanding, and/or receiving or accepting any gift, favor or benefit from any vendor, registered lobbyist, Town resident, individual, other employee, or entity related to one's employment by the Town.

Additionally, no matter the value, an employee may not accept any gift, favor or benefit from any person or entity where there is a real or potential risk of compromise or conflict of interest, or which violates the State of Florida Code of Ethics for Public Officers and Employees (Chapter 112), the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, or the Town of Bay Harbor Islands' Code of Ethics.



The following exceptions may be made for this policy:

- Shareable and edible gifts (must be disclosed to the Human Resources Director prior to consumption)
- Discount offers that apply to general population or government employees (example: hotel in Town offers a discount to all government employees – it is not a violation to accept the discount).

Should an employee be unclear if a specific item falls within the exceptions of the Gift policy, the employee should contact his/her immediate supervisor and/or the Human Resources Director.



4.9 ELECTIONS AND POLITICAL CAMPAIGNS

It is the policy of the Town that all employees are prohibited from soliciting or accepting any political contribution in any Town of Bay Harbor Islands property, including Town Hall, Police Department and the parks. Such prohibited solicitations include, but are not limited to, using Town phones, faxes or computers to solicit contributions or personally approaching any person at any Town of Bay Harbor Islands property for the purposes of asking for or receiving a political contribution.

Employees are prohibited from providing services to a candidate (including current councilmembers running for re-election, presidential elections, any other types of candidates) for elective office during the employees' work hours for the Town of Bay Harbor Islands. Employees are prohibited from providing service to a candidate for elective office during the employees non-working hours IF the services provided to the candidate are done so using any type of privilege or resource associated with the employee's employment with the Town (example: employee is off duty using a Town issued cell phone to campaign). Also, if an employee is at an event in his or her official capacity, the employee is prohibited from electioneering for a candidate at that event. This prohibition also applies to any employee that is or intends to become a candidate for elective office, either within the Town or in another jurisdiction. In that circumstances, the employee is prohibited from campaigning for himself or herself during his or her work hours for the Town.

4.10 EMPLOYEES PROHIBITED FROM SEEKING ELECTIVE OFFICE

Employees are prohibited from seeking elective office in the Town of Bay Harbor Islands, including Mayor, Councilmember or any other elective office. The term "seeking elective office" means qualifying as a candidate for Town elective office. If an employee seeks elective office, the employee must adhere to current State law requirements (generally the employee must submit a resignation from employment when the employee qualifies as a candidate for Town elective office). If an employee does not resign, the employee will be terminated from employment.



SECTION 5: COMPUTER AND ELECTRONIC RESOURCES

5.1 TOWN COMPUTER SYSTEM, INTERNET, EMAIL, VOICEMAIL AND CELL PHONES

The Town of Bay Harbor Islands' computer system, internet, email, voicemail and Town-issued cell phones are property of the Town. It is the policy of the Town of Bay Harbor Islands that use of its computer systems (including desktop and laptop computers, network and software, computer aided dispatch (CAD)), internet, email, voicemail and Town-issued cell phones (including smart phones and personal digital assistants (PDA)) and iPads/tablet computers is limited solely to appropriate business use. Employees are not allowed to use the Town's computer or voicemail systems or Town-issued cell phones or iPads/tablet computers for their personal benefit or to store personal information on Town computer systems.



Employees are strictly forbidden from installing software on any computer or other device connected to the Town's network or computer systems without the express written permission of his/her Department Head / Manager. Failure to obtain appropriate approval shall result in corrective action, up to and including termination from employment. The intentional introduction of a computer virus, Trojan horse, or other malicious code is strictly prohibited and will result in termination from employment.

This policy reaffirms that Town employees have no reasonable expectation of privacy with respect to any computer hardware, software, electronic mail, text or instant message, voicemail or other computer or electronic means of communication or storage, whether or not employees have private access or an entry code into the computer or voicemail system, or Town-issued cell phone or iPad/tablet computer. Employees have no right to privacy in any matter, whether personal or business-related, stored in, created, received or sent through the Town's email, internet, computer or voicemail systems or Town-issued cell phones and iPads/tablet computers. The Town reserves the right to monitor the use of its voicemail and computer systems and Town-issued cell phones and iPads/tablet computers, including but not



limited to e-mail, internet use, website history, call and text message history and history of materials, data and files downloaded or uploaded. The Town also reserves the right to retrieve and read any text or other message composed, sent, or received using the Town's email or computer systems or Town-issued cell phones and iPads/tablet computers. Monitoring and retrieval may occur at any time without prior notice.

Employees using the internet are prohibited from transmitting any material or using the internet in violation of any federal or state law. This includes but is not limited to copyright infringement, engaging in discrimination or harassment, or the communication of unlawful materials. The Town's internet facilities and computing resources must not be used knowingly to violate the laws and regulations of the United States or any other nation, or the laws and regulations of any state, Town, province or other local jurisdiction. Use of any Town resources, including, but not limited to, the computer systems, email, internet or Town-issued cell phones and iPads/tablet computers, for illegal activity is grounds for immediate termination from employment.

If an employee defeats or attempts to defeat security restrictions on the Town's systems and applications, such actions will result in immediate termination from employment.

The Town recognizes that brief and occasional personal use of e-mail and the internet is acceptable as long as it is: (1) not excessive or inappropriate, (2) is restricted to non-working time (i.e., during break time or meal periods), (3) does not violate any of the prohibitions listed in this Employee Manual, (4) not in support of a personal business venture, (5) has no video, graphic, picture, or massive attachments, (6) not a chain letter or transmission of unsolicited commercial mail ("spam"), (7) does not violate the law, and (8) does not interfere with the Town's business operations or cause congestion, disruption, or impairment of the Town's networks or systems. The Town reserves the exclusive right to determine whether any personal email use is inappropriate, excessive and/or violates this policy.

Employees are expected to exercise professionalism in all business communications including those in electronic and voice format.

The Town's Harassment-Free Workplace policy also applies to an employee's use of the Town's computer system, internet, email, voicemail and Town-issued cell phones and iPads/tablet computers.

The Town expressly prohibits the following:

1. Discourteous communication to or about other persons, the Town or other organizations.
2. Sending, receiving, printing, or posting offensive or harassing statements or language including remarks of others based on their race, national origin, sex, sexual orientation, age, disability, religious or political beliefs.



3. Sending or soliciting sexually oriented messages or images including accessing any adult (pornographic) websites.
4. Issuing or forwarding chain mail and other frivolous messages.
5. Accessing gambling or hate group websites.
6. The circulating of jokes, comics or non-job-related computer graphics.
7. Personal/private employee blogging or personal/private use of such social media websites including, but not limited to, Facebook, Twitter, You Tube, and LinkedIn.
8. Soliciting donations, including charitable campaigns, except as specifically authorized or part of official Town-sponsored events, i.e., blood drives, United Way, etc.
9. Dissemination or printing of copyrighted materials, including articles and software, in violation of copyright laws.
10. Sending, receiving, printing, posting, or otherwise disseminating proprietary data, Town logos or other confidential information of the Town of Bay Harbor Islands in violation of any policy or proprietary agreements.

Disciplinary action for violation of this policy may include, but is not limited to, termination, suspension, or transfer of the offending employee. In cases involving less serious violations, disciplinary action may consist of warning or reprimand. Remedial action may also include counseling, changes in work assignments, or other measures designed to prevent future misconduct. The measure of discipline will correspond to the gravity of the offense as weighed by its potential effect on the Town and fellow employees.

When utilizing e-mail, etiquette is important. The strategies for effective e-mail communication are as follows:

- whenever possible, avoid communicating through e-mail on a sensitive subject that should be addressed in person;
- communicate confidential information in another form other than e-mail;
- check for accuracy and use correct grammar, spelling and punctuation;
- read all messages and respond regularly;
- avoid the use of typing a message in all capital letters;
- be careful not to use the 'Reply All' function when not intended, for e.g., system-wide distribution;



- ensure that messages are deleted or saved; the server should not be used to permanently store messages. However, messages can only be deleted in accordance with records retention laws / schedule (please see Town Clerk if clarification is needed).

5.2 CELL PHONE AND PHONE USAGE

The Town recognizes that cellular telephones can be very valuable in times of emergency and can enhance the operational effectiveness and efficiency of staff while away from the office. The Town may issue Town Cell phones to employees who are deemed to have them due to operational necessity. It is the responsibility of those employees who have Town issued cell phones to ensure that they are responsive to their cell phones, that the cell phones are fully charged before each work day, inappropriate applications are not installed, long distance calls are not done and proper care and handling of the phone is exercised at all time. Excessive use of cellular telephone devices whether personal or Town issued, during working hours for non-business purposes can be distracting and interfere with employee productivity. As such, during working hours, employees are expected to limit personal calls as much as possible and instead make and take personal calls during non-working hours (e.g., during break and lunch periods), except in those exigent circumstances that demand immediate personal use. Employees are similarly expected to limit texting during working hours so that it does not become a distraction while performing their job duties. Supervisors are expected to monitor the activities of their employees to ensure that they are not distracted by telephone calls, texting or other activities associated with or accessible via cellular telephones, including the use of social media.

During working hours, employees should not utilize their cellular telephones to: access the Internet for non-work related purposes; violate any of the Town's Internet or email policies; visit or utilize social media; play games; watch movies or other televised programming; or engage in any activity prohibited by Town policy, including, but not limited to gambling or accessing or distributing pornographic or discriminatory material.

Employees should be aware that the record of telephone calls made on their telephones may constitute public records if those calls concern official Town business pursuant to the Florida Public Records Act, which defines public records as: "...documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics or means of transmission, made or received pursuant to law or ordinance in connection with the transaction of official business by any agency." If a public records request is submitted for an employee's phone records, the employee should assist the Town in identifying calls that were made in connection with official Town business so that those records may be produced in response to the request.

Text messages sent or received by Town employees in connection with official Town business may be public records and subject to disclosure under the Florida Public Records Law. Town



employees are required to forward all text messages sent or received in connection with official Town business to their Town email address for record retention purposes. Failure to do so is a violation of this policy. Text messages regarding notifications to members of the public of Town events or emergency situations may be sent by authorized Town personnel only.

While operating a Town vehicle / machinery and/or during the performance of Town business (regardless of whether or not an employee is driving a Town vehicle), employees are required to exercise caution, since the use of cellular telephones while driving presents a potential safety hazard. In order to promote safety and minimize liability, the following activities are prohibited while operating a Town vehicle or any vehicle during the performance of Town business:

- Making or answering telephone calls without a hands-free headset, Bluetooth device, or voice activated features available on the employee's phone;
- Sending or reading text messages, instant messages, BBMs, PIN messages or the like;
- Sending or reading email messages;
- Accessing the Internet;
- Using or accessing any telephone applications or "Apps";
- Playing games;
- Taking pictures or making video recordings;
- Recording voice notes or messages;

The foregoing list is not meant to be exhaustive but is a mere representation of popular cellular telephone functions which are prohibited by the Town while employees are operating a Town vehicle and/or during the performance of Town business (regardless of whether or not the employee is driving a Town vehicle).

Department Heads / Managers are expected to serve as role models for their subordinates to ensure compliance with the provisions of this policy and should routinely remind employees of their obligation to comply with this policy.

5.3 BLOGGING AND SOCIAL NETWORKING

PURPOSE:

This document defines the social networking and social media procedure for the Town of Bay Harbor Islands, the "Town". To address the fast-changing landscape of the Internet and the way residents communicate and obtain information online, Town departments may consider using social media tools to reach a broader audience. The Town encourages the use of social media to further the goals of the Town and the missions of its departments, where appropriate. The



Town has an overriding interest and expectation in deciding what is “spoken” on its behalf on social media sites. This procedure establishes guidelines for the use of social media.

PROCEDURES:

Personal Use

All Town employees may have personal social media accounts/blogs. These accounts/blogs should remain personal in nature and be used to share personal opinions or non-work-related information. Following this outline helps ensure a distinction between sharing personal and Town views.

Town employees must never use their Town e-mail in conjunction with any personal social media accounts/blogs.

Town employees must never co-mingle their own personal social media / email etc. with any Town accounts /blogs.

The following guidance is for Town employees, who decide to have personal social media accounts/blogs or who decide to comment on posts about official Town business:

- Always state your name and, if relevant, role, when discussing Town business.
- Use a disclaimer such as: "The postings on this site are of my own and don't reflect or represent the opinions of the Town of Bay Harbor Islands, for which I work."
- Always write in the first person and please consider that even anonymous postings on blogs/social media accounts can be traced.
- When participating in online communities, the employee should not misrepresent himself or any roll he/she may have within the Town.
- Think twice before posting. The employee is personally responsible for the content published on blogs, Wikipedia or any other form of user-generated media. Please remember that postings on the internet, even if removed/deleted by a user, are either permanently archived or could be saved as screen shots by other users,





meaning that everything an employee publishes could be visible to the world permanently. Prior to publishing any post that could make a viewer uncomfortable, employees should review and reconsider that post. If the employee remains unsure and the post is related to the Town, the employee should speak with the Public Information Officer or Human Resources Director.

- Employees should not post comments on work-related legal matters unless he/she has received written legal approval by the Town to do so.
- The use of ethnic slurs, personal insults, obscenity, or engage in any conduct that would not be acceptable in the Town's workplace is strictly prohibited. Proper consideration for the privacy of others and for topics that may be considered objectionable or inflammatory (like religion or politics) should be exercised.
- Personal grievances and/or comments that compromise or disrupt the efficient operation of the Administration or represent the Town in a negative light are discouraged.
- Employees must refrain from speech containing obscene or sexually graphic or explicit material, images, acts and statements or other forms of speech that ridicule, malign, disparage, or otherwise express bias.
- Employees should ensure that all Facebook, Linked-in, Twitter, Instagram or YouTube profiles and related content are consistent with how he/she wishes to present himself/herself with clients and colleagues.
- Do not create a link to the Town's website.
- Do not use the Town's Seal, logo, other intellectual property, or proprietary graphics, or any copyrighted materials.

Employees are responsible for what they post online. Employees who engage in blogging or social networking on the Internet should be mindful that their postings, even if done off premises and while off duty, could have an adverse effect on the Town's legitimate business interests.

Professional Use

All official Town-related communication through social media outlets should remain professional in nature and should always be conducted in accordance with the Town's communications procedure, practices and expectations. Employees must not use official Town social media sites for political purposes, to conduct private commercial transactions, or to engage in private business activities.

Town employees should be mindful that inappropriate usage of official Town social media sites can be grounds for disciplinary action. If social media accounts are used for official Town business, the entire Town site, regardless of any personal views, is subject to best practices guidelines, and standards.



Only individuals authorized by the Town may publish content to a Town web site or Town social computing technologies.

Approval and Registration

All Town social media sites shall be (1) approved by the Town Manager and (2) published using approved social networking platform and tools.

Any new social media accounts and/or pages must be requested to the Town Manager and approved by the Town Manager.

The Town Manager will review the request for a new social media page and determine if there is a need for it.

The Town Manager or designee will have administrative authority to all pages which are associated with the Town.

In an effort to maintain consistent messaging and overall Town branding, Boards, and Town Committees are not permitted to create social media accounts. We urge all boards and committees to work with their liaison to submit social media content to be shared through the Town's appropriate social media platforms.

Oversight and Enforcement

Employees representing the Town through social media outlets or participating in social media features on Town websites must maintain a high level of ethical conduct and professional decorum. Failure to do so is grounds for revoking the privilege to participate in Town social media sites, blogs, or other social media features.

Information must be presented following professional standards for good grammar, spelling, brevity, clarity and accuracy, and avoid jargon, obscure terminology, or acronyms. Town employees recognize that the content and messages they post on social media websites are public and may be cited as official Town statements. Social media should not be used to circumvent other Town communication policies, including news media procedure requirements. Town employees may not publish information on Town social media sites that includes:

- Confidential information
- Copyright violations
- Profanity, racist, sexist, or derogatory content or comments



- Partisan political views
- Commercial endorsements or SPAM

Records Retention

Social media sites contain communications sent to or received by the Town and its employees, and such communications are therefore Public Records pursuant to the Public Records Act, Chapter 119 of the Florida Statutes. The Town shall ensure that posts are not deleted in any way as to affect the retention of that record

EXTERNAL PROCEDURE

The following guidelines must be displayed to users on all social media sites or made available by hyperlink.

Moderation of Third-Party Content

This Town social media site serves as a limited public forum and all content published is subject to monitoring. User-generated posts will be rejected or removed or hidden (if possible) when the content

- contains obscenity or material that appeals to the prurient interest
- contains personal identifying information or sensitive personal information
- contains offensive terms that target protected classes
- is threatening, harassing or discriminatory
- incites or promotes violence or illegal activities
- contains information that reasonably could compromise individual or public safety

Public Records Law

Town social media sites are subject to applicable public records laws. Any content maintained in a social media format related to Town business, including communication posted by the Town and communication received from citizens, is a public record. The Town Clerk's office is responsible for responding completely and accurately to any public records request for social media content.

If an employee needs clarification on any aspect of the procedures, he/she should contact the Town Clerk's office.



NOTE: Nothing in this policy is intended to prohibit or discourage employees from engaging in speech as citizens on matters of public concern, or to prohibit or discourage employees from engaging in any protected activities under the Public Employee Relations Act (F.S. Chapter 447, Part II).



SECTION 6: SAFETY AND SECURITY

6.1 TOWN IDENTIFICATION

All employees of the Town of Bay Harbor Islands shall carry with them a Town issued photo identification card (ID / Access card). Employees must present their ID card for entry to the Town during periods of emergency or when necessary to identify themselves to residents when conducting Town business. Employees who lose their ID card need to report it as soon as possible. The ID card must be returned to the Town upon termination of employment.

PURPOSE

To establish guidelines for issuance of a photo identification card to all employees and for the use of said ID card by employees while at work or when representing the Town of Bay Harbor Islands in any official capacity in an effort to provide a safe and secure workplace for all employees.

STATEMENT

All employees will be issued and must wear and visibly display photo identification cards as provided by the Town. Identification cards must be worn in a manner that allows the identification of an employee by photo, first and last names and position title. This ID card may also provide access to areas through keyless entry.

Employees forgetting or misplacing their identification card will not be given a temporary card. Temporary ID cards are not permitted.

DEFINITIONS

Employee = For the purpose of this policy, staff member shall refer to full time, part time, seasonal employees, and interns.

Employee ID card = The official Town Identification card for all employees.

Official Capacity = Includes any time while on Town property as well as any business where the employee is representing the Town. It also includes wearing the ID card while operating any vehicle owned, leased or rented by the Town.

REQUIREMENTS:

1. Because the policy and procedures described herein are intended to provide for the safety and security of Town employees, all employees are expected to fully comply with all provisions of this policy. Any employee who is found to be in violation of this policy may be subject to disciplinary action.



2. The Department of Human Resources will provide all new staff members with a copy of this policy at the time of new hire orientation.
3. All employees are required to wear the ID while working in their official capacity. ID cards are to be prominently worn so the photo is clearly visible to others. Employee must carry the ID card at all times during work hours or when acting in an official capacity.
4. The ID card will be provided with a clip for each employee to wear the ID card. The ID card shall not be altered or defaced with pins, stickers, decals, etc.
5. Employees are responsible for safeguarding their own ID card. Any lost or damaged ID card should be reported immediately to the employee's supervisor, who is responsible for reporting the lost or damaged ID to Human Resources.
6. In an event that an employee forgets their ID card, the employee's supervisor must be notified at the start of the work shift.

PROCEDURE

1. All employees of the Town of Bay Harbor Islands will be issued a photo identification card. The Human Resources Director will be responsible for authorizing the issuance of the ID card.
2. Supervisors should report lost or damaged ID to the Human Resources Director immediately. After notification from the supervisor, the employee should print out and complete an ID card request form and bring the completed form to the Human Resources Director.
3. New ID cards will be issued at no cost to the employee who receive a transfer, promotion, demotion, name change or any change of title.
4. A fee of \$10.00 will be assessed to replace all lost, stolen or damaged ID cards. ID cards that are replaced due to normal wear and tear will not be assessed a charge. Checks or money orders made payable to "Town of Bay Harbor Islands" are the only acceptable method of payment.
5. Any lost ID card that is found should be returned to the Human Resources Director in Town Hall.
6. Upon suspension, an employee must turn in their ID card to their supervisor pending return to work.
7. Upon termination or retirement, an employee must turn in their ID card to the Human Resources Director.

RESPONSIBILITIES

1. The ID card may not be lent to anyone.
2. Do not allow unauthorized individuals into any secure area.
3. Do not leave ID cards on dash of vehicle or other locations where exposed to extreme temperatures.



4. Do not fold, bend pry open or mutilate the ID card.
5. Do not use the ID card improperly.
6. Immediately notify the supervisor if the ID card is no longer in the employee's possession.
7. Immediately notify the supervisor of any difficulties or problems with any ID card.

6.2 SAFETY MEASURES

The safety of every Town of Bay Harbor Islands employee is a matter of prime importance. The Town strives to provide safe working conditions for all employees and to observe all applicable State and Federal Safety requirements. No employee will knowingly be required to work in any unsafe manner. Safety is every employee's responsibility and all employees are expected to do everything reasonable and necessary to keep the Town a safe place to work. Employees should immediately notify a supervisor of potential accidents or hazardous conditions.

The Town has established a Safety Committee comprised of: The Human Resources Director, Chief of Police, Public Works Director, Building Department Director, Community Services Director and the Town Clerk. The safety committee shall meet semi-annually. The Committee members will review on the job accidents, make recommendations on safety improvements and ensure that compliance and necessary changes to improve safety and prevent accidents are carried out.

The following safety rules apply at all times, and some specific job descriptions may contain additional operational safety guidelines. Each employee must be familiar with such rules and apply them at all times.

- Use prescribed protective equipment such as eye protection, hearing protection, hard hats, safety shoes, gloves, shields, etc. when those items are appropriate to the task being performed.
- Walk, do not run. Wipe spills and pick up fallen objects and debris. Keep floor surfaces clear of hazards and other obstacles, electric cords, etc. For your comfort and safety, wear shoes with non-slip soles, in good condition and with enclosed toes. Do not wear sandals, sneakers, moccasins or tennis shoes on any job site where feet could be injured.
- To avoid back injuries, use correct lifting methods. Get additional help with heavy (or difficult to handle) objects.
- Be aware of sharp tools. Use safety devises where provided, and do not alter or remove them in any way. Report hazards to management immediately.
- Fire - Be alert for causes and report smoke, heat or unusual odors immediately. Alert other people in the area to the possibility of danger in order to evacuate, if necessary. Try to verify the location and call the Fire Department or 911. Use proper portable extinguishers for small fires.
- Do not put fingers, hands, feet or clothing in moving machinery.



- Do not carry items in a manner that obscures vision.
- Do not block access to fire extinguishers.
- Do not touch open or loose electrical circuits.
- Report unusual vibrations, smells, or noises coming from equipment.
- Do not wear rings or jewelry while operating machinery.
- Do not perform maintenance or repairs on running equipment.
- Do not remove or alter warning tags or safety devices.
- Never leave nails or spikes protruding from planks or boards.
- Perform routine maintenance at all scheduled intervals.
- Do not wear ear plugs, buds, or any other wire/wireless device(s) while driving or operating Town equipment and vehicles.

A. ACCIDENT REPORTING

All accidents and injuries, however slight or seemingly inconsequential, **must immediately be reported** to the appropriate supervisor or the Human Resources Director. Failure to report any accident or injury within 24 hours of its occurrence may lead to disciplinary action, up to and including termination of employment. Such reports are necessary so that the Town can remain in compliance with applicable laws and begin workers' compensation benefit procedures where appropriate.

Employees who violate safety standards, who cause or exacerbate hazardous or dangerous situations, or who fail to report or, where appropriate, correct such situations, will likely be subject to disciplinary action, up to and including termination of employment.

B. ACCIDENTS INVOLVING TOWN EQUIPMENT OR VEHICLES

Any employee involved in an accident while operating Town equipment or vehicles shall report the accident immediately to the supervisor and to the proper law enforcement agency. The employee must immediately complete an accident report, no matter how minor the damage is to the vehicle and submit to the supervisor and to the Human Resources Director.

Drivers must obey all traffic rules and regulations prescribed by law and use every reasonable safety measure to prevent accidents. No one under the age of 18 may operate a Town vehicle. Wearing of seat belts is mandatory.

Any traffic fines imposed upon a Town employee while operating a Town vehicle will be the personal responsibility of the employee and not the Town. Any employee involved in any type of accident involving Town equipment may be disciplined if, upon investigation, it is determined that the employee was negligent or through carelessness or recklessness contributed to the cause of the accident.



Town of Bay Harbor Islands employees are the most critical element in creating and maintaining a healthy and safe work environment.

C. **POLICY**

The Town encourages and insists upon safe working conditions. All employees are required to abide by all established safety rules and procedures. Failure to obey Safety rules and procedures will result in disciplinary action up to and including termination.

Since the employee on the job is frequently more aware of unsafe conditions than anyone else, employees are encouraged to make recommendations, suggestions, and criticisms of unsafe conditions to their immediate supervisor so that they may be corrected.

D. **SAFETY GENERAL RULES**

1. Working under the influence of alcohol or non-prescription drugs is strictly prohibited.
2. An employee must report all accidents, injuries, fires, hazardous conditions, chemical spills, or other unsafe situations to his/her supervisor.
3. Fighting and horseplay are strictly prohibited
4. Smoking is prohibited.
5. Protective footwear and other protective equipment must be worn for specific job requirements.
6. Listening to radios, tape players, CD players or other personal entertainment devices through earphones or ear plugs is prohibited because of the restricted ability to hear warning sounds.

E. **ELECTRICAL CORDS AND OUTLETS**

1. Frayed electrical cords and broken plugs must be replaced immediately. Attempts to tape or otherwise jerry rig electrical equipment are forbidden.
2. Place equipment near outlets to avoid cords posing a walking hazard. If equipment cannot be placed near the outlet, secure the cord by means of duct tape or other safety method.
3. All office machines must have ground wire connections and connected to compatible outlets. Attempts to alter plugs to eliminate ground prong are forbidden.
4. Defective outlets should be repaired immediately. Prior to repair, they should be taped or otherwise covered to prevent their usage.
5. Unused floor outlets which are flushed with the floor must have protective covers in place at all times.
6. Raised floor outlets, whether used or unused, should have furniture or equipment located over or beside them.



7. Ensure that circuit voltage and equipment requirements are compatible.
8. Portable electrical equipment shall be equipped with three-conductor cords.

F. FILING EQUIPMENT AND FILE ROOMS

1. Push do not pull, carts and other rolling equipment. Ensure that pathways are clear and use extra caution when entering or leaving offices into the hallway.
2. All carts must be inspected periodically to assure that rollers and wheels are in good condition and working order and have no sharp or jagged edges. Carts with unsafe conditions must be removed from use until they are repaired.
3. Riding on a cart or other rolling equipment is prohibited.
4. Carts are not to be pushed with feet or bumped with the body. Carts must be under control at all times.
5. Ensure the proper storage space for all boxes. Do not leave boxes in aisles or other pathways. Empty boxes must be removed and stored immediately after use.
6. Boxes must not be stacked too high or in an unsafe manner.
7. Sections of shelving should be bolted together.
8. Do not use chairs, tables, or other items in lieu of a ladder.
9. Use only System- approved ladders. Ladders should be inspected periodically to ensure that they are in safe condition. Each ladder should have and be stored in a designated space.
10. Each storage room should have a light switch at the entrance. The light must be on when entering or working in a storage area.
11. Keep filing drawers closed when not in use.
12. Close cabinet drawers by using the handle only.
13. Keep fingers away from drawers or drawer openings.
14. Do not shove drawers, close them and verify that they are closed.
15. Do not open more than one drawer at a time. Cabinets may fall over if multiple drawers are open.
16. Use all drawers in a storage cabinet. Cabinets may become unstable if only top drawers are used.
17. Do not use the tops of cabinets for storage.
18. Use caution opening boxes, especially when using a cutting blade.
19. Cutting blades must be retracted when not in use and when they are being transferred from one person or place to another.

G. PERSONAL PROTECTIVE EQUIPMENT (PPE)

Eye Protection

Employees may obtain eye protection (face shields, goggles, etc.) in the area for which it is required, or in the Public Works Department. If the eye protection is lost or destroyed due to the employee's negligence, the employee will be responsible for the cost of the replacement.



Employees working in potential eye-hazard areas who need prescription glasses must wear face shields or goggles over their glasses.

Ear Protection

Employees working in areas where the noise level is 80 decibels, or more may obtain ear protection through their Supervisor or from the Public Works Director.

Foot Protection

All employees should wear footwear for the department that they are in. If you work in a department where your toes and feet need to be protected from outside factors, protective footwear is required. The safety shoes must meet federal standards and can be purchased through several local suppliers.

Hair/Head Protection

Employees with long hair (down to the shoulders) should tie their hair back or wear hair nets or caps when working on moving machinery. Depending on what area you are working in, protective head gear may be required. Your Department Head / Manager will consult with you if you are in a department that requires protective personal equipment for your head.

General

Loose clothing must not be worn near moving machinery. Neckties must be securely clipped to the shirt. Employees working in areas where chemicals, solvents, other irritants, or caustic acids are used will wear rubber face shields, boots, aprons, etc. Rings and jewelry must not be worn when working on machinery. Work gloves (leather palmed) must be worn by anyone working in areas designated by management.

Visitors must wear any and all protective equipment when visiting areas requiring it. Signs will be posted in the areas requiring protective equipment.

Each department shall communicate that department's safety rules and procedures to the employees. Employees are responsible for reading these rules and for knowing and complying with the department's rules as well as any workplace safety rules or procedures adopted by the Town. A comprehensive guide with more specific information on the Town's safety procedures is contained in the Workplace Safety and Health Manual, a copy of which may be obtained through the Human Resources Director.



6.3 WORKPLACE VIOLENCE POLICY

This policy outlines the Town’s policy regarding violence in the workplace and establishes guidelines and expectations regarding minimum standards of conduct in the work environment.

The objective of this policy is to ensure the highest standard of health and safety for all employees, residents, vendors, contractors, and the general public, and those acting for them (hereinafter referred to as employees and business partners), and to provide for the efficient and effective operation of the Town.

Acts or threats of physical violence, including intimidation, harassment and/or coercion, that involve or affect the Town while conducting Town business on or off property will not be tolerated. This prohibition against threats and acts of violence applies to all persons employed by or otherwise involved in Town operations.

Specific examples of conduct that may constitute threats or acts of violence under this policy include, but are not limited to, the following:

- Verbal Harassment: Verbal threats and violence toward persons or property that include, but are not limited to intimidating, threatening, vulgar, profane, or hostile language towards others, disparaging or derogatory comments or slurs, exaggerated criticism, name calling or belittling behavior, and threatening to destroy Town or employee property.
- Physical Harassment: Acts of physical harm directed towards an individual such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person or using, threatening or implying the use of any offensive weapon or any article or object that could be used as such, vandalism, arson, sabotage, intentional property damage, and any other inappropriate behavior that violates the Town’s values and code of conduct
- Visual Harassment: Derogatory or offensive posters, cartoons, publications, drawings, images, pictures or items displayed or sent through any form of digital/electronic format
- Mandatory Reporting of Arrests/Convictions: See Section 4.2 Prohibited Behaviors for more details.



PROHIBITED ITEMS ON TOWN PROPERTY

The following items are prohibited on Town property (including parking areas and in Town vehicles): all types of firearms (see “NOTE” below), switchblade or other knives, dangerous chemicals, explosives including blasting caps, chains, brass knuckles, or other items carried or used for the purpose of injuring or intimidating others.

NOTE: Nothing in this policy is intended to prohibit an employee from possessing any legally owned firearm if the firearm is locked inside a private motor vehicle in a parking lot and when the employee is lawfully in such areas. In addition, the Town will not terminate or otherwise discriminate against an employee who exercises the right of self-defense as long as a firearm is never exhibited on Town property for any reason other than lawful defensive purposes.

EXCEPTION FOR CERTIFIED LAW ENFORCEMENT PERSONNEL

This policy does not prohibit certified law enforcement personnel from carrying firearms furnished by the Town of Bay Harbor Islands provided that the use of the firearm complies with applicable departmental guidelines and regulations. Law enforcement personnel should consult with their supervisors regarding the proper use and storage of their weapons and must act responsibly when in possession of a firearm.

REPORTING WORKPLACE VIOLENCE

It is the shared obligation of all employees to individually and jointly act to prevent or defuse actual or implied violent behavior at work. All Town employees are responsible for notifying management of any threats or acts of violence which they may have witnessed, received, or been apprised that another person has witnessed or received. Even without an actual threat, employees should alert management to any behavior they have witnessed which they regard as threatening or violent. Employees are responsible for making this report regardless of the nature of the relationship between the targeted individual and the individual who initiated the threat or threatening behavior.

REPORTING PROCEDURE

All reports of threats or acts of violence should be made verbally or in writing to the Department Head / Manager, the Human Resources Director, Assistant Town Manager or Town Manager. It is recommended that employees follow the chain of command when reporting incidents and concerns, however, the senior management team maintains an open-door policy. No employee who in good faith reports real or potentially violent behavior will be subject to retaliation based upon their report.

An employee who applies for or obtains a protective or restraining order that lists one or more Town locations as being protected areas shall provide the Human Resources Director and the



Town Attorney a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order that is made permanent.

6.4 SMOKE & VAPE-FREE WORKPLACE

In its commitment to providing a safe, healthy, and comfortable workplace for all employees, the Town maintains a smoke and tobacco-free environment. No smoking, vaping, or other use of tobacco products (including, but not limited to, cigarettes, vapes, pipes, cigars, snuff, electronic cigarettes, or chewing tobacco) is permitted in any Town workspace (indoor and outdoor) or in vehicles owned, leased, or rented by the Town.

Compliance with the smoke-free workplace policy is mandatory for all employees. Any employee who observes a violation of this policy should report it immediately to the Human Resources Director.

6.5 DRUG AND ALCOHOL-FREE WORKPLACE POLICY

The Town recognizes that substance abuse is a problem on the job for all of us, as well as a social problem. The Town believes that the abuse of alcohol and use of illegal drugs endangers the health and safety of the abusers and all others around them. It also leads to decreased productivity, high turnover, and decreased morale. Therefore, the Town has committed to creating and maintaining a drug-free workplace.

The Town's Drug-Free Workplace Program and Policy is intended to comply with Florida Workers' Compensation Drug-Free Workplace Program, sections 440.101-44.102, Florida Statutes, and the rules adopted by the Agency for Health Care Administration.



As stated in Section 440.101, it is the intent of the Legislature to promote drug-free workplaces in order that employers in the state be afforded the opportunity to maximize their levels of productivity, enhance their competitive positions in the marketplace, and reach their desired levels of success without experiencing the costs, delays, and tragedies associated with work-related accidents resulting from drug abuse by employees.



GENERAL POLICY STATEMENT

The Town will not tolerate the use of illegal drugs or alcohol while working or while on Town property, including the parking lots, as well as any job site to which employees are assigned. This prohibition includes the possession, use, distribution, or sale of illegal drugs or alcohol. All employees are prohibited from reporting to or being at work or on Town of Bay Harbor Islands property, including parking lots, while under the influence of illegal drugs or alcohol.

Employees who are found to be under the influence of illegal drugs or alcohol, or who violate this Policy in other ways are subject to corrective action, up to and including termination from employment. Because of the serious nature of those violations, each individual case will be thoroughly investigated to determine the appropriate course of action.

The Town will test, at its own expense, all job applicants who are extended an offer for illegal drug or alcohol use as outlined in this Policy. A positive drug test can lead to withdrawal of an offer of employment for job applicants. In addition, the Town will test, at its own expense, *any* current employee for illegal drug or alcohol use if a reasonable suspicion exists that the employee is in violation of this Policy, post-accident or injury, pursuant to a fitness-for duty examination, and as a follow-up procedure to any drug or alcohol treatment program. The Town may also conduct random drug testing, and testing required by federal law for employees who operate commercial motor vehicles. Any positions that carry a firearm, perform life threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with controlled substances, work with confidential information or documents pertaining to criminal investigations, a job assignment that requires an employee security background check pursuant to section 110.1127, Florida Statutes, or a high risk life threatening job may be tested for illegal drugs and alcohol on a routine basis. All drug testing will conform to the requirements of this Policy and to applicable state and federal law. Please note that consumption of drugs within states legalizing their use does not alter this Program or exempt employees from adhering to this Policy. Employees should review section 440.102, Florida Statutes, which discusses the requirements to comply with, and their rights under, Florida's Drug-Free Workplace statute.

The Town reserves the right to re-test any employee and/or applicant that received a positive-dilute or negative-dilute result. Refusal to conform to the additional drug test may result in immediate termination or disqualification from the recruitment process.

DEFINITIONS

Legal Drug includes prescribed drugs and over-the-counter drugs which have been legally obtained and are being used solely for the purpose for which they were prescribed or manufactured.



Illegal Drug includes any drug (a) which is not legally obtainable; (b) which may be legally obtainable but has not been legally obtained; (c) which is being used in a manner or for a purpose other than as prescribed. NOTE: Nothing in this Policy precludes the appropriate use of legally prescribed and over-the-counter medication.

Special-risk position means a position that is required to be filled by a person who is certified under chapter 633 (Fire Prevention and Control) or chapter 943 (Law Enforcement) of the Florida Statutes.

Mandatory-testing position means a job assignment that requires the employee to carry a firearm, work closely with an employee who carries a firearm, perform life threatening procedures, work with heavy or dangerous machinery, work as a safety inspector, work with children, work with detainees in the correctional system, work with confidential information or documents pertaining to criminal investigations, work with controlled substances, or a job assignment that requires an employee security background check pursuant to section 110.1127, Florida Statutes, or a job assignment in which a momentary lapse in attention could result in injury or death to another person.

PRE-EMPLOYMENT TESTING

All offers of employment, where permissible by law, will be conditioned on the applicant's taking and passing a screening test for evidence of improper drug use and the presence of alcohol.

Applicants will be required to voluntarily submit to a test at a laboratory chosen by the Town, and sign an agreement releasing the Town from liability in connection with the test.

No applicant for employment who is currently alcohol and drug-free will be denied employment or otherwise discriminated against solely because of such individual's prior abuse of alcohol or drugs, prior treatment for alcohol or drug abuse, or status as a recovering alcoholic or drug addict. It is the current abuse of drugs or alcohol which prevents employees from properly performing their jobs that the Town will not tolerate. Any applicant who tests positive or who refuses to undergo testing will not be employed by the Town and may not reapply for at least two (2) years from the date the Town receives notice of the failed drug test.

ACTIVE EMPLOYEE TESTING

A. Reasonable Suspicion Testing

Employees will be required to submit to drug and/or alcohol testing at a laboratory chosen by the Town if there is reasonable suspicion of substance abuse. Circumstances that could be indicators of a substance abuse problem and considered reasonable suspicion are:

- Direct observation of alcohol or drug abuse during work hours or on Town premises.
- Apparent physical symptoms of being under the influence of a drug or alcohol.



- Significant deterioration of work performance that is not attributable to other factors.
- Abnormal conduct or erratic behavior while at work.
- A report of drug use provided by a reliable and credible source.
- Evidence that an individual has tampered with a drug test during his or her employment with the Town of Bay Harbor Islands;
- Information that an employee has caused, contributed to, or been involved in an accident or injury while at work; or
- Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the Town's premises or while operating a Town of Bay Harbor Islands vehicle, machinery, or equipment.

If, in the opinion of a supervisor, manager or Department Head / Manager, reasonable suspicion exists to believe that any employee may be abusing or under the influence of illegal drugs or alcohol, the supervisor, manager or Department Head / Manager must promptly notify the Human Resources Director and submit in writing the circumstances leading to the conclusion that reasonable suspicion testing is justified. The Human Resources Director, in conjunction with the applicable employee's management, will make the determination on whether to request the employee to submit to a drug test.

Upon request, a copy of any documentation concerning the basis for the reasonable suspicion testing will be provided to the employee. Documentation regarding the conclusion that reasonable suspicion testing is justified and any related conversations between management and the Human Resources Director shall be kept confidential to the extent possible.

Nothing herein shall prevent the Town from immediately terminating any employee selling or otherwise soliciting illegal drugs or providing or selling alcohol to any other person during working hours. All terminations are approved by the Town Manager following a recommendation from the Department Head / Manager and Human Resources Director.

The Town also reserves the right to ask any employee to submit to drug testing under the following conditions:

Fitness for Duty

An employee may be required to submit to a drug test as part of routinely scheduled employee fitness-for-duty medical examination.

Post-Accident or Injury

All employees are subject to drug and/or alcohol testing after a work-related vehicular accident where the employee is at fault, after an accident or injury involving a Town-owned vehicle where the employee is at fault, and after an accident or injury which causes injury to the employee or to any other person or damage to any property. Employees who are off duty and



are involved in a vehicular accident or injury involving a Town owned vehicle shall immediately submit to drug and/or alcohol screening.

If, because of the accident, an employee is unable to submit to drug testing immediately, the employee will authorize the release of any medical reports or documentation regarding the presence of illegal drugs or alcohol in the employee's body at the time of the accident to the Medical Review Officer. Refusal to agree to this release will result in termination of the employee.

Random Drug Testing

The Town may conduct random drug and alcohol testing of all employees occupying mandatory-testing and special-risk positions. Random drug and alcohol testing will be conducted on employees who are selected through the use of a computer-generated random sample by an independent third party. Human Resources will notify the randomly selected employee and schedule the appointment for immediate testing. Employees on authorized leave of absence will not be tested and employees who are absent for the day will be required to test on their next scheduled workday with no in advance notice provided.

Follow-Up Drug Testing

As a condition of continued employment, all employees who were referred to the Employee Assistance Program or who enrolled in a drug or alcohol abuse program shall take follow-up drug and/or alcohol tests on a random, periodic basis for at least two (2) years after the referral or enrollment. This testing is only applicable to those employees who report their abuse prior to being asked to take a test. The Town reserves the right to waive follow-up testing in the event an employee voluntarily submits to an Employee Assistance Program or drug or alcohol abuse program.

Failure to submit to the required drug test is grounds for discharge or suspension without pay from employment.

DRUG AND ALCOHOL TESTING OF COMMERCIAL MOTOR VEHICLE DRIVERS

In addition to the policies and procedures set forth above, any Town employees connected with the operation of commercial motor vehicles who are subject to drug and alcohol testing as required by the Omnibus Transportation Employee Testing Act of 1991, 49 U.S.C. App. §§ 2714-2717 (1993), and by all applicable procedures and regulations promulgated by the Department of Transportation and the Federal Highway Administration, as well as any additional policy adopted by the Town pursuant to those federal laws and regulations. In cases where the requirements of both federal and state drug and alcohol laws and regulations and/or the Town's Drug-Free Workplace Policy may be applicable, the requirements of federal drug and



alcohol laws and regulations will control if a conflict arises between federal law and regulations and the requirements of state law or the Town's Drug-Free Workplace Policy.

POSSESSION OR ILLEGAL DRUGS AND ALCOHOL ON PREMISES

An employee who possesses, uses, distributes, or sells illegal drugs or alcohol while working or while on Town property, including the parking lots, even if off duty, is subject to corrective action, which may include termination from employment, even for the first offense.

POSITIVE DRUG TEST RESULTS

Any employee or job applicant who receives a positive confirmed drug test result may contest or explain the results to the Medical Review Officer within five (5) working days after written notification of the positive test results. If an employee's or job applicant's explanation or challenge is unsatisfactory to the Medical Review Officer, the Medical Review Officer shall report a positive test result back to the Town. The employee or job applicant may contest the drug test pursuant to Florida law or to rules adopted by the Agency for Health Care Administration.

LOSS OF WORKERS' COMPENSATION BENEFITS

If an employee is injured in the scope of his or her employment and drug tests or other medical evidence indicates the presence of illegal drugs or alcohol in the employee's body at the time of the accident, the employee may be required to forfeit any medical or other benefits available under the Florida Workers' Compensation Statute (section 440.101 (2), Florida Statutes). This penalty is in addition to any other penalties that might apply either under this policy or under applicable law.

CONFIDENTIALITY STATEMENT

All information, interview, reports, statements, memoranda and drug-free test results through the Town's drug testing program will not be made part of any personnel records and will be treated as confidential to the extent required by law, except as consented to by the employee or applicant, or if placed at issue by the employee in any legal, administrative or other proceeding to determine compensability of a workers' compensation claim.

Medical and insurance records, if any, shall be preserved in the same confidential manner as all other medical records. Program participation records shall be maintained by the Department of Human Resources.



USE OF PRESCRIPTION AND NON-PRESCRIPTION MEDICATIONS

All employees or applicants may consult with the testing laboratory or the Medical Review Officer for technical information regarding the effects of prescription and non-prescription medications on drug testing.

Each tested individual shall report, on a confidential basis to the Medical Review Officer, the use of prescription or non-prescription medications both before and after being tested.

A form will be provided to each individual to list such medications. This form should only be filled out at the collection facility, not at the Town. Additionally, such medications may be disclosed orally to the Medical Review Officer after being tested, if contacted by the Medical Review Officer.

The individual must not disclose such medications or provide the form requesting such information to any Town employee.

The Company has provided at the end of this Policy a list of the most common medications by brand, common and, if applicable, chemical name, which may alter or affect a drug test.

EMPLOYEE/APPLICANT USE OF MEDICAL MARIJUANA

Notwithstanding "Florida Constitutional Amendment 2" or any other statutory or regulatory implementation by the State of Florida, marijuana remains a Schedule I substance under the Controlled Substances Act ("CSA") (Title 21, United States Code, Section 811). As a result, marijuana remains illegal under Federal Law.

Bay Harbor Island employees shall not use or possess marijuana, medical or otherwise. The use or possession of medical marijuana (or any other marijuana) is a violation of the Towns' Drug Free Workplace Policy that constitutes cause for termination of employment.

CONSEQUENCES OF REFUSING A DRUG TEST OR TREATMENT

A. Refusal to Cooperate – Job Applicants. Any person receiving a conditional offer of employment who refuses to submit to drug and alcohol testing, or who provides a false sample, or alters, adulterates, taints, tampers, or otherwise interferes with drug testing collection, samples, or analysis is immediately disqualified from employment by the Town.

B. Refusal to Cooperate – Employees. Any employee who refuses to submit to drug and alcohol testing when required will be terminated from employment. Any employee who provides a false sample, or alters, adulterates, taints, tampers, or otherwise interferes



with drug testing collection, samples, or analysis, will be immediately terminated from employment.

C. Refusal to Accept Treatment or Failure to Rehabilitate. Any employee who rejects a treatment program offered through the Employee Assistance Program, or who leaves a treatment program prior to being properly discharged by the program will be immediately terminated from employment with the Town. This sanction applies regardless of whether the Town referred the employee to the treatment program or Employee Assistance Program or whether the employee voluntarily sought treatment.

D. Participation in Employee Assistance or Rehabilitation Program. The Town wishes to make every effort to rehabilitate its employees who may be experiencing drug or alcohol problems. To this end, the Town will not retaliate in any manner against an employee who is referred to an Employee Assistance Program (EAP) or treatment program, or who voluntarily refers him or herself to the Employee Assistance Program or submits to treatment in a drug or alcohol abuse program. Use of the Employee Assistance Program is the employee's full financial responsibility. Any employee who is undergoing a rehabilitation program is encouraged to contact the Human Resources Director for more information and resources.

EMPLOYEE ASSISTANCE PROGRAMS (EAP) AND LOCAL DRUG REHABILITATION PROGRAMS

The following "crisis information centers" will provide information regarding employee assistance programs and local alcohol and drug rehabilitation programs available to employees:

Miami-Dade County
Switchboard of Miami
(305) 358-4357

Monroe County
Help Crisis Line
(305) 296-4357

Broward County
Crisis Information Line
(954) 537-0211

Other available resources include:

1-800-344-2666	Al-Anon
1-800-527-5344	American Council on Alcoholism
1-800-622-2255	National Council on Alcoholism
1-800-662-HELP	Substance Abuse and Mental Health Services Administration
1-800-967-5752	Drug-Free Workplace Helpline



Employees may obtain further information regarding available drug and alcohol assistance and rehabilitation by contacting the Human Resources Director which will also be able to provide the Town's current EAP provider.

DUTY TO NOTIFY LABORATORY OF LEGAL ACTION CONCERNING TEST RESULTS

It is each applicant's or employee's responsibility to notify the Town and the Drug Testing laboratory of any administrative or civil action brought pursuant to section 440.101, Florida Statutes.

Employees and applicants should review any applicable collective bargaining agreements or contracts for additional information on their rights. Florida employees may have a right to appeal to Florida's Public Employees Relations Commission or applicable court for violations of Florida's Drug-Free Workplace Program.

DRUG TESTING INFORMATION

The Town may test for one or more of the following drugs:

- Alcohol (beer, wine, booze, liquor, etc.)
- Amphetamines (speed, eve, biphedamine, desoxyn dextedrine, etc.)
- Cannabinoids (marijuana, hashish, hash, hash oil, pot, joint, reefer, roach, spleaf, grass, weed, etc.)
- Cocaine (coke, blow, snow, flake, crack, etc.)
- Phencyclidine (PCP, angel dust, hog, etc.)
- Methaqualone (quaaludes, ludes, etc.)
- Opiates (heroin, codeine, morphine, opium, Dover's powder, paregoric, parepectolin, etc.)
- Barbiturates (phenobarbital, butabarbital, secobarbital, tuinal, amytal, etc.)
- Benzodiazepine (librium, valium, ativan, azene, clonopin, dalmone, diozepam, halcion, poxipam, restoril, serax, transene, vertron, xanax, etc.)
- Synthetic narcotics, including Methadone (dolophine, methadose, etc.)
- Propoxyphene (designer drugs [ecstasy], etc.);
- Hallucinogens (LSD, acid, mushrooms, etc.); and
- The metabolite of any of the substances listed in this paragraph.

The Town reserves the right to expand or otherwise modify the number or types of drugs tested at any time. The Town will provide employees with sixty (60) days written notice of any expansion or modification of the drugs tested under this Policy.

REHABILITATION PROCEDURES FOR MANDATORY-TESTING AND SPECIAL-RISK POSITIONS

An employee in a safety sensitive and special risk position who enters a voluntary substance abuse rehabilitation program shall be assigned to a position other than a safety sensitive and



special risk position, or if such a position is not available, shall be placed on a leave of absence while the employee is participating in the program. The employee shall be required to use his or her paid leave time (vacation and sick time, or compensatory time) during any approved leave. An employee in a special-risk position shall be discharged for the first positive confirmed test result if the drug confirmed is an illicit drug under Section 893.03, Florida Statutes.

REPORT OF DRUG CONVICTIONS

Employees shall notify of any drug or alcohol related criminal charges in accordance with Employee Arrest or Charge policy requirements. Arrest for a drug or alcohol offense shall be considered Reasonable Suspicion allowing the Town to test the arrested employee for the presence of alcohol or illegal drugs.

Employees are also required to notify the Human Resources Director of the outcome of all criminal drug statute or alcohol related criminal charges no later than their next scheduled work day after any change in status, including the notification of a conviction, a plea of guilty, an adjudication of guilt, a plea of nolo contendere, an adjudication withheld, an acquittal or a dismissal of the charges. A failure to report a drug or alcohol conviction to the Town within the applicable time periods will result in immediate termination of the employee, unless good cause exists for the employee's failure to report the conviction to the Town.

The Town shall take appropriate action with respect to an employee who is charged or convicted of a violation of a criminal drug statute or alcohol related offense, which action may include transfer to a non-safety sensitive or non-special risk position and/or corrective action, up to and including termination from employment.

EMPLOYEE RESPONSIBILITIES

An employee who voluntarily, or as a condition of continued employment, enters a drug or alcohol treatment and/or rehabilitation program must participate and complete recommended treatment. Any employee who enters a drug or alcohol treatment and/or rehabilitation program shall be responsible for payment for the treatment and/or program to the extent not covered by medical insurance provided by the Town of Bay Harbor Islands. If the employee fails to comply with the treatment and/or the program, the employee shall be terminated.

OVER THE COUNTER AND PRESCRIPTION DRUGS WHICH COULD ALTER OR AFFECT THE OUTCOME OF A DRUG TEST

A list of some of the common medications by brand name or common name, and if applicable, chemical name, which may alter or affect a drug test, are listed below. Due to the large number of brand names and the marketing of new products, this list is not all-inclusive. Employees and job applicants should review this list prior to submitting to a drug test.



Alcohol: All liquid medications containing ethyl alcohol (ethanol). Please read the label for alcohol content. As an example, Vick's Nyquil is 25% (50 proof) ethyl alcohol, Comtrex is 20% (40 proof), Contact Severe Cold Formula Night Strength is 25% (50 proof) and Listerine is 26.9% (54 proof).

Amphetamines: Obetrol, Biphphetamine, Desoxyn, Dexedrine, Didrex

Cannabinoids: Marinol (Dronabinol, THC)

Cocaine: Cocaine HCl topical solution (Roxanne)

Phencyclidine: Not legal by prescription

Methaqualone: Not legal by prescription

Opiates: Paregoric, Parepectolin, Donnagel PG, Morphine, Tylenol with Codeine, Empirin with Codeine, APAP with Codeine, Aspirin with Codeine, Robitussin AC, Guaiatuss AC, Novahistine DH, Novahistine Expectorant, Dilaudid (Hydromorphone), CS Contin and Roxanol (morphine sulfate), Percodan, Vicodin, Tussi-Organidin, etc.

Barbiturates: Phenobarbital, Tuinal, Amytal, Nembutal, Seconal, Lotusate, Fiorinal, Fioricet, Esgic, Butisol, Mebaral, Butabarbital, Butabital, Phrenilin, Triad, etc.

Benzodiazepines: Ativan, Azene, Clonopin, Dalmane, Diazepam, Librium, Xanax, Serax, Tranxene, Valium, Verstran, Halcion, Paxipam, Restoril, Centrax.

Methadone: Dolophine, Methadose

Propoxyphene: Darvocet, Darvon N, Dolene, etc.

Brand Name

Anusol Suppos
Anusol Suppos HC
Aristocort Cr. Oint./Kenalog
Atarax
Bactrim/Septra
Benadryl
Betadine Oint./Efodine
Betalin-S
Cardizem
Calan/Isoptin
Colace
Compazine
Decadron/Hexadrol
Demerol
Diabeta/Micronase
Dramamine
Dulcolax
Ecotrinq
Elavil/Endep
Erythrocin
Esidrix/Hydrodiuril
Isoptin/Calan
Isordil
Kayexalate
Kenalog cr/oint./Aristocort

Generic Name

Hemorrhoidal Inserts
Hemorrhoidal Inserts HC
Triamcinolone
Hydroxyzine HCL
Trimethoprim, Sulfamethoxazole
Diphenhydramine
Povidone Iodine Oint.
Thiamine
Diltiazem
Verapamil
Docusate Sodium
Prochlorperazine
Dexamethasone
Meperidine
Glyburide
Dimenhydrinate
Bisacodyl
Enteric Coated Aspirin
Amitriptyline
Erythromycin Stearate
Hydrochlorothiazide
Verapamil
Isosorbide Dinitrate
Polystyrens Sulfonate Sodium
Triamcinolone



K-lor	Potassium Chloride 20meg Powder
Larotid	Amoxicillin
Lasix	Furosemide
Lomotil	Diphenoxylate, Atropine
Micronase/Diabeta	Glyburide
Motrin/Rufen	Ibuprofen
M.S.	Morphine Sulfate
Mycolog/Mytrex	Nystatin, Neomycin, Gramicidin, Triamcinolone
Mycostatin/Nilstat	Nystatin
Nilstat/Mycostatin	Nystatin
Nipride	Nitroprusside
Noctec	Chloral Hydrate
Normodyne-Trandate	Labetalol Hydrochloride
Norpramine/Pertrofane	Desipramine
Parafon Forte	Chlorzoxazone, Acetaminophen
Pen VK/V-Cillin K	Penicillin VK
Peri-Colace	Docusate Sodium, Casanthranol
Persantine	Dipyridamole
Pertrofana/Norpramine	Desipramine
Phenergan	Promethazine
Pitocin	Oxytocin
Polycillin	Ampicillin
Procardia	Nifedipine
Pronestyl	Procainamide
Prostaphlin	Oxacillin
Proventil/Vantolin	Albuterol
Pyridium	Phenazopyridine
Robaxin	Methocarbamol
Robinul	Glycopyrrolate
Rufin/Motrin	Ibuprofen
Septra/Bactrim	Trimethoprim/Sulfamethoxazole
Solu-Medrol	Methylprednisolone
Soma	Carisoprodol
Sumycin	Tetracycline
Surfak	Docusate Calcium 240 mg.
Tambocor	Flecainide
Therogran	Therapeutic Multivitamin
Theragran-M	Therapeutic Multivitamin with Minerals
Theragran Hematinic	Therapeutic Hematinic Vitamin
Thorazine	Chlorpromazine
Tonocard	Tocainida Hydrochloride
Urscholina/Duvoid	Bethanechol
Valium	Diazepam
Vibramycin	Doxycycline
VistarII Injection	Hydroxyzine HCl
VistarII Capsules	Hydroxyzine Pamoate



6.6 DECLARED EMERGENCY PAY AND REPORTING

AUTHORITY:

The Town Manager or designee is responsible for implementation of this policy during an emergency.

PURPOSE:

To provide guidelines for compensating and assigning work hours and workdays for all employees during emergency conditions.

During an emergency, work assignments may include work that is not related to normal job duties and responsibilities. This directive defines classifications of emergency work to ensure effective use of Town employees during a disaster as well as identify the process for assigning roles, notifications to employees, and compensation for assigned work.

POLICY:

The Town of Bay Harbor Islands will make a reasonable effort to release employees from work prior to, during, and after emergency conditions to take care of personal situations such as family and property needs.

During a disaster or declared emergency, Town operations may be suspended, altered, or changed requiring an employee to be reassigned according to their emergency classification and the needs of the Town based upon the size, scope, and magnitude of the emergency. All employees are considered essential to this operation and must be prepared to support the community as assigned. In all cases, the goal of this directive is to ensure continuation and restoration of Town services, maintain safety and fulfill the Town's responsibilities to its citizens. Employees will be compensated in accordance with these guidelines, established pay policies, collective bargaining agreements, and regulations.

RESPONSIBILITY:

When the Town Mayor and/or Town Manager declares a state of emergency and/or the normal operations of the Town of Bay Harbor Islands or a facility, whether in part or whole, wherein Town operation(s) is closed for regular business due to emergency circumstances including but not limited to natural hazards such as fire(s), hurricane(s), tornadoes, flood(s), and/or man-made disasters such as bombs, hazardous material incidents, mass casualty incidents, the following guidelines will apply to all Town of Bay Harbor Islands Departments and Employees.



PROCEDURES:

- A. Upon declaration of a local emergency the Town Manager or designee will notify Department Head / Manager of the emergency declaration and Department Head / Manager will see that their respective employees are notified as to the extent and scope of the declared emergency.
- B. Despite suspension of government operations, employees may be required to be available to work either before, during, or immediately after an emergency occurs. Employees may be required to work flexible hours as required by the Town. Employees shall not assume they are not required to work based solely on any media or news reports regarding Town closings.
- C. During an emergency or disaster event, employees may be assigned to perform their normal duties or they may be temporarily assigned to work at different job sites specific to an emergency event (i.e., working inside the Emergency Operations Center (EOC), Department Operating Centers (DOCs), a staging area or point of distribution, etc.). Efforts shall be made to assign employees to duties according to their respective knowledge, skills, abilities, and physical capabilities.
- D. All Department Head / Managers are responsible for training their employees and implementing their respective Departmental Disaster Preparedness Plans. Department Head / Managers shall establish an emergency schedule and identify those positions required to work during the pre-emergency, emergency, and post-emergency phases. Additionally, each Department Head / Manager shall designate an alternate manager as a contact person should an emergency or disaster occur.
- E. Employees will be notified of duty assignments either prior to an event, if practical, or when contact is made with the Department Head / Manager or designee. Those who do not have an assignment shall be placed on a standby list and are to report to a designated location identified by the Department Head / Manager or designee.

TOWN OF BAY HARBOR ISLANDS ALERTS EMERGENCY REGISTRATION SYSTEM:

- A. Addressing the needs of Town of Bay Harbor Islands citizens must continue during an impending or declared local state of emergency and subsequent recovery period. It is the duty of the employee to remain informed as to their report to work status during emergency/recovery post disaster periods. Employees will receive return to work status instructions by contacting the Employee Emergency Hotline 305-455-6895 for updates on reporting to work. Employees are required to contact the Hotline twice daily (10am & 7pm) during emergency/post recovery.



EMPLOYEE RESPONSIBILITIES:

- A. Have a Plan: Employees should have an emergency preparedness plan to ensure their family is safe during an emergency. Employees should have at least 72 hours of supplies for each family member.
- B. Service Priority: Town operations to provide emergency services may supersede normal operations resulting in altering or suspending processing timeframes for personnel actions until the disaster recovery period has ended.
- C. Alternate Work Assignments: During the pre-disaster and disaster recovery periods, employees may perform duties other than the essential functions of their position. Depending on the needs of the Town, employees may work at different locations rather than their normal duty assignments.
- D. Pre-Assigned Employees: Many employees are assigned duties assisting with official Town disaster response/recovery efforts. These employees will report to their designated worksite when requested/directed to do so. Employees are reminded to keep their Town ID badge with them at all times to aid law enforcement officials during curfews and re-entry.
- F. Contact with the Town: Regardless of an employee's disaster assignment, all employees must apprise themselves of the Town's and their department's operational status, maintain daily contact with their manager or other designated department representative, and provide the Town with up-to-date contact information for any temporary changes in address.
- G. Accurately report all hours worked and submit required timesheet and relevant forms in a timely manner to their manager for approval. Falsification of these records shall subject an employee to disciplinary actions, up to and including termination.
- H. All employees are required to report to work when regular Town/Department business and operations resume.

MANAGEMENT RESPONSIBILITIES:

- A. Department Head / Managers and Supervisors must confirm the safety and well-being of all Town of Bay Harbor Islands Team members.
- B. Department Head / Managers shall ensure all employees are provided with the Emergency Hotline phone number as soon as employed.
- C. Approve all hours worked and verify information reported by the employee on required forms is accurate.
- D. Department Head / Managers or designees must ensure that essential employees on duty receive sufficient sleep so as to avoid endangering their safety or the safety of others due to fatigue.





EMPLOYEE DISASTER WORK CLASSIFICATION TIERS

A. Emergency Response & Recovery Employee (ERR - Tier I):

Emergency Response & Recovery Employees are those employees with job classifications directly related to tactical response and recovery efforts within the community. Generally, this may include, but is not limited to Law Enforcement, Public Safety, Code Enforcement/Building, and Public Works.

Work assignments during disasters and work classification tiers assigned to an employee is determined by Town Manager and Department Head / Manager. These employees will be required to assist in the Town's disaster response and recovery efforts, which includes assignments requiring sheltering during the storm to ensure rapid response post storm. Roles may be pre-assigned or assigned as the situation dictates.

Department Head / Managers are responsible for identifying Emergency Essential positions and shall ensure that employees are aware of individual responsibilities by communicating and notifying them of their emergency work assignment prior to the declaration of an emergency.

Employees designated as Emergency Essential must maintain contact accessibility with their supervisors. Emergency Essential employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to make contact with their work unit as soon as possible.

B. Emergency Operations Center Support Employee (EOC - Tier 2)

Emergency Operations Center (EOC) Support Employees are those specifically assigned through the Town Manager and Bay Harbor Islands Office of Emergency Management and other authorized agencies to perform in one or more support functions outside their regular work duties.

Employees assigned to a leadership/support position within EOC or to specific roles as delineated within the Town's Comprehensive Emergency Management Plan (CEMP), Emergency Operations Plan, and Recovery Plan. These employees will be required to assist in the Town's disaster response efforts which may include assignments requiring sheltering during the storm to ensure rapid response post storm. Roles may be pre-assigned or assigned as the situation dictates.



EOC Support employees must maintain contact accessibility with their supervisors and may be reassigned to an alternative operational supervisor for the duration of the disaster or emergency. EOC Support Employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to make contact with their work unit as soon as possible.

C. Department Emergency Essential (DEE-Tier 3)

Employees designated as Department Emergency Essential may be required to perform regular work functions during the pre-disaster, disaster, and post-disaster phases of an imminent or declared emergency. These employees may or may not be required to shelter during the storm. Examples of employees that would be assigned sheltering roles would include department personnel assigned to Department Operating Centers (DOCs) to coordinate department response and recovery efforts.

Employees in this tier may also be assigned to complete essential functions as designated in the department's Continuity of Operations Plan (COOP).

Department Head / Managers are responsible for identifying Emergency Essential positions and shall ensure that employees are aware of individual responsibilities by communicating and notifying them of their emergency work assignment prior to the declaration of an emergency.

Employees designated as Emergency Essential must maintain contact accessibility with their supervisors. Emergency Essential employees who fail to report to their work assignment may be subject to disciplinary action up to and including termination.

Employees who are unable to report to work should contact their supervisor by telephone. If telephone lines are down or existing conditions prevent contact by telephone, employees are to make contact with their work unit as soon as possible.

D. Essential Ready Reserve (RR-Tier 4)

Employees classified as Essential Non-Emergency may be directed not to report to their regular job assignment during the pre-disaster, disaster, and post-disaster phases of a locally declared state of emergency or disaster. They may work other assignments and activities as situations necessitate. Reassignment may include, but is not limited to support of the following:

- Town Staging Area(s)
- Point of Distribution Sites (POD' s)
- Food or Services Distribution Sites
- Sandbag Filling Stations
- Disaster Recovery Centers



- Emergency Operation Center

COMPENSATION:

Once an emergency has been declared in the Town of Bay Harbor Islands and the Town Administrative Offices are closed, the following pay procedure shall be utilized:

A. **All regular full-time, hourly or salaried employees, except sworn personnel**, whose regular work schedule occurs during the Declared Emergency, *who are instructed to not report to work or who are released from work will be paid their regular wages for all hours NOT worked* during their regular work schedule. Represented employees will be compensated in accordance with their respective collective bargaining agreement.

B. **All regular full-time hourly employees** who work their regularly scheduled work period during a declared emergency and Town Administrative Offices are closed shall be paid their regular hourly wages at double time for all hours worked during this period. Emergency on-call personnel who report to work during an emergency situation (example: hurricane when Town Hall is closed) will also be paid time and a half for all hours worked.

C. **All regular full-time salaried employees** who work their regularly scheduled work period during a declared emergency and Town Administrative Offices are closed shall be paid their regular hourly wages plus will receive one (1) hour of administrative leave per each hour worked. This Administrative Leave credit shall not be provided to hourly sworn Police personnel and Administrative leave hours will be placed in an Admin Leave bank. Employees who receive administrative leave hours are encouraged to use those hours in the same calendar year they are earned. Administrative leave hours that cannot be used in the same calendar year will be allowed to be carried over to the following year. Administrative leave hour in the bank at the time of termination of employment with the Town will be forfeited.

D. **All part time employees** who work any hours during a declared emergency and Town Administrative Offices are closed shall be paid their regular hourly wages at time and a half for any hour(s) worked during this period.

E. If any employees were on prior approved leave before the declared emergency (vacation, personal, etc.) and Town Hall closes due to the emergency while they are on their pre-approved leave, the employee will not be deducted leave time for the time Town Hall closed due to the emergency. The employee should ensure their timecard is adjusted appropriately immediately upon return to the office.



F. Any employee who has pre-planned time off and consequently may have pre-purchased plane tickets, hotel stays etc. and that is required to postpone their time off as directed by their Director / Manager due to an impending emergency, will be asked to provide proof of pre-purchase of vacation expenses in order to submit for reimbursement with the Town.

G. All regular full, part time, hourly or salaried employees considered essential by their supervisor and required to report to work who call in sick, or take unscheduled leave during the period for which they were required to report to work, will be charged leave time, and may be required to submit a written certification from a health care provider substantiating the reason for absence.

H. All part-time/temporary/seasonal employees who do not report to work for any reason during a Declared Emergency will not receive any compensation for this time period. This includes not reporting to work when Town operations are officially closed.

I. No employee is eligible for call back pay during a Declared Emergency.

J. Members of collective bargaining units will receive wages and benefits in accordance with their respective collective bargaining agreement.

K. All other terms and conditions of employment as determined by a pertinent Collective Bargaining Agreement or Town Pay Policy shall remain in effect prior to, during and after the Declared Emergency.

L. The Town Manager reserves the right to consider unique pay situations as they arise throughout a Declared Emergency. In situations deemed appropriate by the Town Manager, adjustments to this Policy may be made.

DOCUMENTATION

A. Employees are required to document and report to management all hours worked during an emergency utilizing the time sheets designated for emergencies, as provided by the Finance Department.

B. Time should be recorded identifying hours worked with appropriate emergency coding as provided by the Finance Department.

C. It is each Department's responsibility to verify all hours worked. Since departments are responsible for all wages paid to Town employees during a disaster/disaster recovery period, departments shall carefully review hours submitted, including those for alternate work assignments. All hours reported shall be verified by the employee's supervisor and approved through the timecard approval process. A copy of the Disaster Daily Log, supporting disaster hours worked, must be forwarded to the Finance Department who is responsible for coordinating payment of all emergency-related hours worked.



D. All Departments must maintain accurate timekeeping records during disaster/disaster recovery periods for submittal to the Finance Department.

EVENTUALITIES NOT COVERED

Exceptions may be made for unique situations as they arise throughout a declared emergency, and eventualities not covered by these guidelines shall be decided on a case-by-case basis by the Town Manager or designee.

6.7 CHILDREN IN THE WORKPLACE

The Town values family and work/life balance. Our employment policies and benefits are indicative of our beliefs. The Town believes in an environment that is conducive to work; therefore, the workplace should not be used in lieu of childcare. The objective of this policy is to minimize potential liability to the Town, risk of harm to children and decreased employee productivity due to distractions and disruptions.

The Town is sensitive to our employee's child-related circumstances; however, the Town cannot permit children to remain in the workplace because of the legal liability. As necessary, Managers and Supervisors may grant leave at their discretion in emergency or unforeseen circumstances.

This policy is not intended to prohibit children or other minors and family members from being in the workplace during Town-sponsored events.

Exceptions to this policy are permitted with the approval of the Town Manager that would allow employees to bring their children to visit their worksite, provided that the visits are infrequent, brief, and planned in a fashion that limits disruption to the workplace. While children are in the workplace, they must be directly supervised by the host/parent at all times. If the frequency, length or nature of visits becomes problematic, the employee will be advised of the situation and will be expected to take corrective action.



SECTION 7: LEAVES OF ABSENCE

7.1 FAMILY AND MEDICAL LEAVE OF ABSENCE

This policy is adopted to comply with the federal Family and Medical Leave Act as amended (FMLA). The function of this policy is to provide employees with a general description of their FMLA rights. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

The Town will administer this policy in a uniform, non-discriminatory fashion in accordance with all applicable laws, including but not limited to, the Americans with Disabilities Act. To the extent permitted by law, FMLA and any family/medical leave provided under state or local law will run concurrently.

Any questions not covered by this policy should be directed to the Human Resources Director.

WHO IS ELIGIBLE FOR FMLA LEAVE?

An employee is eligible for FMLA leave if he or she has worked for the Town of Bay Harbor Islands for at least twelve (12) months and for at least 1,250 hours of service during the twelve-month period immediately preceding the commencement of the leave.

An employee who does not meet the eligibility criteria for FMLA leave may be eligible for leave under the Town's Personal Leave or other leave policies. Please contact Human Resources for more information.

REASONS FOR FMLA LEAVE AND COMPUTATION OF LEAVE PERIOD

A. An eligible employee may take up to a total of 12 workweeks of unpaid FMLA leave during a 12-month period for one or more of the following:

- The birth of a child, or placement of a child with the employee for adoption or foster care.
- Employee's own serious health condition.
- Employee is needed to care for your spouse; child; parent due to his/her serious health condition.
- Because of a qualifying exigency arising out of the fact that the employee's spouse; son or daughter; parent is on covered active duty or call to covered active duty status with the Armed Forces.



- The employee is the spouse; son or daughter; parent; next of kin of a covered servicemember with a serious injury or illness.

Computation of the 12-Week Period: An eligible employee is entitled to 12 workweeks of FMLA leave in a rolling 12-month period for one or a combination of the FMLA circumstances listed above, measured backward from the date an employee uses any leave under this policy. Each time an employee takes FMLA leave, the remaining FMLA leave entitlement would be any balance of the 12 workweeks which has not been used during the immediately preceding 12 months. For example, if an employee takes eight (8) weeks of FMLA qualifying leave during a rolling 12-month period, an additional four (4) weeks of FMLA leave could be taken during the same 12-month period.

- B. Military Caregiver Leave: An eligible employee may take unpaid leave for up to a total of 26 workweeks in a “single 12-month period” to care for a covered servicemember with a serious injury or illness, if the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

Computation of the 26-Week Period: An eligible employee may take up to 26 workweeks of leave during a single 12-month period. This single 12-month period is measured forward from the date of the employee’s first use of FMLA leave to care for a covered servicemember and ends 12 months after that date. This leave is applied on a per covered servicemember, per injury basis, except that no more than 26 workweeks of leave may be taken within any single 12-month period.

During the single 12-month period, the employee is entitled to a combined total of 26 workweeks of leave for the employee’s leave to care for a covered servicemember and leave for any other FMLA qualifying reason, as listed above. Leave for any other FMLA qualifying reason is limited to 12 workweeks, even if the employee takes less than 14 workweeks of leave to care for the covered servicemember.

C. Restrictions on FMLA Leave.

1. Birth, Adoption or Foster Care Placement. An employee may not take FMLA leave for the birth, adoption, or foster care of a child if 12 months have passed since the birth, adoption, or placement of the child. An employee may not take FMLA leave on an intermittent or reduced schedule basis for the birth, adoption or foster placement of a healthy child without prior written approval of the Town.
2. Spouses Working for the Town of Bay Harbor Islands: A married couple who both work for the Town of Bay Harbor Islands and who are both eligible for FMLA leave may be limited to:



- (a) *a combined total of 12 workweeks of leave during any 12-month period* if the leave is taken for the birth, adoption or foster care placement of a son or daughter, or to care for the employee’s parent with a serious health condition

- (b) *a combined total of 26 workweeks of leave during any single 12-month period* for leave taken to care for a covered servicemember with a serious illness or injury and any other FMLA qualifying reason. These limitations apply even if the partners are employed at different Town of Bay Harbor Islands worksites.

EXCEPTION!!!! *The parents may each take 12 weeks of FMLA leave if they are needed to care for their newborn, adopted or foster child who has a **serious health condition**, provided that the either party has not previously exhausted their FMLA entitlements during the applicable 12-month FMLA leave period.*



EMPLOYEE NOTICE FOR FMLA LEAVE

When an employee provides notice of the need for leave, the employee must provide sufficient information for the Town to determine whether the leave qualifies as FMLA leave. If the employee fails to do so, the Town may deny the leave. Calling in “sick” without providing more information will not be considered sufficient notice to trigger FMLA leave. If the employee has previously taken FMLA leave and the employee seeks another FMLA leave for the same FMLA-qualifying reason, the employee must specifically reference either the qualifying reason for leave or the need for FMLA leave. Likewise, if the employee has been previously approved for FMLA leave for more than one qualifying reason, the employee’s notice must specify which FMLA-qualifying reason supports the employee’s current request for leave.

Foreseeable Leave: An employee must provide the Town’s Human Resources Director at least 30 days’ advance written notice before FMLA leave or other leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of the employee or of a family member, or the planned medical treatment for a serious injury or illness of a covered servicemember. When planning medical treatment, the employee must consult with the Town and make a reasonable effort to schedule the treatment so as not to unduly disrupt the Town’s operations, subject to the approval of the health care provider. The employee must also advise Human Resources as soon as practicable (e.g., on the same day or next business day) if the dates of a scheduled leave change or were initially unknown.

Unforeseeable Leave and Leave for a Qualifying Exigency: When an employee’s request for FMLA leave is not foreseeable or is due to a qualifying exigency (regardless of how far in



advance such leave is foreseeable), the employee must provide notice (verbal or written) to his or her Department Head / Manager or the Human Resources Director as soon as is practicable under the facts and circumstances of the particular case.

If the employee does not comply with the notice and procedural requirements listed above, and no unusual circumstances justify the failure to comply, FMLA-protected leave may be delayed or denied depending on the facts of the particular case. An employee must respond to any inquiry by the Town as to the reasons for providing less than 30 days' notice for foreseeable leave.

NOTICE OF ELIGIBILITY AND RIGHTS AND RESPONSIBILITIES

When an employee requests FMLA leave, or when the Town acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the Town will notify the employee of his or her eligibility to take FMLA leave and his or her rights and responsibilities for taking FMLA leave. An employee has an obligation to respond to the Town's questions designed to determine whether an absence is potentially FMLA-qualifying. Failure to comply with this requirement may result in the denial of FMLA leave.

CERTIFICATION REQUIREMENTS

A. Certification of Health Care Provider for a Serious Health Condition

When requesting leave based on a serious health condition of an employee or covered family member, the employee must give the Town a certification of a health care provider that includes all information required by the FMLA. (The certification forms are available from the Human Resources Director). Alternatively, the employee may provide an executed authorization or release allowing the Town to communicate directly with the health care provider.

If the medical certification is incomplete or insufficient, the Town will specify the deficiencies in the certification and the employee will have a reasonable opportunity to provide the information necessary to make the certification complete and sufficient. The Town may directly contact the health care provider for purposes of clarification and authentication of the medical certification after the employee has the opportunity to cure any deficiencies. This contact will be made by the Human Resources Director, a health care professional, or a management official, but not the employee's direct supervisor. In compliance with HIPAA Medical Privacy Rules which apply to the health care provider, the Town will obtain the employee's permission to clarify individually identifiable health information directly with the health care provider. If the employee does not provide the Town with such authorization, and does not otherwise clarify the certification, the Town may deny the taking of FMLA leave.



1. Additional Medical Opinions: If the Town has reason to doubt the validity of a medical certification, it may require an employee to obtain a second opinion from a health care provider designated by the Town at the Town's expense. If this second opinion differs from that provided by the employee's physician, the Town may require the opinion of a third health care provider (at the Town's expense), designated jointly by the Town and the employee. The third opinion shall be final and binding. Upon request, the Town will provide the employee with a copy of the additional opinion(s).

Pending the receipt of the additional opinion, the employee will be considered as provisionally entitled to FMLA. If the additional opinion does not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave and may be treated as paid or unpaid leave under the Town's established leave policies.

2. Annual Medical Certification and Recertification: If the employee's need for leave due to the employee's own serious health condition or the serious health condition of the employee's covered family member lasts beyond a single year, the Town may require that the employee provide a new medical certification in each subsequent leave year. The Town may also request recertification of such leave during the leave in accordance with the applicable FMLA requirements. The employee has the same obligation to participate in the annual certification and recertification process as in the initial certification process.

B. Certification for Leave Taken because of a Qualifying Exigency

When requesting leave for a qualifying exigency, the employee must provide a certification that includes all the information requested by the FMLA and a copy of the covered military member's active duty orders or other documentation of a call to active duty status and dates of service. The Town may verify the basis for the qualifying exigency in accordance with the FMLA. A copy of the required certification form may be obtained at the Human Resources Director.

C. Certification for Leave Taken to Care for a Covered Servicemember (Military Caregiver Leave)

When requesting leave to care for a covered servicemember with a serious injury or illness, an employee must provide a certification completed by an authorized health care provider of the covered servicemember that includes all the information required by the FMLA, or alternatively, a copy of any "invitational travel orders" (ITOs), or "invitational travel authorizations" (ITAs) issued by the military to any family member (regardless of whether the employee is named). An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA and if the employee needs leave beyond the time specified in the



ITO/ITA, the employee must complete a certification form to cover the remainder of the leave period. The Town may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill servicemember. It is the employee's responsibility to provide the Town with complete and sufficient certification and failure to do so may result in the denial of FMLA leave.

D. Consequences of Not Providing the Certification or Curing Deficiencies

If an employee does not submit a certification or does not cure the deficiencies in a certification, the leave is not a FMLA-qualifying leave. If the absences do not qualify as leave under the Town's other leave policies, the absences ordinarily will be treated as unexcused absences and may result in corrective action up to and including termination of employment.

DESIGNATION OF FMLA LEAVE

When the Town has enough information to determine whether the employee's requested leave qualifies as FMLA, it will provide written notice to the employee as to whether the leave will be designated and counted as FMLA leave. Where appropriate, the Town may retroactively designate leave as FMLA leave upon notice to the employee or upon agreement with the employee.

INTERMITTENT OR REDUCED SCHEDULE LEAVE

An employee may take FMLA leave on an intermittent or a reduced schedule if medically necessary (and such medical need can best be accommodated through an intermittent or reduced leave schedule) because of the employee's or family member's serious health condition, or to care for a covered servicemember with a serious injury or illness. Leave due to a qualifying exigency may also be taken on an intermittent or reduced leave schedule basis.

If an employee needs intermittent or reduced schedule leave for planned medical treatment for the employee, covered family member or covered servicemember, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt the Town's operations. In this situation, the Town reserves the right to transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of FMLA leave. The alternative position will have equivalent pay and benefits as the previous position but may not have equivalent duties.

The Town will account for intermittent or reduced schedule leave of less in ¼ hour (15-minute) increments. The employee's FMLA entitlement is reduced by the amount of leave taken during the applicable period. The employee is responsible for tracking his or her individual intermittent leave time taken. Failure to accurately record intermittent leave time, or



recording non-FMLA absences as intermittent FMLA leave, may result in corrective action, up to and including termination from employment.

REPORTING TO THE TOWN WHILE ON LEAVE

An employee on FMLA leave or any other type of leave for medical or health reasons may be required to report on a periodic basis regarding his or her status and intention to return to work. If circumstances change and the employee needs either more or less leave, the Town requires that the employee provide the Town with reasonable notice (i.e., within two (2) business days) of the changed circumstances, where foreseeable. The Human Resources Director will inform the employee how often the employee must report to the Town while on leave.

RELATIONSHIP BETWEEN FMLA LEAVE AND PAID LEAVE TIME

The Town requires that the employee use his or her accrued paid leave time (sick time and vacation or other type of paid time off) during FMLA leave. After the employee exhausts his or her paid leave time, the remainder of the employee's FMLA leave will be unpaid with the exception of any temporary disability benefits under the Florida Workers' Compensation Law or short-term disability benefits.

- A. Workers' Compensation Injury: If the employee is injured on the job and the injury qualifies as a serious health condition under the FMLA, the Town requires that the time off for the injury be counted against the employee's FMLA leave entitlement. The Town and the employee may agree to have the employee's unused, accrued paid leave time (sick time and vacation or other types of paid time off) supplement the employee's temporary disability benefits under the Florida Workers' Compensation Law where those benefits only provide replacement income for a portion of an employee's regular pay or salary. The employee is not required to use any paid leave time while receiving temporary disability benefits.

NOTE: If an employee receives supplemental pay from the Town during any portion of his or her FMLA leave for a workplace injury (see Policy No. 7.3 Workers' Compensation Leave of Absence), the employee may not use paid leave time to supplement the employee's temporary disability benefits under the Florida Workers' Compensation Law.

- B. Short Term Disability: If the employee is eligible for and is using the Town's short-term disability plan for a serious health condition, the Town requires that the time off taken under the disability plan be counted against the employee's FMLA leave entitlement. The Town and the employee may agree to have unused, accrued paid leave time (sick time and vacation or other types of paid time off) supplement the employee's short-



term disability benefits where the benefits only provide replacement income for a portion of an employee's regular pay or salary. The employee is not required to use any paid leave time while receiving benefits under the Town's short-term disability plan and the employee is not required to apply for short-term disability benefits to take FMLA leave.

SENIORITY AND LEAVE TIME WHILE ON FMLA LEAVE

The employee will not accrue any seniority or paid leave time (sick time and vacation) while on unpaid FMLA leave. Accrual of any seniority and paid leave time will resume upon return to active employment. The amount of adjusted Vacation leave time the employee will receive will be determined by the Town Manager and consideration of length of service, performance review ratings, etc. will be taken into consideration by the Manager. The taking of FMLA leave will not result in the loss of any paid leave time that the employee accrued prior to the date on which FMLA leave started except to the extent such paid leave time is used during FMLA leave.

BENEFITS WHILE ON FMLA LEAVE

The Town will continue to pay its portion of the employee's group health and dental insurance premiums while the employee is on FMLA leave. The employee is responsible for making arrangements with the Town's Human Resources and Finance Departments to pay the employee portion of group health and dental insurance premiums and the costs of any other elected insurance coverage in an amount equal to the amount the employee would have paid via payroll deduction, no later than the first day of the month. If FMLA leave is foreseeable, the employee may pre-pay the required premium by withholding this additional amount from his or her paycheck prior to the start of FMLA leave. If FMLA leave is taken with paid leave time (sick time and vacation) or with supplemental pay from the Town (*see* Policy No. 7.3 Workers' Compensation Leave of Absence), the premiums will be deducted from the employee's paycheck during FMLA leave as a regular payroll deduction. Failure to make timely payments will result in discontinuation of coverage.

If the employee does not return to work after his or her FMLA leave, the employee's group health plan coverage will end, and the employee will receive a separate notice that provides details about COBRA coverage.

It is the employee's responsibility during FMLA leave to add a spouse or new dependent child(ren) to the group health plan in a timely manner if such coverage is desired.

RETURN TO WORK

To return to work from a FMLA leave for his or her own serious health condition, the employee is required to provide a fitness for duty certification from the employee's health care provider



on or before the day the employee returns to work. The fitness for duty certification must address the employee's ability to perform the essential functions of his or her position as listed in the job description. If the employee is released to return to work with any medical restrictions, the fitness for duty certification should specify those medical restrictions and the expected duration of the restrictions.

The employee must pay any costs associated with the completion of the fitness for duty certification (including the costs of the applicable health care provider) and the employee is not entitled to be paid for the time or travel costs spent to obtain the certification.

If the employee fails to provide a timely fitness for duty certification, the Town may delay the employee's restoration to employment until the completed fitness for duty certification is provided. If the employee does not produce the certification, the employee may be terminated from employment.

An employee who fails to return to work within three (3) days after the expiration of his or her approved FMLA leave will be treated as a voluntary resignation, absent a request and authorization for an extension of leave or an accommodation under the Americans With Disabilities Act (ADA). Any such request must be submitted in writing to the Human Resources Director at least two (2) weeks prior to the expiration date of the employee's approved FMLA leave of absence, or as soon as reasonably practicable after determining the basis for the extension request. The effective date of an employee's voluntary resignation will be the third day following the expiration of his or her FMLA leave.

REINSTATEMENT

When the employee timely returns from FMLA leave, he or she will be restored to the position held when FMLA leave started, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if he or she had been continuously employed during FMLA leave.

TRANSFER/PROMOTION ELIGIBILITY

An employee is not permitted to apply for a transfer and/or promotion during his or her FMLA leave unless mutually agreed by the employee, the employee's Department Head / Manager, and the Town Manager.

OUTSIDE EMPLOYMENT DURING FMLA LEAVE

An employee on FMLA leave may not work at another job during the duration of the leave when such outside employment is inconsistent with the FMLA leave approved by the Town. An employee on leave must notify his or her Department Head / Manager and the Human



Resources Director if he or she is employed in another position with an outside employer. Failure to disclose this information may lead to corrective action.

DEFINITIONS

The Town adopts the definitions of the FMLA, as amended. This policy lists some of the commonly used definitions.

A. **“Serious health condition”** is defined as an illness, injury, impairment, or physical or mental condition that involves one of the following:

- 1.** **Inpatient Care:** An overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care. “Incapacity,” for purposes of the FMLA means inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.
- 2.** **Absence Plus Treatment:** A period of incapacity of more than three consecutive, full calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves: (a) Treatment two (2) or more times within thirty (30) days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or (b) Treatment by a health care provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the health care provider. For purposes of the FMLA, “treatment by a health care provider” means an in-person visit to a health care provider, and the initial (or only) treatment visit must take place within seven (7) days of the first day of incapacity.
- 3.** **Pregnancy:** The state of carrying a developing embryo or fetus within the female body.
- 4.** **Chronic Conditions Requiring Treatments:** A chronic condition which: (a) Requires periodic visits at least twice a year for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider; (b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and (c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).



5. **Permanent/Long-term Conditions Requiring Supervision:** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's disease, a severe stroke, or the terminal stages of a disease.
6. **Multiple Treatments (Non-Chronic Conditions):** Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for: (a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three (3) consecutive full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).
- B. **"Son or Daughter"** means a biological, adoptive, foster or stepchild, a legal ward, or a child of a person standing in loco parentis (guardian).
- C. **"Parent"** means a biological, adoptive, step or foster parent, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter (as defined above). This term does not include the employee's parents "in law."
- D. **"Intermittent Leave"** is leave taken in separate blocks of time due to a single qualifying reason rather than for one continuous period of time and may include leave of periods from an hour or more to several weeks. A "reduced leave" schedule is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.
- E. **"Qualifying Exigency"** includes leave for one or more of the following arising out of the fact that the spouse, son, daughter, or parent of the employee is a servicemember on covered active duty (or has been notified of an impending call or order to covered active duty):
1. Short-notice deployment (up to seven (7) calendar days).
 2. Attending certain military events and related activities, such as official ceremonies or programs related to the servicemember's active duty status or to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations or the American Red Cross that are relative to the servicemember's active duty status;



3. Certain childcare and related school activities such as arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, or attending certain meetings at a school or a daycare facility if they are necessary due to circumstances arising from the active duty or call to active duty or the covered family member;
4. Making or updating financial and legal arrangements to address a covered military member's absence while on active duty or call to active duty status or to act as the covered military member's representative before a federal, state or local agency for the purposes of obtaining or arranging or appealing military service benefits while the covered military member is on active duty or a call to active duty status;
5. Attending counseling provided by someone other than a health care provider for oneself, for the covered military member, or for the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member.
6. Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during the period of deployment.
7. Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member.
8. Any other event that the Town and the employee agree is a qualifying exigency.
- F. **"Covered Active Duty"** means - (i) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (ii) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.

"Covered Servicemember" means - (i) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (ii) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of



five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

For additional information regarding employee rights and responsibilities under the family medical leave act (FMLA), visit WWW.WageHour.DOL.GOV.

7.2 PARENTAL LEAVE

PURPOSE

The Town of Bay Harbor Islands will provide up to six (6) weeks of paid parental leave to full time employees following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. The purpose of paid parental leave is to enable the employee to care for and bond with a newborn or a newly adopted or newly placed child. This policy will run concurrently with Family and Medical Leave Act (FMLA) leave, as applicable. This policy will be in effect for births, adoptions or placements of foster children occurring on or after the effective date of this policy.

ELIGIBILITY

In order to be eligible for paid parental leave an employee must meet the following criteria:

- Have been employed by the Town of Bay Harbor Islands for at least twelve months.
- Have worked at least 1,250 hours during the twelve-month period preceding the leave.
- Be a full-time, regular employee not covered by a collective bargaining agreement (temporary employees and interns are not eligible for this benefit).

If both parents work for the Town, the parents will only be entitled to a collective total of six (6) weeks of paid parental leave between them. If the parents desire to split the six (6) weeks of paid parental leave between themselves (one parent takes 3 weeks and the other parent takes 3 weeks), both parents must individually meet the eligibility criteria stated above. Both parents may take the leave at the same time provided it is operationally feasible.

QUALIFYING REASONS

Paid Parental Leave under the terms of this policy is available to eligible employees for one or more of the following qualifying reasons:

- The birth of child/children of the employee, or to care for the newborn child/children (within 12 weeks of birth);
- The placement of a child/children with the employee for adoption or foster care, or to care for the newly placed child/children (within 12 weeks of placement).



AMOUNT, TIME FRAME AND DURATION OF PAID PARENTAL LEAVE

- Eligible employees will receive a maximum of six weeks (or three weeks each if spouses decide to split time) of paid parental leave per birth, adoption or placement of child/children. The fact that a multiple birth, adoption or placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the four-week total amount of paid parental leave granted for that event. In addition, in no case will an employee receive more than six weeks of paid parental leave in a rolling 12-month period, regardless of whether more than one birth, adoption or foster care placement event occurs within that 12-month time frame.
- Paid parental leave may be taken by day or week during the first 12 weeks after the birth, adoption, or foster care intake of the child or children.
- Each week of paid parental leave is compensated at 100 percent of the employee's regular, straight-time weekly pay. Paid parental leave will be paid on a biweekly basis on regularly scheduled pay dates.
- Any unused paid parental leave will be forfeited 12 weeks after the birth, adoption, or foster care intake of the child or children.
- Upon termination of the individual's employment at the Town, he or she will not be paid for any unused paid parental leave for which he or she was eligible.

COORDINATION WITH OTHER POLICIES

- Paid parental leave taken under this policy will run concurrently with leave under the FMLA; thus, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child due to adoption or foster care, the leave will be counted toward the 12 weeks of available FMLA leave per a 12-month period. If the amount of the FMLA available is less than the amount of paid Parental Leave to be taken, paid Parental Leave will still be granted as specified in this Policy, without regard to the existence of the individuals available FMLA. All other requirements and provisions under the FMLA will apply.
- Paid Parental Leave shall be exhausted prior to the use of Vacation Leave, Sick Leave, or Compensatory Time when such leave is requested for the purpose of a birth or adoption event.
- After the paid parental leave (and any short-term disability leave for employees giving birth) is exhausted, the balance of FMLA leave (if applicable) will be compensated



through employees accrued sick, vacation or personal time. Upon exhaustion of accruals, any remaining leave will be unpaid leave. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.

- The Town will maintain all benefits for employees during the paid parental leave period just as if they were taking any other paid leave of absence.
- If a Town holiday occurs while the employee is on paid parental leave, such day will be charged to holiday pay; however, such holiday pay will not extend the total paid parental leave entitlement.
- If the employee is on paid parental leave when the Town offers administrative leave, that time will be recorded as paid parental leave. Administrative leave will not extend the paid parental leave entitlement.
- An employee who takes paid parental leave that does not qualify for FMLA leave will be afforded the same level of job protection for the period of time that the employee is on paid parental leave as if the employee was on FMLA-qualifying leave.

REQUEST FOR PAID PARENTAL LEAVE

- Employees seeking paid parental leave must provide their Department Director and the Human Resources Director at least thirty (30) days advanced notice before the leave is to begin if the need for the leave is foreseeable based on an expected birth, placement for adoption or foster care. If thirty (30) days' notice is not practicable, notice must be given as soon as practicable.
- One paid Parental Leave benefit is available per employee, per birth or adoption event. The number of children involved does not increase the length of paid Parental Leave granted for that event.
- When medical emergencies are involved, notice may be given in person or by telephone, and may be given by the employee's spouse or other family member if the employee is unable to do so due to a serious health condition. Written notice cannot be required in the case of a medical emergency.
- Employees seeking paid parental leave shall complete the Parental Leave Request form, Request for FMLA form, and Certification of Health Care Provider form and submit them to the Human Resources Director, stating the reason for the request, and the beginning and ending dates of the requested leave. The Town will make a determination of the employee's eligibility and qualification and approve or deny the request for parental leave.



- Paid Parental Leave shall begin no sooner than two (2) weeks before the anticipated delivery date or adoption and must end no later than twelve (12) weeks after the birth or adoption of a child.
- Employees on Paid Parental Leave are to comply with the Town's employee leave policies, are precluded from outside employment while on the leave and may, if necessary, be required to submit additional documentation to further substantiate the leave.

DESIGNATION NOTICE

- Once it has been determined that paid parental leave will be granted, the Human Resources Director will notify the employee in writing within five (5) business days absent extenuating circumstance, as to whether or not the leave will be designated as paid parental leave, and provide the employee with notice detailing the specific expectations of the employer and explaining any consequences of a failure to meet these obligations.

7.3 GRANDPARENT LEAVE

An employee may take leave to care for a grandparent with a serious health condition on the same terms and conditions as leave is permitted under the Family and Medical Leave Act to care for a grandparent with a serious health condition. (See Policy No. 7.1 Family and Medical Leave of Absence)

An employee is eligible for leave under this policy if he or she is employed by the Town for at least twelve (12) months and for at least 1,250 hours of service during the twelve-month period immediately preceding the commencement of leave.

For purposes of this policy, "grandparent" means any grandparent of an employee for whom the employee has assumed primary financial responsibility.

NOTE: If the grandparent stood in loco parentis to the employee when the employee was a child (see Policy No. 7.1 Family and Medical Leave of Absence), the employee's leave will be governed by the Town's FMLA policy.

7.4 WORKERS' COMPENSATION LEAVE OF ABSENCE

PURPOSE

To provide an authorized leave of absence from work to eligible employees who incur a compensable work-related injury or illness, as determined by the Town's Workers'



Compensation insurance carrier. This policy further applies to those claims that are conditionally compensable during the 120-day investigation period under Florida law. This policy sets forth the conditions for the integration of state-mandated Workers' Compensation benefits with a leave of absence offered by the Town. This policy does not cover absences for claims that are not accepted as compensable or claims that are denied pursuant to the 120-day investigation period under Florida law.

This policy does not preclude the Town from terminating an employee for reasons unrelated to this policy.

The Town will administer this policy in a uniform, non-discriminatory fashion in accordance with applicable laws, including but not limited to, the Americans With Disabilities Act and the Family and Medical Leave Act.

ELIGIBILITY

This policy applies to all part-time and full-time employees beginning on the first day of employment. A part-time or full-time employee who is absent from work for more than three (3) consecutive days due to a work-related injury or illness will be placed on a Workers' Compensation leave of absence, provided that the employee satisfies the requirements for this leave.

LEAVE DURATION

The length of an employee's Workers' Compensation leave of absence will be the period of time that the employee is medically unable to work or that the employee has temporary work restrictions that the Town is unable to accommodate at that time. The employee's ability to work and work restrictions shall be determined by the authorized Workers' Compensation health care provider, however the Town reserves the right to obtain an independent medical examination (IME) to verify the employee's status.

The maximum length of leave under this policy is twenty-four (24) weeks in a rolling 12-month period measured backward from the date that the employee uses any leave under this policy.

Any request for an extension of leave will be reviewed by the Town's Human Resources Director in conjunction with the Town Manager, Assistant Town Manager and/or Department Head / Manager and in accordance with the Americans with Disabilities Act ("ADA"), as amended.

RELATIONSHIP TO THE FAMILY AND MEDICAL LEAVE ACT (FMLA)

If the employee's work-related injury or illness qualifies as a "serious health condition" under the FMLA and the employee is eligible for FMLA leave, the employee's Workers' Compensation



leave of absence will run concurrently with the employee's FMLA leave. In this circumstance, the employee's leave will be administered in accordance with the provisions of this policy and the Town's Family and Medical Leave of Absence policy (See Policy No. 7.1)

COMPENSATION DURING LEAVE FOR PART-TIME EMPLOYEES

A part-time employee's Workers' Compensation leave of absence is unpaid, except to the extent that the employee receives temporary disability benefits from the Town's Workers' Compensation insurance carrier in accordance to Florida Law.

COMPENSATION DURING LEAVE FOR FULL-TIME EMPLOYEES

A. **Leave Is Twelve Weeks or Less.** A full-time employee's Workers' Compensation leave of absence for twelve (12) weeks or less is unpaid, except to the extent that the employee receives temporary disability benefits from the Town's Workers' Compensation insurance carrier or uses accrued paid leave time as provided below.

If the employee receives temporary disability benefits and the leave qualifies for FMLA leave, the employee may elect to use his or her accrued paid leave time (sick time and vacation TO) during weeks 1 through 12 of the leave in an amount up to the amount of the employee's regular pay or salary. (See Policy No. 7.1 Family and Medical Leave of Absence)

If the employee does not receive temporary disability benefits during this time, the employee is required to use his or her accrued paid leave time (sick time and vacation) during the leave.

B. **Leave During Weeks Thirteen to Twenty-Four.** If a full-time employee's Workers' Compensation leave of absence continues for thirteen (13) to twenty-four (24) weeks and the employee receives temporary disability benefits during this time, the employee may be eligible for a supplemental pay benefit from the Town. The Town will pay the difference between the temporary disability benefit amount and the eligible employee's regular pay or salary during weeks 13 through 24 of the employee's leave. The employee may not use any accrued paid leave time (sick leave, vacation or other types of paid time off) during the time that he or she receives supplemental pay from the Town under this policy.

If the employee sustained a work-related injury or illness as a result of the employee's violation of the Town's policies or procedures or misconduct as determined by the Town Manager or did not timely report the work-related injury or illness, the employee is not eligible for the supplemental pay benefit. If the employee is not eligible for the supplemental pay benefit, the



employee is required to use his or her accrued paid leave time (sick time and vacation) during the leave.

If the employee does not receive temporary disability benefits, the employee is required to use his or her accrued paid leave (sick time and vacation) during weeks 13 through 24 of the leave.

BENEFITS WHILE ON LEAVE

The Town will continue to pay its portion of the employee's group health and dental insurance premiums while the employee is on an authorized leave of absence under this policy. The employee is responsible for making arrangements with the Town's Human Resources and Finance Departments to pay the employee portion of group health and dental insurance premiums and the costs of any other elected insurance coverage in an amount equal to the amount the employee would have paid via payroll deduction, no later than the first day of the month. If the Workers' Compensation leave is taken with the employee's paid leave time (sick time and vacation) or the employee receives supplemental pay from the Town, the premiums will be deducted from the employee's paycheck during the leave as a regular payroll deduction. Failure to make timely payments will result in discontinuation of coverage.

RETURN TO WORK

An employee is required to provide a fitness-for-duty certification from a health care provider to the Human Resources Director on or before the day the employee returns to work. The fitness for duty certification must address the employee's ability to perform the essential functions of his or her position as listed in the job description. If the employee is released to return to work with any medical restrictions, the fitness-for-duty certification must specify those medical restrictions and the expected duration of the restrictions.

The Florida Workers' Compensation Uniform Medical Treatment/Status Reporting form (referred to as a "DWC-25 form") completed by the authorized workers' compensation health care provider satisfies the requirement of a fitness-for-duty certification under this policy, provided that the completed form addresses the employee's ability to perform the essential functions of his or her position as listed in the job description. If the completed DWC-25 form does not address the employee's ability to perform the essential functions of his or her position, the employee must submit a separate fitness-for-duty certification from a health care provider with that information. **Employees are encouraged not to leave the office of the authorized workers' compensation health care provider without receiving their completed DWC-25 form, this form must be provided to the HR Department as soon as possible.**



If the employee fails to provide a fitness-for-duty certification on or before his or her return to work, the Town may delay the employee's restoration to employment until the certification is provided to the Town. If the employee does not produce the certification within the time period specified by the Town, the employee may be terminated from employment.

SUPPLEMENTAL PAY FOR THERAPY OR MEDICAL TREATMENT SESSIONS

If a full-time employee receives medical treatments or therapy for the work-related injury or illness after his or her return to work, the employee may be eligible for a supplemental pay benefit from the Town. The Town will pay the full-time employee at his or her regular rate of pay for up to one (1) hour per session to participate in physical, occupational, or other therapy or to attend a medical treatment prescribed by a health care provider for the employee's work-related injury or illness. This compensation will be paid for a maximum of 36 therapy or medical treatment sessions for the same injury or illness and the sessions must occur within 24 weeks from the date of the employee's injury or illness. The full-time employee must be an active employee (i.e., not on a leave of absence) on the date of the medical treatment or therapy sessions to be eligible for this supplemental pay benefit.

FAILURE TO RETURN TO WORK

An employee who fails to return to work within three (3) days after the expiration of his or her approved Workers' Compensation leave of absence will be treated as a voluntary resignation, absent a request for an extension of leave or an accommodation under the ADA. Any such request must be submitted in writing to the Human Resources Director at least two (2) weeks prior to the expiration date of the employee's approved Workers' Compensation leave of absence, or as soon as reasonably practicable after determining the basis for the extension request. The effective date of an employee's voluntary resignation will be the third day following the expiration of his or her leave of absence under this policy.

REINSTATEMENT

If the approved Workers' Compensation leave is for twenty-four (24) weeks or less and the employee has been released to work by an authorized Workers' Compensation health care provider to perform his or her essential job functions, the Town will return the employee to the employee's former position or to the same department and classification in which the employee was working prior to the leave of absence, or a substantially equivalent position. An employee has no greater right to reinstatement or to other benefits and conditions of employment than if he or she had been continuously employed during a Workers' Compensation leave of absence.

If the employee has reached maximum medical improvement and is released to return to work but is unable to perform the essential functions of his or her position (either with or without a



reasonable accommodation), the employee may request an alternative position within his or her physical and vocational capabilities. Such a request should be submitted as far in advance of the employee's scheduled return to work date as is practicable under the facts and circumstances of the s possible. The Town will evaluate any such request in conjunction with its staffing and departmental needs and in accordance with the Town's ADA policy.

The employee will be deemed to have voluntarily resigned his or her employment if the employee: (1) does not accept the Town's job offer for his or her return to work within the time specified by the Town; or (2) does not return to work on an agreed date at the end of this leave, unless the employee is entitled to take additional time off under applicable law (e.g., FMLA) or is authorized to take additional leave under the Town's other leave policies or in accordance with the Americans with Disabilities Act. An employee's failure to accept the Town's job offer to return to work may affect his or her impairment benefits under Florida law.

NOTE: Sworn police officers and sergeants should contact the Human Resources Director for information concerning the duration of a leave of absence for a workplace injury and the supplemental pay benefit currently applicable to those positions.

7.5 MILITARY LEAVE

The Town will grant military leave to all eligible full-time and part-time employees who are performing or have performed military service in accordance with applicable federal and state laws. Benefits, seniority, and reinstatement will be in accordance with applicable laws. Employees seeking military leave should contact Human Resources for further details concerning notice requirements, appropriate documentation, amount of leave, benefits, and reinstatement rights.



FLORIDA NATIONAL GUARD SERVICE LEAVE

An employee who is a member of the Florida National Guard shall, upon presentation of a copy of the employee's official orders issued pursuant to Chapter 250, Florida Statutes, to the Human Resources Director, be granted leave during periods in which the employee is ordered to active state service by the Governor of Florida. The first thirty (30) calendar days of leave for each period of active state service shall be with pay. Employees may elect to be paid their accrued vacation and sick time for any active state service time in excess of 30 calendar days.

MILITARY RESERVE AND NATIONAL GUARD TRAINING LEAVE



An employee who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or a member of the National Guard shall, upon presentation of a copy of the employee's official orders to the Human Resources Director, be granted leave with pay for a maximum of 240 working hours per calendar year (January-December) during which the employee is ordered to active or inactive duty training. Employees may elect to be paid their accrued vacation and sick time for any training time in excess of 240 working hours.

ACTIVE MILITARY SERVICE LEAVE

Upon presentation of the employee's official orders to the Human Resources Director, the Town shall grant leave with pay to an employee who is a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or a member of the Florida National Guard and is ordered to active military service. The first thirty (30) calendar days of leave for each period of active military service shall be with pay. Employees may elect to be paid their accrued vacation and sick time for any active military service time in excess of 30 calendar days in an amount necessary to bring the employee's total salary, inclusive of his or her base military pay, to the level the employee earned at the time called to active duty.

7.6 JURY DUTY AND WITNESS LEAVE

JURY DUTY

A full-time employee who is summoned to Jury Duty by a court of competent jurisdiction shall be granted time off with pay provided the employee provides a copy of the summons to his or her supervisor at least five (5) work days prior to commencement of service as a juror. Any employee who is released from Jury Duty and has a half a day or more of regularly scheduled work time remaining, shall report to work as soon as possible. Proof of time served on Jury Duty shall be required.

WITNESS IN A LEGAL ACTION

If an employee is required to act as a witness or is deposed in a legal action at the request of the Town or where the employee has been subpoenaed to testify on behalf of the Town or concerning Town business, the employee will receive compensation at the applicable rate of pay (straight or overtime). This shall include appearances that are contiguous to their regularly scheduled shift.

Employees who are called back to work after being relieved of duty or required to appear in court in regard to official duties on their normal day off shall receive compensation in accordance with the Town's Call-Back policy.

An employee is required to notify his or her Department Head / Manager as soon as practicable after receiving a subpoena or other notice to attend any judicial proceeding involving the Town.



An employee may use his or her accrued vacation, personal leave in accordance with the Town's policies, to act as a witness at trial or deposition or to attend proceedings in connection with a personal or non-Town related legal action, or in connection with a personal matter of another employee. If the employee has previously exhausted his or her accrued vacation or personal time, the employee may apply for an unpaid leave of absence. The employee must submit documentation of the proceedings, including any notice or subpoena compelling the employee's appearance at deposition, hearing or trial.

7.7 BEREAVEMENT LEAVE

Employees shall be granted time off with pay to arrange or attend the funeral of an immediate family member. Employees will be provided three (3) days off with pay for bereavement or five (5) days if attending a funeral over 300 miles within the State or if out of State travel is necessary. At the Town Manager's discretion, vacation leave or unpaid leave may be approved for up to five (5) days to attend international funeral services.

Immediate family is defined as: father, mother, father-in-law, mother-in-law, spouse, child, grandchild, grandparent, sister, brother, brother-in-law or sister-in-law and domestic partner. At the discretion of the Town Manager, bereavement leave may be granted for other individuals that are not an employee's immediate family member.

7.8 VOTING

The Town believes that it is the responsibility and duty of employees to exercise the privilege of voting in elections. Employees are encouraged to exercise their right to vote before or after their regularly assigned work hours. However, when this is not possible due to work schedules, managers are authorized to grant a reasonable period of time, up to three hours, during the work date to vote. Time off for voting must be reported and coded appropriately on timekeeping records. Compensation for this time off may be unpaid or the employee may utilize his/her accrued leave banks.



7.9 DOMESTIC AND SEXUAL VIOLENCE LEAVE OF ABSENCE

The Town provides leave from work to employees who require time off to deal with the issue or effects of domestic or repeat violence or sexual violence, and to conform to the Miami-Dade County Domestic Leave and Reporting Ordinance and Florida Statutes § 741.313.

ELIGIBILITY

To be eligible for domestic violence leave, an employee must have been employed by the Town for at least ninety (90) days and for at least three hundred and eight (308) hours of service with the Town during the previous ninety (90) days.¹

To be eligible for sexual violence leave, an employee must have been employed by the Town for three (3) or more months.

REASONS FOR LEAVE

- A. Domestic Violence Leave.** Eligible employees who are victims of domestic violence are entitled to a total of thirty (30) workdays of unpaid domestic violence leave during any twelve (12) month period for one or more of the following:
- 1.** To obtain or receive medical and/or dental assistance for a medical and/or dental problem resulting from domestic or repeat violence, including obtaining such services for the employee's family or household member;
 - 2.** To obtain and receive legal assistance relating to domestic or repeat violence, including but not limited to criminal prosecution, injunction for protection, protective order, divorce, custody of children, and child support;
 - 3.** To attend court appearances relating to domestic or repeat violence, including but not limited to criminal prosecution, injunction for protection, protective order, divorce, custody of children, and child support;
 - 4.** To attend counseling or support services, including counseling or support services for dependent children;
 - 5.** To make the employee's home secure from the perpetrator of the domestic violence or to seek new housing to escape the perpetrator; or

¹ An employee who has worked for the Town for at least 3 months but has not met the hours of service requirement under the Miami-Dade County Ordinance (i.e., 308 hours during the previous 90 days), is only eligible for 3 days of domestic violence leave under Florida law.



6. To make any other arrangements necessary to provide for the safety and well-being of an employee subject to domestic or repeat violence.

B. Sexual Violence Leave. Eligible employees who are victims of sexual violence are entitled to a total of 3 days of sexual violence leave for the purposes outlined in paragraphs A.1-6 above.

REQUEST FOR LEAVE

An employee seeking domestic or sexual violence leave must provide the Town with written notice of his or her request for leave as far in advance of the desired leave as possible. The request should be submitted to the Human Resources Director. If the need for leave is not foreseeable, the employee must provide notice (verbal or written) as soon as is practicable under the facts and circumstances of the particular case and in accordance with his or her department's procedures for unforeseeable absences.

The Town requires that the employee use his or her accrued paid leave time (sick time and vacation or other type of paid time off) during their leave. After the employee exhausts his or her paid leave time, the remainder of the employee's leave will be unpaid with the exception of any temporary disability benefits under the Florida Workers' Compensation Law or short-term disability benefits. All leaves of absence in excess of ten (10) business days or two (2) weeks must be approved by the Town Manager.

An employee may take domestic or sexual violence leave intermittently or on a reduced leave schedule of no less than half hour increments. However, if an employee requests an intermittent leave or reduced leave that is foreseeable based on a planned schedule, the Town may require that such employee transfer temporarily to an available alternative position for which the employee is qualified and that has equivalent pay and benefits, and better accommodates recurring periods of leave.

Domestic or sexual violence leave may be taken in addition to family leave under the Town's Family and Medical Leave Act policy (*See Policy No. 7.1*) provided that the employee qualifies for FMLA leave.



CERTIFICATION AND CONFIDENTIALITY

A request for domestic violence or sexual violence leave must be supported by certification issued by an authorized person such as a health care provider, attorney of record, counselor, law enforcement agency, clergy, domestic violence advocacy agency, domestic violence center or domestic violence shelter. The certification will be sufficient if it indicates that the employee is being subjected to domestic or repeat violence, or sexual violence, and needs time off to attend to one of the aforementioned matters.

To the extent possible, information regarding the employee's request for leave under this policy will be kept confidential.

If the employee took leave to obtain or receive medical and/or dental assistance for him/herself, the employee must provide a fitness for duty certification from the employee's health care provider in order to return to work. The Town will specify the information that must be provided on the fitness for duty certification. The employee must pay the cost of obtaining the fitness for duty certification and the employee is not entitled to be paid for the time or travel costs spent to obtain the certification. If the employee fails to provide such a certification before the leave ends, the Town may delay the employee's restoration to employment until the fitness for duty certification is provided to the Town. If the employee never produces the certification, the employee may be terminated from employment.

EMPLOYMENT AND BENEFITS PROTECTION

The taking of leave will not result in the loss of any employment benefits accrued prior to the date on which the leave commenced.

Upon his or her return to work from a domestic or sexual violence leave, the employee shall be entitled to: restoration to the position of employment held by the employee when leave commenced; or restoration to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment. However, an employee taking domestic violence leave for three (3) days or less will be restored to the same position held by the employee at the time leave commenced.

An employee on domestic or sexual violence leave must periodically report to the Human Resources Director on the status and intention of the employee to return to work.



PROHIBITION AGAINST RETALIATION

The Town prohibits discrimination or retaliation against any employee for exercising his or her rights under this policy. If an employee believes that he or she is being retaliated against, the employee must report the retaliation to the Human Resources Director.

DEFINITIONS

Domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member, or any crime the underlying factual basis of which has been found by a court to include an act of domestic violence.

Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Sexual violence means sexual violence, as defined in Florida Statutes § 784.046, or any crime the underlying factual basis of which has been found by a court to include an act of sexual violence. Florida Statutes § 784.046 defines “sexual violence” to mean any one incident of: (1) sexual battery; (2) a lewd or lascivious act, committed upon or in the presence of a person younger than 16 years of age; (3) luring or enticing a child; (4) sexual performance by a child; or (5) any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the State Attorney.

7.10 PERSONAL LEAVE OF ABSENCE

The Town provides an opportunity for eligible employees to request a leave of absence for personal reasons.

ELIGIBILITY

An employee is eligible for a personal leave of absence if he or she:

- i. is employed full-time
- ii. has been employed for at least 90 days



iii. is in good standing at the time of the leave.

The Town defines “good standing” as an employee who has not received any corrective action or other formal discipline, a performance improvement plan or unsatisfactory performance evaluation during their employment (for employees employed between 90 days and 12 months) or within the previous 12-month period (for employees employed 1 year or longer).

Part-time, temporary, and seasonal employees may be considered for a personal leave of absence and will be considered on a case by case basis. Temporary employees do not qualify for a personal leave of absence, unless they are already existing full-time Town employees.

POLICY

Eligible employees may request a personal leave of absence for reasons not covered by the Town’s other leave policies. Examples of reasons for a personal leave of absence may include, but are not limited to, the following:

- Absences due to the employee’s own health condition if the employee does not qualify for leave under the Town’s Family and Medical Leave of Absence policy or has exceeded the time permitted by that policy.
- Absences due to the employee’s work-related injury or illness if the employee has exceeded the time permitted by the Workers’ Compensation Leave of Absence policy.
- Absences due to the continued serious health condition of the employee’s spouse, son, daughter, parent or grandparent (beyond the time permitted by the Town’s Family and Medical Leave of Absence and Grandparent Leave policies).
- Other personal reasons as approved by the Town.

Approval of a personal leave of absence is at the sole discretion of the Department Head / Manager. Any personal leave of absence, whether paid through use of vacation, sick, personal etc. or unpaid, in excess of ten (10) business days or two (2) weeks in a fiscal year must be approved by the Town Manager. In deciding whether to approve a personal leave of absence, the Town will consider the employee’s request (including the reason and length of the leave) and the staffing and operational needs of the Town for the period of the requested leave.

PROCEDURE

An employee must provide the Town with at least 30 days advance written notice of his or her need for a personal leave of absence if the request for leave is based on foreseeable circumstances. If 30 days’ notice is not practicable, such as because of a lack of knowledge of approximately when leave will be necessary, or because the need for leave was unforeseeable,



the employee must provide notice (verbal or written) as soon as practicable and in accordance with his or her department's procedures for an unforeseeable absence.

The employee's request for a personal leave of absence should be submitted to his or her Department Head / Manager. The employee should include any documentation supporting his or her leave request.

CERTIFICATION OF HEALTH CARE PROVIDER

If the employee requests leave due to a work-related injury or illness or due to the serious health condition of the employee or the employee's spouse, son, daughter, parent or grandparent, the employee must provide a completed certification of a health care provider. The certification must include a description of when, why and for how long the employee requires a leave of absence and be in the format of the certification form provided by the Town. The certification must be completed by the treating health care provider.

The certification of health care provider must be submitted to Human Resources by the employee at the time of the request for leave, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. In such circumstances, the employee must submit the certification as soon as practicable

COMPENSATION DURING LEAVE

The Town requires that the employee use his or her eligible unused accrued paid leave time (sick vacation, holiday, personal, comp, admin, birthday) during a personal leave of absence. After the employee exhausts his or her eligible paid leave time, the remainder of the employee's personal leave of absence will be unpaid, unless the employee receives disability benefits under an insurance policy or through the State of Florida.

OUTSIDE EMPLOYMENT DURING LEAVE

An employee on a personal leave of absence may not work at another job during the duration of the leave if such outside employment is inconsistent with the leave of absence approved by the Town. An employee on leave must notify his or her Department Head / Manager and the Human Resources Director if he or she is employed in another position with an outside employer. Failure to disclose this information may lead to revocation of the employee's leave from the Town and corrective action.

RETURN TO WORK

To return from a leave for his or her own serious health condition, the employee must provide a fitness for duty certification from the treating health care provider on or before the day the employee returns to work. The certification must address the employee's ability to perform



the essential functions of his or her position as listed in the job description. If the employee is released to return to work with any medical restrictions, the fitness for duty certification should specify those medical restrictions and the expected duration of the restrictions.

If the employee fails to provide a fitness for duty certification on or before his or her return to work, the Town may delay the employee's restoration to employment until the certification is provided to the Town. If the employee does not produce the certification within the time period specified by the Town, the employee may be terminated from employment.

REINSTATEMENT

When the employee returns from a personal leave of absence within the time approved by the Town, the Town will attempt to restore the employee to the former position or to the same department and classification in which the employee was working prior to the leave of absence, or to an equivalent position. The Town may not provide reinstatement to an employee who exceeds the amount of leave time initially approved by the Town.

If the employee is released to return to work but is unable to perform the essential functions of his or her position (either with or without a reasonable accommodation), the employee may request an alternative position within his or her physical and vocational capabilities. The Town will evaluate any such request in conjunction with its staffing and departmental needs and in accordance with the Town's ADA policy.

The employee will be deemed to have voluntarily resigned his or her employment if the employee: (1) does not accept the Town's job offer for his or her return to work within the time specified by the Town; or (2) does not return to work on an agreed date at the end of this leave, unless the employee is entitled to take additional time off under applicable law (e.g., FMLA) or is authorized to take additional leave under the Town's other leave policies or in accordance with the Americans with Disabilities Act.

7.11 ADMINISTRATIVE LEAVE

Administrative leave is a leave of absence from work with pay. The Town may place an employee on administrative leave where circumstances warrant as determined by the Town Manager (or the Town Manager's designee). If an employee has been notified of an ongoing investigation, proposed suspension, or possible termination from employment, the employee may be placed on administrative leave between the notice and the effective date of the action. Any employee placed on Administrative Leave may not engage in their job duties or conduct Town business until they are formally granted authorization by the Town Manager or the Town Manager's designee to return to work. Town-issued identification cards, equipment and devices may be held temporarily by their Department Head / Manager (or designee) or the Department of Human Resources for the duration of the administrative leave.



Administrative leave may also be granted to provide time off with pay to exempt employees who have worked in excess of their normal work schedule. Any such leave is discretionary and must be recommended by the Department Head / Manager and approved in accordance with this policy.

All administrative leave must be approved by the Town Manager (or the Town Manager's designee).

7.12 UNPAID ADMINISTRATIVE LEAVE

Unpaid administrative leave is a leave of absence from work without pay. The Town may place an employee on unpaid administrative leave if an employee has been charged with a criminal offense (on or off the job) that affects the employee's relationship to the job, fellow workers, or the reputation of the Town.

Unpaid Administrative leave may also be utilized for employees found to be physically or mentally unfit for duty.

Employees placed on unpaid administrative leave may use accrued annual leave or compensatory time in lieu of taking unpaid leave.



BENEFITS FOR ALL FULL-TIME EMPLOYEES

7.13 EMPLOYEE INSURANCE BENEFITS

The Town provides group insurance coverage for all full-time employees and their dependents. The group insurance plan consists of group health coverage, dental, vision, short-term and long-term disability, life and accidental death and dismemberment insurance coverage. Insurance benefit information and the applicable employee premiums may be obtained through the Human Resources Director.

Coverage amounts for active employees will be as follows:

- The Town will pay 100% of Employee only monthly premium for health HMO and dental HMO coverage. The Town, if providing another PPO option for health & dental, will require the employee to pay the additional amount of the difference between the HMO monthly premium coverage and the PPO coverage (an additional cost to the employee).
- The Town will pay 65% of dependent monthly premium coverage for health and dental HMO or PPO.
- The Town pays the full cost of employee only short term, long term, life and accidental death and dismemberment.
- The Town will pay life insurance in the amount that equals the employee's base annual salary.

Employees who are retiring from the Town service may be eligible to continue their health, dental and vision insurance coverage for an indefinite period of time at the full monthly premium cost to the retiring employee. To be eligible to continue insurance participation, the retiree must be covered by the Town's health insurance, dental and vision insurance at the time of retirement and immediately apply for continuation of coverage. The retiree must renew their elections during open enrollment each year. If the retiree chooses to drop any particular coverage at any time, they are not eligible to re-enroll in that coverage at a later date. The retiree must make timely premium payments in order to continue participation in their elected coverages.

LEAVE SHARING PLAN

The Town of Bay Harbor Islands has established a Leave Sharing Plan ("LSP") to provide full-time employees an opportunity to voluntarily donate their accrued time (sick time, vacation, comp, admin personal time) to the LSP for use by employees who are suffering financial hardship due to a catastrophic illness or injury.



DEFINITIONS

Employee-Donor: The employee who donates a portion of his/her paid time of hours through the Leave Sharing Plan.

Employee-Recipient: The employee in need of sick time, subject to availability, who is authorized to receive donated hours from the Leave Sharing Plan.

Catastrophic illness or injury: A severe condition or combination of conditions affecting the mental or physical health of an employee or the employee's immediate family that requires the services of a licensed practitioner for a prolonged period of time and that will cause the employee to have a substantial loss of income because the employee will have exhausted all the leave time earned by the employee.

Employee's immediate family: The employee's spouse, son or daughter, or parent, as those terms are defined in the Town's Family and Medical Leave Act policy (See Policy No. 7.1), and any other individual related to the employee by blood, adoption or marriage and who lives in the same household as the employee.

ELIGIBILITY

Each full-time employee is eligible to participate in the Leave Sharing Plan as an Employee-Recipient, as follows:

- The employee has been employed for at least one (1) continuous year;
- The employee or the employee's immediate family member has a catastrophic illness or injury;
- The employee has used, or is expected to use, all of his or her accrued sick and vacation leave or any other type of paid leave time, in the absence of using donated leave, the employee would have at least three workdays of unpaid absences.
- The employee is not eligible for Workers' Compensation leave of absence (See Workers Compensation Policy); and
- The employee has not been disciplined for abuse of sick, vacation or other paid leave time for at least 12 months prior to the request.

An employee will be subject to corrective action, up to and including termination from employment, if he or she falsifies information, abuses the LSP, or was otherwise ineligible for the LSP.



GENERAL INFORMATION

An Employee-Donor may donate up to 80 hours of his or her accrued sick time or other paid leave time per year to the Town's LSP bank, provided that the Employee-Donor maintains a balance of at least 80 hours of sick time or other paid time off for his or her personal use. An Employee-Donor is not permitted to donate sick time or other paid time off to the account of a specific Employee-Recipient. The donated leave will be transferred to an Employee-Recipient in accordance with this policy.

Donations must be made in one (1) hour increments. For every hour donated by the Employee-Donor, the Employee-Recipient will be credited with one (1) hour of sick time (non-sworn personnel) or paid time off (sworn personnel and designated Administrative Employees).

PROCEDURE

To request donated leave from the Town's LSP bank, an employee must fill out a Leave Donation Request Form with details on information regarding the illness, injury or adverse results of the major disaster or emergency to evaluate the employee's eligibility.

The employee's application should be submitted to the Human Resources Director. The Human Resources Director will verify the employee's eligibility under this policy and then submit the application to the LSP Committee for consideration.

Employees wishing to donate leave to the Town's LSP bank must submit a Leave Donation Form to the Human Resources Director indicating the number of hours they are donating. Once donated time has transferred to the Town's LSP bank, the Employee-Donor may not revoke the donation.

Employee-Recipients shall receive no more than 160 hours of sick time and paid time off in total under the LSP for those with an 8-hour workday and no more than 150 hours of sick time and paid time off in total under the LSP for those with a 7.5-hour work day. If the Employee-Recipient returns to work without exhausting all of the donated leave, the residual balance of sick time or paid time off will be returned to the LSP bank.

Benefits for the Employee-Recipient will continue for the duration of the authorized leave. However, there will be no accrual of sick, vacation or other type of paid time off to the Employee-Recipient while receiving donated time under the LSP. Under no circumstances will payment to the Employee-Recipient exceed the normal payment to such employee for his or her normal work schedule.

SELECTION COMMITTEE



The LSP Committee will determine whether an applicant's request will be granted. The LSP Committee will be comprised of one representative each from the Town's Manager's Office, Human Resources Director and Finance Department.

The LSP Committee will take into consideration the LSP requests based on the number of applications then pending and the amount of sick time and paid time off hours available in the LSP bank. The LSP Committee will consider applications in the order in which they are received by the Human Resources Director and will approve or deny an application within a reasonable time after a request is made.

The LSP Committee's decisions regarding contributions to and withdrawals from the LSP bank are final. Distribution of the LSP hours to Employee-Recipients shall at all times be contingent upon availability of donated time in the LSP.

7.14 VOLUNTARY EDUCATION REIMBURSEMENT PROGRAM

The Town of Bay Harbor Islands encourages employees to voluntarily pursue training programs, professional conferences, undergraduate and graduate degrees or professional certifications that will improve and enhance their skills, performance, and ability to assume additional responsibilities at the Town. Accordingly, the Town will provide educational reimbursement to eligible employees who are seeking a qualifying undergraduate or graduate degree or professional certification, or who are obtaining job-related training. Reimbursements and other payments made by the Town to an eligible employee under this policy are subject to the current federal taxation requirements.

EMPLOYEE ELIGIBILITY

To be eligible, employees must be employed by the Town on a full-time basis for at least six (6) months of continuous service in an active status (not on a leave of absence) and must be in good standing at the time of course approval and remain in good standing through reimbursement request for said courses. For purposes of this policy, the Town defines "good standing" as an employee who has not received any corrective action or other formal discipline, performance improvement plan or an unsatisfactory performance evaluation within the last 6 months.

The employee must fill out a request for approval of said courses to the Human Resource Department prior to starting courses and must provide final grades and proof of payment for courses to the Human Resource Department once courses are completed and reimbursement is desired.

UNDERGRADUATE AND GRADUATE PROGRAMS



Course Eligibility: Undergraduate and graduate courses must be taken as part of a degree program approved in advance by the Town Manager and must provide an eligible employee with skills, knowledge or competencies applicable to the employee's current position or another position at the Town. The courses must be provided by an accredited university or college.

Grade Requirements: An employee must maintain a "C" average or above to maintain eligibility in the Town's program after completion of the first semester of classes.

Tuition Reimbursement Provisions: An employee is eligible to receive reimbursement up to a maximum amount of \$2,500 per fiscal year to pay for tuition. The amount of reimbursement approved by the Town will be based on the employee's grade in each course and funding is subject to annual approved budget line item, as provided in this policy.

Books, parking costs, required laboratory fees and other costs for supplies associated with the courses are eligible for reimbursement in an amount up to \$500 (proof of purchase must be shown).

Reimbursement Amount: Upon the employee's completion of an approved course, the reimbursement schedule will be based on grades received by the employee as follows: *100% reimbursement for a grade of "A" or "Pass" (for Pass/Fail course only); 75% reimbursement for a grade of "B", and 50% reimbursement for a grade of "C". The Town will not provide any amount of tuition reimbursement if the employee earns a grade of "D" or "F" or receives a "Fail" or "Incomplete" mark. No employee shall be reimbursed for tuition or supplies/fees in excess of two thousand (\$2,500) dollars in any fiscal year.*

Employees who voluntarily terminate employment or are discharged from the Town within one (1) year from the end of a course that was reimbursed shall reimburse the Town for the cost of the course.

NOTE: Reimbursement for tuition & supplies, fees etc. will be provided only for any monies paid out of pocket by the employee for tuition & supplies, fees, etc. (proof must be provided, credit card receipt, etc.). Reimbursement will not apply to any tuition or fees, supplies that was paid through grants or scholarships.

CERTIFICATION TESTING & CONFERENCES

Program Eligibility: An eligible employee may obtain reimbursement for testing needed to obtain a certification in a professional discipline applicable to the employee's current position or another position at the Town. The certification must be provided by an accredited university or college, professional association, professional training provider, or other similar institution. The employee's participation in any certification testing must be approved in advance by the Human Resources Director and Town Manager.



This policy shall not reimburse books, courses or any other materials or travel needed for the certification testing.

Tuition Reimbursement Provisions & amount: An employee is eligible to receive full reimbursement of up to \$750 per fiscal year for certification testing; provided the employee passes the test and provides proof of the successful score. If test is not passed the employee will not be reimbursed for the expense.

Expenses for conferences, management seminars, professional meetings and other external seminars/training that are applicable to the position the employee holds, should be discussed with the Finance Director and adequately budgeted for in advance. Such conferences, seminars and trainings are reimbursable under the individual department's budget at the Department Head / Managers discretion, with Town Manager approval.

APPROVAL PROCEDURE

Eligible employees must receive prior approval from the Town Manager in writing to participate in the Town's educational reimbursement program. To obtain approval, an eligible employee must submit a completed Education Reimbursement Program Participation form to his or her Department Head / Manager with the following documents attached: the course or program description; an agenda or schedule (with dates and times); and for training or certification programs only, the program cost and a list of the categories and costs of any related expenses.

The Department Head / Manager and the Human Resources Director will review the employee's form and supporting documentation to determine if the employee meets the criteria for participation in the Town's Educational Reimbursement Program. If the employee is eligible to participate in the program, the Town Manager will evaluate and either grant or deny the employee's request. Notice of the Town Manager's decision shall be provided to the employee in writing.

PROGRAM TERMS

The reimbursement amounts provided to eligible employees by the Town are considered a loan for educational expenses. Accordingly, if the employee is approved to participate in the Town's educational reimbursement program, the employee is required to remain employed with the Town in a full-time capacity for a continuous 12-month period from the date of each reimbursement payment received by the employee or on the date that the employee completes the undergraduate or graduate course or the certification or training program, whichever is later.

If the employee completes the 12-month period of employment, the Town will forgive the loan for that 12-month period. However, if the employee resigns or terminates employment at any time during the 12 month employment period (for any reason other than due to a reduction in



force or due to circumstances beyond the employee's control, as determined by the Town Manager), the employee shall be required to refund the Town any money paid under this program. The balance of the loan not forgiven under this policy is due in full within seven (7) days of the employee's separation from employment. In appropriate circumstances, the Town and employee may agree to a monthly payment plan for repayment of the balance of the loan.

The Town also may retain and deduct the amount owed under this Policy (in whole or in part) from any monies due to the employee prior to or following his or her termination, subject to the applicable restrictions imposed by the Fair Labor Standards Act.

An eligible employee who receives reimbursement to attend a basic recruit training program for law enforcement officers is required to comply with the employment and repayment terms provided in Florida Statutes section 943.16.

NOTE: An employee who participates in the Town's educational reimbursement program is employed at will and the employee's employment may be terminated by the employee or the Town at any time, with or without cause or prior notice. This policy does not create a contractual relationship between the Town and any employee participating in the Town's educational reimbursement program and does not create a guarantee of employment for a definite period of time or for any purpose.

PAYMENT AND REIMBURSEMENT PROCEDURE

If approved to participate in the Town's educational reimbursement program, within thirty (30) calendar days of completion of the approved course(s), program or training, the employee must provide to his or her Department Head / Manager copies of all receipts for tuition and all eligible costs and fees and one of the following: certified transcript for the course term for any undergraduate and graduate courses, copy of professional certification, or a certificate of completion for a training program or conference. The employee shall also disclose and provide documents showing all financial assistance (including, but not limited to, scholarships, grants, stipends, waivers, discounts, fellowships, military and veterans' benefits) and other non-refundable financial assistance received by the employee used to pay tuition or other costs.

If the documents produced by the employee are satisfactory, the Department Head / Manager will proceed with reimbursement.

7.15 DESIGNATED HOLIDAYS

All full-time employees shall be paid for the following eleven (11) designated holidays ("Holiday Pay"), ***the Town Manager may at his/her discretion may approve any additional half day off holiday time:***

- New Year's Day



- Martin Luther King Day
- Presidents Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day & the day after Thanksgiving
- Christmas Eve & Christmas Day

When one of the above holidays falls on a Saturday, the Friday immediately preceding that Saturday may be observed as the holiday if Saturday is not a regular workday of the department. If Saturday is a regular workday for the department, then Saturday will be observed as the holiday. When one of the holidays falls on a Sunday, the Monday immediately following that Sunday may be observed as the holiday if Sunday is not a regular workday of the department. If Sunday is a regular workday for the department, Sunday will be observed as the holiday. Exceptions to this rule may be necessary for departments such as the Police Department, that operate 24 hours a day, every day of the year. Other exceptions may be made by the Town Manager.

Temporary (unless already a Town Employee), seasonal or part-time employees are not eligible for Holiday Pay.

Employees must be on active pay status and/or work their regularly scheduled hours on the workdays immediately prior to and following a holiday to qualify for Holiday Pay. If an employee is on authorized leave of absence with pay when a holiday occurs, that holiday shall be paid as "Holiday Pay" and not charged to the employee's vacation or sick time, paid time off or other such leaves. Employees will not receive "holiday pay" if they are on a leave of absence without pay or on an unpaid status.

When a holiday falls on an eligible employee's day off and the employee does not work that day, the employee is credited with one hour of vacation leave for each hour in the employee's normal workday.

Hourly, non-represented employees required to work on a holiday will be paid at two times their regular rate of pay for the hours worked. Additionally, these employees will be credited with vacation leave on an hour for hour basis, not to exceed the number of hours in the employee's normal workday. If a legal holiday falls on an emergency situation, such as a hurricane, then the employee will be paid double time for all hours worked.

Exempt employees eligible for holiday leave, who are scheduled to work on the designated holiday, will be credited vacation leave on an hour for hour basis, not to exceed the number of hours in the employees normal work day.



Employees given holiday work assignments who fail to report for and perform such work for any reason other than verified illness or emergency, shall not receive pay for the un-worked holiday and may be subject to corrective action.

7.16 PERSONAL DAYS

All full-time employees receive two (2) personal days per year given January 1st. New hires if hired July-Dec will receive one (1) personal day for that calendar year. Personal days allow employees to have additional paid leave to cover absences for personal reasons, such as religious observances or parent-teacher conferences, or to supplement vacation, sick and holiday leave.

- Personal Days may only be used to cover full day absences and must be taken in the year in which given. Under no circumstances will these days be rolled over to the next year-“use it or lose it”.
- Personal Days must be scheduled and approved in advance by the employee’s immediate supervisor.

7.17 BIRTHDAY HOLIDAY

Effective October 1, 2019, all eligible non-represented full-time employees shall be entitled to a holiday on their birthday each year.

There is no waiting period for eligible employees to use the birthday holiday. However, eligible employees must be in pay status for a full day on the assigned workdays immediately before and immediately after the day in which the birthday holiday is observed in order to be paid for the holiday. Any amount of unpaid time will cause the employee to lose the holiday.

Authorized Use:

- A. The birthday holiday should be observed on the employee’s birthday. If that day is not a normal workday, then it will be observed on the next regular work day following the birthday.
- B. If the employee’s birthday falls on the same day as a Town holiday and the employee is not required to work, the birthday holiday will be charged, and the Town holiday will be added to vacation leave accrual.
- C. In cases where the employee does not want to observe their birthday as a “holiday”, that employee will be allowed to use that “birthday holiday” as a “personal” day any other day within the same calendar year.



7.18 VACATION

This policy addresses vacation time for full-time employees. Temporary, seasonal and part-time employees do receive vacation time. *Employees on any type of unpaid leave will be offered an adjusted rate of vacation days (less than the standard amount due annually) as determined by the Town Manager (length of leave, length of employment with Town, performance evaluations) will be considered with adjusting vacation time.*

ALL Full-time employees (hourly and exempt) if hired Jan-June shall receive **“initial vacation time”**. 6 days of vacation time for use by December 31st of that calendar year; if hired from July-October shall receive 3 vacation days for use by December 31st of that calendar year; if hired in November or December shall not receive ANY vacation time for that calendar year. These “initial” vacation days DO NOT qualify for payout should employee resign or be terminated during this time frame.

VACATION TIME FOR NON-REPRESENTED FULL TIME EMPLOYEES	
Effective January 1 st following date hired until 6 years of employment	15 days per calendar year (105 hours a year for 35-hour employees / 120 hours a year for 40-hour employees)
Effective January 1 st – if greater than 6 years of employment <i>(example: 6 years and one-week years of service on Jan 1, then you get 20 days)</i>	21 days per calendar year (147 hours a year for 35-hour employees / 168 hours a year for 40-hour employees)
Effective January 1 st - if greater than 12 years of employment <i>(example: 12 and one-week years of service on Jan 1, then you get 24 days)</i>	24 days per calendar year (168 hours a year for 35-hour employees / 192 hours a year for 40-hour employees)
<ul style="list-style-type: none"> - Employee will only be allowed to use 10 consecutive days of vacation time in a two-month time span, unless exception is made by Town Manager. (example:10 consecutive days in summer time & 10 consecutive days in winter holiday time). Holidays falling in between your requested vacation 	



time will not be counted towards your consecutive day max.

- Employee will be allowed to roll over a maximum of 8 days of vacation time each year (rollover requested from Dec 1-15) provided that the rollover amount together with the new vacation days that will be received on Jan 1 does not place the employee in a position where they have over 30 days (210 hours for 35 hour employees / 240 hours for 40 hour employees) of total of vacation time on January 1. Rollover requests must be submitted to the HR Department.
- Employee will be allowed to cash out up to 5 days of unused vacation time each fiscal year -35 hours for the 7 hour day (35 hr a week) employee and 40 hours for the 8 hour day (40 hr a week) employee.
- If terminated for cause the employee will not be paid out for any unused vacation time.
- If resigning January - June of calendar year the employee will be paid out for fifty percent (50%) of all unused vacation time at the employee's regular rate of pay at the resignation date. If resigning from July 1- December 31, the employee will be paid for seventy-five (75%) of all unused vacation time at the employee's regular rate of pay at the resignation date.
- If retiring or laid off from employment with the Town of Bay Harbor – the employee will be paid out for one hundred percent (100%) of all unused banked vacation time at the employee's regular rate of pay of retirement date EXCEPT that the vacation time issued for the calendar year date of retirement will be paid at 50% of the time due for that calendar year.
- Vacation requests for the following calendar year shall be submitted to your Department Director / Manager during the month of December of the previous calendar year. Any open not requested days throughout the calendar year shall be approved if operationally feasible on a first come first serve basis. However, Seniority & operational necessity will be considered when approving vacation time requests for the same dates. Directors/ Manager are required to provide HR with copies of approved requests.

7.19 SICK TIME

This policy addresses sick time for full-time employees. Temporary, seasonal and part-time employees do receive sick time. *Employees on any type of unpaid leave will be offered an adjusted rate of sick days (less than the standard amount due annually) as determined by the Town Manager (length of leave, length of employment with Town, performance evaluations) will be considered with adjusting vacation time.*

ALL Full-time employees (hourly and exempt) shall receive "initial sick time". One day of sick time will be issued each month. If hired before the 15th of the month, sick day will be issued for that month. If hired after the 15th of the month no sick time issued for that month. These "initial" sick days DO NOT qualify for payout should employee resign or be terminated during this time frame.



SICK TIME FOR NON-REPRESENTED FULL TIME EMPLOYEES	
Effective January 1 st following date hired	12 days per calendar year (84 hours a year for 35-hour employees / 96 hours a year for 40-hour employees)
	<ul style="list-style-type: none"> - If terminated for cause, the employee will not be paid out for any unused sick time. - Employee will be allowed to cash out up to 3 days of unused sick time each fiscal year -21 hours for 35 hour workweek employees & 24 hours for 40 hour workweek employees. - If resigning, retiring or laid off from employment, the employee will be paid 50% of their total sick leave balance up to a maximum of 90 days. (payout not used in pension calculation)

REASONS FOR USE OF SICK TIME

A full-time employee may be approved or required to use sick time for absences from work for the following reasons:

- the employee’s inability to work due to the employee’s own illness, injury or other condition
- the employee’s personal health care provider appointments
- the illness, injury or health care provider appointments of the employee’s spouse, child, parent, or other dependent household member

An employee may be required to use accrued vacation or personal time when he or she is absent from work for the above-listed reasons and has exhausted all of his or her accrued sick time. However, sick time shall not be used as vacation under any circumstances.

Sick time shall not be used for less than half hour (1/2) increments. Department Directors/Managers are responsible for enforcement of this policy.



EMPLOYEE REQUEST TO USE SICK TIME

Sick time shall not be used unless authorized by the employee's Department Head / Manager. Approval of sick time requests is at the discretion of the Department Head / Manager, except as otherwise provided in this policy or the Town's other leave policies.

It is the employee's responsibility to notify his or her immediate supervisor of any absences as far in advance as possible of the absence, but no later than one (1) hour prior to the employee's scheduled start or end time, except in a case of an emergency. If the employee fails to provide timely notification of his/her absence, without good cause, the employee will not be permitted to use sick time for that absence and the absence will be unpaid. (For exempt employees, the absence will be unpaid if it is longer than one or more full days)

Employees are required to call in every day to report absences under this policy, unless the employee is on an authorized time of absence under the Town's FMLA or other leave policies.

Sick Leave incidents do not include Sick Leave being used in connection with a family member. Additionally, an employee's constant use and abuse of sick time may negatively affect their employment status and performance evaluation.

Chronic Sick Designation

Three or more incidents in a six-month period or five or more incidents in a twelve-month period will result in an employee being designated "**Chronic Sick**". Sick leave incidents shall not include sick leave used in connection with FMLA. An incident is defined as one or more days per sick occurrence.

Chronic Sick designation will cause the following regulation to be enforced:

- Review of the employee's performance records.
- Elimination of discretionary overtime and work assignments for 90 days upon the first chronic sick designation. An additional 8 month curtailment of overtime upon second/additional chronic sick designation.
- Record of Chronic Sick designation will be placed in member's permanent file.
- Chronic Sick designation will be considered when member is being considered for promotions and positions.
- Member is subject to medical evaluation to determine fitness for duty by Town chosen physician.

RETURN TO WORK

When an employee is absent from work for three (3) or more consecutive days, the employee may be required (upon request by his or her Department Head / Manager or Human Resources)



to submit a written certification signed by a health care provider to substantiate the reason for absence. An employee may be required to submit a written certification from a health care provider substantiating the reason for absences of less than three days as determined by Human Resources or the Department Head / Manager / Manager.

OUTSIDE EMPLOYMENT WHILE USING SICK TIME

An employee using sick time for an absence from work may not work at another job during the duration of the absence when such outside employment is inconsistent with the reason for the employee's use of sick time. An employee must notify his or her Department Head / Manager and the Human Resources Director if he or she is employed in another position with an outside employer. Failure to disclose this information may lead to corrective action.

7.20 LONGEVITY PAY

Upon completion of every five years of continuous employment with the Town, –employees will receive a 5% bonus of his or her current earnings for the year immediately preceding the anniversary of employment. This is a lump sum amount not added to the employee's base rate of pay. Full time employees are eligible for longevity pay as long as they have been continuously employed (leaves of absence (FMLA etc.) do not count negatively against employee) with the Town. If you resign and then return to work with the Town a few years later, the years prior of work with the Town will not count towards years of longevity computation. Longevity pay is not pensionable.

7.21 RETIREMENT PENSION

The Town has its only Retirement Pension program. The Retirement board regulates this program. After one year of Full-time employment with the Town, general employees are required to contribute at least 2% of their salary to the Town's Retirement Plan. They may contribute a max of 10% of the annual salary. Please see Retirement Summary for detailed information.



SECTION 8: CLASSIFICATION, COMPENSATION AND PERFORMANCE MANAGEMENT

8.1 EMPLOYEE PERFORMANCE EVALUATIONS AND PROGRESSIVE PAY SYSTEM POLICY

The Town of Bay Harbor Islands has established a progressive pay system to motivate and reward employees according to their job performance and the contributions they make towards the accomplishment of Town goals and objectives. The purpose of the system is to also promote continuous improvement and quality performance through teamwork, assist in career development and advancement, identify individual training needs and to determine suitability for assignments, effectiveness in the assigned position and the ability for acquiring more responsibility. All employees should continually work together towards the mission, goals, and objectives of the Town.

Performance evaluations shall be a part of the procedure to determine various personnel actions, including, but not limited to, the following: salary increase or decreases, promotions, demotions, transfers, awards, separations or other personnel status changes.

The immediate supervisor shall complete a performance evaluation form. The supervisor shall meet with the employee to review and discuss the evaluation and shall provide the employee the opportunity to comment and ask questions. At the conclusion of the meeting, the employee shall be given the opportunity to write any comments in the space provided and to sign the form. The employee's signature signifies that the evaluation has been discussed and does not indicate that the employee agrees with the evaluation. The employee has the right to request an HR review of the rating. The rating may or may not be amended by the HR Manager if deemed necessary and just by the HR Manager or the HR Manager may leave the rating as is and if the rating score entitles the employee to a 0% or 2.5% merit, the employee will automatically receive a re-review at the 6-month mark from the date of the evaluation.

ELIGIBILITY

All employees are eligible for progressive pay based on their performance, as measured on the performance evaluations. All regular employees shall be evaluated at end of the year probationary period and annually thereafter on the employee's full-time date of hire anniversary. If an employee had more than one supervisor during a rating period, all concerned supervisors shall contribute to the evaluation. Progressive pay increases are not automatic and are based upon an employee's performance evaluations.

The availability of progressive pay increases is determined on an annual basis. If the Town Council does not approve funds for progressive pay increases as part of the annual budget, employees are not entitled to, and will not receive, a progressive pay increase for that year.



PROCEDURE

- 1.** Employees will meet with their immediate supervisor at least once a year to develop objectives and performance standards using criteria specific to the employee's position. Objectives must relate directly to the goals of the employee's assigned department which are aligned to the Town's strategic priorities.
- 2.** Annual employee performance evaluations are conducted at each employee's anniversary date. The anniversary date is the employee's original full time hire date or the date of the employee's reclassification, such as due to a promotion or change in position.
- 3.** Immediate supervisors have the primary responsibility for conducting employee evaluations. Employees who performed their duties under more than one supervisor during the rating period should be evaluated by the supervisor for whom the employee worked during the majority of the rating period. The supervisor preparing the evaluation should consult any other supervisor for whom the employee worked during the rating period in order to determine the most appropriate rating for one or all categories outlined in the performance evaluation. Each supervisor should sign the evaluation form.

PERFORMANCE RATINGS

The performance evaluation will rate each employee's performance of the duties of his/her position and the objectives and performance standards developed by the employee and supervisor, as well as competency in defined categories set in the performance evaluation. The ratings of the Performance Evaluation result in a numeric total score that determines the amount of merit which will be received. The max increase allowed is a 5% Merit increase. Those scores that result in a 0% or 2% Merit increase will automatically entitle the employee to a re-review of their performance 6 months from the date of the evaluation.

8.2 PERSONNEL FILES

Individual employee personnel files shall be maintained by the Human Resources Director in accordance with the Florida Public Records Statutes. Employees have the right to examine their personnel file in the Human Resource Department upon request and with reasonable notice. Employees have a right to inspect their personnel records during the hours of 9:00 AM and 5:00 PM Monday through Friday. This inspection must be done when the employee is off duty and at their expense, the employee may request copies of their records.

Except for routine administrative material, no paperwork will be inserted in an employee's personnel file without a copy being provided to the employee or placed in the employee's departmental mailbox. Removed documents shall be retained by the Town in a separate file



and may be used for any administration or lawful purpose. The Human Resources Director or designee shall be present during the examination.

As a courtesy, employees will be notified when the Town receives a public records request to review his or her personnel file.

8.3 IN-SERVICE TRAINING

It will be the responsibility of the Human Resources Director under the direction of the Town Manager to foster and promote in-service training of employees. The Human Resources Director shall develop training programs, award certificates or other forms of recognition, assist Department Head / Managers in developing programs to meet their particular needs and develop supervisory and management training programs for all departments.

8.4 RECLASSIFICATION

If a Department Head / Manager has facts which indicate that a position or positions are improperly classified, the Department Head / Manager may request the Human Resources Director to review the classification of the position. Such requests shall be in writing. The Human Resources Director shall conduct an analysis of the essential functions of the position and submit a written recommendation to the Town Manager which may amend the position if he/she deems necessary and just.

COMPENSATION PLAN ADMINISTRATION

Each employee shall be paid at the rates set forth in the pay plan for the classification in which he or she serves (attached).

8.5 COST OF LIVING ADJUSTMENT

Based on the availability of funds, employees may receive a salary increase effective October 1, based on a cost-of-living adjustment ("COLA"). The COLA takes into consideration changes to the Consumer Price Index, if approved by the Town Council, and the cost-of-living data and trends are a guide in making pay level adjustments.

8.6 PROMOTION

Employees promoted to a classification with a salary range higher than that of the previous classification shall be increased to the minimum in the new position's pay or salary range. If the employee's current rate of pay falls within the pay range of the classification being assumed, his or her pay rate shall be increased five percent (5%) so long as the resultant rate is still within the established range for the new position. A promotion shall establish a new anniversary date for the purpose of future performance evaluations and pay or salary reviews. Employees are



eligible for a promotional opportunity after one (1) year employed in his or her current position and is in good standing with the Town. The Town defines “good standing” as an employee who has not received any corrective action or other formal discipline, a performance improvement plan or unsatisfactory performance evaluation within the previous 12-month period. The one (1) year period may be waived at the discretion of the Town Manager should the employee be selected for a position in an Acting capacity.

8.7 TRANSFER POLICY

A transfer is a change in position to one that is in the same pay or salary range. When an employee applies to a posting for a vacant position that does not involve a promotion, the situation will be reviewed by the Department Head / Manager involved to determine whether such a transfer would be to both the employee’s and the Town’s best interest. The transfer shall not change an employee’s rate of pay.

An employee is eligible for a transfer if he or she has been employed in his or her current position for at least one (1) year and is in good standing. The Town defines “good standing” as an employee who has not received any corrective action or other formal discipline, a performance improvement plan or unsatisfactory performance evaluation within the previous 12-month period.

8.8 DEMOTION

Upon demotion, if the employee’s rate of pay in the previous class was more than the maximum rate established for the new class or position, the rate of pay shall be reduced to the maximum rate or to such intermediate step in the new pay range as may be determined by the Department Head / Manager and subject to the approval of the Town Manager. The action of demotion shall establish a new anniversary date for purpose of future salary consideration.

8.9 TEMPORARY SERVICE OUT OF RANK (TSOR)

A full-time employee who has been continuously assigned on a temporary basis to another classification for more than five (5) consecutive working days, will be temporarily transferred to that classification and may, as outlined below, have his or her pay temporarily adjusted for each continuing work day beyond the initial five (5) day period during which the temporary assignment continues as follows:

1. An employee temporarily transferred to a position classified at a higher pay grade will have their salary increased by five percent (5%) up to the maximum of the pay grade of the classification to which they are being temporarily transferred.
2. An employee temporarily transferred to a position classified at the same or lower pay grade will not have his or her pay rate adjusted because of the temporary transfer.



The duration of any temporary transfer will be of the minimum length necessary to meet the needs of the Town but shall not exceed six (6) consecutive calendar months for any one such transfer. Each such period of temporary transfer will be treated as a new event and be subject to the above guidelines.

8.10 ACTING DEPARTMENT HEAD / MANAGER

In the event of a vacancy or a leave of a Department Head / Manager position, the Town Manager may appoint an existing full-time employee to be the Acting Department Head / Manager for a maximum of two (2) six-month periods. Any employee appointed to an acting position for any designated period of time for more than five (5) consecutive working days, may receive a temporary salary increase of fifteen percent (15%) above his or her current salary for the days serving in an acting capacity.

8.11 DIRECTOR / MANAGEMENT VEHICLE ALLOWANCE

If budget allows for in each fiscal year, Director / Management Full Time employees may be granted a vehicle allowance of \$250 a month. The amount of vehicle allowance received per month for each fiscal year may be adjusted upward (not to exceed \$400 a month) by the Town manager if budget permits. Those employees that receive a take home vehicle will not receive a Vehicle Allowance. This is not a guaranteed benefit for Directors / Managers.

8.12 MILLEAGE REIMBURSEMENT

If an employee is not provided with a Town Vehicle or Management Vehicle Allowance and the employee is directed by their Department Head / Manager or designee to use their private vehicle for Town business (other than the employee's regular commute to and from work), it is the employee's responsibility to submit a mileage reimbursement form for each occurrence as soon as possible thereafter. The employee will be compensated at the rate established per mile by the I.R.S.

8.13 PER DIEM REIMBURSEMENT

Employees / Public Officers traveling for business purposes will be reimbursed as per the guidelines set forth below. Reimbursement shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency. The number of trips allowed is limited to appropriated funds. As part of the annual budget process each Department Director / Manager shall request funding for travel related to themselves and for any employees in their department to the Town Manager. Travel outside that approved through the annual budget process shall be approved on a case by case basis per the Town Manager if funding is available.



A **Travel Authorization form** must be completed and approved prior to the trip (with appropriate approvals) certain exceptions apply (see below).

1. A Travel Authorization form is **NOT** required for:
 - a. A Meeting of one day or less in which only, registration fees, parking fees, mileage reimbursements and/or other transportation charges are incurred. When claiming a "Travel Authorization form" exemption under this section, an expense report must be included.
 - b. Travel that does not require the expenditure of funds.
 - c. Webinars

Types of Travel & Reimbursement:

Reimbursement for travel will be in the amount of \$80 per day for Class A / B travel & \$20 Breakfast, \$20 Lunch & \$20 Dinner for Class C travel. Per diem expenses allowed are for food (no alcohol). Request for reimbursement must be submitted to the Chief Financial Officer as soon as possible or within 3 working days after return from travel. No receipts need to be provided for per diem.

Class A travel—Continuous travel of 24 hours (4 quarters of 6 hours each) or more away from official headquarters.

Class B travel—Continuous travel of less than 24 hours (4 quarters of 6 hours each) which involves overnight absence from official headquarters.

Class C travel—Travel for short or day trips where the traveler is not away from his or her official headquarters overnight.

Other Expenses:

Travel through commercial airline must be reasonably priced at the lowest airfare reasonably possible. Cancellations to airfare shall be reimbursed to the employee only for serious personal or work-related problems. Documentation must be in writing and proof of payment required.

Personal Vehicles used for travel outside of the tri-county area (even if car allowance is received) will be reimbursed for additional travel mileage expenses as allowed by the IRS; furthermore, gas expenses may be reimbursed, and proof of payment or extra mileage amount is required.

If using a town vehicle to travel for work purposes outside the tri-county area, gas expenses will be the only reimbursable expense. Rental cars are allowed in lieu of the use of personal cars only when the rental option is less expensive when compared to other types of transportation. Proof of rental payment is required.



Miscellaneous Expenses:

Miscellaneous expenses, including checked baggage, airport parking, taxi fares, hotel parking, sundries etc., may be claimed if circumstances indicate they are necessary for the traveler and approved by the employee's department director. An expense report must be included with reimbursement request & receipts must be provided.

1) The following expenses will be reimbursed (receipts need to be provided):

- a. Laundry fees after seven (7) consecutive nights
- b. Internet connection fees incurred to conduct Town business
- c. Hotel parking including valet if it is the only means to park a Town authorized rental or personal vehicle
- d. Up to one checked bag per travel when traveling one (1) to seven (7) days. For those traveling eight (8) or more days, two (2) checked bags may be allowed after Department Director/ Manager approval
- e. For travelers carrying work related materials, including overweight bags, the cost for those checked bags will be reimbursed; however, the need must be specified on the Travel Authorization form and checked bags receipts must be submitted with the reimbursement requests
- f. Meals offered by some airlines that requires payment.
- g. Bridge, road, tunnel, tolls and other fees. Original receipts are required.
- h. Fax, and telephone – for Town business
- i. Gratuities will be allowed but are not to exceed 15% for meals and taxis. Original receipts are required

2) The following expenses will **NOT** be reimbursed:

- j. Alcoholic beverages
- k. Personal phone calls
- l. Parking, moving and/or traffic violations
- m. Movie rentals
- n. Florida Sales tax when it is the result of the traveler's failing to provide a Florida Sales tax exemption certificate
- o. Unauthorized claims – those incurred without prior approval and/or



documentation

- p. Airline add-on fees (e.g. extra legroom fees, priority boarding fees, etc.). Exceptions are allowed with the Department Director / Manager's approval



SECTION 9: LEAVING THE TOWN

9.1 RESIGNATIONS

If an employee decides to voluntarily resign, he or she is requested to provide the Town with at least two weeks prior written notice to his/her Department Head / Manager or Human Resources. If circumstances warrant, the Town may elect to shorten employee's notice period.

9.2 LAY OFF

Any employee may be laid off from employment with the Town due to reasons which include, but are not limited to, shortage of work or funds, the elimination of a position or organizational changes. If a layoff is expected, the Town will attempt to communicate information about an impending layoff as soon as possible. If an employee is laid off from employment, the employee will receive separation pay equal to two weeks' pay/salary. Payout for any other unused time will be consistent with Town policy.

9.3 TERMINATION FROM EMPLOYMENT

If a supervisor, Department Head / Manager recommends an employee for termination from employment, the employee can request to meet with the Town Manager prior to the final decision being made concerning the employee's employment. An employee may be suspended or placed on administrative leave pending the Town Manager's review of the termination recommendation. The Town Manager makes the final decision regarding employee terminations from employment.

9.4 EXIT INTERVIEWS

The purpose of the exit interview is to provide management with information that will help identify potential risks and help keep the Town of Bay Harbor Islands a pleasant and efficient place to work. Each employee who resigns from the Town shall be asked to complete an exit interview with the Human Resources Director at or before the time he or she receives the final paycheck and returns all Town property, including identification and keys.

9.5 RETURN OF TOWN'S PROPERTY

Employees separating from the Town for any reason shall, prior to separation, return all Town-owned property and equipment in his or her possession. The cost of replacing or repairing any items lost or damaged while in the possession of the employee shall be deducted from any pay and benefits held by the Town, as permitted by applicable law.



APPENDIX

EMPLOYEE RESOURCES

Frequently used services for employees and their families

Equal Employment Opportunity Commission

www.eeoc.gov

1-800-669-4000

Office of Personnel Management

www.opm.gov

202-606-1800

Social Security Administration

www.ssa.gov

1-800-772-1213

Government Benefits: Healthcare, Housing, Financial Assistance, and Social Security

www.benefits.gov

1-800-333-4636

Miami-Dade County Community Action and Human Services

www.miamidade.gov

311 or 305-468-5900

The United States Department of Justice

www.justice.gov

202-353-1555

Miami-Dade County Commission on Ethics

www.ethics.miamidade.gov

305-579-2594



SECTION 10: ACKNOWLEDGEMENT OF RECEIPT OF EMPLOYEE HANDBOOK

I have received the current Town of Bay Harbor Islands Policies & Procedures Manual. I have read and understand the material covered. I have had the opportunity to ask questions about the policies in this Manual, and I understand that any future questions that I may have about the handbook or its contents will be answered by the Town Manager or his or her designated representative upon request. I agree to and will comply with the policies, procedures, and other guidelines set forth in the Handbook. I understand that The Town of Bay Harbor Islands reserves the right to change, modify, or abolish any or all of the policies, benefits, rules, and regulations contained or described in the handbook as it deems appropriate at any time, with or without notice. I acknowledge that neither the Handbook nor its contents are an express or implied contract regarding my employment.

I further understand that, unless as set forth by collective bargaining agreement addressing terms and conditions of Town Employment, all employees of the Town, regardless of their classification or position, are employed on an at-will basis, and their employment is terminable at the will of the employee or the Town at any time, with or without cause, and with or without notice. I have also been informed and understand that, other than as negotiated by the Town Manager and as approved by the Town Council, no officer, agent, representative, or employee of the Town has any authority to enter into any agreement with any applicant for employment or employee for an employment arrangement or relationship other than on an at-will basis and nothing contained in the policies, procedures, handbooks, or any other documents of the Town of Bay Harbor shall in any way create an express or implied contract of employment or an employment relationship other than one on an at-will basis.

Signature

Date

Employee Name: Printed

Town of Bay Harbor Islands Human Resources Signature

Date

Town of Bay Harbor Islands Human Resources Printed Name