

# BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council**

Regular Meeting Agenda

April 9, 2024

At 6:30 PM

Bal Harbour Village Hall • Council Chamber • 655 96th Street • Bal Harbour • Florida 33154

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*This meeting will be conducted in person. The meeting will also be broadcast on our website at <https://balharbourfl.gov/government/village-clerk/minutes-and-agendas/>. Members of the public are also encouraged to participate by email ([meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov)) or by telephone at 305-865-6449.*

*BHV Who We Are, Vision, Mission, Values / The Bal Harbour Experience  
[The Bal Harbour Experience.pdf](#)*

### **CALL TO ORDER/ PLEDGE OF ALLEGIANCE**

### **REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS**

### **PRESENTATIONS AND AWARDS**

**PA1** Autism Acceptance Month - Proclamation

### **CONSENT AGENDA**

### **C6 - COUNCIL MINUTES**

**C6A** Approval of Minutes

[VillageCouncilRetreatMinutes\\_February22-23\\_2024.pdf](#)

[VillageCouncil-RegularCouncilMeetingMinutes\\_Feb20\\_2024.pdf](#)

[VillageCouncil-RegularCouncilMeetingMinutes\\_March5\\_2024.pdf](#)

[VillageCouncil-SpecialCouncilMeetingMinutes\\_March27\\_2024.pdf](#)

## C7 - RESOLUTIONS

- C7A** Accepting Liquor License Balmoral Restaurant LLC - 9801 Collins Avenue  
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE BALMORAL RESTAURANT APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO FOR A 2COP LICENSE IS COMPATIBLE WITH VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Balmoral Restaurant LLC Liquor License ADA.pdf](#)

[Memorandum - Balmoral Restaurant LLC Liquor License ADA.pdf](#)

[Resolution - Balmoral Restaurant LLC Liquor License ADA.pdf](#)

[Attachment - Balmoral Restaurant LLC ABT-6001 2COP Application.pdf](#)

[Attachment - Balmoral Restaurant LLC Letter Liquor License ADA.pdf](#)

- C7B** Approving Security & Landscape Assessment Methodology Analysis - The Balmoral Group

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM THE BALMORAL GROUP TO CONDUCT ANALYSIS OF THE METHOD USED TO ALLOCATE THE SECURITY AND LANDSCAPE ASSESSMENT IN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR VILLAGE, FLORIDA, AS DETAILED WITHIN THE BALMORAL GROUP PROPOSAL DATED MARCH 20, 2024, IN THE AMOUNT NOT TO EXCEED ELEVEN THOUSAND NINE HUNDRED DOLLARS (\$11,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Security & Landscape Assessment Methodology Analysis ADA.pdf](#)

[Memorandum - Security & Landscape Assessment Methodology Analysis ADA.pdf](#)

[Resolution - Security & Landscape Assessment Methodology Analysis ADA.pdf](#)

[Attachment - TBG Gated Assessment Quote 20240320 ADA.pdf](#)

[Attachment - BHCA Assessment Review Agreement Minutes 021424 - Signed ADA.pdf](#)

- C7C** Approving Vessel Exclusion Zone Analysis - Cummins Cederberg  
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM CUMMINS CEDERBERG FOR THE PROVISION OF MARINE ENGINEERING AND ENVIRONMENTAL CONSULTING SERVICES, TO ANALYZE THE CREATION OF A VESSEL EXCLUSION ZONE AND OTHER MITIGATION OPTIONS, IN THE WATERS OF BISCAYNE BAY WITHIN AND ADJACENT TO VILLAGE CONTROLLED WATERS, AS DETAILED IN THE CUMMINS CEDERBERG PROPOSAL NO. 77815-R1, IN THE AMOUNT NOT TO EXCEED TWENTY-EIGHT THOUSAND NINE HUNDRED DOLLARS (\$28,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Vessel Exclusion Zone Analysis ADA.pdf](#)

[Memorandum - Vessel Exclusion Zone Analysis ADA.pdf](#)

[Resolution - Vessel Exclusion Zone Analysis ADA.pdf](#)

[Attachment - Proposal for Vessel Exclusion Zone 77815-R1 ADA.pdf](#)

- C7D** Acceptance of Final Vulnerability Assessment  
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE FINAL VULNERABILITY ASSESSMENT, IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT WORKPLAN NO. 22PLN61; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Final Vulnerability Assessment Acceptance ADA.pdf](#)  
[Memorandum - Final Vulnerability Assessment Acceptance ADA.pdf](#)  
[Resolution - Final Vulnerability Assessment Acceptance ADA.pdf](#)  
[Attachment - Vulnerability Assessment 2024 ADA.pdf](#)

- C7E** Approving Harbourfront Park Phase III Florida Inland Navigation District (FIND) Grant Acceptance

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE SUBMISSION AND ACCEPTANCE OF A FLORIDA INLAND NAVIGATION DISTRICT (FIND), "WATERWAYS ASSISTANCE PROGRAM" GRANT FOR THE HARBOURFRONT PARK PHASE III STRUCTURAL PROJECT, IN THE ESTIMATED GRANT FUNDED AMOUNT OF THREE MILLION DOLLARS (\$3,000,000); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Harbourfront Park Phase III FIND Grant Acceptance ADA.pdf](#)  
[Memorandum - Harbourfront Park Phase III FIND Grant Acceptance ADA.pdf](#)  
[Resolution - Harbourfront Park Phase III FIND Grant Acceptance ADA.pdf](#)  
[Attachment - Village Harbourfront Park WAP 2024 Application ADA.pdf](#)

## **R5 - ORDINANCES**

- R5A** Ordinance - Live Local Regulations (Second Reading)  
AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH AND AMEND PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023, AS AMENDED) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

[Item Summary - Live Local Regulations ADA.pdf](#)  
[Memorandum - Live Local Regulations ADA.pdf](#)  
[Ordinance - Live Local Regulations ADA.pdf](#)  
[Attachment - Notice of LPA & Second Reading ADA.pdf](#)

**R5B** Ordinance - Amend Noise Regulations (Second Reading)  
AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.  
[Item Summary - Noise Regulations ADA.pdf](#)  
[Memorandum - Noise Regulations ADA.pdf](#)  
[Ordinance - Noise Regulations ADA.pdf](#)  
[Attachment - Notice of LPA & Second Reading ADA.pdf](#)

**R5C** Ordinance - Amend Parking of Commercial Vehicles (First Reading)  
AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE I "IN GENERAL", "SECTION 19-7 "PARKING OF COMMERCIAL VEHICLES AND VEHICLES DISPLAYING SIGNAGE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.  
[Item Summary - Parking of Commercial Vehicles ADA.pdf](#)  
[Memorandum - Parking of Commercial Vehicles ADA.pdf](#)  
[Ordinance - Parking of Commercial Vehicles ADA.pdf](#)

**R5D** Ordinance - Prohibiting Motorized Means of Transportation on Sidewalks and Beach Path (First Reading)  
AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 10, "MARINE STRUCTURES, ACTIVITIES AND WAYS," ARTICLE II, "USE OF PUBLIC BEACHES," SECTION 10-31 "PROHIBITED ACTS" AND CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE II, "OPERATION OF VEHICLES," SECTION 19-27 OF THE VILLAGE CODE RELATING TO THE OPERATION OF MOTORIZED VEHICLES AND DEVICES ON PATHS AND SIDEWALKS; AMENDING SECTION 2-191, "SCHEDULE OF CIVIL PENALTIES" OF CHAPTER 2 "ADMINISTRATION" TO CREATE RELATED PENALTIES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.  
[Item Summary - Prohibiting Motorized Means of Transportation ADA.pdf](#)  
[Memorandum - Prohibiting Motorized Means of Transportation ADA.pdf](#)  
[Ordinance - Prohibiting Motorized Means of Transportation ADA.pdf](#)  
[Attachment - Council Meeting Minutes February 15, 2022 ADA.pdf](#)

## **R7 - RESOLUTIONS**

**R7A** Bal Harbour Village General Election - November 5, 2024  
A RESOLUTION CALLING FOR A GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, IN BAL HARBOUR VILLAGE FOR THE PURPOSE OF ELECTING TWO VILLAGE COUNCILMEMBERS FROM VILLAGE COUNCIL DISTRICTS 2 AND 4; PROVIDING THAT MIAMI-DADE COUNTY ELECTIONS DEPARTMENT SHALL CONDUCT SAID ELECTION; PROVIDING THAT THE



VOTING PRECINCT FOR SAID ELECTION SHALL BE ESTABLISHED BY MIAMI-DADE COUNTY; PROVIDING FOR NOTICE OF SAID ELECTION; PROVIDING FOR A RUNOFF ELECTION, IF NECESSARY; PROVIDING FOR THE FORMS OF BALLOT AND REGISTRATION OF VOTERS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR PAYMENT FOR CONDUCTING ELECTIONS TO MIAMI-DADE COUNTY.

[Item Summary - 2024 General Municipal Election ADA.pdf](#)  
[Memorandum- 2024 General Municipal Election ADA.pdf](#)  
[Resolution - 2024 General Municipal Election ADA.pdf](#)

- R7B** Resolution For Ice Cream We Love 2024 Sponsorship  
A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE SPONSORSHIP OF UP TO \$50,000 FOR THE ICE CREAM WE LOVE EVENT AT THE BAL HARBOUR SHOPS TO BENEFIT THE HOLTZ CHILDREN'S HOSPITAL / UNIVERSITY OF MIAMI-JACKSON HEALTH SYSTEM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

[Item Summary - Ice Cream We Love 2024 ADA.pdf](#)  
[Memorandum - Ice Cream We Love 2024 ADA.pdf](#)  
[Resolution - Ice Cream We Love 2024 ADA.pdf](#)  
[Attachment - ICWL Sponsorship Program Details ADA.pdf](#)

## **R9 - NEW BUSINESS AND COUNCIL DISCUSSION**

- R9A** Discussion Item - Update on the Boat Issues Off the Bal Harbour Sandbar - Councilman Buzzy Sklar  
[Update on the Boat Issues Off the Bal Harbour Sandbar - Councilman Buzzy Sklar ADA.pdf](#)

- R9B** Discussion Item - Artificial Turf Inside The Gated Community - Councilman David Wolf  
[Artificial Turf Inside The Gated Community - Councilman David Wolf ADA.pdf](#)

## **R9C - PUBLIC COMMENT**

## **R10 - VILLAGE MANAGER REPORT**

## **R11 - VILLAGE CLERK REPORT**

- R11A** Lobbyist Report  
[R11A1\\_Lobbyist Registration Report as of April3\\_2024.pdf](#)

## **R12 - VILLAGE ATTORNEY REPORT**

### **R12A** Monthly Attorney Report [February - Monthly Attorney Report ADA.pdf](#)

## **END OF REGULAR AGENDA**

## **ADJOURNMENT**

One or more members of any Village Committee/Board may attend this meeting of the Council and may discuss matters which may later come before their respective Boards/Committees.

The New Business and Council Discussion Section includes a section for Public Comment. On public comment matters, any person is entitled to be heard by this Council on any matter; however, no action shall be taken by the Council on a matter of public comment, unless the item is specifically listed on the agenda, or is added to the agenda by Council action.

Any person who acts as a lobbyist, pursuant to Village Code Section 2-301 (Lobbyists), must register with the Village Clerk, prior to engaging in lobbying activities before Village staff, boards, committees, and/or the Village Council. A copy of the Ordinance is available in the Village Clerk's Office at Village Hall.

If a person decides to appeal any decision made by the Village Council with respect to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, 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 (F.S. 286.0105).

All persons who need assistance or special accommodations to participate in virtual meetings please contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this proceeding because of that disability should contact the Village Clerk's Office (305-866-4633), not later than two business days prior to such proceeding.

All Village Council meeting attendees, including Village staff and consultants, are subject to security screening utilizing a metal detector and/or wand, prior to entering the Council Chamber, Conference Room, or other meeting area located within Village Hall. This is for the safety of everyone. Thanks for your cooperation.

# BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council**

Retreat Minutes

February 23, 2023 from 9:00 AM until 6:30 PM

and

February 24, 2023 from 9:00 AM until 5:00 PM

Sea View Hotel • 9909 Collins Avenue • Bal Harbour • Florida 33154

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### **Thursday, February 22, 2024**

**CALL TO ORDER** - Mayor Freimark called the Retreat to order at 9:27 AM.

The following were present:

Mayor Jeffrey Freimark  
Vice Mayor Seth Salver  
Councilman David Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Also present:

Jorge M. Gonzalez, Village Manager  
Dwight S. Danie, Village Clerk  
Susan Trevarthen, Village Attorney  
Ramiro Inguanzo, Assistant Village Manager  
Dr. Rick Jensen, Retreat Facilitator

Dr. Jensen provided an overview of the 2-day agenda and reviewed the ground rules for engagement. He then reviewed the DISC (Dominance, Influence, Steadiness, Conscientiousness) profiles of those present and conducted a brief discussion on how those falling in different quadrants might interact under different scenarios.

Mr. Gonzalez provided an update of the Bal Harbour Shops January 9, 2024, application for a proposed expansion pursuant to the 2023 Live Local Act. He described what was happening with the State Legislature's actions with a "glitch bill" proposed to amend and clarify the 2023 bill. He then reviewed the ordinances considered by the Council at the February 20, 2024, Village Council Meeting and how they were intended to allow the Shops to proceed with their application in a uniform, equitable and predictable manner.

After lunch, Mr. Gonzalez provided an update on the Village’s amendments to its noise ordinance that would include certain restrictions on all Federal holidays and would allow for a grace period to provide time for community education.

Dr. Jensen presented an example using Tiger Woods data that showed how team support was important for high performance.

Mr. Gonzalez suggested that the Council keep its same priorities from 2023, which were the following.

<b>Proposed Priorities for 2024/2025</b>
Bal Harbour Shops Live Local Application Review & Process (including expected litigation)
Zoning Amendments Implementation: OF, Parking, LLA (along with further review of zoning code)
Jetty/Cutwalk, design, bidding & construction
New Village Hall Architect Solicitation & Design
Waterfront Park Punch List & Closeout
Utility Infrastructure Projects (5a, 5b, 5c, 6a, 6b, & 7)
Tourism & Marketing Strategic Plan Implementation
Sustain Traffic Enforcement
Beach Renourishment (advocacy & coordination)
Planning Study on West Side of Collins Avenue
Tahoma & Fairfield Zoning overlay
Jetty/Cutwalk, design, bidding & construction
Planning Study - west side of Collins

<b>Projects Deferred to the Future</b>
Stormwater Capital Plan (Pump Station Upgrades)
Waterfront Park Phase B (Old Village Hall Site Des/Dev)
Collins Corridor Master Plan
Beachside Master Plan (Hardpack & Jogging Trail)
Increase LOS Beach Maintenance & Cleanliness

Councilman Wolf said that beach renourishment was now a high priority. There was a general consensus keep the same priorities and to ask Danielle Irwin, Cummins Cederberg, to provide an update to the Council. Councilman Sklar added that he would like to have an explanation of the beach groins added to that discussion.

Matilde Reyes, Capital Program Director presented a Gantt chart showing the timeline of capital projects. She then described issues with obtaining the Certificate of Occupancy for the Bal Harbour Waterfront Park, saying that another allocation of funds might be

necessary. There was a general discussion on whether, or not, to pursue an insurance claim or legal action on errors and omissions with either the contractor or architect of record.

Ms. Reyes then provided an update on the Jetty/Cutwalk and Harbourfront Park project saying that due to the complexity of the project, the Village would be using a Construction Management at Risk (CMAR) process to further protect the Village. She said that an RFQ had been issued this February and she expected a notice-to-proceed in September and that the estimated cost of the project would be between \$23 and \$24 million.

She then began a discussion on the project for the New Village Hall saying that the Village plans to issue an RFQ in March for the selection of new architect. Mr. Gonzalez said that given the recent presentation by Cummins Cederberg regarding the future of water levels, beach erosion and sustainability, that he was exploring options to address the height issue for the proposed project, which would include police operations and an emergency operations center. There was a general consensus from the Council that the height of the new Village Hall should not be limited, and that the Administration should explore the recent State legislation prohibiting zoning by referendum and bring recommendations back to the Council in a subsequent meeting.

Sylvia Flores, Sylvia Flores, Director of Recreation, Arts, and Culture said that the Park had received its TCO on December 18, 2023, opened for tours on December 27 and launched full hours of operation on January 6, 2024. She said the community response was beyond expectations and that she had received over 1,000 applications. She said that senior programming has been the most popular and based on community surveys, there are strong interests in art, basketball, cooking, music, soccer, and swimming. She reviewed the Community Center Management Plan, and asked Councilmembers for their input on policy decisions regarding park operations and whether non-residents should be able to participate in programming. Mr. Gonzalez added that the consultants from Ernst Young (EY) working on the Tourism Strategic Plan will be making recommendations regarding park utilization by hotel guests. There was a general consensus to maintain the current resident policy until logistics regarding non-residents could be fully vetted and to address the issue again after EY has presented. The Council also agreed that Ms. Flores should be able to decide fee schedules for dates where demand is high.

The Council recessed the Retreat at 5:30 P.M., February 22, 2023.

### **Friday, February 23, 2024**

The Retreat was reconvened at 9:30 A.M. on February 23, 2024. Dr. Jensen reviewed the agenda for the day.

Mr. Gonzalez provide an update on the Legislature regarding the schedule for the Live Local Act bill.

Dr. Jensen presented a video that explored elements of leadership during rough times, featuring Peyton Manning, after which councilmembers provided input on what is needed to keep performing such as: having each other's back, staying in the game, keep fighting when losing, continuing to learn, and identifying go-to teammates.

Robbie Karver, Ryan Foster and Michelle Zaidensztat from Ernst Young (EY) provided an update on their work on the Tourism Strategic Plan saying that they had been engaging with Bal Harbour stakeholders and that they had been leveraging a number of marketing data sources including geolocation data. He reviewed the different categories for gathering data including lodging, retail, attractions, governance, e-branding, and marketing.

He said that he estimates show that Bal Harbour receives about two million visitors per year after which he showed from where the visitors were coming. He then compared Bal Harbour data to the greater Miami saying that there is an opportunity to engage visitors from the UK, France, Germany, and the rest of Europe (internationally), and Los Angeles and Southern California (domestically).

Mr. Foster then presented examples of geolocation data collected from cell phone pings, that also captured census tract, median income, education level, age, and source market, showing how visitor movement and clustering could be studied. He said that they were also examining seasonality to explore ways to lessen the off-season lull in Bal Harbour. He then described their analysis regarding competitor luxury destinations like Aspen and Cannes (non-seasonal visitors) and Beverly Hills (branding) and their use of tourism partnerships and sister and twin city programs, and their key success factors and marketing efforts. He said that the strategic plan would include recommendations for the sequence and prioritization of outcomes in which the Village should invest.

He described the leading themes of the plan as being: Recognizable Events, Partnerships, Updated and Relevant Lodging Options, and Global Travel, adding that the Bal Harbour brand was great, and that the Village should continue to reinforce the positives while reinventing a little going with the tide.

For action items he suggested acquiring tourism data, viewing the Village as being two destinations with this side having a dedicated focused plan. For the hotel side, he suggested allowing hotel guests limited access to the Waterfront Park as an added amenity, adding that a logistics plan to do so would be required.

Mr. Gonzalez provided an update on the Rivage Condominium contribution and the ongoing negotiations with the Oceana, saying that the one million dollars offered could be used for funding a playground before or after the Jetty project. The Council gave guidance to pursue negotiations with the Rivage regarding their restaurant request.

He then provided an update on previous Council discussions regarding the possibility of the creation of a stormwater fund and the implementation of Stormwater User Fees. He

said that the stormwater system for the Gated Community was separate from the FDOT system serving buildings along Collins Avenue and 96th Street. A general discussion ensued regarding a separate assessment for the Gated Community after which there was a general consensus to create a stormwater fund funded by a new utility assessment for the Gated Residential Community and a contribution (pro-rata) from the General Fund, the amount of each portion to be determined.

Dr. Jenson then provided Councilmembers the opportunity to have an open discussion.

Councilman Albaum suggested that the Village explore the use of artificial intelligence, saying that other communities are beginning to utilize AI in areas like the review of building plans.

Vice Mayor Salver suggested that the Village sit down and work with synagogues and the future of construction along the west side of Collins Avenue.

Councilman Sklar suggested that the Village begin to focus on a clean-up of the Village Code and Charter.

Councilman Wolf suggested having additional opportunities for the Council to have open discussion.

**ADJOURNMENT:** The Retreat was adjourned at 3:02 PM.

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Mayor Jeffrey Freimark



Attest:

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Dwight S. Danie, Village Clerk





# BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council**

Regular Meeting Minutes

February 20, 2024

At 6:30 PM

Sea View Hotel - Crystal Ballroom -9909 Collins Avenue • Bal Harbour • Florida 33154

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*This meeting was conducted in person. The meeting was also streamed via Zoom for viewing only. Members of the public are also encouraged to participate by email ([meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov)) or by telephone at 305-865-6449.*

**CALL TO ORDER/ PLEDGE OF ALLEGIANCE** - Mayor Freimark called the meeting to order at 6:31 P.M.

The following were present:

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman David Wolf (6:41 P.M.)  
Councilman Buzzy Sklar

Also present:

Jorge M. Gonzalez, Village Manager  
Dwight S. Danie, Village Clerk  
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Freimark.

## **REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS**

Mayor Freimark announced that Agenda Item PA3 would be presented after the ordinance items and that Agenda Items R5B, R5C, R5D would be presented and considered concurrently, followed by Agenda Item R5E, and that Agenda Item R5A would be considered after R5E.

Mayor Freimark thanked Raj Singh and the Sea View team for hosting the meeting and acknowledged Village Staff efforts in organizing the event.

He then reviewed meeting protocol and asked members of the public to refrain from discussing legal strategies and focus their comments on matters on the Agenda.

## **PRESENTATIONS AND AWARDS**

### **PA1** Steve Scott - Commemoration

Councilman Sklar commemorated the passing of Steve Scott, his longtime friend and colleague and Vice Chair of the Village's Resort Tax Committee.

### **PA2** Black History Month - Proclamation

Mayor Freimark read a proclamation celebrating the month of February 2024 as Black History Month.

### **PA3** Beach Management & Erosion Update - Cummins Cederberg

This item was presented at 8:09 P.M. following Agenda Item R5A.

Mr. Gonzalez introduced the item saying that beach erosion was a year-round issue. He said Cummins Cederberg, the Village's coastal engineering firm manages various tasks including beach renourishment. He introduced Danielle Irwin, Cummins Cederberg, and Alberto Pisani, Miami-Dade County RER-DERM.

Ms. Irwin provided an outline of the program's growth which included quarterly beach inspections and drone surveys, monitoring dune conditions, erosion and shoreline changes. She describe other activities including an annual seabird and shorebird count and sea turtle census.

They provide visual representations of the data collected through drone surveys and discuss the natural seasonal patterns of beach erosion and recovery. Additionally, they highlight the role of federal government involvement in beach nourishment projects due to the village's proximity to a managed federal inlet.

She emphasized the importance of monitoring beach nourishment activities, which are conducted by the Army Corps in partnership with the county. She said the last renourishment project took place in 2022, bringing 176,000 cubic yards of sand from dredging and upland mines, but due to erosion from storm seasons in 2022 and December 2023, it was time for another project, to be funded entirely by federal resources.

She said this "FCCE" project, focused on flood control and coastal erosion, would rebuild the beach entirely, similar to the 2022 project and that the cost of sand alone for this volume is estimated at over \$8.5 million. She said the reauthorization of the Village's beach nourishment project, which has been ongoing since 1975 and was set to sunset in 2025 and that the Federal Water Resources Development Act of 2022 reauthorized the project for another 50 years and allocated funding for it in WERDA 2024. She described the

project which encompasses the Bal Harbour, Surfside and Miami Beach, and Additionally the back bay areas of Miami-Dade County.

Mr. Pisani reviewed coastal erosion and water level monitoring in the Village. He highlighted the impact of recent storms on beach erosion and discussed the discrepancy between observed water levels and NOAA predictions, attributing it to sea level rise and atmospheric effects. He said the data collected informs grant applications for resilience projects. Leonard said the recent "nor'easter" event, had a significant flooding impact and its resemblance to a named storm despite not being classified as one. He presented wind rose plots showing abnormal wind patterns during the December 2023 event, contributing to beach erosion.

Ms. Irwin described short-term measures, such as smoothing out contours that are undertaken with county assistance adding that long-term solutions are necessary, like like the US Army Corps flood control and erosion repair project planned for 2025. She emphasized the need for coordinated efforts to address ongoing erosion challenges effectively.

She outlined several key points regarding long-term solutions to address beach erosion and related issues:

- Coordination with developers: The Village is in discussion with developers regarding the placement of sand material to address erosion and recommendations have been made to concentrate sand in areas of greatest need rather than spreading it thinly across the entire beach.
- Long-term solutions: Various options for long-term beach nourishment solutions have been explored, including groin field redesign.
- Groin field redesign: The Village is considering redesigning the groin field to enhance its effectiveness in retaining sand and preventing erosion and discussions are ongoing with the County regarding covering exposed groins to ensure public safety.
- Sargassum management: The county collects Sargassum when it washes ashore, particularly in hotspot areas, to maintain beach cleanliness.
- Overall, the presentation emphasizes the importance of coordinated efforts between various stakeholders to address beach erosion and related challenges effectively.

She described the State regulations regarding setbacks from seagrass acknowledging the need to consider feasible areas for dredging while complying with these regulations. She said that if seagrass is protected, dredging may not be allowed, but if it's not protected, it could be an option to remove the nuisance, adding that dredging alone might not solve the entire problem. Councilmembers commended Ms. Irwin on her very comprehensive and well-thought out presentation.

## CONSENT AGENDA

The Consent Agenda was considered at 6:35 P.M following Agenda Item PA2.

## C6 - COUNCIL MINUTES

January 16, 2024, Regular Council Meeting Minutes  
February 2, 2024, Special Council Meeting Minutes

## C7 - RESOLUTIONS

**C7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE, SUBMITTED BY MICHAEL KOSNITZKY AS TRUSTEE OF 196 BAL BAY LAND TRUST DATED JUNE 17, 2021, FOR THE PROPERTIES LOCATED AT 192 BAL BAY DRIVE AND 196 BAL BAY DRIVE, BAL HARBOUR FLORIDA, 33154, IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**C7B** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE SUBMITTED BY JEROME AND DEBBIE FALIC IN THE R-2 SINGLE FAMILY RESIDENTIAL DISTRICT OF THE VILLAGE LOCATED AT 209 BAL BAY DRIVE AND 160 BISCAY DRIVE, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO LOTS INTO ONE LOT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**C7C** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE AGREEMENT BETWEEN THE VILLAGE AND CONCRETE PRO INC., FOR THE RESTORATION OF THE JOGGING PATH, AS DETAILED WITHIN PROPOSAL NO. 23.1145.R2.BAL, IN THE AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND ONE HUNDRED NINETY THREE DOLLARS (\$55,193); INCLUSIVE OF A TEN PERCENT (10%) CONTINGENCY ALLOCATION IN THE AMOUNT OF FIVE THOUSAND EIGHTEEN DOLLARS (\$5,018), ROUNDED UP TO THE NEAREST DOLLAR; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the Consent Agenda was moved by Councilman Buzzy Sklar and seconded by Vice Mayor Seth E. Salver.**

**VOTE: The Motion passed by unanimous voice vote (4-0), with Councilman Wolf not being present.**

## R5 - ORDINANCES

**R5A** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING SECTION 2-384 "NOTICE BY PUBLICATION AND NOTICE BY MAIL; SECTION 6-61 "ESTABLISHMENT; DURATION; TERMINATION"; SECTION 18-116 "PUBLICATION OF RESOLUTION"; SECTION 18-117 "ASSESSMENT ROLL"; SECTION 21-52 "SAME-PUBLIC HEARING; NOTICE OF VILLAGE COUNCIL AND LOCAL PLANNING AGENCY HEARINGS" OF THE VILLAGE'S CODE TO REMOVE THE REQUIREMENT OF NEWSPAPER OF GENERAL CIRCULATION AND AUTHORIZE PUBLICATION IN ACCORDANCE WITH CHAPTER 50, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

This item was considered at 7:57 P.M. following agenda item R5E.

Mr. Gonzalez introduced the item saying that the ordinance would amend Village Code to allow for electronic publication of legal public notices due a recent change in by the Florida Legislature and discontinuation printed ads by the Daily Business Review. He said the Village will next wait for the County mention waiting for its authorization before implementing the change.

**MOTION: A motion to approve the ordinance on second reading was moved by Vice Mayor Seth E. Salver and seconded by Councilman Buzzy Sklar.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

Councilman Wolf Arrived at 6:41 P.M.

## **AGENDA ITEMS R5B, R5C and R5D**

The Village Clerk read the titles for Ordinances R5B, R5C and R5D. Mr. Gonzalez reviewed the application submitted the Bal Harbour Shops under the Live Local Act of 2023 for a residential mixed-use project. He said that the application had been deemed incomplete, and that the Shops had been informed accordingly. He described the ongoing legislative activity in Tallahassee regarding proposed amendments to the Act, which might affect zoning regulations.

He said that these proposed ordinances emphasize the need for clarity and predictability in implementing the Act, ensuring compliance with state and local land development regulations, adding that proposed ordinance amendments aim to address potential abuses and maintain the character and quality of life in the community, equality and accessibility in affordable housing developments, with provisions for equal access to amenities, parking, and quality of construction. He added that the Village also retains the right to audit as necessary.

He said that the amendments to the Oceanfront District, including a reduction in floor area ratio (FAR) calculation and the introduction of a bonus system for oceanfront development and allowed for parcels of up to four acres for the PD designation instead of the current five acres and that multifamily requirements, would be shifting from a square footage-based to one based on the number of bedrooms.

Michael Miller, the Village's Zoning Consultant, Michael Miller Planning Associates, said that he had examined various factors such as parking, setbacks, community layouts, charters, plats, and comprehensive plans to develop recommended zoning code amendments.

Ms. Trevarthen offered a correction the Live Local Act Ordinance, clarifying that it should state "does not exceed 35 percent" instead of "exceeds 35 percent."

Mr. Gonzalez said that the Shops had sent correspondence expressing opposition to the ordinances adding that no specific suggestions for improving the ordinances were provided.

Richard Alman, 44 Bal Bay Drive asked for further clarification of the regulations being discussed.

Babak Raheb, 128 Balfour Drive, expressed his concern that about giving up the right to challenge the Live Local Act itself. He asked if the proposed construction met green space requirements and expressed his concern for regarding the infrastructure for water and electricity. He suggested including penalties for non-compliance.

Neca Logan, 64 Camden Drive, commended the Council's efforts in enacting ordinances to address the challenges faced by coastal communities. She also expressed her concern for the sustainability of infrastructure, such as traffic, sewer systems, water, electricity, and schools.

Sophie Delaplaine, 90 Park Drive, thanked the Council for addressing community concerns and acknowledged its challenge in tackling the significant impact on the residents from noise and traffic.

Beth Berkowitz, 10160 Collins Avenue, thanked the Council and Staff for the work they had done a stellar job.

Peter Willis, 10295 Collins Avenue, thanked the Council and everyone involved for their efforts. He said the focus should be on infrastructure and traffic issues and expressed his concern for the lack of equity in the proposed plan in respect to concurrency.

Sheila Yoon, 10275 Collins Avenue, thanked the Council and Staff and offered her support.

Retta Logan, 9142 Dickens Avenue, Surfside, thanked the Council and expressed her concern regarding the Act's impact on coastal cities, citing issues such as limited green space, sewer problems, and overcrowding.

Nina Rudolph, 212 Bal Bay Drive, thanked the Council and Staff for their efforts, and recognized the importance of the Communities united stance on the issue, and offered her support in any necessary efforts.

Sheila Elias Taplin, 9999 Collins Avenue, expressed her concern about recent developments in Bal Harbour and their impact on quietness and charm. She said that traffic congestion and overdevelopment were the main drivers of opposition and not the claim that wealthy residents were opposed to affordable housing.

Doug Rudolph, 212 Bal Bay Drive, expressed his concern for the Shops' actions saying that there was a history of them seeking entitlements and expanding at the expense of the quality of life for residents. He urged the Council to resist the Shops' influence and prioritize preserving the neighborhood's unique essence.

Martin Packer, 10205 Collins Avenue

The first speaker expresses gratitude to the council for addressing a troubling project proposal and emphasizes existing concerns about green space and infrastructure capacity. They trust the council to take appropriate action to address these issues effectively. The second speaker,

Michael Davit, 265 Bal Bay Drive, expressed his opposition to the dominance of the Bal Harbour Shops in the community. He questioned the feasibility of affordable housing in an

upscale neighborhood, noting the challenges of high costs and limited parking. He said that he was concerned about the future comfort of elderly residents.

Mark Fisher, 284 Bal Bay Drive, said that the Village should challenge the Shops to demonstrate a genuine interest in affordable housing.

Mayor Freimark said that although he was supportive of affordable housing, he was concerned proposed plan's segregation of affordable units and its lack of amenities. He said though well intentioned, the "Live Local" act as poorly worded and enabling opportunistic behavior by developers. He said that everyone in the room can be an advocate for the community by contacting representatives and senators.

Councilman Sklar expressed his gratitude to the Mayor and acknowledged the specificity of the Act, which outlines a formula for balancing residential and commercial units. He said he hoped that the new ordinances will positively impact the Village by changing these formulas and potentially halting unwanted projects.

Vice Mayor Salver expressed his appreciation for the Staff's efforts in promptly drafting these ordinances. He said he had a conversation with an attorney regarding affordable housing run through the Florida Housing Finance Corporation and suggested a review of underwriting and compliance standards. He emphasized the importance of ensuring that developers adhere to regulations to protect the community's interests and maintain accountability.

Councilman Wolf, thanked all those attending highlighting the importance of community involvement in addressing significant issues. He thanked the Manager, Mayor and Council for their efforts, both locally and in Tallahassee. He suggested exploring ways to facilitate communication with representatives for more efficient advocacy.

Mr. Gonzalez said that a comprehensive review of the project would ensure dignified, respectful, and affordable housing while safeguarding the community's interests, and it would include the application of concurrency laws.

**R5B** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.



**MOTION: A motion to approve the ordinance on first reading was moved by Vice Mayor Seth E. Salver and seconded by Councilman Buzzy Sklar.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5C** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the ordinance on first reading was moved by Vice Mayor Seth E. Salver and seconded by Councilman Buzzy Sklar.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5D** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the ordinance on first reading was moved by Councilman Buzzy Sklar and seconded by Vice Mayor Seth E. Salver.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5E** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying it proposed amendments to the noise ordinance in regard to construction activities. He said previous amendments made in June and October of 2023 to address concerns about construction noise and its impact on the community's quality of life and that these amendments aim to restrict construction noise on Saturdays.

Mauricio Escarra, Deputy Chief of Police, said that after the 2023 amendments, he has continued to receive complaints regarding construction noise from proliferation of construction throughout the Village. He said last year's amendments did not include the business district and that this amendment would bring into alignment with the rest of the community. He said the ordinance involves property owners in civil penalties for noise violations.

Babak Raheb, 128 Balfour Drive, expressed his frustration construction and landscaping noise on Saturdays. The speaker urged for restrictions on construction noise on all holidays like President's Day and emphasizes the annoyance caused by landscaping activities.

Gabriella Webster, 30 Park Drive, thanked Deputy Chief Escarra for addressing the noise issues in the business district saying that noise disturbances, including late-night construction sounds, have persisted for a long time.

Neca Logan 64 Camden Drive, President of the Bal Harbour Civic Association, commended the Council for recommending changes to the noise ordinance.

Councilman Sklar said that the proposed regulations apply to the entire Village and not just the Shops adding that the proposed changes will improve the quality of life for all.

**MOTION: A motion to approve the ordinance on first reading was moved by Councilman Buzzy Sklar and seconded by Vice Mayor Seth E. Salver.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

## **R7 - RESOLUTIONS**

## **R9 - NEW BUSINESS AND COUNCIL DISCUSSION**

**R9A** Discussion Item - Update On Negotiations Regarding The Oceana Development Agreement - Village Manager Jorge M. Gonzalez

Mr. Gonzalez provided an update on his negotiation with the Oceana, saying that they had agreed to provide a net one million dollars to the Village, plus provide improvements to the green crescent area in front of the building and the public access walkway.

Mickey Marrero, Berkow Radell and Fernandez, representing the Oceana, affirmed Mr. Gonzalez's statement saying that he had gone back to the Oceana Board with the Council's offer and the only thing they would not agree with was provision of a beach concession because of security and privacy reasons.

A general discussion ensued on whether the current offer from the Oceana would have a sufficient long-term value for residents, in lieu of having access to their restaurant. There was general consensus to accept their terms and move forward with an amendment to the development agreement, which would come back to the Council for two readings.

**R9B** Discussion Item - Electric Bikes - Councilman Buzzy Sklar

Councilman Sklar introduced this item citing a recent tragic accident in Key Biscayne, and presenting his observations of the issue increased electric bike traffic on the beach path. He said electric bicycles were causing safety concerns on the beach path. There was a general discussion on the legal jurisdiction over such regulations, with the understanding

that certain roads fall under County, State, or private control. Council members agree to explore the feasibility of implementing the ban and potentially extending it to sidewalks. They also discuss existing regulations and the need for holistic consideration of safety measures.

#### **R9C** Discussion Item - Filming on the Jetty - Councilman Buzzy Sklar

Councilman Sklar introduced the item regarding the issue of regulating filming activities on a Jetty, saying that some people do not have permits or the insurance requirement for filming.

Raleigh Flowers, Chief of Police, provided an update of a certain individual who had been causing issues prior to the implementation of the Village's Trespass Ordinance, but has since not caused any commotion. He said that it is difficult to enforce the individuals current activities in that he cannot determine, without a subpoena, whether the individual is commercial or is monetized on social media.

There was a general consensus from the Council to continue the program as-is, then re-address the program after the Jetty project is completed.

#### **R9D - PUBLIC COMMENT**

Neca Logan, 64 Camden Drive, asked that the Council also consider regulating electric scooters, in that they are as much of a risk as electric bikes.

Susan Aaron, 10225 Collins Avenue, suggested that beach renourishment occur during summer months when it would be least disruptive. She also encouraged enforcing current regulations with the use bikes and scooters on the sidewalks.

Former Assistant Mayor Patricia Cohen, 10275 Collins, expresses her gratitude and support for the team's efforts, emphasizing unity during challenging times. She expressed her concerns regarding proliferation of disruptive lighting on the beach affecting turtle nesting habitats, the need for a long-term solution for beach erosion, and the removal of outdated groins.

Penny Sepler, 10275 Collins Avenue, said the issue of bikes and scooters is worse on the sidewalks than the Beach Path. She asked what was the outcome of the issue concerning lobbyist Ron Book.

Babak Raheb, 128 Balfour Drive, suggested that all electric powered vehicles should be considered. He said that noise regulations should be implemented for all Federal

holidays, and expressed his concern about beach furniture affecting turtle nesting. He reiterated his concern that actions with the Bal Harbour Shops do not limit future legal options.

**R10 - VILLAGE MANAGER REPORT**

**R11 - VILLAGE CLERK REPORT**

**R11A** Lobbyist Report

**R12 - VILLAGE ATTORNEY REPORT**

**R12A** Attorney Report

**END OF REGULAR AGENDA**

**ADJOURNMENT** The meeting was adjourned at 9:34 P.M.

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Mayor Jeffrey P. Freimark



Attest:

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Dwight S. Danie, Village Clerk



# BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council**

Special Meeting Minutes

March 5, 2024

At 6:30 PM

Sea View Hotel - Crystal Ballroom -9909 Collins Avenue • Bal Harbour • Florida 33154

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*This meeting was conducted in person. The meeting was also streamed via Zoom for viewing only. Members of the public are also encouraged to participate by email ([meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov)) or by telephone at 305-865-6449.*

**CALL TO ORDER** - Mayor Freimark called the meeting to order at 7:03 P.M. following the Local Planning Agency Meeting.

The following were present:

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman David Wolf  
Councilman Buzzy Sklar

Also present:

Jorge M. Gonzalez, Village Manager  
Dwight S. Danie, Village Clerk  
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Freimark at the beginning of the Local Planning Agency Meeting.

## **REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS**

Mayor Freimark announced that Agenda Item PA3 would be heard following Agenda Item R9A and that Agenda Items R5A, R5B, R5C would presented and considered concurrently.

## **PRESENTATIONS AND AWARDS**

**PA1** National Women's History Month - Proclamation

Mayor Freimark read the proclamation celebrating the month of March 2024 as National Women's History Month.

**PA2** Colorectal Cancer Awareness Month - Proclamation

Mayor Freimark recognized Colorectal Cancer Awareness Month and acknowledged Aventura Commissioner Michael Stern, thanking him for bringing awareness to this issue to all Miami-Dade municipalities, and to wish him well in his ongoing battle with the disease.

**PA3** Police Department Year End Review 2023 - Presentation

This item was presented at 8:04 P.M. following Agenda Item R9A.

Raleigh Flowers, Chief of Police,

Chief Flowers gave an overview of crime statistics for the calendar year 2023 highlighting that Bal Harbour remains one of the safest places to live in Miami-Dade County. He provided an overview of his department and the basic responsibilities of each division.

He described the patrol and security checks activities saying the average response time was fifty-eight seconds (56 seconds in the Gated Community) between the call received by dispatch and the officer arriving at the site. He showed an analysis showing that traffic enforcement activities and parking enforcement have increased over time.

He described the news Florida Incident-Based Reporting System (FIBRS), then showed 2023 statistics indicating 2 Part 1 Violent Crimes, 168 Shops-related and 21 other Part 1 Non-Violent Crimes, and 189 Part 1 Property Crimes. He showed that the number of arrests increased by 31% from the previous year and the code enforcement warnings and violations had also increase.

Chief Flowers explained that community policing and community outreach continued to be cornerstones of the Bal Harbour Police Department philosophy. He described community outreach activities that positioned the Department as leaders in policing, crime prevention and proactive training in Miami-Dade County.

Council members thanked Chief Flowers for his leadership, approach and philosophy that make Bal Harbour a safer place to live, being well-represented in Miami-Dade County



## **R5 - ORDINANCES**

Mayor Freimark then reviewed meeting protocol and asked members of the public to refrain from discussing legal strategies and focus their comments on matters on the Agenda. The Village Clerk read the titles for Ordinances R5A, R5B and R5C.

Mr. Gonzalez introduced the items saying that they had been considered and recommended for approval by the Local Planning Agency earlier on March 5, 2024. He said an application under the Live Local Act of 2023 for a residential mixed-use project was received from the Bal Harbour Shops by the Village in January. He said that the application had been deemed incomplete, and that the Shops had been informed accordingly.

He then described the ongoing legislative activity in Tallahassee regarding proposed amendments to the Act, which might affect zoning regulations, adding that though well-intended, the Act leave open to broad interpretation many important issues that will impact communities. He said that Act does not preempt anything other than use, height and density, and that the Village's land development regulations and concurrency requirements must still be met. He said that he had been encouraged by legislators to develop ordinance that ensure dignified and respectful housing that would not be discriminatory in any way.

He said that these proposed ordinances emphasize the need for clarity and predictability in implementing the Act, ensuring compliance with state and local land development regulations, adding that proposed ordinance amendments aim to address potential abuses and maintain the character and quality of life in the community, equality and accessibility in affordable housing developments, with provisions for equal access to amenities, parking, and quality of construction. He added that the Village also retains the right to audit as necessary.

He said these amendments are intended to eliminate ambiguity, anticipate and prevent potential abuses, and ensure that the Live Local development application is compliant with State and Local requirements.

He said that the criticism aimed at Bal Harbour claiming that it is elitist and unwelcoming to affordable housing is unfair, and that the segregation of affordable housing to the rear of the property in the Shops' application is a glaring example of why the Village needs to make sure that the proposed housing is dignified, respectful and fair.

There were no comments from the public or interested parties.

Ms. Trevarthen said that the Shops had submitted correspondence from the Shops' attorney opposing the ordinances and requesting that they will not apply to the current expansion or the Live Local application. There was no motion to amend the ordinances.

**R5A** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the ordinance on second reading was moved by Mayor Jeffrey P. Freimark and seconded by Vice Mayor Seth E. Salver.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5B** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE III "DISTRICT REGULATIONS," DIVISION 10 "OF OCEAN FRONT DISTRICT" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the ordinance on second reading was moved by Mayor Jeffrey P. Freimark and seconded by Vice Mayor Seth E. Salver.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5C** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," ARTICLE I "IN GENERAL," ARTICLE II "ADMINISTRATION," AND ARTICLE V "OFF-STREET PARKING FACILITIES" OF THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, AND FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the ordinance on second reading was moved by Mayor Jeffrey P. Freimark and seconded by Councilman Buzzy Sklar.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

**R5D** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying after the first reading, per request from the Council, an amendment had been included in the Agenda packet to include all Federal Holidays.

Mauricio Escarra, Deputy Chief of Police, said these amendments would also now include the business district which would bring it into alignment with the rest of the community and that property owners would not be included in civil penalties for noise violations. He added that the ordinance would allow for landscaping on Saturdays.

**MOTION: A motion to amend the ordinance to include all Federal Holidays was moved by Councilman Buzzy Sklar and seconded by Councilman David Wolf.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>No</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (4-1).**

Neca Logan, 64 Camden Drive, asked that during the grace period a potential violation would be stopped, to which Mr. Gonzalez said the current noise ordinance would continue to be enforced until this ordinance becomes effective on June 1, 2024.

**MOTION: A motion pass the ordinance as amended was moved by Councilman Buzzy Sklar and seconded by Councilman David Wolf.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (5-0).**

Mayor Freimark commended the Council and Village Staff for all of the work that had gone into presenting these ordinances. He said that it was his strong view that this was being done in the prism of collecting the quality of life in the Village and ensuring that everyone is treated with dignity and respect.

**R9 - NEW BUSINESS AND COUNCIL DISCUSSION**

**R9A** Vulnerability Assessment - Cummins Cederberg - Village Manager Jorge M. Gonzalez

This item was presented at 7:31 P.M. following Agenda Item R5D. Mr. Gonzalez introduce the item saying that the Village had received a grant to pursue a vulnerability assessment. He said that that this was the third public presentation. He Daniella Irwin, Leonard Barrera Allen and Grace Becar from Cummins Cederberg.

Mr. Allen provide a brief overview of the vulnerability assessment and the scope of work for the project. He said that they had identified the Village's critical assets in focus areas to be protected which included transportation and evacuation routes, infrastructure, community and emergency facilities and natural/cultural/historical resources.

He provided a timeline of flood events showing that they have been increasing significantly over time after which he provide the results of an analysis indicated that sea level rise and king tides increase the vulnerability of critical assets.

Mr. Allen then presented examples of structural and non-structural flood adaptation strategies for which the Village could seek funding.

He then provided a presentation explaining different kind of groins and how they work to minimize the impact of beach erosion.

Mr. Gonzalez said that once the final report is complete, the Village will start identifying strategies for resiliency for future legislative action.

There was a general consensus from the Council that resiliency should be a high priority for the Village.

## **R9B - PUBLIC COMMENT**

Babak Raheb, 128 Balfour Drive, said that the idea of a hundred year storm should be put aside since these types of storms are happening more frequently. He expressed his concern of the number of Ritz Carlton beach chairs placed the beach, the majority of, which he said, were not utilized and blocking access. He commended recent actions of the Police Department going out of their way to help community members. Mr. Gonzalez said the Ritz would be addressed via the Beach site plan.

Neca Logan, 64 Camden, asked what was being done with the mountain of sand behind the Shops, say it was odorous and blowing into the Gated Community. Eliezar Palacio, Building Official, said that he had been meeting with the Shops and said that had taken more than 200 truckloads away in the last week and a half and if they don't get the appropriate permits by the middle of next week they will either have to cover the pile, use a synthetic material to prevent blowing, or continue to remove it.

## **R10 - VILLAGE MANAGER REPORT**

### **R11 - VILLAGE CLERK REPORT**

#### **R11A** Lobbyist Report

**R12 - VILLAGE ATTORNEY REPORT**

Ms. Trevarthen said that pursuant to Florida Statutes Section 286.0118 she was desiring advice concerning the litigation between the Bellini Condominium Association and Bal Harbour Village, Case # CA 2024-003034-CA-01.

**END OF REGULAR AGENDA**

**ADJOURNMENT**     The meeting was adjourned at 8:32 P.M.

\_\_\_\_\_  
Mayor Jeffrey P. Freimark



Attest:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

# BAL HARBOUR

- V I L L A G E -

Mayor Jeffrey P. Freimark  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Buzzy Sklar  
Councilman David Wolf

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council**

Special Meeting Minutes  
Wednesday, March 27, 2024  
At 6:30 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

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*This meeting was conducted in person. The meeting was also broadcast via a Zoom Webinar for viewing only. To Register for the Webinar click here-> [https://us06web.zoom.us/webinar/register/WN\\_IzBRIZPhSc-E0e5CSgU78w](https://us06web.zoom.us/webinar/register/WN_IzBRIZPhSc-E0e5CSgU78w) Members of the public are also encouraged to participate by email ([meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov)) or by telephone at 305-865-6449.*

**CALL TO ORDER/ PLEDGE OF ALLEGIANCE** - Mayor Freimark called the meeting to order at 6:30 P.M.

The following were present:

Mayor Jeffrey P. Freimark  
Councilman David J. Albaum  
Councilman David Wolf  
Councilman Buzzy Sklar

The following were not present:

Vice Mayor Seth E. Salver

Also present:

Jorge M. Gonzalez, Village Manager  
Dwight S. Danie, Village Clerk  
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Freimark.

## **REQUESTS FOR ADDITIONS, WITHDRAWALS, AND DEFERRALS**

There were no requests.

Mayor Freimark provided a brief summary of meeting protocol and noted that there were no interested parties in the Chamber.

## **R5 - ORDINANCES**

**R5A** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH AND AMEND PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023, AS AMENDED) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that he would be incorporating his comments from the March 5, 2024, Special Council Meeting. He said upon approval of the Live Local Act "Glitch Bill" by the State Legislature (2024 Senate Bill 328 or "SB 328"), additional amendments to this ordinance were made for conformance purposes. He said that in conformance with the Oceanfront District, a minimum size for habitable units had been included. He said that in addressing concerns that the previous legal notices, notices of this meeting had been hand-delivered to the property owners.

Ms. Trevarthen described the new changes including requiring the affordable housing units to be rental properties, incorporating the new statutory preemption and standards for FAR regulations, addressing the potential impact of adjacent single-family zoning on height preemption, addressing potential impact on any variations or bonuses to the statutory height, FAR and density preemptions, considering parking reductions where there is a transit stop within a quarter of a mile, and posting a policy containing procedures and expectations for administrative approval on the Village's website.

Mayor Freimark clarified that the owners that were hand delivered notices where Neiman Marcus, Saks Fifth Avenue and the Bal Harbour Shops, to which Mr. Gonzalez affirmed and added that the Village was also include.

There was no further discussion by Councilmembers and there were no comments from the public.



**MOTION: A motion to approve the ordinance on first reading was moved by Mayor Jeffery P. Freimark and seconded by Councilman Buzzy Sklar.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	-
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (4-0).**

**R5B** AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item. Mauricio Escarra, Deputy Police Chief, recapped the proposed amendments that now include the business district, bring the requirements into alignment with the rest of the community, involve property owners in civil penalties for noise violations and includes all Federal holidays.

There were no further comments from Councilmembers and no comments

**MOTION: A motion to approve the ordinance on first reading was moved by Councilman Buzzy Sklar and seconded by Councilman David Wolf.**

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Jeffrey P. Freimark	<b>Yes</b>
Vice Mayor Seth E. Salver	-
Councilman David J. Albaum	<b>Yes</b>
Councilman Buzzy Sklar	<b>Yes</b>
Councilman David Wolf	<b>Yes</b>

**VOTE: The Motion passed by unanimous roll call vote (4-0).**

**R9A - PUBLIC COMMENT**

**R10 - VILLAGE MANAGER REPORT**

**R11 - VILLAGE CLERK REPORT**

**R12 - VILLAGE ATTORNEY REPORT**

**END OF REGULAR AGENDA**

**ADJOURNMENT**     The meeting was adjourned at 6:41 P.M.

---

Mayor Jeffrey P. Freimark



Attest:

---

Dwight S. Danie, Village Clerk

# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE BALMORAL RESTAURANT LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO FOR A 2COP LICENSE IS COMPATIBLE WITH VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### Issue:

Should the Village Council accept the determination of the Village Building Official that the application for a 2COP State of Florida Department of Alcoholic Beverages and Tobacco for Balmoral Restaurant LLC, is consistent with the Village Zoning Code?

### The Bal Harbour Experience:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Beautiful Environment   | <input checked="" type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant  | <input type="checkbox"/> Resiliency & Sustainable Community          |
| <input type="checkbox"/> Other: _____            |  |  |

### Item Summary / Recommendation:

The Balmoral Restaurant is a resident only restaurant, formerly known as Balmoral Café, located within the Balmoral Condominium located at 9801 Collins Ave, in the Village's Ocean Front District has submitted DBPR ABT - 6001 - Division of Alcoholic Beverages and Tobacco Application to the State of Florida Department of Business and Professional Regulation for a 2COP Alcoholic Beverage License. This application is being done due to the change in name from Balmoral Café to Balmoral Restaurant LLC.


I am recommending the Village of Bal Harbour (the "Village") Council review the application for a State of Florida Alcohol Beverages and Tobacco, DBPR ABT-6001 2COP license submitted by Balmoral Restaurant LLC.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

	Amount	Account	Account #
	X	X	X

### Sign off:

Director Title	Building Director	Village Manager
Director Name	Eliezer Palacio	Jorge M. Gonzalez
		

# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE BALMORAL RESTAURANT LLC APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO FOR A 2COP LICENSE IS COMPATIBLE WITH VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### **ADMINISTRATIVE RECOMMENDATION**

I am recommending the Village of Bal Harbour (the "Village") Council review the application for a liquor license, submitted by Balmoral Restaurant LLC requesting the State of Florida Department of Alcoholic Beverages and Tobacco 2COP license series.

### **BACKGROUND**

The Balmoral Restaurant is a resident only restaurant, formerly known as Balmoral Café, located within the Balmoral Condominium located at 9801 Collins Ave, in the Village's Ocean Front District has submitted DBPR ABT - 6001 - Division of Alcoholic Beverages and Tobacco Application to the State of Florida Department of Business and Professional Regulation for a 2COP Alcoholic Beverage License. This application is being done due to the change in name from Balmoral Café to Balmoral Restaurant LLC. As part of said application, the zoning authority governing the business location is required to review and sign the application for approval. In the Village, the zoning authority is the Village Building Official. As part of the application review, the Building Official examined the Village Zoning Code. The Business district zoning regulations and Section. 4-3. - *Sale prohibited in filling stations, theaters; sales near churches, schools* dictate the permissible locations of such establishments. Such section reads:

*(a) No liquor, beer or wine shall be sold in any gasoline filling station or motion picture theater, including any room opening directly or indirectly into or having a direct connection with any motion picture theater.*

*(b) No liquor, beer or wine shall be sold within 300 feet of any church, nor within 300 feet of any public-school property, nor any property upon which there is maintained a private school operated for the instruction of minors in the common branches of learning, except such places of business as were established at the time of the adoption of this section.*

*In ascertaining the proximity of any school or church referred to in this subsection, the method of measurement shall be made or taken from the main or front entrance of the church or school or the main or front place of such business along the route of ordinary pedestrian traffic along the public thoroughfare.*

Balmoral Restaurant LLC location complies with the above Village Code provision. Therefore, the zoning approval may be granted.

Historically, however, the Village Council has approved such license requests via resolution. Records show that there are dozens of locations on Collins Avenue that have been granted licenses to sell alcoholic beverages. There are also several locations in similar zoning districts with active licenses to sell alcoholic beverages, such as the one being sought by Balmoral Restaurant LLC.

Some of the residential locations include:

- Bal Harbour 101 Restaurant located at 10155 Collins Avenue
- Bal Harbour Tower Condo located at 9999 Collins Avenue
- The Ballerina Beach Club located at 10201 Collins Avenue
- The Palace Café located at 10101 Collins Avenue
- Sardinia House, located at 10275 Collins Avenue

Non-residential locations on the oceanfront that have active licenses to sell alcoholic beverages include:

- Sea View Terrace Restaurant at 9909 Collins Avenue
- Pool Bar and Grill at 10295 Collins Avenue (Ritz-Carlton)
- Artisan Beach House at 10295 Collins Avenue (Ritz-Carlton Seldar Miami Holdings)

### **ANALYSIS**

The restaurant is applying for a new 2COP license due to the name change from Balmoral Café to Balmoral Restaurant. The Balmoral Restaurant has not increased the current number of seats nor square footage. A 2COP license allows for wine and beer sales at the restaurant.

### **THE BAL HARBOUR EXPERIENCE**

The Department of Business and Professional Regulation requires Businesses to apply for and obtain an Alcoholic Beverage license. By enforcing this regulation, the Village furthers our mission of being the safest residential community with the highest quality of life for our residents and visitors from around the world.

### **CONCLUSION**

Balmoral Restaurant location complies with the Village zoning regulations for establishments authorized to sell alcoholic beverages. Therefore, I am recommending approval of this resolution.

### **Attachments:**

1. Balmoral Restaurant LLC DBPR ABT-6001
2. Letter Request from Balmoral Restaurant LLC

RESOLUTION NO. 2024\_\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE DETERMINATION OF THE VILLAGE BUILDING OFFICIAL THAT THE BALMORAL RESTAURANT APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ALCOHOLIC BEVERAGES AND TOBACCO FOR A 2COP LICENSE IS COMPATIBLE WITH VILLAGE ZONING REGULATIONS; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Balmoral Restaurant is a resident only restaurant, formerly known as the Balmoral Café, located in the Balmoral Condominium at 9801 Collins Avenue and has submitted an application to the State of Florida Division of Alcoholic Beverages and Tobacco for a 2COP license for the sale of alcoholic beverages (the "Application"); and

**WHEREAS**, the Application contains a section for completion of the Village confirming that the Application complies with the Village zoning regulations regarding the sale of alcoholic beverages; and

**WHEREAS**, the Village Building Official is generally charged with implementing Chapter 21, Zoning; and

**WHEREAS**, the Village Building Official has determined that the Application is compatible with Village zoning regulations.

**NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Approved.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Determination Accepted.** That the determination of the Village Building Official that the Application is compatible with the Village zoning regulations is hereby accepted.

**Section 3. Implementation.** That the Village Manager is hereby directed to take any action necessary to implement the purposes of this Resolution.

**Section 4. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April, 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

**DBPR ABT-6001 – Division of Alcoholic Beverages and Tobacco  
Application for New Alcoholic Beverage License**

**STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**DBPR Form  
ABT-6001  
Revised 08/2013**

*If you have any questions or need assistance in completing this application, please contact the Division of Alcoholic Beverages & Tobacco's (AB&T) local district office. Please submit your completed application and required fee(s) to your local district office. This application may be submitted by mail, through appointment, or it can be dropped off. A District Office Address and Contact Information Sheet can be found on AB&T's web site at the link provided below:*

[Local ABT District Licensing Offices](#)

SECTION 1 - CHECK LICENSE CATEGORY				
License Series Requested 2COP	Type/Class Requested 2COP	Do you wish to purchase a Temporary License? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Child License Requested	Number of Child Licenses Requested			
<input checked="" type="checkbox"/> Retail Alcoholic Beverages	<input type="checkbox"/> Alcoholic Beverage Manufacturer			
<input type="checkbox"/> Beer/Wine/Liquor Wholesaler	<input type="checkbox"/> Passenger Waiting Lounge			
<input checked="" type="checkbox"/> Retail Tobacco Products Dealer Permit (must check one or more of the below)				
<input type="checkbox"/> Pipes <input checked="" type="checkbox"/> Over the Counter <input type="checkbox"/> Vending Machine				
SECTION 2 – LICENSE INFORMATION				
If the applicant is a corporation or other legal entity, enter the name and the document number as registered with the Florida Department of State Division of Corporations on the line below.				
FEIN Number 92-1964912	Business Telephone Number 786 975 3804	E-Mail Address (Optional) victoroffice23@gmail.com		
Full Name of Applicant(s): (This is the name the license will be issued in) BALMORAL RESTAURANT LLC			Department of State Document # L23000030831	
Business Name (D/B/A) BALMORAL RESTAURANT				
Location Address (Street and Number) 9801 COLLINS AVE				
City BAL HARBOUR	County FL	State FL	Zip Code 33154	
Mailing Address (Street or P.O. Box) 9801 COLLINS AVE				
City BAL HARBOUR		State FL	Zip Code 33154	
Contact Person - This section is optional, see application instructions for details				
Contact Person VICTOR BRAVO		Telephone Number 786 362 0768 ext.		
E-Mail Address (Optional) victoroffice23@gmail.com				
Mailing Address (Street or P.O. Box) 1825 PONCE DE LEON #204				
City CORAL GABLES		State FL	Zip Code 33134	



SECTION 3 – RELATED PARTY PERSONAL INFORMATION						
<b>This section must be completed for <u>each</u> person directly connected with the business, unless they are a current licensee.</b>						
1.	Business Name (D/B/A) BALMORAL RESTAURANT					
2.	Full Name of Individual GIANINA ROMAN					
	Social Security Number* 416 95 7091			Home Telephone Number 7869753804		Date of Birth 02/20/1978
	Race W	Sex F	Height 5.04	Weight 170	Eye Color BLACK	Hair Color BLACK
3.	Are you a U.S. citizen? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If no, immigration card number or passport number:					
4.	Home Address (Street and Number) 345 ALESIO AVE					
	City MIAMI			State FL	Zip Code 33134	
5.	Do you currently own or have an interest in any business selling alcoholic beverages, wholesale cigarette or tobacco products, or a bottle club? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				License Number	
	Location Address					
6.	Have you had any type of <b>alcoholic beverage</b> , or bottle club license, or cigarette, or tobacco permit refused, revoked or suspended anywhere in the past 15 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				Date	
	Location Address					
7.	Have you been convicted of a <b>felony</b> within the past 15 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below and provide a <b>Copy of the Arrest Disposition</b> , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					
8.	Have you been convicted of an offense involving <b>alcoholic beverages or tobacco products</b> anywhere within the past 5 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below and provide a <b>Copy of the Arrest Disposition</b> , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					

9. Have you been arrested or issued a notice to appear in any state of the United States or its territories within the past 15 years?  Yes  No  
 If yes, provide the information requested below and a **Copy of the Arrest Disposition**.  
**Attach additional sheet if necessary.**

Date	Location
Type of Offense	

10. Do you meet the standards of the moral character rule?  
 Yes  No

11. Are you an officer or employee of the Division of Alcoholic Beverages and Tobacco; are you a sheriff or other state, county, or municipal officer, including reserve or auxiliary officers, certified by the state as such, with arrest powers, whose certification is current and active?  
 Yes  No

**NOTARIZATION STATEMENT**

"I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that I have fully disclosed any and all parties financially and or contractually interested in this business and that the parties are disclosed in the Disclosure of Interested Parties of this application. I further swear or affirm that the foregoing information is true and correct."

STATE OF FLORIDA

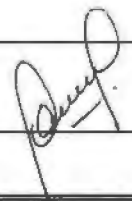
COUNTY OF MIAMI DADE



APPLICANT SIGNATURE

The foregoing was ( ) Sworn to and Subscribed OR ( ) Acknowledged Before me this 2 Day of FEBRUARY, 2024, By GIANINA ROMAN who is (X) personally (print name of person making statement)

known to me OR ( ) who produced \_\_\_\_\_ as identification.

Commission Expires: 09/12/27

(ATTACH ADDITIONAL COPIES AS NECESSARY)

**\*Social Security Number**

Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless a Federal statute specifically requires it or allows states to collect the number. In this instance, disclosure of social security numbers is mandatory pursuant to Title 42 United States Code, Sections 653 and 654; and sections 409.2577, 409.2598, and 559.79, Florida Statutes. Social Security numbers are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations. Social Security numbers must also be recorded on all professional and occupational license applications and are used for licensee identification pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), 104 Pub.L.193, Sec. 317. The State of Florida is authorized to collect the social security number of licensees pursuant to the Social Security Act, 42 U.S.C. 405(c)(2)(C)(I). This information is used to identify licensees for tax administration purposes. This information is used to identify licensees for tax administration purposes, and the division will redact the information from any public records request.

SECTION 3 – RELATED PARTY PERSONAL INFORMATION						
<b>This section must be completed for <u>each</u> person directly connected with the business, unless they are a current licensee.</b>						
1.	Business Name (D/B/A) BALMORAL RESTAURANT					
2.	Full Name of Individual MARIO BARONE					
	Social Security Number* 290195800		Home Telephone Number 786-975-3804		Date of Birth 4/21/1970	
	Race W	Sex M	Height 5.6	Weight 170	Eye Color B	Hair Color B
3.	Are you a U.S. citizen? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If no, immigration card number or passport number: AC414234 (CANADIAN PASSPORT)					
4.	Home Address (Street and Number) 411S HOLLYBROOK DR					
	City PEMBROKE PINES			State FL	Zip Code 33025	
5.	Do you currently own or have an interest in any business selling alcoholic beverages, wholesale cigarette or tobacco products, or a bottle club? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				License Number	
	Location Address					
6.	Have you had any type of <b>alcoholic beverage</b> , or bottle club license, or cigarette, or tobacco permit refused, revoked or suspended anywhere in the past 15 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below. The location address should include the city and state.					
	Business Name (D/B/A)				Date	
	Location Address					
7.	Have you been convicted of a <b>felony</b> within the past 15 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below and provide a <b>Copy of the Arrest Disposition</b> , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					
8.	Have you been convicted of an offense involving <b>alcoholic beverages or tobacco products</b> anywhere within the past 5 years? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, provide the information requested below and provide a <b>Copy of the Arrest Disposition</b> , as requested in the Application Requirements checklist.					
	Date		Location			
	Type of Offense					

9. Have you been arrested or issued a notice to appear in any state of the United States or its territories within the past 15 years?  Yes  No  
 If yes, provide the information requested below and a Copy of the Arrest Disposition.  
**Attach additional sheet if necessary.**

Date	Location
Type of Offense	

10. Do you meet the standards of the moral character rule?  
 Yes  No

11. Are you an officer or employee of the Division of Alcoholic Beverages and Tobacco; are you a sheriff or other state, county, or municipal officer, including reserve or auxiliary officers, certified by the state as such, with arrest powers, whose certification is current and active?  
 Yes  No

**NOTARIZATION STATEMENT**

"I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that I have fully disclosed any and all parties financially and or contractually interested in this business and that the parties are disclosed in the Disclosure of Interested Parties of this application. I further swear or affirm that the foregoing information is true and correct."

STATE OF FLORIDA

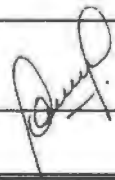
COUNTY OF MIAMI-DADE

  
 \_\_\_\_\_  
 APPLICANT SIGNATURE

The foregoing was ( ) Sworn to and Subscribed OR ( ) Acknowledged Before me this 2 Day  
 of FEB, 20 24, By MARIO BARONE who is (X) personally  
 (print name of person making statement)

known to me OR ( ) who produced \_\_\_\_\_ as identification.

 **OMAIDA CURBELO**  
 Notary Public - State of Florida  
 Commission # HH 9460213  
 Notary Public Expires Sep. 12, 2027  
 Bonded Through Huckleberry Notary Bonding

  
 \_\_\_\_\_ Commission Expires: 09/12/27

(ATTACH ADDITIONAL COPIES AS NECESSARY)

**\*Social Security Number**

Under the Federal Privacy Act, disclosure of Social Security numbers is voluntary unless a Federal statute specifically requires it or allows states to collect the number. In this instance, disclosure of social security numbers is mandatory pursuant to Title 42 United States Code, Sections 653 and 654; and sections 409.2577, 409.2598, and 559.79, Florida Statutes. Social Security numbers are used to allow efficient screening of applicants and licensees by a Title IV-D child support agency to assure compliance with child support obligations. Social Security numbers must also be recorded on all professional and occupational license applications and are used for licensee identification pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Welfare Reform Act), 104 Pub.L. 193, Sec. 317. The State of Florida is authorized to collect the social security number of licensees pursuant to the Social Security Act, 42 U.S.C. 405(c)(2)(C)(I). This information is used to identify licensees for tax administration purposes. This information is used to identify licensees for tax administration purposes, and the division will redact the information from any public records request.



**SECTION 4 – DESCRIPTION OF PREMISES TO BE LICENSED  
TO BE COMPLETED BY THE APPLICANT**

Business Name (D/B/A) **BALMORAL RESTAURANT**

- |    |                              |  |  |
|----|------------------------------|--|--|
| 1. | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Is the proposed premises movable or able to be moved?  |
| 2. | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Is there any access through the premises to any area over which you do not have dominion and control?  |
| 3. | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Is the business located within a Specialty Center? If yes, check the applicable statute:<br><input type="checkbox"/> 561.20(2)(b)1, F.S. or <input type="checkbox"/> 561.20(2)(b)2, F.S. |
| 4. | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Are there any mobile vehicles used to sell or serve alcoholic beverages?   |
| 5. | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | Are there more than 3 separate rooms or enclosures with permanent bars or counters?  |

Neatly draw a floor plan of the premises in ink, including sidewalks and other outside areas which are contiguous to the premises, walls, doors, counters, sales areas, storage areas, restrooms, bar locations and any other specific areas which are part of the premises sought to be licensed. A multi-story building where the entire building is to be licensed must show the details of each floor.



**BALMORAL RESTAURANT LLC**

9801 COLLINS AVE BAL HARBOR , FL 33154

**SECTION 5 – APPLICATION APPROVALS**

Full Name of Applicant: (This is the name the license will be issued in)  
**BALMORAL RESTAURANT LLC**

Business Name (D/B/A) **BALMORAL RESTAURANT**

Street Address **9801 COLLINS AVE**

City <b>BAL HARBOUR</b>	County <b>MIAMI DADE</b>	State <b>FL</b>	Zip Code <b>33154</b>
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**ZONING**

**TO BE COMPLETED BY THE ZONING AUTHORITY GOVERNING YOUR BUSINESS LOCATION**

- A. The location complies with zoning requirements for the sale of alcoholic beverages or wholesale tobacco products pursuant to this application for a Series: \_\_\_\_\_ Type: \_\_\_\_\_ license.
- B. This approval includes outside areas which are contiguous to the premises which are to be part of the premises sought to be licensed and are identified on the sketch?  Yes  No

**Check either: Please do not skip, this is important for license fee sharing**  
 Location is within the city limits or  Location is in the unincorporated county

Signed \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ This approval is valid for \_\_\_\_\_ days.

**SALES TAX**

**TO BE COMPLETED BY THE DEPARTMENT OF REVENUE**

The named applicant for a license/permit has complied with the Florida Statutes concerning registration for Sales and Use Tax.

- 1. This is to verify that the current owner as named in this application has filed all returns and that all outstanding billings and returns appear to have been paid through the period ending 1-31-24 or the liability has been acknowledged and agreed to be paid by the applicant. This verification does not constitute a certificate as contained in Section 213.758 (4), F.S. (Not applicable if no transfer involved).
- 2. Furthermore, the named applicant for an Alcoholic Beverage License has complied with Florida Statutes concerning registration for Sales and Use Tax, and has paid any applicable taxes due.

Signed [Signature] Date 2/8/2024

Title Tax Specialist Department of Revenue Stamp

This approval is valid for 30 days.

*Balmoral Restaurant  
 BE # 6951405 LLC*

DEPT. OF REVENUE  
 -3 MARCH 18

**HEALTH**

**TO BE COMPLETED BY THE DIVISION OF HOTELS AND RESTAURANTS  
 OR COUNTY HEALTH AUTHORITY  
 OR DEPARTMENT OF HEALTH  
 OR DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES**

The above establishment complies with the requirements of the Florida Sanitary Code.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Agency \_\_\_\_\_

This approval is valid for \_\_\_\_\_ days.

**SECTION 6 – APPLICANT ENTITY FELONY CONVICTION**

Business Name (D/B/A) **BALMORAL RESTAURANT**

Has the applicant entity been convicted of a felony in this state, any other state, or by the United States in the last 15 years?

Yes  No

If the answer is "Yes," please list all details including the date of conviction, the crime for which the entity was convicted, and the city, county, state and court where the conviction took place.


(Attach additional sheets if necessary)

**SECTION 7 – SPECIAL LICENSE REQUIREMENTS  
(DOES NOT APPLY TO BEER AND WINE LICENSES)**

Please check the appropriate box of the license for which you are applying. Fill in the corresponding requirements for the license type sought.

- Quota Alcoholic Beverage License     Specialty Alcoholic Beverage License (e.g. SRX, S, etc)  
 Club Alcoholic Beverage License

This license is issued pursuant to \_\_\_\_\_, Florida Statutes or Special Act, and as such we acknowledge the following requirements must be met and maintained:


Please initial and date:

Applicant's Initials \_\_\_\_\_ Date \_\_\_\_\_



**SECTION 8 – DISCLOSURE OF INTERESTED PARTIES**

Note: Failure to disclose an interest, direct or indirect, could result in denial, suspension and/or revocation of your license. You **MUST** list all persons and entities in the entire ownership structure. To determine which of those persons must submit fingerprints and a Related Party Personal Information, sheet, see the fingerprint section in the application instructions.

Business Name (D/B/A) **BALMORAL RESTAURANT**

1. When applicable, complete the appropriate section below. **Attach extra sheets if necessary.**

Title/Position	Name	Stock %
CORPORATION– List all officers, directors, and stockholders		

GENERAL PARTNERSHIP – List all general partners		

LIMITED LIABILITY COMPANY – List all managers (member & non-member), directors, officers, and members		
MGR	GIANINA ROMAN	50
MGR	MARIO BARONE	50

LIMITED PARTNERSHIP – List all general and limited partners.		

LIMITED LIABILITY PARTNERSHIP – List all partners		

Bar Manager (Fraternal Organizations of National Scope only):

**OTHER INTERESTS**

These questions must be answered about this business for every person or entity listed as the applicant

1. Are there any persons or entities not disclosed who have loaned money to the business?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
2. Are there any persons or entities not disclosed that derive revenue from the license solely through a contractual relationship with the licensee, the substance of which is not related to the control of the sale of alcoholic beverages, or is exempt by statute or rule?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
3. Are there any persons or entities not disclosed that have the right to receive revenue based on a contractual relationship related to the control of the sale of alcoholic beverages?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
4. Are there any persons or entities not disclosed who have a right to a percentage payment from the proceeds of the business pursuant to the lease?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
5. Are there any persons or entities not disclosed who have guaranteed the lease or loan?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
6. Are there any persons or entities not disclosed who have co-signed the lease or loan?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
7. Is there a management contract, franchise agreement, or concession agreement in connection with this business?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
8. Have you or anyone listed on this application, accepted money, equipment or anything of value in connection with this business from any industry member as described in 61A-1.010, Florida Administrative Code?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

**If you answered yes to any of the above questions, a copy of the agreement must be submitted with this application. The terms of the agreement may require the interested persons or parties related to an entity to submit fingerprints and a related party personal information sheet.**



SECTION 9 - AFFIDAVIT OF APPLICANT  
NOTARIZATION REQUIRED

Business Name (D/B/A) BALMORAL RESTAURANT

"I, the undersigned individually, or on behalf of a legal entity, hereby swear or affirm that I am duly authorized to make the above and foregoing application and, as such, I hereby swear or affirm that the attached sketch is a true and correct representation of the entire area and premises to be licensed and agree that the place of business, if licensed, may be inspected and searched during business hours or at any time business is being conducted on the premises without a search warrant by officers of the Division of Alcoholic Beverages and Tobacco, the Sheriff, his Deputies, and Police Officers for the purposes of determining compliance with the beverage and retail tobacco laws."

"I swear under oath or affirmation under penalty of perjury as provided for in Sections 559.791, 562.45 and 837.06, Florida Statutes, that the foregoing information is true and that no other person or entity except as indicated herein has an interest in the alcoholic beverage license and/or tobacco permit, and all of the above listed persons or entities meet the qualifications necessary to hold an interest in the alcoholic beverage license and/or tobacco permit."

STATE OF FLORIDA

COUNTY OF MIAMI DADE

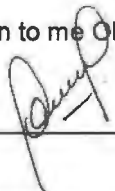
GIANINA ROMAN


APPLICANT/AUTHORIZED REPRESENTATIVE NAME

  
APPLICANT / AUTHORIZED REPRESENTATIVE SIGNATURE

The foregoing was ( ) Sworn to and Subscribed OR ( ) Acknowledged Before me this 2 Day  
of FEBRUARY, 2024, By GIANINA ROMAN who is (X) personally  
(print name(s) of person(s) making statement)

known to me OR ( ) who produced \_\_\_\_\_ as identification.



  
**OMDAIDA CURBELO**  
Notary Public - State of Florida  
Commission # HH 9469213  
My Commission Expires Sep. 12, 2027  
Notary Board of the Tough Huckleberry Notary Bonding

Commission Expires: 09/12/27

**SECTION 10 - CURRENT LICENSEE UPDATE DATA SHEET**

This section is to be completed for all current alcoholic beverage and/or tobacco license holders listed on the application to ensure the most up to date information is captured.

Business Name (D/B/A) **BALMORAL RESTAURANT**

Last Name \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Last Name \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Last Name \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Last Name \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Last Name \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_

Current Alcohol Beverage and/or Tobacco License Permit/Number(s)

Date of Birth \_\_\_\_\_ Social Security Number\* \_\_\_\_\_

Street Address \_\_\_\_\_

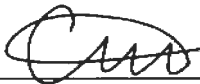
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

MARCH 26/2024

To whom it may concern:

I, GIANINA ROMAN, with BALMORAL RESTAURANT LLC, I'm applying for the liquor license(2COP) for my eating establishment (full services restaurant), located at 9801 COLLINS AVE, BAL HARBOUR FL 33154, with 1800 SQF and 240 seats capacity.

All the best



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GIANINA ROMAN

BALMORAL RESTAURANT LLC

7869753804



# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM THE BALMORAL GROUP TO CONDUCT AN ANALYSIS OF THE METHODOLOGY USED TO ALLOCATE THE SECURITY AND LANDSCAPE ASSESSMENT, AS DETAILED WITHIN THE BALMORAL GROUP PROPOSAL DATED MARCH 20, 2024, IN THE AMOUNT NOT TO EXCEED \$11,900.

### Issue:

Should the Village Council approve the proposal from the Balmoral Group to conduct an analysis of the Security and Landscape Assessment Allocation Methodology?

### The Bal Harbour Experience:

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Beautiful Environment | <input checked="" type="checkbox"/> Safety           | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities          | <input checked="" type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community          |
| <input type="checkbox"/> Other: _____                     |  |  |

### Item Summary / Recommendation:

During a Bal Harbour Civic Association (BHCA) Board meeting this February, a requested proposal provided by the Balmoral Group, in the amount of \$11,900, was reviewed and unanimously approved by the Board. Upon review, I have determined that it is in the best interest of the Village to retain the Balmoral Group to provide the envisioned services. Therefore, I am recommending your approval of the Balmoral Group proposal dated March 20, 2024, to conduct an analysis of the method used to allocate the Security and Landscape Assessment to ensure that the imposition of said assessment be both equitable and efficient as to allocating and apportioning program costs among the parcels located in the assessment area.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

Amount	Account	Account #
\$11,900	Professional Services - Security & Landscape Fund	11-29-503105

Director Title	Chief Financial Officer	Village Manager
Director Name	Claudia Dixon	Jorge M. Gonzalez



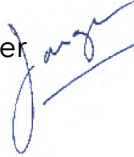
# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager



DATE: April 09, 2024,

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM THE BALMORAL GROUP TO CONDUCT ANALYSIS OF THE METHOD USED TO ALLOCATE THE SECURITY AND LANDSCAPE ASSESSMENT IN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR VILLAGE, FLORIDA, AS DETAILED WITHIN THE BALMORAL GROUP PROPOSAL DATED MARCH 20, 2024, IN THE AMOUNT NOT TO EXCEED ELEVEN THOUSAND NINE HUNDRED DOLLARS (\$11,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

### BACKGROUND

Currently, the Security and Landscape Program Cost is allocated among the Assessed Property, based upon each parcels' classification as a Private Recreational Facility or a Residential Property according to the number of Dwelling Units on such parcels. The size or value of Assessed Property does not determine the scope and cost of the Security and Landscape Program to be provided to such property. The use of Security and Landscape services, facilities, and programs is primarily driven by the existence of a Dwelling Unit or Private Recreational Facility, but also applies to Unimproved Property to a lesser extent. The rate approved by Village Council for FY 2024 was \$7,000.00 for each Single-Family Residential Unit, \$3,500.00 for each Unimproved Property, and \$28,000.00 for each Private Recreational Facility, and for Multi-Family, the Single-Family Residential Unit rate for the first unit, and forty percent of the rate applied to the remaining multi-family units equally apportioned. These rates provide sufficient funding for security and landscape services in the FY 2024 fiscal year for the properties included in the non-ad-valorem assessment roll; and establish the maximum assessment rate for any future assessments.

The Security and Landscape Assessment provides for the maintenance of the security wall surrounding the Assessment Area, the maintenance and operation of the security gate; the provision, whether direct or indirect, of security personnel to operate the security gate; the provision, whether direct or indirect, of landscaping services (including the care, maintenance, replacement, installation of landscape materials on swales, medians, open space and parks), and paving and repaving of the roads within the Assessment Area. We added pavement as an eligible expense in Fiscal Year 2020-2021.

In 2018 the Village Council approved a Milestone Agreement between the Village and the Bal Harbour Civic Association, Inc. In this agreement, the Village committed to continue to assess and collect the Village's security and landscape assessments for the gated portion of the residential section of Bal Harbour (the "Gated Community") until September 30, 2027. In June of 2020, the Village Council approved amendments to the Milestone Agreement which restated certain obligations, clarified responsibilities, and extended the end date for collection of the assessment through FY 2047.

BHCA President Neca Logan requested an analysis of the allocation methodology used to determine the annual Security and Landscape Assessment levied on parcels within the gated area. The requested proposal provided by the Balmoral Group, in the amount of \$11,900, was reviewed and unanimously approved by the Board this February.

### **ANALYSIS**

The Security and Landscape Program Cost is currently allocated among the Assessed Property, based upon each parcels' classification as a Private Recreational Facility or a Residential Property according to the number of Dwelling Units on such parcels. The size or value of Assessed Property does not determine the scope and cost of the Security and Landscape Program to be provided to such property. The use of Security and Landscape services, facilities, and programs is primarily driven by the existence of a Dwelling Unit or Private Recreational Facility, but also applies to Unimproved Property to a lesser extent. The classification and allocation methods are defined as follows:

- Single Family Residential Properties As identified in Tax Roll database Apportioned on a per Dwelling Unit basis as identified in Tax Roll database.
- Unimproved Property Assessed at 50% of the rate established for Single Family Residential Properties.
- Private Recreational Facilities Assessed at 400% of the rate established for Single Family Residential Properties.
- Multifamily Residential Properties Each Multifamily Residential Establishment shall be assessed at a rate which is the sum of (a) the Single-Family Residential Unit rate for the first unit in the Multifamily Residential Establishment and (b) the product of 40% of the Single-Family Residential Unit Rate multiplied by the number of remaining units in the Multifamily Residential Establishment.

The Scope of Work:

- Kickoff; Project inception; Obtain current information on landscape, security and public works expenditures – capital, labor, and contractual – for the gated residential area of the Village.
- Update property database for the gated residential area of the Village; summarize descriptive statistics relating to dwelling units, lot area, building footprints.
- Project expected costs (capital, O&M, lifecycle, general administration).
- Review Village assessment method; contrast characteristics of equity and efficiency of administration for assessments using other factors.

- Writeup of methods and results; submit the draft to Village Staff.
- Respond to Review & Comment by Village; amend Draft and prepare a final report with proposed ordinance.

### **THE BAL HARBOUR EXPERIENCE**

Approving the analysis of the current allocation methodology used to determine the annual Security and Landscape Assessment rate will ensure that the rate is both equitable and efficient as to allocating and apportioning program costs among the parcels located in the assessment area within the gated community throughout the coming fiscal years resulting in both a Beautiful Environment as well as enhanced Safety.

### **CONCLUSION**

BHCA President Neca Logan requested an analysis of the allocation methodology used to determine the annual Security and Landscape Assessment levied on parcels within the gated area. The requested proposal provided by the Balmoral Group, in the amount of \$11,900, was reviewed and unanimously approved by the Board this February.

Upon review, I have determined that it is in the best interest of the Village to retain the Balmoral Group to provide the envisioned services. Therefore, I am recommending your approval of the Balmoral Group proposal dated March 20, 2024, to conduct the envisioned Security and Landscape Assessment Methodology analysis as detailed within their proposal at a total not to exceed \$11,900.

### **Attachments:**

1. Proposal from The Balmoral Group, Security and Landscape Assessment Methodology.
2. BHCA Balmoral Proposal approval and meeting minutes.



RESOLUTION NO. 2024-\_\_\_\_

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM THE BALMORAL GROUP TO CONDUCT ANALYSIS OF THE METHOD USED TO ALLOCATE THE SECURITY AND LANDSCAPE ASSESSMENT IN THE GATED RESIDENTIAL SECTION OF BAL HARBOUR VILLAGE, FLORIDA, AS DETAILED WITHIN THE BALMORAL GROUP PROPOSAL DATED MARCH 20, 2024, IN THE AMOUNT NOT TO EXCEED ELEVEN THOUSAND NINE HUNDRED DOLLARS (\$11,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Security and Landscape program cost is currently allocated among the Assessed Property, based upon each parcel's classification as a Private Recreational Facility or a Residential Property according to the number of Dwelling Units on such parcels. The size or value of Assessed Property does not determine the scope and cost of the Security and Landscape Program to be provided to such property. The use of Security and Landscape services, facilities, and programs is primarily driven by the existence of a Dwelling Unit or Private Recreational Facility, but also applies to Unimproved Property to a lesser extent; and

**WHEREAS**, the President of the Bal Harbour Civic Association, (BHCA), made a request to analyze the current methodology used to allocate the annual Security and Landscape Assessment levied to ensure that the imposition of said assessment be both equitable and efficient as to allocating and apportioning program costs among the parcels located in the assessment; and

**WHEREAS**, on February 14, 2024, during a BHCA Board meeting, a requested proposal provided by the Balmoral Group in the amount of \$11,900, was reviewed and unanimously approved by the Board; and

**WHEREAS**, this Council has determined that it is in the best interest of the Village to approve the proposal submitted by the Balmoral Group for the services as detailed within the proposal, in the amount not to exceed \$11,900.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Proposal Approved.** That the proposal submitted by the Balmoral Group for the Security and Landscape Assessments Allocation Methodology analysis at a cost not exceed \$11,900, is hereby approved and the Village Manager is hereby authorized to sign the proposal on behalf of the Village.

**Section 3. Expenditure Approved.** That the expenditure identifying budgeted funds for the envisioned analysis is hereby approved.

**Section 4. Implementation.** That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

**Section 5. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.



## Quote for Services

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**To:** Claudia Dixon, Chief Financial Officer, Village of Bal Harbour  
**From:** Valerie Seidel  
**Date:** 3/20/2024  
**Subject:** Security and Landscape Assessment Methodology

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Per email communication dated March 6<sup>th</sup>, 2024 and prior calls with the Village of Bal Harbour, The Balmoral Group is pleased to submit this quote to assist the Village in evaluating its assessment rate methodology for the gated residential area of the Village.

Critical to a successful outcome for defining an assessment for the Village's security and landscape program will be The Balmoral Group's understanding of the unique configurations of property and land use within the Village. Balmoral will apply its established applications of GIS and statistics to Village real property data, as well as insights gained from our statewide and international work in fiscal analysis. Through its unique mix of staff resources with proven experience in economics, banking, planning, statistics, GIS, and engineering, Balmoral will provide the Council a well-reasoned and defensible assessment of the proposed assessment for security and landscaping and all associated costs.

Balmoral recognizes several key factors and considerations relevant to both the analysis and the development of the annual assessment for security and landscaping services that addresses the needs of the Village and reflects the unique composition of properties and ownership in the gated residential area:

- The land uses within the "Gated Residential Community" include single-family, multi-family apartments and condominiums, and non-residential (including private recreational).
- While the Gated Area is effectively built-out, there are several remaining vacant lots and there continues to be redevelopment (i.e., tear-downs and new construction); additional redevelopment is anticipated during the planning horizon to be evaluated.
- The Village intends to base its assessment on both the direct and indirect costs of its security and landscape program that include contractual services, indemnity bonds,

insurance, employee salaries and benefits, digital support, legal support, professional services (e.g., engineering), administration including assessment collection, contingency, etc.

- Balmoral understands that it is the Village’s intent to ensure that the imposition of said assessment be both equitable and efficient as to allocating and apportioning program costs among the parcels located in the assessment area and that these parcels may differ in the benefits received by the program.
- Balmoral understands that the Village seeks to have input and to review all draft products with the goal of having ordinances available for adoption and implementation prior to either the end of the fiscal year (September 30, 2024) or the end of the calendar year (December 31, 2024).
- Last, Balmoral staff has worked with Ms. Trevarthen at Weiss Serota and can coordinate closely on any modifications to the implementing ordinance as required.

In sum, the proposed scope is intended to address the following primary goals:

- 1) To support both the underlying analysis and community dialog, ensure the Village has an accurate summary of the current character of all properties within the assessment area, including land use, property (lot) size, total living area, building square footage (i.e., footprint), and accessory structures and features.<sup>1</sup>
- 2) Based on recent activity evaluate the opportunities for additional development (i.e., a change in character of contributing parcels) within the assessment area.
- 3) Affirm current security and landscape program costs and project these costs considering labor, contractual, capital, and administrative components to review the Village’s approach to its maximum assessment rate.
- 4) Prepare a technical memo that reflects the analysis undertaken and recommendations to the Village regarding its methodology for the rate of assessment and the maximum assessment rate; and
- 5) Coordinate closely with Village staff and its legal consultants in preparing the ordinance for the Village Council.

Our work effort estimate (including a public meeting, if required) is 68 hours, in two phases as described in the following table. The total fee associated with this effort is \$11,900.

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<sup>1</sup> Balmoral recognizes that the Village’s draft resolution does not rely on select parcel attributes for rate-setting, but these data are valuable for characterizing any alternatives the Council may wish to desire to consider.

**Village of Bal Harbour Gated Residential Services Assessment**

<b>Task</b>	<b>Description</b>	<b>Hours</b>
<b>1</b>	<b>Data &amp; Analysis</b>	<b>42</b>
1a	Kickoff; Project inception; Obtain current information on landscape, security and public works expenditures — capital, labor, and contractual — for the gated residential area of the Village.	4
1b	Update property database for the gated residential area of the Village; summarize descriptive statistics relating to dwelling units, lot area, building footprints.	6
1c	Project expected costs (capital, O&M, lifecycle, general administration)	6
1d	Review Village assessment method; contrast characteristics of equity and efficiency of administration for assessments using other factors.	12
1e	Writeup of methods and results; submit draft to Village Staff	14
<b>2</b>	<b>Final Report</b>	<b>26</b>
2a	Respond to Review & Comment by Village; amend Draft.	6
2b	Prepare Final Report as an attachment to proposed ordinance.	8
2c	Meetings w/ Village Council; Public Hearing(s) & Adoption, if required	12

**TOTAL      68**

Our team understands the Village’s desired schedule for internal review and comment, any coordination with the Village attorney, and the timing of notices and public hearings relating to the ordinance to implement this assessment. Balmoral can support the Village intent to implement the assessment by either the start of the next Fiscal Year (October, 2024) or the Calendar Year (January, 2025).

We are excited for this opportunity, and dedicated to its success. Each of our team members is committed to making this project our highest priority, and will dedicate our resources to offer expertise and resources that will address all of the Village Council’s requests, and will withstand critique and the test of time. This is the type of project our team members are known for, specialize in, and enjoy. The Balmoral Group understands the effort required to successfully complete the proposed assignment, and commits appropriate resources to do so. We look forward to the opportunity to further demonstrate our capabilities to you.

Regards,



Valerie Seidel, President  
The Balmoral Group



**BAL HARBOUR  
CIVIC ASSOCIATION**

**MINUTES OF THE MEETING OF  
THE BOARD OF DIRECTORS  
BAL HARBOUR CIVIC ASSOCIATION, INC.**

A Meeting of the Board of The Bal Harbour Civic Association, Inc., a Florida corporation not-for-profit (the “Association”) was held on February 14, 2024 pursuant to the By-Laws of the Association.

The following directors were present in-person: Neca Logan, Rita Collins, Jose Biton

The following directors were present via Zoom: Brett Schlacter, Nathalie Abitbol

The following were also present in-person: Ana Chaverria

The meeting was called to order at 6:45 PM.

Quorum was established.

A vote was taken on The Balmoral Group Security and Landscape Assessment Proposal, resulting in a 4-0 approval. A question was raised regarding the possibility of negotiating the rate.

Neca Logan made a motion to inquire about negotiating the rate with Teh Balmoral Group as part of the approval process. The board voted 4-0 in favor of the motion.

The Meeting was adjourned at 8:00 PM.

Dated as of February 15, 2024.

*Neca Logan* 2/15/2024

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Neca Logan, President  
Bal Harbour Civic Association, Inc.

# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM CUMMINS CEDERBERG FOR THE PROVISION OF MARINE ENGINEERING AND ENVIRONMENTAL CONSULTING SERVICES, TO ANALYZE THE CREATION OF A VESSEL EXCLUSION ZONE AND OTHER MITIGATION OPTIONS, IN THE WATERS OF BISCAYNE BAY WITHIN AND ADJACENT TO VILLAGE CONTROLLED WATERS, AS DETAILED IN THE CUMMINS CEDERBERG PROPOSAL NO. 77815-R1, IN THE AMOUNT NOT TO EXCEED \$28,900.

### Issue:

Should the Village Council Approve the Proposal from Cummins Cederberg to conduct a vessel exclusion zone analysis as detailed within their proposal?

### The Bal Harbour Experience:

Beautiful Environment     Safety     Modernized Public Facilities/Infrastructure  
 Destination & Amenities     Unique & Elegant     Resiliency & Sustainable Community

### Item Summary / Recommendation:

In recent years, the vessel mooring on the flood shoal on the bayside of Baker's Haulover Inlet has migrated south, leading to a congregation of vessels near private homes on Bal Bay Drive. (Figure 1). This condition has negatively impacted the adjacent residents in terms of increased noise and disruption from the closer mooring of boaters to their properties. The mooring of vessels in greater numbers than previous periods, is partially the result of the United States Army Corps of Engineers (USACE), flood shoal dredging to the North of the Baker's Haulover Inlet and reduction of the sand bar/historic vessel mooring area as part of the USACE Bal Harbour Beach Nourishment Project, which was completed in June of 2023. Village Environmental Engineers, Cummins Cederberg has provided the requested proposal No. 778815-R1 in the amount of \$28,900 to analyze the feasibility of alternatives to mitigate this issue, such as relocation of the accumulated sand or implementation of boating regulations (e.g., vessel exclusion zone) in the area.

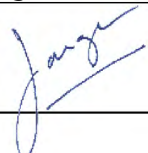
**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

Amount	Account	Account #
\$28,900	Professional Services - Resort Tax Fund	10-53-503105

### Sign off:

Director Public Works & Beautification Department	Chief Financial Officer	Village Manager
John Oldenburg	Claudia Dixon	Jorge M. Gonzalez



# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: April 09, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM CUMMINS CEDERBERG FOR THE PROVISION OF MARINE ENGINEERING AND ENVIRONMENTAL CONSULTING SERVICES, TO ANALYZE THE CREATION OF A VESSEL EXCLUSION ZONE AND OTHER MITIGATION OPTIONS, IN THE WATERS OF BISCAYNE BAY WITHIN AND ADJACENT TO VILLAGE CONTROLLED WATERS, AS DETAILED IN THE CUMMINS CEDERBERG PROPOSAL NO. 77815-R1, IN THE AMOUNT NOT TO EXCEED TWENTY-EIGHT THOUSAND NINE HUNDRED DOLLARS (\$28,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

### BACKGROUND

In recent years, the vessel mooring on the flood shoal on the bayside of Baker's Haulover Inlet has migrated south, leading to a congregation of vessels near private homes on Bal Bay Drive. (Figure 1). This condition has negatively impacted the adjacent residents in terms of increased noise and disruption from the closer mooring of boaters to their properties. The mooring of vessels in greater numbers than previous periods, is partially the result of the United States Army Corps of Engineers (USACE), flood shoal dredging to the North of the Baker's Haulover Inlet and reduction of the sand bar/historic vessel mooring area. The dredging was conducted to provide sand for the USACE Bal Harbour Beach Nourishment Project, which was completed in June of 2023.

Figure 1 Area of Focus





## **ANALYSIS**

Village Environmental Engineers, Cummins Cederberg has provided the requested proposal No. 778815-R1 in the amount of twenty-eight thousand nine hundred dollars (\$28,900) to analyze the feasibility of alternatives to mitigate this issue, such as relocation of the accumulated sand or implementation of boating regulations (e.g., vessel exclusion zone) in the area. The proposed scope of service is provided for your review below.

### Scope of Services

The following section outlines the scope of services to be provided by Cummins Cederberg for the Village of Bal Harbour.

#### Task 1 - Feasibility Study

##### Task 1.1. Alternatives Analysis

Cummins Cederberg will analyze the feasibility of the following alternatives, thus informing next steps and future design:

- Dredging the shoal area for placement on the Village of Bal Harbour's beaches,
- Implementing a vessel exclusion zone in the current shoal area, and
- Implementing a managed mooring field in the current shoal area.

Each alternative has pros and cons associated with its use as a management strategy for the control of vessels mooring ad hoc on the shoal. Cummins Cederberg will consider policy and regulatory constraints, cost, time, and limitations of each concept in determining the overall feasibility and achieving the Client's goals. The findings of the alternatives analysis will be summarized in the final Task 1 deliverable.

#### Task 1.2.-.Engineering Assessment

1.2.1. The review will include available geotechnical records, LiDAR, bathymetric surveys and other water depth data, movement of the flood shoal complex through historical aerial analysis, constructability, and available wind, wave, and current data. No engineering design or modeling is included. Findings will be summarized in the final Task 1 deliverable.

#### Task 1.3.-.Permitting Due Diligence

Cummins Cederberg will conduct a desktop review of the Project site relative to implementing the alternatives mentioned in Task 1.1. This review will include, but is not limited to, review of available county/state/federal environmental permits for activities in/near the flood shoal and for other similar activities in the Biscayne Bay Aquatic Preserve, submerged lands ownership, available biological assessments, previous dredge footprints, compliance and enforcement history, and historical aeriels. This will also include a review of available Joint Coastal Permit (JCP) files, the Florida Department of Environmental Protection (FDEP) Strategic Beach Management Plan (SBMP), and the FDEP Inlet Management Plan (IMP). Potential constraints will be evaluated using the acquired information. An FDEP title determination request will be submitted and processed to confirm submerged lands ownership within the Project boundaries and provide the relevant submerged

ownership documents. A recommended permitting strategy will be proposed. Findings will be summarized in the final Task 1 deliverable.

#### Task 1.4.-.Agency Coordination

Cummins Cederberg will coordinate with the environmental regulatory agencies (i.e., DERM, FDEP, USACE) to facilitate preliminary coordination on permissibility of the alternatives. In addition to the regulatory agencies who would permit any of the alternatives listed in Task 1, Cummins Cederberg will meet with the Miami-Dade County DERM's Water Resources Division as cosponsor to the federal dredge and sand placement projects in the area, and USACE Civil Works, to gauge the level of interest and acceptance to the alternatives. Cummins Cederberg will include the initial feedback from the agencies and anticipated limitations on the county, state, and federal permitting levels in the Task 1 deliverable.

#### **THE BAL HARBOUR EXPERIENCE**

Conducting an analysis and developing options to mitigate the mooring of vessels on the south side of Baker's Haulover Cut in proximately to private residences, will enhance safety for boaters, reduce litter and debris that is deposited in the water and diminish the disruption of the resident's enjoyment of their homes. Therefore, this action correlates to the stated goals of Safety, Beautiful Environment and Resiliency & Sustainable Community. Also, the mitigation of vessels mooring in close proximately to private residences, will enhance the area residents, tranquility, which relates to the goal of Unique & Elegant.

#### **CONCLUSION**

In recent years, the vessel mooring on the flood shoal on the bayside of Baker's Haulover Inlet has migrated south, leading to a congregation of vessels near private homes on Bal Bay Drive. (Figure 1). This condition has negatively impacted the adjacent residents in terms of increased noise and disruption from the closer mooring of boaters to their properties.

I have reviewed the requested proposal from Village Environmental Engineers, Cummins Cederberg and I have determined that it is in the best interest of the Village to retain Cummins Cederberg to provide the envisioned services. Therefore, I am recommending your approval of the Cummins Cederberg proposal No. 778815-R1 in the amount not to exceed \$28,900, to analyze the feasibility of alternatives to mitigate this issue, such as relocation of the accumulated sand or implementation of boating regulations (e.g., vessel exclusion zone) in the area.

#### Attachments:

1. Proposal NO. 77815-R1 from Cummins Cederberg.

RESOLUTION NO. 2024-\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE PROPOSAL FROM CUMMINS CEDERBERG FOR THE PROVISION OF MARINE ENGINEERING AND ENVIRONMENTAL CONSULTING SERVICES, TO ANALYZE THE CREATION OF A VESSEL EXCLUSION ZONE AND OTHER MITIGATION OPTIONS, IN THE WATERS OF BISCAYNE BAY WITHIN AND ADJACENT TO VILLAGE CONTROLLED WATERS, AS DETAILED IN THE CUMMINS CEDERBERG PROPOSAL NO. 77815-R1, IN THE AMOUNT NOT TO EXCEED TWENTY-EIGHT THOUSAND NINE HUNDRED DOLLARS (\$28,900); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, in recent years, vessel mooring on the flood shoal on the bayside of Baker's Haulover Inlet has migrated south, leading to a congregation of vessels near private homes on Bal Bay Drive; and

**WHEREAS**, this condition has negatively impacted the residents in the affected area in terms of increased noise and disruption from the mooring of boats close to their properties; and

**WHEREAS**, Village Environmental Engineers, Cummins Cederberg has provided the requested proposal No. 778815-R1 in the amount of twenty-eight thousand nine hundred dollars (\$28,900) to analyze the feasibility of alternatives to mitigate this issue, such as relocation of the accumulated sand or implementation of boating regulations (e.g., a vessel exclusion zone); and

**WHEREAS**, this Council has determined that it is the best interest of the Village to approve the proposal submitted by Cummins Cederberg for the services as detailed in proposal No. 778815-R1, in the amount not to exceed \$28,900.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Proposal Approved.** That the proposal submitted by Cummins Cederberg for the services as detailed within proposal No. 778815-R1, in the amount not to exceed \$28,900, is hereby approved and the Village Manager is hereby authorized to sign the proposal on behalf of the Village.

**Section 3. Expenditure Approved.** That the expenditure identifying budgeted funds for the envisioned analysis is hereby approved.

**Section 4. Implementation.** That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

**Section 5. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

March 26, 2024

77815-R1

**Village of Bal Harbour**

Attn: Mr. John Oldenburg

655 96<sup>th</sup> Street

Bal Harbour, FL 33154

Sent via email: [joldenburg@balharbourfl.gov](mailto:joldenburg@balharbourfl.gov)

**RE: Proposal for Marine Engineering and Environmental Consulting Services**

*For the proposed Vessel Exclusion Zone adjacent to the Village of Bal Harbour, Florida*

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Dear Mr. Oldenburg:

Pursuant to our recent discussion, Cummins Cederberg, Inc. (Cummins Cederberg) is pleased to present this proposal for our marine engineering and environmental consulting services for the proposed Vessel Exclusion Zone, proposed adjacent to the Village of Bal Harbour, Miami-Dade County, Florida (Project).

**Project Introduction**

It is our understanding that in recent years, the flood shoal on the bayside of Baker's Haulover Inlet has migrated south, leading to a congregation of vessels near private homes on Bal Bay Drive. **(Figure 1)**. The purpose of this Project is to analyze the feasibility of alternatives to mitigate this issue, such as relocation of the accumulated sand or implementation of boating regulations (e.g., vessel exclusion zone) in the area.



**Figure 1.** Shoal Area of Interest (green); Intracoastal Waterway (red). Image from 3/4/2023.

## Scope of Services

The following section outlines the scope of services to be provided by Cummins Cederberg for the Village of Bal Harbour (Client).

### Task 1 – Feasibility Study

#### Task 1.1: Alternatives Analysis

Cummins Cederberg will analyze the feasibility of the following alternatives, thus informing next steps and future design:

- Dredging the shoal area for placement on the Village of Bal Harbour’s beaches,
- Implementing a vessel exclusion zone in the current shoal area, and
- Implementing a managed mooring field in the current shoal area.

Each alternative has pros and cons associated with its use as a management strategy for the control of vessels mooring ad hoc on the shoal. Cummins Cederberg will consider policy and regulatory constraints, cost, time, and limitations of each concept in determining the overall feasibility achieving the Client’s goals. The findings of the alternatives analysis will be summarized in the final Task 1 deliverable.

#### Task 1.2: Engineering Assessment

Cummins Cederberg will perform a desktop engineering review of the alternatives listed in Task 1.1. The review will include available geotechnical records, LiDAR, bathymetric surveys and other water depth data, movement of the flood shoal complex through historical aerial analysis, constructability, and available wind, wave, and current data. No engineering design or modeling is included. Findings will be summarized in the final Task 1 deliverable.

### Task 1.3: Permitting Due Diligence

Cummins Cederberg will conduct a desktop review of the Project site relative to implementing the alternatives mentioned in Task 1.1. This review will include, but is not limited to, review of available county/state/federal environmental permits for activities in/near the flood shoal and for other similar activities in the Biscayne Bay Aquatic Preserve, submerged lands ownership, available biological assessments, previous dredge footprints, compliance and enforcement history, and historical aerials. This will also include a review of available Joint Coastal Permit (JCP) files, the Florida Department of Environmental Protection (FDEP) Strategic Beach Management Plan (SBMP), and the FDEP Inlet Management Plan (IMP). Potential constraints will be evaluated using the acquired information. An FDEP title determination request will be submitted and processed to confirm submerged lands ownership within the Project boundaries and provide the relevant submerged ownership documents. A recommended permitting strategy will be proposed. Findings will be summarized in the final Task 1 deliverable.

### Task 1.4: Agency Coordination

Cummins Cederberg will coordinate with the environmental regulatory agencies (i.e., DERM, FDEP, USACE) to facilitate preliminary coordination on permissibility of the alternatives. In addition to the regulatory agencies who would permit any of the alternatives listed in Task 1, Cummins Cederberg will meet with the Miami-Dade County DERM's Water Resources Division as cosponsor to the federal dredge and sand placement projects in the area, and USACE Civil Works, to gauge the level of interest and acceptance to the alternatives. Cummins Cederberg will include the initial feedback from the agencies and anticipated limitations on the county, state, and federal permitting levels in the Task 1 deliverable.

*Deliverables: Feasibility Study Report*

Fees for Task 1 are lump sum (including expenses): ..... **\$28,900.00**

### Conditions/Assumptions

- Client shall notify Cummins Cederberg of any known conditions related to the Project that may affect the scope of services.
- Scope does not include fieldwork, design or permitting.
- Cummins Cederberg does not guarantee, warranty, ensure, or otherwise assert that the Project will receive the necessary regulatory authorizations.

### Fees

Fees for services are noted above. Cummins Cederberg shall invoice the Client on a percent complete basis each month and/or completion of tasks. Tasks will be invoiced as per the Rate Schedule approved in our Continuing Services Agreement (CSA). The terms and conditions of our existing CSA apply to this Task Assignment.

**General**

We appreciate the opportunity to prepare a proposal for our marine engineering and environmental consulting services and look forward to working together. This proposal is valid for 60 days and was prepared based on the information provided by the Client to date. If you wish us to provide the services detailed above, please sign this agreement, which includes the Cummins Cederberg's General Terms & Conditions attached herein and return a signed copy to us to serve as our Authorization to Proceed.

Should you have any questions or require additional information, please do not hesitate to contact me at 904-537-5013 or [dirwin@CumminsCederberg.com](mailto:dirwin@CumminsCederberg.com).

Sincerely,  
**CUMMINS CEDERBERG, INC.**



Danielle H. Irwin, M.Sc.  
Senior Director  
PWS, CFM, LEED AP, WEDG

Read and Accepted by **Client:**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Date: \_\_\_\_\_

**Enclosures:**

Certificate of Insurance



## Certificate of Insurance

		<b>CERTIFICATE OF LIABILITY INSURANCE</b>		DATE (MM/DD/YYYY) 09/26/2023			
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.							
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).							
<b>PRODUCER</b> LassiterWare LLC 1300 N. Westshore Blvd. Suite 110 Tampa FL 33607		<b>CONTACT NAME:</b> Wendy Tyree <b>PHONE (A/C, No, Ext):</b> (800) 845-8437 <b>FAX (A/C, No):</b> (888) 883-8880 <b>E-MAIL ADDRESS:</b> wendyt@lassiterware.com					
<b>INSURED</b> Cummins Cederberg, Inc. 201 Alhambra Circle, Suite 601 Coral Gables FL 33134		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>			
		INSURER A: American Casualty Co-Reading		20427			
		INSURER B: Continental Insurance Company		35289			
		INSURER C: Benchmark Ins Co		41394			
		INSURER D: Pacific Insurance Company Ltd		10048			
		INSURER E:					
INSURER F:							
<b>COVERAGES</b>		<b>CERTIFICATE NUMBER:</b> 23-24 Cert		<b>REVISION NUMBER:</b>			
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.							
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:			7034507431	09/26/2023	09/26/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPI/OP AGG \$ 2,000,000 OTHER \$
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> AUTOS ONLY			7034507445	09/26/2023	09/26/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP-Basic \$ 10,000
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			MWC2200075-01	09/26/2023	09/26/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Professional Liability / Pollution Incident Liability (Claims-Made)			OH046445623	09/30/2023	09/26/2024	Each Claim \$2,000,000 Aggregate \$2,000,000
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES: (ACORD 101, Additional Remarks: Schedule, may be attached if more space is required)							
<b>CERTIFICATE HOLDER</b>				<b>CANCELLATION</b>			
~Evidence of Insurance c/o Cummins Cederberg, Inc. 201 Alhambra Circle, Suite 601 Coral Gables FL 33134				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 			
© 1988-2015 ACORD CORPORATION. All rights reserved. ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD							



# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE FINAL VULNERABILITY ASSESSMENT AS DEVELOPED AND SUBMITTED BY THE VILLAGE ENVIRONMENTAL ENGINEERS, CUMMINS CEDERBERG, IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP), GRANT WORKPLAN NO. 22PLN61.**

### Issue:

Should the Village Council Accept the Final Vulnerability Assessment as submitted by the Village Environmental Engineers, Cummins Cederberg?

### The Bal Harbour Experience:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Beautiful Environment   | <input type="checkbox"/> Safety           | <input type="checkbox"/> Modernized Public Facilities/Infrastructure   |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant | <input checked="" type="checkbox"/> Resiliency & Sustainable Community |
| <input type="checkbox"/> Other: _____            |   |  |

### Item Summary / Recommendation:

In June of 2022, the Council approved the acceptance of a Resilient Florida Planning Grant to develop the Village of Bal Harbour Vulnerability Assessment and Adaptation Plan. The Council also approved the Task Agreement with Cummins/Cederberg to conduct the envisioned planning activities. Throughout the development of the Vulnerability Assessment and Adaptation Plan in process since 2022, a total of seven (7) internal stakeholder and public outreach meetings were hosted to solicit feedback from the public and internal Village stakeholders. The Draft Vulnerability Assessment was presented and discussed during the March 05, 2024, Council meeting.

On March 31, 2024, the final Vulnerability Assessment data was incorporated into the Draft Adaptation Plan and submitted prior to this meeting for FDEP review as required under the Work Plan provisions. When received, the FDEP comments will be incorporated into the Adaptation Plan and the Plan will be presented for your review and approval at a later date.

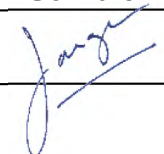
**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

Amount	Account	Account #
X	X	X

### Sign off:

<b>Director Public Works &amp; Beautification Department</b>	<b>Chief Financial Officer</b>	<b>Village Manager</b>
<b>John Oldenburg</b>	<b>Claudia Dixon</b>	<b>Jorge M. Gonzalez</b>

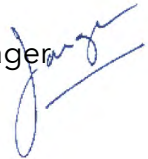


# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 09, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE FINAL VULNERABILITY ASSESSMENT, IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT WORKPLAN NO. 22PLN61; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### **ADMINISTRATIVE RECOMMENDATION**

I am recommending approval of this Resolution.

### **BACKGROUND**

In 2019, the Village laid out a five-year strategy to develop a flood vulnerability and adaptation plan for the community. In keeping with the stated goal of Resiliency and Sustainable Community and in support of the Village's 5-year strategy, the Village received a grant in 2019 from the Florida Department of Environmental Protection (FDEP) for an inundation and economic vulnerability study, which was conducted by the former Village environmental engineers, Coastal Systems Inc. This initial step largely consisted of a mapping exercise and served as an opportunity to open a dialog with the community about inundation risks within the Village. Maps and graphical depictions of the study results were presented to the community in 2020.

The Resilient Florida Program established in May 2021, created opportunities to support local governments through funding and a coordinated approach to improve the state's resilience to flooding and sea level rise. Section 380.093 Florida Statutes (F.S.) lays out specific requirements for vulnerability assessments in Florida to address current and future flood risks for evaluation and the degree to which community infrastructure assets are impacted. The State of Florida has established a goal to have all counties and municipalities complete a vulnerability assessment consistent with Florida Statute requirements by the year 2026.

### **ANALYSIS**

To better understand the Village's flood vulnerabilities, the Village applied for and was awarded a Resilient Florida Planning Grant in 2022, to develop the Village of Bal Harbour Vulnerability Assessment and Adaptation Plan. The data collected during the Assessment, would serve as the basis for the development of the Adaptation Plan. In May of 2022, the Village received a notice of grant award from FDEP, and subsequently, in

June of 2022, the Council accepted the grant funds and approved the Task Agreement with Cummins/Cederberg to conduct the envisioned planning activities.

Throughout the development of the Vulnerability Assessment in process since 2022, a total of seven (7) internal stakeholder and public outreach meetings were hosted to solicit feedback from the public and internal Village stakeholders. The Draft Vulnerability Assessment was presented and discussed during the March 05, 2024, Council meeting. On March 20, 2023, an internal stakeholder meeting was held to review the final Vulnerability Assessment and draft Adaptation Plan Submittal.

#### Vulnerability Assessment Executive Summary

The vulnerability assessment evaluated spatial extents and flood depths associated with current and future flood hazards associated with seasonal high tides, sea level rise, storm surge, rainfall, and compound flooding. These flood hazard scenarios were modeled within a GIS-based program and dynamic model using publicly available 2021 Miami-Dade County LiDAR topographic data.

A detailed inventory of publicly owned and/or maintained critical and regionally significant assets within the Village was evaluated to determine the degree of asset vulnerability and sensitivity to coastal flooding. In accordance with the Florida Statutes, critical and regionally significant assets must be categorized under the following four asset types:

- 1) Transportation (including Emergency Evacuation Routes),
- 2) Critical Infrastructure,
- 3) Critical Community and Emergency Facilities, and
- 4) Natural, Cultural & Historic Resources.

A range of critical assets were included in the vulnerability assessment. The Village's *priority* critical assets include stormwater and wastewater pump stations, police station headquarters, existing Village Hall, future Village Hall, Bal Harbour Waterfront Park, Bal Bay Drive, Harbour Way (east and west), Byron Ave., Harbour Way Park, and the Harbourfront Park, Seawall and Cutwalk, Bal Harbour Beach, Collins Avenue (State Road A1A), Kane Concourse, Kane Concourse Bridge, Bakers Haulover Inlet Bridge, Bakers Haulover Inlet Seawall, One Bal Harbour Seawall, Kane Concourse Seawall, and the rock jetty were also identified as regionally significant assets, although not owned/maintained by the Village. Notably, the Village also owns an Emergency Operations Center, which is strategically located off the coastal barrier island in North Miami, FL. Due to its location outside of municipal boundaries, the EOC was not considered in the analysis. Additionally, the Village is also proactively planning for the future relocation of the existing Village Hall which houses the police station and other emergency and operational services. To support future adaptive relocation of this important asset, the proposed future Village Hall parcel was also considered within the analysis.

A series of flood maps and flood depth tables were produced to highlight asset specific vulnerabilities within the Village (Appendix B and C). Four focus areas were assigned within the Village to support adaptation priorities for each geographic area. The focus areas were assigned based on those areas with the highest concentration of impacted critical assets that are deemed essential to community safety and welfare.

The results of this assessment will be used to determine adaptation strategies in the subsequent report, The Coastal Adaptation Plan. Overall, the Vulnerability Assessment provides an understanding of the flood risk within the Village and identifies priority assets to be considered for adaptation. The following summarizes the key outcomes from the sensitivity analysis:

- Approximately 8% of the Village is inundated under the 25-year storm surge condition (4% AEP) which has a still water elevation of 2.80 ft NAVD88 based on FEMA FIS report (2021).
- Approximately 69% of the Village exhibits inundation under the 100-year storm surge scenario (1% AEP), which has a still water elevation of 6.70ft NAVD88 based on FEMA FIS report (2021).
- The future projected 100-year storm (4% AEP) for the 2040 NOAA Intermediate Low and Intermediate High scenario identifies future still water elevations of 7.39 and 8.11-ft NAVD88, respectively.
- Of the priority critical assets, Harbour Way Park has the highest degree of flooding among Village critical assets.
- All priority critical assets are rated medium or higher (exhibiting flood depths greater than 1.5 feet) under the 25-year storm surge + 2040 Intermediate Low Sea level rise scenario.
- Focus area B experiences the highest inundation levels. Under today's 25-year storm condition, approximately 42% of the area is inundated. Similarly, under the 100-year storm condition, nearly 92% of the focus area is inundated.

A series of data gaps were identified as part of the analysis. The following recommendations are provided for future consideration and next steps:

1. Continue to update the Vulnerability Assessment as new data becomes available.
2. Obtain new LiDAR data to improve the grid resolution and resulting flood model analysis.
3. Maintain updates to the Village's critical asset inventory.
4. Obtain finish floor elevations for critical assets and important buildings community wide.
5. Verify that the Village's Emergency Operations Center building was included in the City of North Miami's 2021 Vulnerability Assessment.
6. Develop a Coastal Adaptation Plan wherein the community can identify priority implementation projects.
7. Prioritize funding and grant opportunities.
8. Establish an acceptable level of flood risk within the community.



The attached final Vulnerability Assessment data was incorporated into the Draft Adaptation Plan and submitted prior to this meeting for FDEP review as required, on March 31, 2024. After receipt of the FDEP comments and their incorporation into the Draft Adaptation Plan, the draft Plan will be presented for your review and input at a later date.

### **THE BAL HARBOUR EXPERIENCE**

This action is aligned with the Village's stated mission through *The Bal Harbour Experience*. The completion of the Council approved Vulnerability Assessment and data set was used and incorporated into the FDEP Draft Adaptation Plan submission, in support of the stated goal of Resiliency and Sustainable Community.

### **CONCLUSION**

To better understand the Village's flood vulnerabilities, the Village applied for and was awarded a Resilient Florida Planning Grant in 2022, to develop the Village of Bal Harbour Vulnerability Assessment and subsequent Adaptation Plan. The data collected during the Assessment, would serve as the basis for the development of the Adaptation Plan. In May of 2022, the Village received a notice of grant award from FDEP, and subsequently, in June of 2022, the Council accepted the grant funds and approved the Task Agreement with Cummins/Cederberg to conduct the envisioned planning activities.

Throughout the development of the Vulnerability Assessment in process since 2022, a total of seven (7) internal stakeholder and public outreach meetings were hosted to solicit feedback from the public and internal Village stakeholders. The Draft Vulnerability Assessment was presented and discussed during the March 05, 2024, Council meeting. On March 20, 2023, an internal stakeholder meeting was held to review the final Vulnerability Assessment and draft Adaptation Plan Submittal.

The feedback obtained during these stakeholder and public interactions was incorporated into the Final Vulnerability Assessment. Additionally, the resulting Draft Adaptation Plan was submitted to FDEP for their required review. After receipt of the FDEP comments and their incorporation into the Draft Adaptation Plan, the Plan will be presented for your review and input at a later date.

### **Attachments:**

1. Final Vulnerability Assessment, Cummins Cederberg

**RESOLUTION NO. 2024-\_\_\_\_**

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; ACCEPTING THE FINAL VULNERABILITY ASSESSMENT, IN COMPLIANCE WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) GRANT WORKPLAN NO. 22PLN61; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, to better understand the Village’s flood vulnerabilities, the Village applied for and was awarded a Resilient Florida Planning Grant in 2022, to develop the Village of Bal Harbour Vulnerability Assessment and Adaptation Plan; and

**WHEREAS**, in May of 2022, the Village received a notice of grant award from the Florida Department of Environmental Protection (“FDEP”), and subsequently, in June of 2022, the Council accepted the grant funds and approved the Task Agreement with Village Environmental Engineers Cummins/Cederberg to conduct the envisioned planning activities; and

**WHEREAS**, during the March 05, 2024, Village Council meeting, the draft Vulnerability Assessment was offered for review and comments to the Village Council during a Public Presentation and Outreach session; and

**WHEREAS**, the comments received at the March Council meeting were merged into the final Vulnerability Assessment data and the Assessment was incorporated into the Adaptation Plan; and

**WHEREAS**, on March 20, 2024, an internal stakeholders meeting with staff was held to review the final Vulnerability Assessment and draft Adaptation Plan Submittal; and

**WHEREAS**, the draft Adaptation Plan was submitted on March 31, 2024 to FDEP for review and comment as required by the agency; and

**WHEREAS**, this Council has determined that it is in the best interest of the Village to accept the final Vulnerability Assessment as developed and submitted by the Village Environmental Engineers Cummins Cederberg.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**



**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Final Vulnerability Assessment Accepted.** That the final Vulnerability Assessment developed and submitted by the Village Environmental Engineers, Cummins Cederberg is hereby accepted and the Village Manager is hereby authorized to sign all required FDEP documents as required, on behalf of the Village.

**Section 3. Implementation.** That the Village Manager is hereby authorized to take all actions necessary to implement the purposes of this Resolution.

**Section 4. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

# Vulnerability Assessment

**Bal Harbour Village**  
*Miami-Dade County, Florida*



March 2024

**Prepared for:**  
**Bal Harbour Village**  
655 Ninety-Sixth Street  
Bal Harbour, Florida Att.  
John Oldenburg



Prepared by:  
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# Technical Report Bal Harbour Village Vulnerability Assessment

*Miami-Dade County, Florida*

March 2024


Prepared for:

**Bal Harbour Village**  
655-96<sup>th</sup> Street  
Bal Harbour, FL 33154

Prepared by:

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Jenna N. Phillips, M.S.



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Leonard Barrera Allen,  
PE, MSc, CFM, ENV SP, WEDG



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Grace Becar, M. Eng.

## Document Status

Version	Doc type	Reviewed by	Approved by	Date issued
V01	Draft VA	Leonard Barerra	Jenna N. Phillips	2/26/2024
V02	Final VA	Leonard Barerra	Jenna N. Phillips	3/27/2024



## EXECUTIVE SUMMARY

In 2019, Bal Harbour Village (Village) laid out a five-year strategy to develop a flood vulnerability and adaptation plan for the community. To support this strategy, the Village acquired a Florida Department of Environmental Protection (FDEP) grant through the Florida Resilient Coastlines Program in 2019 to conduct an inundation and economic vulnerability study. In May 2021, Governor DeSantis signed Senate Bill 1954, creating the Resilient Florida Program (RFP), with the goal to have all counties and municipalities complete a vulnerability assessment consistent with Florida Statute Section 380.093 by the year 2026. To incentivize communities, the RFP offers grant funding opportunities for communities to conduct planning and implementation of adaptation projects design to reduce flood risks with statute-compliant VA's. In 2022, the Village was awarded a Resilient Florida Planning Grant to develop the Bal Harbour Village's Vulnerability Assessment and Coastal Adaptation Plan. The vulnerability assessment evaluated spatial extents and flood depths associated with current and future flood hazards associated with seasonal high tides, sea level rise, storm surge, rainfall, and compound flooding. These flood hazard scenarios were modeled within a GIS-based program and dynamic model using publicly available 2021 Miami-Dade County LiDAR topographic data.

A detailed inventory of publicly owned and/or maintained critical and regionally significant assets within the Village was evaluated to determine the degree of asset vulnerability and sensitivity to coastal flooding. In accordance with the Florida Statutes, critical and regionally significant assets must be categorized under the following four asset types: 1) Transportation (including Emergency Evacuation Routes), 2) Critical Infrastructure, 3) Critical Community and Emergency Facilities, and 4) Natural, Cultural & Historic Resources. A range of critical assets were included in the vulnerability assessment. The Village's *priority* critical assets include stormwater and wastewater pump stations, police station headquarters, existing Village Hall, future Village Hall, Bal Harbour Waterfront Park, Bal Bay Drive, Harbour Way(east and west), Byron Ave., Harbour Way Park, and the Harbourfront Park, Seawall and Cutwalk. Bal Harbour Beach, Collins Avenue (State Road A1A), Kane Concourse, Kane Concourse Bridge, Bakers Haulover Inlet Bridge, Bakers Haulover Inlet Seawall, One Bal Harbour Seawall, Kane Concourse Seawall, and the rock jetty were also identified as regionally significant assets, although not owned/maintained by the Village. Notably, the Village also owns an Emergency Operations Center which is strategically located off of the coastal barrier island in North Miami, FL. Due to its location outside of municipal boundaries, the EOC was not considered in the analysis. Additionally, the Village is also proactively planning for future relocation of the existing Village Hall (which houses the police station and other emergency and operational services. To support future adaptive relocation of this important asset, the proposed future Village Hall parcel was also considered within the analysis.

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The results of this assessment will be used to determine adaptation strategies in the subsequent report, The Coastal Adaptation Plan. Overall, the Vulnerability Assessment provides an understanding of the flood risk within the Village and identifies priority assets to be considered for adaptation. The following summarizes the key outcomes from the sensitivity analysis:

- Approximately 8% of the Village is inundated under the 25-year storm surge condition (4% AEP) which has a stillwater elevation of 2.80 ft NAVD88 based on FEMA FIS report (2021).
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Appendix B – Flood Depth Maps

Appendix C – Sensitivity Analysis

C1. List of Critical and Regionally Significant Assets with Flood Depths

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## LIST OF ACROYNOMYS

AC	Acres
AEP	Annual Exceedance Probability
CRS	Community Rating System
DEM	Digital Elevation Model
FDEP	Florida Department of Environmental Protection
FEMA	Federal Emergency Management Agency
FGDL	Florida Geographic Data Library
FIS	Flood Insurance Study
FRCP	Florida Resilient Coastlines Program
F.S.	Florida Statutes
GIS	Geographic Information Systems
GRSLR	Global and Regional Sea Level Rise
IPCC	Intergovernmental Panel for Climate Change
MHHW	Mean Higher High Water
MHW	Mean High Water
MSL	Mean Sea Level
MLW	Mean Low Water
MLLW	Mean Lower Low Water
NAVD88	North American Vertical Datum of 1998
NOAA	National Oceanic and Atmospheric Administration
NTDE	National Tidal Datum Epoch
SLR	Sea Level Rise

## SUPPORTING DATA AND DOCUMENTS

The GIS Geodatabase has been provided via shared OneDrive for FDEP and Bal Harbour Village access. All GIS metadata, static flood maps and flood depth tables have been provided as Attachments.

## 1 INTRODUCTION

This Vulnerability Assessment identifies critical and regional significant assets and determines the level of impact from future coastal flooding, sea level rise, and compound flood effects. The Village will use this information and be better equipped to plan adaptation and resiliency measures both in the near and long-term. To identify Bal Harbour Village's flood risk, a detailed data collection and exposure analysis was performed.

### 1.1 Bal Harbour Village

Bal Harbour Village (Village) is about 250 acres of land in Miami-Dade County at the northern tip of the Miami Beach barrier island. Three sides of the Village border waterways with Biscayne Bay to the west, Bakers Haulover Inlet to the north, and the Atlantic Ocean on the east.



**Figure 1-1: Location of Bal Harbour Village**

**Figure 1-2** below is an aerial of the Bal Harbour Village from 1925 depicting area primarily made up of wetlands. Developers purchased the land in 1929 to design a modern luxury community. During World War II in 1941, the land was used as a United States military base. By 1946, the development vision for the Village as an elegant and exclusive community was fulfilled. The area was bounded by seawalls as was achieved by first building seawalls and using fill to raise wetlands to provide the area for development. Today the Village remains a sought-after destination defined by the community with a relatively stable population of 3,054.<sup>1</sup>



**Figure 1-2: Historical Aerial (1925), Source: Miami Dade Public Library**

In accordance with Florida's 1985 Growth Management Act, the Village completed its first local comprehensive plan in 1988 with all required elements, including the Coastal Management Element (CME). Impacts from Hurricane Andrew in 1992 and Evaluation and Appraisal Reports in 1995 and 2010 triggered amendments to the local comprehensive plan. A 1997 amendment to the Coastal Management Element focused on enforcing development restrictions seaward of the Coastal Construction Control Line (CCCL) but otherwise the CME remains largely unchanged since 1985.

The Village contains 0.85 miles of coastline, which is within a USACE federally authorized Shore Protection Project (Dade County Beach Erosion and Hurricane Protection Project) for Miami-Dade County.

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<sup>1</sup> UF Bureau of Economic and Business Research (BEBR), Florida Estimates of Population 2023.

## 1.2 Background

In 2019, the Village laid out a five-year strategy to develop a flood vulnerability and adaptation plan for the community. To support the Village's 5-year strategy, the Village received a grant in 2019 from the Florida Department of Environmental Protection (FDEP) under the Florida Resilient Coastlines Program for an inundation and economic vulnerability study (Grant No. R1908). This initial step largely consisted of a mapping exercise and served as an opportunity to open a dialog with the community about inundation risks within the Village. Maps and graphical depictions of the study results were presented to the community in 2020.

The Resilient Florida Program was established in May 2021, after Governor DeSantis signed Senate Bill 1954 into law, thereby sunsetting the Florida Resilient Coastlines Program. The new program created opportunities to support local governments through funding and a coordinated approach to improve the state's resilience to flooding and sea level rise. Section 380.093 Florida Statutes (F.S.) lays out specific requirements for vulnerability assessments in Florida to address current and future flood risks for evaluation and the degree to which community infrastructure assets are impacted.

The State of Florida has established a goal to have all counties and municipalities complete a vulnerability assessment consistent with Florida Statute requirements by the year 2026. Through the Resilient Florida Program, local governments are encouraged to conduct vulnerability assessments with an emphasis on publicly owned and regionally significant critical assets. Vulnerability assessments establish a framework for identification and prioritization of projects that are intended to reduce flood risks and improve community resiliency. For projects identified in a vulnerability assessment (VA), communities can submit proposed projects to the Statewide Flooding and Sea Level Rise Resilience Plan for potential award of annual legislative funding.

To better understand the Village's flood vulnerabilities in compliance with Section 380.093, the Village applied for and was awarded a Resilient Florida Planning Grant in 2022 (Grant No. 22PLN) to develop the Village Vulnerability Assessment and Adaptation Plan.

This report completes the vulnerability assessment task under the Resilient Florida Grant for the Village. This report's main objective is to identify the Village's vulnerability to flood hazards and understand the methods used to perform the assessment. A subsequent report, the Adaptation Plan, will use the findings from this vulnerability assessment to develop actionable adaptation strategies for subsequent Village capital improvement planning and implementation. Throughout the development of the Vulnerability Assessment and Adaptation Plan, multiple outreach events were hosted to get feedback from the public and stakeholders. A summary of these events is provided in **Appendix A**.

## 2 ASSET INVENTORY

Section 380.093, F.S. requires that local governments obtain and develop a comprehensive inventory of critical and/or regionally significant infrastructure assets that are considered to be publicly owned or maintained. The asset inventory is a fundamental step for establishing the basis for subsequent analysis. The Statute defines critical assets using four main asset classes, as follows:

- Transportation and Evacuation Routes
- Critical Community and Emergency Facilities
- Critical Infrastructure
- Natural, Cultural, and Historical Resources

### 2.1 Critical and Regionally Significant Asset

All critical assets owned or maintained by Bal Harbour Village (grant applicant) are to be included in the vulnerability assessment. Regionally significant assets are also to be included and are defined by FDEP as “critical assets that support the needs of communities spanning multiple geopolitical jurisdictions, including, but not limited to water resources facilities, regional medical centers, emergency operations centers, regional utilities, major transportation hubs and corridors, airports, and seaports.” Regionally significant assets do not need to be only those assets owned or maintained by the Village.

The FDEP GIS Data Standard and Statute language provides data classification standards. **Table 2-1** identifies the statute required asset types to be evaluated within each asset class. **Table 2-2** provides a detailed summary overview of the Village-specific asset classes and types within municipal boundaries. **Figure 2-1** provides a spatial overview of the data outlined in **Table 2-2**.

**Table 2-1: Critical Asset Class and Types**

Transportation and Evacuation Routes	Critical Community and Emergency Facilities
<ul style="list-style-type: none"> <li>▪ Bridges</li> <li>▪ Evacuation Routes</li> <li>▪ Major Roads</li> <li>▪ Bus Terminals</li> <li>▪ Emergency Bus Terminals</li> </ul>	<ul style="list-style-type: none"> <li>▪ Community Centers</li> <li>▪ Law Enforcement Facilities</li> <li>▪ Local Government Facilities</li> </ul>
Natural, Cultural, and Historical Resources	Critical Infrastructure
<ul style="list-style-type: none"> <li>▪ Parks</li> <li>▪ Park Facilities</li> <li>▪ Shorelines</li> </ul>	<ul style="list-style-type: none"> <li>▪ Disaster Debris Management Sites</li> <li>▪ Stormwater Treatment Facilities and Pump Stations</li> <li>▪ Water Utilities Conveyance Systems</li> <li>▪ Wastewater Treatment Facilities and Lift Stations</li> </ul>



**Table 2-2: Asset Inventory**

Asset Type	Asset Name/Description
<b>Transportation and Evacuation Routes</b>	
<p>Bus Terminals</p> <p>Emergency Evacuation Bus Terminals</p> <p>Bridges</p> <p>Evacuation Routes</p> <p>Major Roadways</p>	<ul style="list-style-type: none"> <li>▪ Nine bus shelters located along Collins Ave/State Road A1A and 96<sup>th</sup> St.</li> <li>▪ Two bus shelters identified as emergency evacuation by Miami-Dade</li> <li>▪ Kane Concourse</li> <li>▪ Bakers Haulover Inlet Bridge</li> <li>▪ Collins Ave/State Road A1A</li> <li>▪ 96<sup>th</sup> St.</li> <li>▪ Collins Ave/State Road A1A</li> <li>▪ 96<sup>th</sup> St.</li> <li>▪ Harding Ave</li> <li>▪ Byron Ave</li> <li>▪ Bal Bay</li> <li>▪ Harbour Way</li> </ul>
<b>Critical Community and Emergency Facilities</b>	
<p>Law Enforcement Facilities</p> <p>Local Government Facilities</p> <p>Community Centers</p>	<ul style="list-style-type: none"> <li>▪ Bal Harbour Municipal Police Station</li> <li>▪ Bal Harbour Police Department Headquarters</li> <li>▪ Existing Bal Harbour Village Hall</li> <li>▪ Future Bal Harbour Village Hall</li> <li>▪ Bal Harbour Waterfront Park</li> </ul>
<b>Natural, Cultural, Historic Resources</b>	
<p>Shorelines</p> <p>Parks</p> <p>Park Facilities</p>	<ul style="list-style-type: none"> <li>▪ Atlantic Ocean</li> <li>▪ Rock Jetty</li> <li>▪ Bakers Haulover Inlet Seawall</li> <li>▪ Harbourfront Park and Cutwalk Seawall</li> <li>▪ Kane Concourse Seawall</li> <li>▪ Bal Harbour Park</li> <li>▪ Bal Harbour Beach</li> <li>▪ Harbour Way Park</li> <li>▪ Oceana Park</li> <li>▪ Dune Linear Park</li> <li>▪ Harbourfront Park and Cutwalk</li> <li>▪ Beach Access Path</li> <li>▪ Founder Circle</li> <li>▪ Collins Ave Underpass</li> <li>▪ Bal Harbour Waterfront Park, Main Office</li> </ul>
<b>Critical Infrastructure</b>	
<p>Water Utility Conveyance System</p> <p>Wastewater Treatment Facilities and Lift Stations</p> <p>Stormwater Treatment Facilities and Pump Stations</p> <p>Disaster Debris Management Sites</p>	<ul style="list-style-type: none"> <li>▪ Water Lines</li> <li>▪ Wastewater Lines</li> <li>▪ Two Lift Stations (0001 and 0002)</li> <li>▪ Stormwater Lines</li> <li>▪ Pump Station</li> <li>▪ Injection Wells</li> <li>▪ Outfalls</li> <li>▪ Weir Box</li> <li>▪ Downstream Defender</li> <li>▪ Exfiltration Trench</li> <li>▪ Harbour Way Debris Management Site</li> </ul>





Figure 2-1. Critical and Regionally Significant Assets within Bal Harbour Village



Bal Harbour Beach, Collins Ave (State Road A1A), Kane Concourse, Kane Concourse Bridge, Bakers Haulover Inlet Bridge, Bakers Haulover Inlet Seawall, One Bal Harbour Seawall, Kane Concourse Seawall, and the Rock Jetty were identified as regionally significant assets. Although these assets are not owned by the Village, they support the community's resilience and serve as emergency evacuation routes. The beach, maintained by Miami-Dade County, provides protection for the upland and a major recreational space for the Village. Collins Ave (State Road A1A), Kane Concourse, Kane Concourse Bridge, and Bakers Haulover Inlet Bridge are owned and maintained by the Florida Department of Transportation (FDOT). These assets provide the only evacuation routes for the Village therefore are essential to protect to ensure the safety of the community during emergencies. Additionally, private seawalls provide shoreline stabilization and protection from flooding.

## 2.2 Asset Data Collection

Critical asset ArcGIS data were obtained from multiple publicly available sources including statewide coverage, the Village, and Miami Dade County's Open GIS Data Hub. Additionally, municipal data maintained by GeoCortex was provided by the Village. A list of publicly available data sources reviewed are identified as follows:

- Florida Department of Transportation (FDOT)
- Florida Department of Emergency Management (FDEM)
- Florida Geographic Data Library (FGDL)
- U.S. Department of Housing and Urban Development (US HUD)
- Miami Dade County Open GIS Data
- Florida Fish and Wildlife Conservation Commission (FWC)
- Florida Department of Environmental Protection (FDEP)

## 2.3 Data Gap Analysis

Due to the small geographic footprint of the Village, there are many asset types identified in the statute language that are present within municipal boundaries. Conversely, the Village's Emergency Operations Center (EOC) is a physical building that is owned/maintained by the Village but located outside Village limits at 1840 NE 144 St, North Miami, FL (**Figure 2-2**). The EOC was not included in flood mapping and analysis since it's located outside of municipal boundaries. A Vulnerability Assessment for North Miami was completed in 2021, however it is unclear if this EOC was captured. Coordination with North Miami is recommended to further understand the degree of vulnerability for this asset.



**Figure 2-2. Emergency Operations Center Location**

Multiple data sources resulted in asset data overlaps and inconsistencies; therefore, a dataset hierarchy was applied based on availability of detailed metadata and attribute level of detail. All critical asset data were first organized by critical asset type and source within each of the four critical asset classes. The data was scored based upon if it was labeled under the FDEP's Resilient Florida's Section 380.093(2)(a), F.S., definition of "critical assets". Critical asset types that had multiple, qualifying datasets were analyzed spatially to determine areas of overlap and non-overlap, to identify and produce final primary and secondary source data layers that eliminated duplicate data.

The asset data layers include public, private, and non-governmental or non-profit organization owned resources. Though the primary goal was to develop an inventory of publicly owned assets (as defined in Florida Statute), privately owned assets were included if they were determined to be "regionally significant" as informed by FDEP; or otherwise, important for understanding the vulnerability of the community. Among the findings from development of the critical asset inventory, lacking or inconsistent attribute details and metadata were commonly observed within the data sources and types. Ownership classification was not uniformly identified in all data sources and layers, therefore distinguishing asset ownership proved difficult to determine for some asset layers. Further asset analysis is recommended for subsequent resiliency plan phases to refine this dataset and prioritize vulnerable publicly owned assets for future implementation. As a result, improved and more detailed GIS data source metadata is also recommended to bring more value to community vulnerability analyses.

A potential data gap identified within the 'transportation' category was for EV Charging Stations. This data layer will be important to capture in subsequent resiliency phases and report updates as electrical vehicles are becoming more commonplace and are needed to evacuate during an emergency safely and effectively. Additionally, limited data was provided for the size and capacity of assets. The critical and regionally significant assets inventory should continue to be improved and updated.

## 3 FLOOD EXPOSURE ANALYSIS

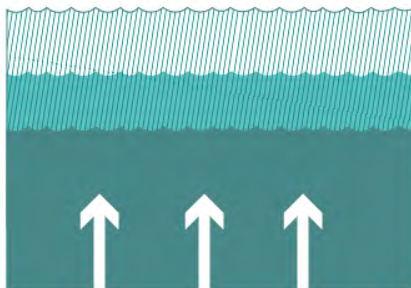
The purpose of a vulnerability assessment is to analyze the vulnerability of the community's critical assets, including regionally significant assets to flood risks. While vulnerability is often interchangeable with 'risk' when measuring hazard impacts, the National Oceanic and Atmospheric Administration (NOAA) definition of vulnerability is "the potential for loss of, or harm/damage to, exposed assets largely due to complex interactions among natural processes, land use decisions and community resilience" (FDEP, 2018).

For completion of a vulnerability assessment, Section 380.093 F.S. requires that local governments determine and evaluate degree of vulnerability and flood depths associated with current and future flood scenarios, specifically including:

- high tide flooding,
- storm surge,
- sea level rise,
- rainfall-induced, and
- compound flooding.

### 3.1 Water Level Analysis

#### 3.1.1 Sea Level Rise



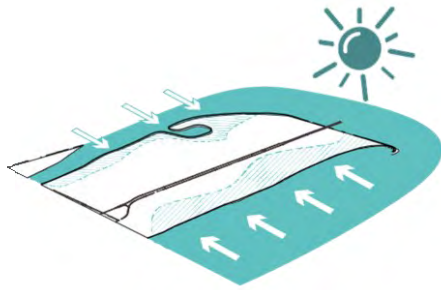
Florida Statutes require an evaluation of flood risks associated with future sea level rise scenarios associated with the NOAA Intermediate-Low and Intermediate-High curves, published in the 2017 *NOAA Technical Report NOS CO-OPS 083- Global and Regional Sea Level Rise Scenarios for the U.S.* Within the Technical Report, NOAA provides future sea level rise values for active tidal stations. The NOAA tide station located at

Virginia Key (ID 872314) was selected as the closest active tide station for this study. For reference, this tide station is located 11 miles from the Village. The 2017 NOAA Intermediate-High and Intermediate-Low sea level rise projection curves were evaluated for two (2) planning horizons: years 2040 and 2070. **Table 3-1** summarizes the projected sea level rise heights (in feet) applied in the analysis. Projections from NOAA are provided starting in the year 2000. These values are applied to tidal variations, storm surge, and rainfall-induced flooding to evaluate future water level conditions. Although the values presented are to the 100<sup>th</sup> decimal, NOAA provides these values based on the possible future greenhouse gas concentrations and the probability of exceedance allowing for a range of variability. It is important to consider the range of variability within the sea level rise projections. for planning and future implementation of adaptive management strategies.

**Table 3-1: Sea Level Rise Values**

Projection	2000 [ft]	2040 [ft]	2070 [ft]
NOAA Intermediate-Low	0.00	0.69	1.25
NOAA Intermediate-High	0.00	1.41	3.28

### 3.1.2 High Tide Flooding



In compliance with Statute requirements, water level elevations associated with high tide flooding were evaluated. High tide flooding, also known as king tides, nuisance flooding, or sunny day flooding, occurs when tides reach approximately 1 to 2 ft above the daily average high tide. These events include minor events that may not pose a significant threat to public safety or cause major property damage but can disrupt routine, day-to-day activities, put

added strain on infrastructure systems, and cause minor property damage. With the increase in sea level, coastal communities are experiencing flooding more regularly instead of just during storm events.

#### **Tidal Datums**

NOAA publishes tidal datums throughout the coastal areas of the United States to be used as references to measure local water levels. The NOAA tidal station at Haulover Inlet (Inside), Florida (Station ID: 87230) **Table 3-2** indicate typical tidal levels at the NOAA station. Water level datums at this station were further analyzed with respect to the National Tidal Datum Epic (NTDE), which is a 19-year reference period of Mean Sea Level and other tidal datums. The NTDE is historically updated every 20-25 years, with the next anticipated NTDE update pending 2025.

The definition of NOAA published tidal datums is presented as follows:

- Mean Higher High Water (MHHW): the average of the higher high-water height of each tidal day observed over the NTDE.
- Mean High Water (MHW): the average of all the high-water heights observed over the NTDE.
- Mean Sea Level (MSL): the arithmetic mean of hourly heights observed over the NTDE.
- Mean Low Water (MLW): the average of all the low water heights observed over the NTDE.



- Mean Lower Low Water (MLLW): the average of the lower low water heights of each tidal day observed over the NTDE.
- North American Vertical Datum of 1988 (NAVD88): vertical control datum established in 1991 by the minimum-constraint adjustments for the Canadian, Mexican, and United States leveling observations, and the required reference datum per s. 380.093, F.S.

**Table 3-2. Tidal Datums for Haulover Inside, FL (NAVD88)**

Datum	Haulover Inside NOAA Station 8723165
Mean Higher High Water (MHHW, feet)	0.27
Mean High Water (MHW, feet)	0.20
Mean Sea Level (MSL, feet)	-0.85
Mean Low Water (MLW, feet)	-1.81
Mean Lower Low Water (MLLW, feet)	-1.93
North American Vertical Datum of 1988 (NAVD88)	0.00

#### **Days of Tidal Flooding Occurrence**

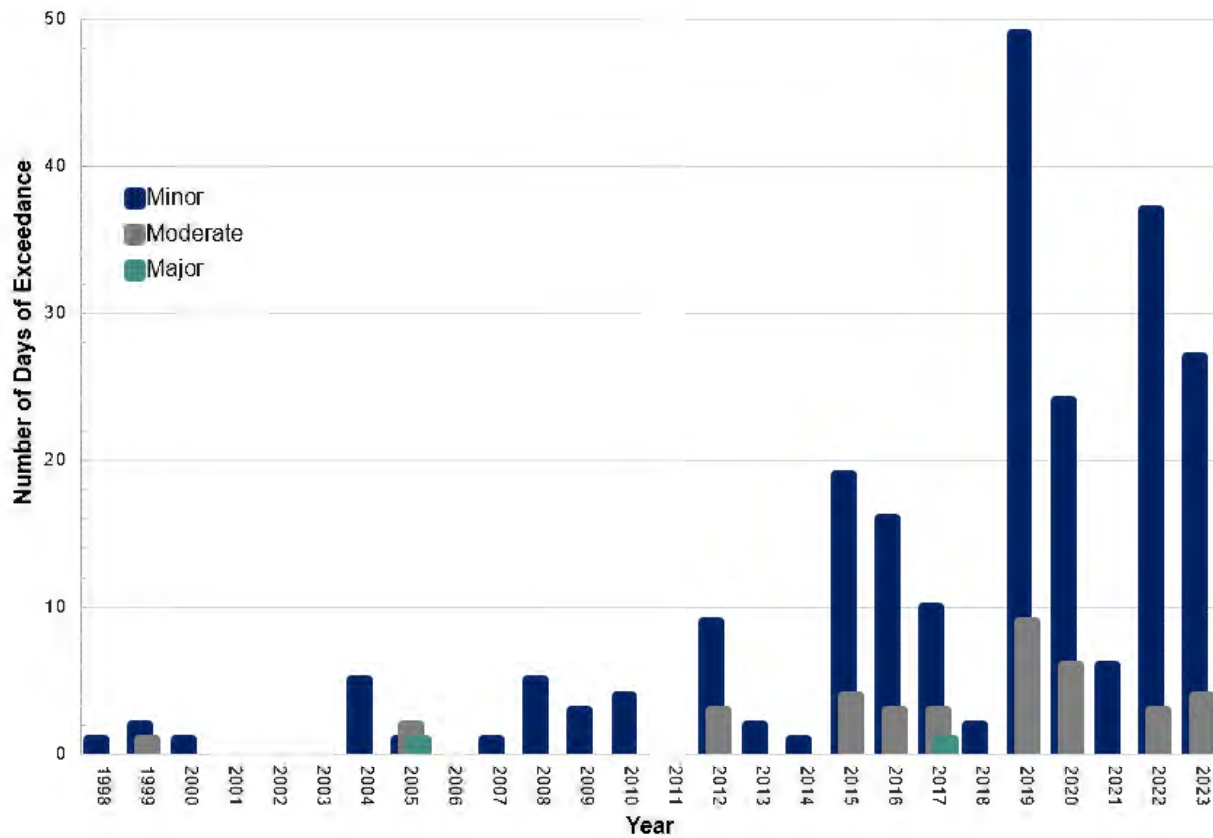
Flood stages are defined by the National Weather Service as water levels that begin to create a hazard to lives, property, or commerce. Minor flooding is defined as a water level causing minimal or no property damage but with the possibility of some public threat. Moderate flooding stage is defined as the water level where transfer to a higher elevation is necessary to save property and some evacuation may be required. A major flooding stage is defined as when the water elevation causes extensive property damage and evacuation. **Table 3-3** shows the elevation of each flood stage at the Virginia Key NOAA tide station, identified by the National Weather Service.

**Table 3-3: Flood Stages**

Stage	Elevation ft, NAVD88
Minor Flooding	1.53
Moderate Flooding	1.93
Major Flooding	2.73

Verified water level data from the NOAA tidal station in Virginia Key, Florida (Station ID: 8723214) was used to calculate the total annual frequency of high tide flooding days for varying flood stage elevations. **Figure 3-1** shows the number of days each flood stage threshold was exceeded for the years 1998 to 2023. A general increase in the number of days was seen from 1998 to 2023.

It illustrates the Village has experienced an increase in impacts due to high tide flooding.



**Figure 3-1. Occurrence of Flood Stage Exceedance for Each Year**

As the sea level rises, the exceedance for a specific flood stage elevation will increase. To estimate future high tide flood days, the sea level rise height values (in feet) for the NOAA intermediate low and intermediate high SLR projections were added to the observed water levels. Using the minor, moderate, and major flooding stages as the threshold, the future number of annual exceedance days was estimated. **Table 3-4** presents the future projected estimated number of days per year that water levels may exceed flood thresholds associated with sea level rise.

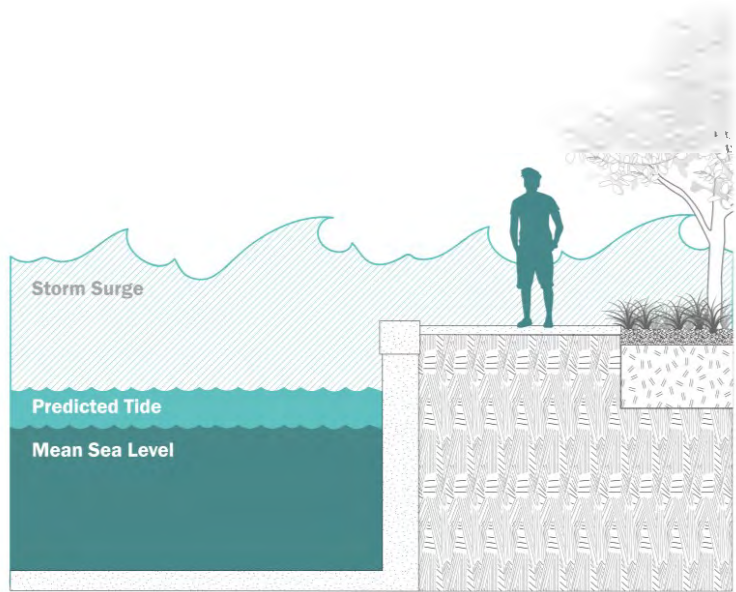
**Table 3-4: Projected Number of Days of Exceedance Annually**

Stage	Current	2040 Inter. Low	2040 Inter. High	2070 Inter. Low	2070 Inter. High
Minor Flooding	8	71	271	223	365
Moderate Flooding	1	22	149	106	365
Major Flooding	< 1	1	16	9	363



### 3.1.3 Storm Surge

Storm surge is the additional height of water above a normal tide caused by a storm event which can lead to flooding. Storm surge is classified based on return period interval (i.e. 25-year, 50-year, 100-year) or the annual exceedance probability (AEP). AEP represents the probability of a storm of equal or greater magnitude occurring in any year. In accordance with Statute requirements, the 100-year (1% AEP) storm surge scenario was evaluated using the Federal Emergency Management Agency (FEMA) Preliminary Flood Insurance Study (FIS) for Miami-Dade County dated



02/25/2021. The 100-year storm is considered a base flood per FEMA. Per F.S. 380.093(3)(d), higher frequency storms can also be analyzed to evaluate the sensitivity of critical assets. Therefore, the 25-year (4% AEP) storm surge scenario was included in the analysis.

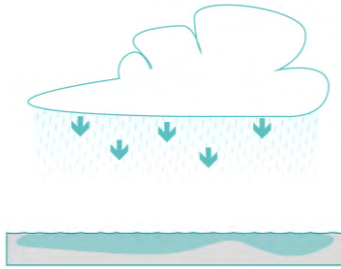
The average water level elevation associated with the 25-year and 100-year storm return periods were +2.8 ft-NAVD88 and +6.7 ft-NAVD88, respectively.

**Table 3-5** shows storm surge values of the 25-year storm surge used in this study and the 100-year storm surge projected to 2040 and 2070 respectively. The water level elevations were developed specific to the Village for use in the flood depth mapping.

**Table 3-5: 100-Year Storm Surge Values, ft, NAVD88**

Return Period	Current [ft]	2040 Inter. Low [ft]	2040 Inter. High [ft]	2070 Inter. Low [ft]	2070 Inter. High [ft]
25-Year	2.80	-	-	-	6.08
100-Year	6.70	7.39	8.11	7.95	9.98

### 3.1.4 Precipitation



Rainfall depths were obtained from NOAA’s Atlas 14 Rainfall Data for a 100-year event. The 2-hour duration rainfall distribution, provided by the FDOT Drainage Manual’s Intensity-Duration-Frequency (IDF) curves, was multiplied by the rainfall depth to yield the storm intensity of time. The 100-year rainfall intensity curve was developed specific to the Village for use in the flood depth mapping.

## 3.2 Exposure Analysis

Once the climate hazard data was developed, an exposure analysis was performed by overlaying a suite of water levels associated with tides, sea level rise, storm surge, rainfall, and compound flooding with the topographic digital elevation model (DEM) to evaluate flood depths associated with each scenario. **Table 3-6** provides a summary of water level found in **Section 3.1**. A graphical map series was generated to identify spatial flood variability, horizontal extents, and flood depths.

**Table 3-6: Summary of Water Levels**

Water Level Scenario	Value	Unit
SLR 2000 base year: 2040 Intermediate Low	0.69	ft
SLR 2000 base year: 2040 Intermediate High	1.41	ft
SLR 2000 base year: 2070 Intermediate Low	1.25	ft
SLR 2000 base year: 2070 Intermediate High	3.28	ft
Tidal Data: MHHW	0.23	ft, NAVD88
Storm Surge (4% AEP)	2.8	ft, NAVD88
Storm Surge (4% AEP) + 2070 Intermediate High SLR	6.08	ft, NAVD88
Storm Surge (1% AEP)	6.70	ft, NAVD88
Storm Surge (1% AEP) + 2040 Intermediate Low SLR	7.39	ft, NAVD88
Storm Surge (1% AEP) + 2040 Intermediate High SLR	8.11	ft, NAVD88
Storm Surge (1% AEP) + 2070 Intermediate Low SLR	7.95	ft, NAVD88
Storm Surge (1% AEP) + 2070 Intermediate High SLR	9.98	ft, NAVD88
Flood Stages	Varies	ft, NAVD88

### 3.2.1 Digital Elevation Model (DEM)

A DEM was created to understand the existing topography within the Village. The 2021 Miami Dade County's LiDAR data was utilized to develop the DEM with a spatial resolution of 5 feet. After initial review and comparison to aerial imagery, errors were observed in the 2021 DEM. The errors, largely observed around the Bal Harbour Shoppes and parcels fronting the Atlantic Ocean (condominiums and hotels), were likely due to misclassification of LiDAR points within the aforementioned areas causing an inaccurate representation of the interpolated ground elevations. These interpolation errors would result in misleading hydro-connectivity and flood analysis results. To address discrepancies within the data, the 2018 LiDAR data was used to supplement the 2021 LiDAR within the areas of concern, resulting in a composite DEM. **Figure 3-2** depicts a composite topographic map of Bal Harbour Village.





Figure 3-2: Present-Day Topography



The DEM identifies relatively low lying areas throughout the Village wherein high inundation levels were expected within the Village, particularly west of Collins Ave (State Road A1A). The highest areas in elevation within the Village are along the eastern beachfront shoreline due to the relatively high dune system. The dune crest ranges in elevation from 9 to 11 ft NAVD88. Lower elevations are observed along the western shoreline, known as the backbay area which predominantly consists of private seawalls. The northern shoreline adjacent to the federally authorized Bakers Haulover Inlet consists of a privately owned seawall west of Collins Ave (State Road A1A) Right-of-Way, FDOT owned seawall along the right-of-way to the east of Collins Ave (State Road A1A), and the USACE for a portion of the jetty designed to stabilize the inlet. The seawall fronting the Village owned parcel located on the southwest bayside includes a newly replaced seawall with a cap elevation of 6.04 ft-NAVD88. The lowest areas in the Village are generally on roadways with a concentration of low-lying areas located near Harbour Way Park.

### 3.2.2 Flood Depth Mapping

Bal Harbour Village is confined to approximately a 1/2 mile of land that spans between Biscayne Bay and the Atlantic Ocean, posing flood concerns dominated by storm surge. However, the vulnerability assessment includes consideration of rainfall induced flooding and the compound flood effects when storm surge, sea level rise, and rainfall events are combined. A compound flooding scenario was selected to understand dynamic conditions associated with a rainfall event and seasonal high tide. Mapping and analysis of the selected flood scenarios provide a detailed understanding of the potential flood risks to the Village associated with current and future conditions.

A map series was prepared using eight (8) flood scenarios that characterize existing and future conditions for the 2040 and 2070 planning horizons. A GIS-based modified “bathtub” model analysis was conducted to quantify spatially variable flood depths and extents. Each map identifies the spatial extent of flooding for each scenario and provides a distribution of vulnerable critical assets within the flood limits. The flood inundation scenarios were grouped by planning horizon as follows:

Existing Water Level Conditions:

1. 4% AEP (25-year)
2. 1% AEP (100-year)

2040 Planning Horizon:

3. 1% AEP (100-year) + NOAA SLR Intermediate-Low
4. 1% AEP (100-year) + NOAA SLR Intermediate-High

2040 Planning Horizon – Compound Flooding:

5. King Tide + NOAA Atlas 14 100-year rainfall + NOAA SLR Intermediate-High

2070 Planning Horizon:

6. 4% AEP (25-year) + NOAA SLR Intermediate-High
7. 1% AEP (100-year) + NOAA SLR Intermediate-Low
8. 1% AEP (100-year) + NOAA SLR Intermediate-High

A map series representing flood depths resulting from the exposure analyses are provided in **Appendix B**. It is important to note that these maps are intended to show the potential future flood extends for use as a tool to support and inform municipal adaptation planning, implementation, and decision-making. These maps shall **not** be used for legal or insurance purposes.

### 3.3 Sensitivity Analysis

The sensitivity analysis utilizes the flood scenarios developed in the exposure analysis tool in combination with critical and regionally significant assets in order to measure the degree of impact associated with each flood scenario. This analysis includes an evaluation of the flood severity on each asset type by calculating associated flood depths for each flood scenario. This is completed by applying the data presented in Section 3 to the inventory of critical assets presented in Section 2. The intent of this analysis is to determine the most vulnerable areas to inform future adaptation strategies, policies, and planning. Underground assets (outfalls, stormwater lines, and water lines) were removed from this analysis as the flood depth does not accurately depict the sensitivity of the assets. These assets will still be discussed as part of the subsequent Adaptation Plan.

#### 3.3.1 Land Area Acreages

Land area inundation was evaluated under each of the eight (8) flood scenarios. According to the Village's Comprehensive Plan, the total land area within the Village is approximately 250 Acres. For purposes of analysis, the total land area acreage was calculated using the DEM boundary as 245.54 acres. The percentage of land inundated was found by taking the area inundated for each scenario and dividing by the total land area acreage. **Table 3-7** summarizes the percentage of acreage inundated for each flood scenario.

**Table 3-7: Land Inundation Acreage for Each Flood Scenario**

Flood Scenario	Scenario Inundation (Acres)	Percent Inundation
25yr Storm Surge	21	8
25yr Storm Surge + 2070 IH SLR	165	67
100yr Storm Surge	170	69
100yr Storm Surge + 2040 IL SLR	176	71
100yr Storm Surge + 2040 IH SLR	184	75
100yr Storm Surge + 2070 IL SLR	183	75
100yr Storm Surge + 2070 IH SLR	197	80
100yr Rainfall + Current KT + 2040 IH SLR	216	88

The present day 25-year storm surge (4% AEP) shows less than 10% of land area will be inundated whereas nearly 70% of the Village is inundated under the 100-year storm surge (1% AEP) before accounting for future sea level rise. When coupled with 2070 intermediate low and intermediate high sea level rise, the potential land area inundation associated with the 100-year storm surge (1% AEP) increases to 75% and 80% respectively. For the compound flood scenario consisting of A 100-year rainfall + Current King Tide + 2040 intermediate high sea level rise results in nearly 88% future potential land area inundation. It should be noted that this is based on the composite DEM which was developed to address discrepancies identified around high-rise buildings in particular.

### **Sensitivity of Assets**

Flood depths were calculated using the difference between the water level elevation rasters associated with each flood scenario and the DEM, which defines the lowest grade adjacent to each critical asset. Estimated flood depths were calculated for each identified critical asset located above grade. Underground assets (outfalls, stormwater lines, and water lines) were removed from this analysis as the flood depth does not accurately depict the sensitivity of the assets. These assets will still be discussed as part of the Adaptation Plan.

The planning team evaluated the Village's assets and assigned a rating of low, medium, high or extreme based on the associated flood depth as described in **Table 3-8**. Priority critical assets were identified based on the degree of criticality for application of the rating system. Multiple factors were considered when identifying these priority critical assets including the following:



- Immediate Need for Adaptation Planning
- Degree of Sensitivity
- Adaptative Capacity of the Asset
- Essential for the Community
- Village Owned or Maintained

**Table 3-8: Sensitivity Rating**

Severity	Flood Depth
Low	0 to 1.5 ft
Medium	1.5 to 3 ft
High	3 to 4 ft
Extreme	Greater than 4 ft

**Table 3-9** lists the prioritized critical assets and the degree of sensitivity based on each flood scenario’s impact to each asset. The critical asset classes are ordered such that the highest priority class for the Village is at the top (i.e., Critical Infrastructure).

**Table 3-9: Degree of Sensitivity for Priority Critical Assets**

Asset Class	Asset	25- year storm	25- year storm 2070 IH	100-year storm	100- year storm 2040IL	100- year storm 2040IH	100- year storm 2070IL	100- year storm 2040IH	Compound Flooding in 2040
Critical Infrastructure	0001 (Wastewater Pump Station)	N/A	High	Extreme				Low	
	0002 (Wastewater Pump Station)	N/A	Medium	High			Extreme	Low	
	Stormwater Pump Station	N/A	High	Extreme				Low	
Critical Community and Emergency Facilities	Police Station Headquarters	N/A	Medium	Extreme				Low	
	Existing Village Hall	N/A	High	Extreme				Low	
	Future Village Hall	N/A	Extreme				Low		
	Bal Harbour Waterfront Park	N/A	High	Extreme				Low	
Transportation & Evacuation Routes	Bal Bay	Low	High	Extreme				Medium	
	Harbour Way (West)	Low	High	Extreme				Medium	
	Harbour Way (East)	Low	Extreme				Medium		
	Byron Ave	N/A	High	Extreme				N/A	
Natural, Cultural & Historical Resources	Harbour Way Park	Medium	Extreme				Medium		
	Harbourfront Park and Cutwalk	Medium	Extreme				Medium		

The percentage of inundation was determined to quantitatively analyze the sensitivity of these prioritized critical assets using units of measure. For polygons, the impacted area was determined for each flood scenario and divided by the total area of the asset. **Table 3-10** summarizes the total polygon area associated with each prioritized critical asset. Harbour way park had the highest degree of sensitivity with 44% of the area being inundated under 25-year storm conditions and complete inundation under the remaining seven scenarios. The stormwater pump station, police station headquarters, Village Hall (existing and future), and Bal Harbour Waterfront Park were completely inundated under all inundation scenarios except for the 25-year storm surge. Harbourfront Park and Cutwalk showed minor sensitivity using 25-year storm conditions (3% inundation) and experienced 49% to 78% inundation under the remaining seven scenarios. Notably, assets represented as polygons have a greater degree of sensitivity than a point or. The two wastewater pump stations do not have an area assigned as are identified as point files within the Geodatabase, therefore the degree of inundation could not be calculated for inclusion in the table below.

**Table 3-10: Area of Polygon Priority Assets**

Priority Assets	Total Area (acres)
Stormwater Pump Station	0.02
Police Station Headquarters*	0.18
Existing Village Hall*	0.18
Future Village Hall	1.06
Bal Harbour Waterfront Park	0.20
Harbour Way Park	2.81
Harbourfront Park and Cutwalk	0.57

\*These critical assets are located within the same building.

Roads were delineated using polylines within the GIS bathtub model analysis. The degree of inundation for prioritized critical assets defined by a polyline were calculated based on linear feet of impact for each flood scenario divided by the total asset length. **Table 3-11** summarizes the total linear feet of each road identified as a priority critical asset. Harbour Way east and west were completely inundated under all flood scenarios, representing the highest degree of sensitivity among the roadways. Bal Bay was not inundated using 25-year storm conditions but was completely inundated for the remaining seven flood scenarios. Bryon Ave was not inundated using the 25-year storm conditions or the compound flood scenario (100yr rainfall + current king tide + 2040 Inter. High SLR). 74% of Bryon Ave was inundated under the remaining six flood scenarios.

**Table 3-11: Length of Polyline Priority Assets**

Priority Assets	Total Length (ft)
Bal Bay	229
Harbour Way (west)	293
Harbour Way (east)	243
Byron Ave	17

**Elevation Data**

For building assets, the flood depths were calculated using the lowest adjacent grade elevation outside the building footprint within the asset property as identified by the composite DEM. However, the calculated flood depths presented may not be proportional to the flood sensitivity of the actual structure. To understand the degree of vulnerability of a structure, elevation certifications were reviewed and compiled where available, as summarized in **Table 3-12**. The lowest first floor elevation of a building (finished floor elevation) and lowest elevation of machinery and equipment will be further used to support adaptation planning as part of the Adaptation Plan.

**Table 3-12: Asset Elevation Data**

Asset	Finished Floor Elevation (ft, NAVD88)	Lowest Elevation of Machinery and Equipment (ft, NAVD88)	Lowest Adjacent Grade (ft, NAVD88)
Bal Harbour Waterfront Park	9.0	-	-
Existing Village Hall *	5.0	3.7	3.3
Police Station Headquarters *	5.0	3.7	3.3
Bal Harbor Waterfront Park, Main Office *	5.0	3.7	3.3
0001 Wastewater Pump Station	8.6	3.8	3.3
0002 Wastewater Pump Station	-	-	4.2

\*These critical assets are located within the same building.

Due to the resolution of the DEM and interpolation of points surrounding the shoreline and Village boundary, some assets associated with the shoreline fell outside the DEM or were not accurately captured. The Village provided as-builts and a survey for Bal Harbour Waterfront Park seawall and One Bal Harbour seawall to confirm location and elevation data. Flood depth calculations were adjusted using the top of cap elevations identified from the as-builts and the water levels found in the exposure analysis. The two bridges (Kane Concourse and Bakers Haulover Inlet) and remaining shoreline assets were not accurately captured likely due to inaccurate interpolation therefore the flood depths were changed to -9999 (i.e., NA). The Bal Harbour Waterfront Park was under construction during the time of this study and has now been completed.

### **Additional Sensitivity**

The flood analysis along Collins Ave (State Road A1A). and 96<sup>th</sup> Street depicts flooding for current 25-year storm conditions, indicative of a greater degree of sensitivity. Collins Ave (State Road A1A). and 96<sup>th</sup> Street are the only evacuation routes for the Village and are essential for the community. These assets are owned and maintained by the Florida Department of Transportation (FDOT), and while identified in the critical asset list, were not included in the Village's priority list for adaptation. However, enhanced partnership and coordination among FDOT, Village and County entities is recommended to evaluate adaptation strategies.

The flood analysis for private roads within the residential gated community west of Collins Ave (State Road A1A). depict flooding under the 25-year storm conditions. Many of these private roads are not owned by the Village and therefore, are not included in the Village's prioritized asset list for adaptation at this stage. Subsequent updates to this planning level study are necessary and may result in future inclusion of such assets.

## **3.4 Sensitivity Analysis Results**

The outcome of this assessment identifies specific assets at risk of flooding under each scenario, the degree to which the asset is vulnerable, as well as an initial list of prioritized critical assets. For the Village, the following assessment components are included in **Appendix C**:

- **Inundation Maps:** There are a series of 8 maps showing each flood scenario. These maps depict the spatial extent of flooding with respect to critical assets.
- **Flood Depth Tables:** These tables summarize the degree of asset vulnerability to flood conditions under each scenario. All assets are listed in these tables, however underground assets do not have flood depths. The reported flood depths were calculated using the maximum flood depth associated with the intersecting polygon. For polylines the maximum flood depth along the polyline was selected. Flood depths for shoreline assets with available elevation data were calculated and updated. Flood depths for the remaining shoreline assets and bridges were updated to -9999 (i.e., NA).

### **3.4.1 Focus Areas**

Following the exposure and sensitivity analyses, focus areas were selected to identify specific geographic areas. The intent of identifying focus areas is to help the community identify critical adaptation areas and prioritize adaptation projects. Focus areas were identified using the following criteria:

- Areas with the highest concentration of impacted critical assets
- Areas with assets in close proximity to one another
- Areas with assets that were deemed essential to the community

**Figure 3-3** shows the four (4) focus areas that were identified within the Village





**Figure 3-3: Critical Assets & Focus Areas**

**Focus Area A:** This focus area is approximately 5 acres in the northeast section of the Village. This area provides critical ingress/egress and emergency evacuation (Collins Ave and Baker Haulover Inlet Bridge) for the Village along with coastal structures providing shoreline/inlet stabilization.

**Focus Area B:** This focus area is approximately 14 acres and is located in the center of the Village. Some key assets in this area include green spaces, debris management sites, pump stations, and major roadways.

**Focus Area C:** This focus area is approximately 23 acres on the eastern shoreline of the Village and includes the Dune Linear Park and the county beach. This portion of shoreline fronting the Atlantic Ocean is the Village’s first line of defense against storms.

**Focus Area D:** This focus area is approximately 16 acres in the southern section of the Village. Some key assets include critical public buildings that houses municipal and emergency services (such as existing and future village hall, police station, community center), as well as parks, public seawall, pump station, 96<sup>th</sup> St., and Kane Concourse Bridge.

To further understand the sensitivity within these focus areas, the percentage of inundation was calculated. **Table 3-13** shows the approximate percent of land inundated within the four focus areas based on the eight flood scenarios.

**Table 3-13: Percent Inundation of the Focus Areas**

Flood Scenario	Focus Area A	Focus Area B	Focus Area C	Focus Area D
25yr Storm Surge	16	42	9	0
25yr Storm Surge + 2070 IH SLR	75	90	26	83
100yr Storm Surge	76	92	31	85
100yr Storm Surge + 2040 IL SLR	77	94	36	86
100yr Storm Surge + 2040 IH SLR	82	96	55	87
100yr Storm Surge + 2070 IL SLR	79	96	50	87
100yr Storm Surge + 2070 IH SLR	86	98	94	88
100yr Rainfall + Current KT + 2040 IH SLR	95	97	100	90



### 3.4.2 Summary of Identified Risks

The sensitivity analysis allows for a better understanding of the severity of risk to current conditions. High levels of inundation were seen for the Bal Harbour Village under current and future flood scenarios showing the importance of adaptation planning. With the high level of inundation experienced by this community, each critical and regionally significant asset will be essential for improving the resilience of the Bal Harbour Village. Key outcomes of the sensitivity analysis are listed below:

- For the 25-year storm surge conditions 8% of the Village is inundated.
- For the 100-year storm surge conditions 69% of the Village is inundated.
- Of the priority critical assets, Harbour Way Park has the highest level of inundation.
- All priority critical assets are rated medium or higher (i.e., flood depth greater than 1.5 ft) from the 25-year storm surge + 2040 intermediate low sea level rise flood scenario.
- All priority critical assets are rated medium or higher (i.e., flood depth greater than 1.5 ft) from the 100-year storm surge + 2070 intermediate low sea level rise flood scenario.
- Focus area B experiences the highest inundation levels. Under today's 25-year storm condition, approximately 42% of the area is inundated. Similarly, under 100-year storm condition, nearly 92% of the focus area is inundated.

## 4 RESULTS AND CONCLUSIONS

The Vulnerability Assessment report provides an overview and general understanding of the communities' degree of flood risks and asset sensitivities for Bal Harbour Village. Completion of a vulnerability assessment is an important first step for increasing community resilience to flood risks. However, it should be considered as the initial phase of a multi-phased approach to building community resilience. The Intergovernmental Panel for Climate Change (IPCC) and NOAA routinely update sea level rise and climate projections approximately every 5 years. This report should be viewed as a 'living document' for continued updates as new data becomes available to inform the Village's Capital Improvement Planning.

The vulnerability assessment was conducted in accordance with Section 380.093, Florida Statutes (F.S.). Identification of "regionally significant" assets was informed by the adopted definition outlined in s. 380.093(2)(d), F.S., as amended by the 2022 Florida Legislature in CS/HB 7053. Through detailed discussions with Village staff, a comprehensive asset inventory list was developed to support the Village in future coordination with regional partners and subsequent adaptation initiatives.

The results from this analysis will be used to evaluate appropriate adaptation strategies on an asset-by-asset basis, which will serve as the Village's Coastal Resilience Plan. The following bullets identify the result and conclusion from this study.

- A 25 Year Return (4% AEP) was found to have a stillwater elevation of 2.80 ft NAVD88 based on FEMA FIS report (2021).
- A 25 Year Return (4% AEP) projected into 2070 using NOAA Intermediate High was found to have a stillwater elevation of 6.08 ft NAVD88.
- 100 Year Return (1% AEP) was found to have a stillwater elevation of 6.70ft NAVD88 based on FEMA FIS report (2021).
- A 100 Year Return (4% AEP) projected into 2040 using NOAA Intermediate Low and Intermediate high was found to have a stillwater elevation of 7.39 and 8.11ft NAVD88 respectively.
- A 100 Year Return (4% AEP) projected into 2040 using NOAA Intermediate Low and Intermediate high was found to have a stillwater elevation of 7.95 and 9.98ft NAVD88 respectively.
- A king tide water level of 2.33 ft NAVD88 in 2022 was determined using NOAA tidal station Virginia Key, Florida (Station ID: 8723214).
- Under current conditions, 25-year return (4% AEP) and 100-year return (1% AEP), the Village experiences 8% and 69% inundation respectively.

- Four focus area were identified based on areas with the highest concentration of impacted critical assets, areas with assets in close proximity to one another and areas with assets that were deemed essential to the community.

This vulnerability assessment is an important resource and essential step in the process towards resiliency. Next steps include:

1. Development of a comprehensive resiliency adaptation plan wherein the community can identify priority implementation projects (Task 9).
2. Prioritize funding and grant opportunities.
3. Establish acceptable flood risk.

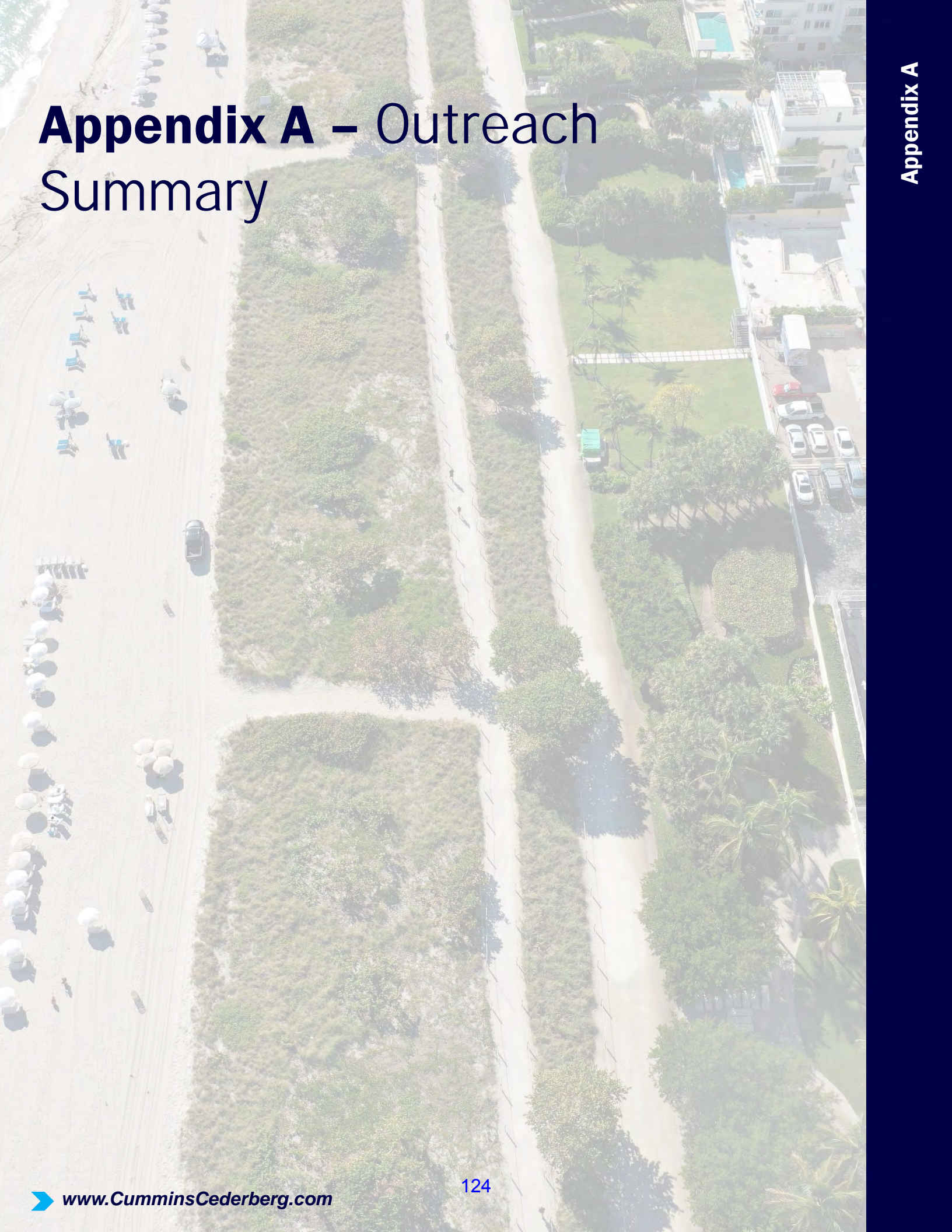
This vulnerability and sequential Adaptation Plan are to be used in developing effective solutions for the Village to consider. This document should be considered dynamic with the ability to be revised as new climate data and methodologies are released and updated information about critical assets are obtained.

## REFERENCES

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# Appendix A – Outreach Summary





## OUTREACH

Outreach and involvement of key stakeholders and the public is an important component during the development of a vulnerability assessment. Guidance for outreach is provided in the Florida Adaptation Planning Guidebook (DEP/NOAA, 2018), and in the Grant Agreement, Grant Work Plan, tasks and deliverables. The primary goal of each outreach meeting was to educate all parties and receive feedback. The audience of Meeting #1 was an selection of inter-departmental staff gathered together for the purpose of this assessment. The audience for the second meeting was the public.

The following are key outcomes and feedback from the Outreach Meetings:

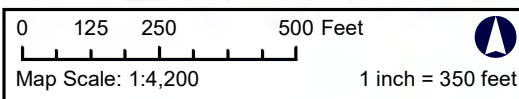
- #1: Majority of the feedback received was related to the critical asset inventory. Notably, staff expressed concerns about the stormwater system. Stakeholders also provide more information on key Village assets including the location of a police station, additional parks/greenspaces, additional major roadways, shorelines maintained by the Village, recent and upcoming projects, and available elevation certifications. The Village also provided information on private assets to be removed such as the marina, church, and five (5) sewer pump stations. Following the meeting, the critical asset inventory was updated to address these requested changes.
- #2: Stakeholders shared a few considerations for adaptation strategies including improvements to stormwater systems while not negatively impacting private areas. Limitations of implementing baffle boxes and duck outfall backflow preventers were shared. Additional concerns were discussed such as the funding limitations in a small community and a decrease in the design life of roadways. These comments and concerns were used in determining adaptation strategies and key projects. It should be noted the meeting had a low resident turnout. To reach more of the community, the zoom link was shared, and an email was provided to receive public feedback. No additional public comments were received.

Public outreach and inter-departmental coordination should continue and remain a key part in future adaptation projects. A website was created following the second public outreach meeting to allow the Village to share this project and reach more of the public.


An aerial photograph of a large dam and reservoir. The dam is a long, curved concrete structure on the left side of the image. The reservoir is a large body of water to the right of the dam. The water is a light blue-green color. There are several brownish, irregular shapes overlaid on the water, representing flood depth maps. The dam has a series of vertical lines along its length, possibly indicating spillways or structural elements. The surrounding land is a mix of green and brown, suggesting vegetation and bare earth.

# Appendix B – Flood Depth Maps





**BAL HARBOUR**  
- VILLAGE -




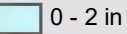
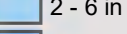
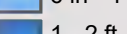
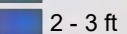
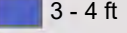
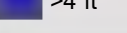

**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
25-year Return Period  
Storm Surge **127**

**Legend**

-  Municipal Boundary
- Flood Depth**
-  0 - 2 in
-  2 - 6 in
-  6 in - 1 ft
-  1 - 2 ft
-  2 - 3 ft
-  3 - 4 ft
-  >4 ft

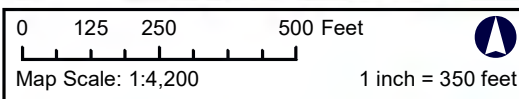




Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean




Project: Bal Harbour Village Vulnerability Assessment

Client: Bal Harbour Village

Sheet Title: 25-year Return Period Storm Surge + 2070 Int-High SLR **128**

Legend	
	Municipal Boundary
Flood Depth	
	0 - 2 in
	2 - 6 in
	6 in - 1 ft
	1 - 2 ft
	2 - 3 ft
	3 - 4 ft
	>4 ft

**BAL HARBOUR**  
- VILLAGE -



**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

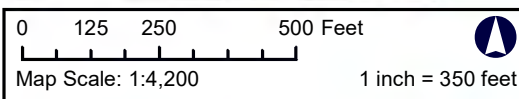




Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean



**BAL HARBOUR**  
- VILLAGE -


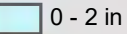
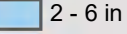
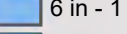
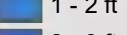
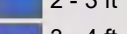
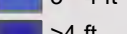
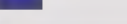


**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
100-year Return Period  
Storm Surge **129**

Legend	
	Municipal Boundary
Flood Depth	
	0 - 2 in
	2 - 6 in
	6 in - 1 ft
	1 - 2 ft
	2 - 3 ft
	3 - 4 ft
	>4 ft






Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean

0 125 250 500 Feet  
 Map Scale: 1:4,200 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -



**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

Project:  
 Bal Harbour Village  
 Vulnerability Assessment

Client:  
 Bal Harbour Village

Sheet Title:  
 100-year Return Period  
 Storm Surge + 2040 Int-Low SLR **30**

**Legend**

— Municipal Boundary

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft

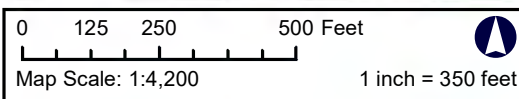




Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean




Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
100-year Return Period  
Storm Surge + 2040 Int-High SL **R31**

Legend	
	Municipal Boundary
Flood Depth	
	0 - 2 in
	2 - 6 in
	6 in - 1 ft
	1 - 2 ft
	2 - 3 ft
	3 - 4 ft
	>4 ft

**BAL HARBOUR**  
- VILLAGE -



**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

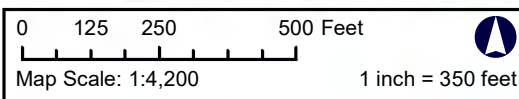




Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean



Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
100-year Return Period  
Storm Surge + 2070 Int-Low SLR <sup>32</sup>


**Legend**

Municipal Boundary

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft

**BAL HARBOUR**  
- VILLAGE -



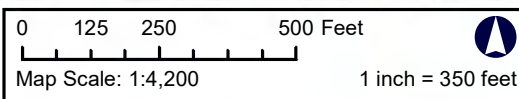
**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering



Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean



Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
100-year Return Period  
Storm Surge + 2070 Int-High SL **R33**

**Legend**

Municipal Boundary

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft

**BAL HARBOUR**  
- VILLAGE -



**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

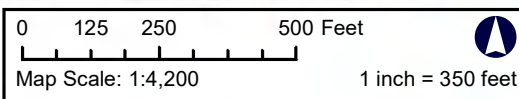




Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean



Project:  
Bal Harbour Village  
Vulnerability Assessment

Client:  
Bal Harbour Village

Sheet Title:  
100-year Return Period Rainfall  
+ Current King Tide + 2040 Int-High <sup>SLR</sup>


**Legend**

Municipal Boundary

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft

**BAL HARBOUR**  
- VILLAGE -



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Coastal & Marine Engineering



# Appendix C – Sensitivity Analysis







0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 25-yr Return Period  
 Storm Surge **136**

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Disaster Debris Management Site
- Critical Community and Emergency Facilities**
  - Community Center
  - Law Enforcement
  - Village Hall
- Future Village Hall
- Natural, Cultural, and Historical Resources**
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 25-yr Return Period  
 Storm Surge + 2070 Int-High SLR 137

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
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  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 100-yr Return Period  
 Storm Surge **138**

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Critical Community and Emergency Facilities**
  - Disaster Debris Management Site
  - Community Center
  - Law Enforcement
  - Village Hall
- Natural, Cultural, and Historical Resources**
  - Future Village Hall
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 100-yr Return Period  
 Storm Surge + 2040 Int-Low SLR 139

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Disaster Debris Management Site
- Critical Community and Emergency Facilities**
  - Community Center
  - Law Enforcement
  - Village Hall
- Future Village Hall
- Natural, Cultural, and Historical Resources**
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 100-yr Return Period  
 Storm Surge + 2040 Int-High SLR 140

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Critical Community and Emergency Facilities**
  - Disaster Debris Management Site
  - Community Center
  - Law Enforcement
  - Village Hall
- Natural, Cultural, and Historical Resources**
  - Future Village Hall
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 100-yr Return Period  
 Storm Surge + 2070 Int-Low SLR 141

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Critical Community and Emergency Facilities**
  - Disaster Debris Management Site
  - Community Center
  - Law Enforcement
  - Village Hall
- Natural, Cultural, and Historical Resources**
  - Future Village Hall
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





Baker's Haulover Inlet Bridge

Baker's Haulover Inlet

Biscayne Bay

Atlantic Ocean

ECL


Collins Ave

96th St

Kane Concourse Bridge

0 125 250 500 Feet  
Map Scale: 1:4,200  
1 inch = 350 feet

**BAL HARBOUR**  
- VILLAGE -



**CUMMINS | CEDERBERG**  
Coastal & Marine Engineering

**Project:**  
Bal Harbour Village Vulnerability Assessment

**Client:**  
Bal Harbour Village

**Sheet Title:**  
Critical Assets & 100-yr Return Period Storm Surge + 2070 Int-High SLR 142

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Critical Community and Emergency Facilities**
  - Disaster Debris Management Site
  - Community Center
  - Law Enforcement
  - Village Hall
- Natural, Cultural, and Historical Resources**
  - Future Village Hall
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway

**Flood Depth**

- 0 - 2 in
- 2 - 6 in
- 6 in - 1 ft
- 1 - 2 ft
- 2 - 3 ft
- 3 - 4 ft
- >4 ft





0 125 250 500 Feet  
 Map Scale: 1:4,200  
 1 inch = 350 feet

**BAL HARBOUR**  
 - VILLAGE -

**CUMMINS | CEDERBERG**  
 Coastal & Marine Engineering

**Project:**  
 Bal Harbour Village  
 Vulnerability Assessment

**Client:**  
 Bal Harbour Village

**Sheet Title:**  
 Critical Assets & 100-yr Return Period  
 Rainfall + Current King Tide + 2040 Int-High Sea Level Rise

**Legend**

- Municipal Boundary
- Critical Infrastructure**
  - Outfall and Injection Well
  - Sanitary Sewer Pump Station
  - Stormwater Treatment Facility and Pump Station
  - Stormwater Line
  - Wastewater Line
  - Water Utility Conveyance Systems
- Critical Community and Emergency Facilities**
  - Disaster Debris Management Site
  - Community Center
  - Law Enforcement
  - Village Hall
- Natural, Cultural, and Historical Resources**
  - Future Village Hall
  - Park Facility
  - Shoreline
  - Municipal Park
  - County Operated Park
  - Recreational Green Space
- Transportation and Evacuation Routes**
  - Bus Shelter
  - Bridge
  - Evacuation Route
  - Major Roadway
- Flood Depth**
  - 0 - 2 in
  - 2 - 6 in
  - 6 in - 1 ft
  - 1 - 2 ft
  - 2 - 3 ft
  - 3 - 4 ft
  - >4 ft





## ASSET INVENTORY FLOOD DEPTHS

**Table B-1: Flood Depths for Point Critical and Regionally Significant Assets**

ASSET_NAME	ASSET_TYPE	ASSET_CLAS	ASSET_OWNE	25-year Storm Surge (feet)	25-year Storm Surge + 2070 Int. High SLR (feet)	100-year Storm Surge (feet)	100-year Storm Surge + 2040 Int. Low SLR (feet)	100-year Storm Surge + 2040 Int. High SLR (feet)	100-year Storm Surge + 2070 Int. Low SLR (feet)	100-year Storm Surge + 2070 Int. High SLR (feet)	King Tide + 2040 Int. High + 100-Year Rainfall
COLLINS AV @ # 9930	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	2.58	3.20	3.89	4.61	4.45	6.48	0.66
COLLINS AV @ HARBOUR WY E	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.22	3.50	4.12	4.81	5.53	5.37	7.40	1.62
COLLINS AV @ # 10101	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.54	4.16	4.85	5.57	5.41	7.44	1.39
COLLINS AV @ # 9701	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	2.52	3.14	3.83	4.55	4.39	6.42	0.74
96 ST @ BAL BAY DR	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.58	4.20	4.89	5.61	5.45	7.48	1.68
COLLINS AV @ # 9700 (BAL HARBOUR)	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	0.70	1.32	2.01	2.73	2.57	4.60	0.04
COLLINS AV @ # 10185	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	4.52	5.14	5.83	6.55	6.39	8.42	2.02
COLLINS AV @ # 10225	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.24	3.86	4.55	5.27	5.11	7.14	0.90
96 ST @ ABBOTT AV	Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	4.09	4.71	5.40	6.12	5.96	7.99	2.10
BAL HARBOUR VILLAGE HALL	Emergency Evacuation Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.02	3.64	4.33	5.05	4.89	6.92	1.01
HARBOUR HOUSE CONDOS	Emergency Evacuation Bus Terminals	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.69	4.31	5.00	5.72	5.56	7.59	1.33
0002	Wastewater Treatment Facilities and Lift Stations	Critical Infrastructure	Bal Harbour Village	0.00	1.85	2.47	3.16	3.88	3.72	5.75	0.17
0001	Wastewater Treatment Facilities and Lift Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.23	3.85	4.54	5.26	5.10	7.13	0.52

IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.25	3.87	4.56	5.28	5.12	7.15	0.72
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.22	3.50	4.12	4.81	5.53	5.37	7.40	1.02
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.35	3.63	4.25	4.94	5.66	5.50	7.53	0.91
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.02	3.30	3.92	4.61	5.33	5.17	7.20	0.50
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.45	3.73	4.35	5.04	5.76	5.60	7.63	1.40
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.21	3.49	4.11	4.80	5.52	5.36	7.39	0.57
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.09	3.37	3.99	4.68	5.40	5.24	7.27	0.56
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.22	3.50	4.12	4.81	5.53	5.37	7.40	0.40
OUTFALL	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
OUTFALL	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
OUTFALL	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
OUTFALL	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
OUTFALL	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	2.02	2.64	3.33	4.05	3.89	5.92	0.04
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	2.13	2.75	3.44	4.16	4.00	6.03	0.04
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	1.92	2.54	3.23	3.95	3.79	5.82	0.35
IW	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.03	3.65	4.34	5.06	4.90	6.93	1.22



**Table B-2: Flood Depths for Polygon Critical and Regionally Significant Assets**

ASSET_NAME	ASSET_TYPE	ASSET_CLAS	ASSET_OWNE	25-year Storm Surge (feet)	25-year Storm Surge + 2070 Int. High SLR (feet)	100-year Storm Surge (feet)	100-year Storm Surge + 2040 Int. Low SLR (feet)	100-year Storm Surge + 2040 Int. High SLR (feet)	100-year Storm Surge + 2070 Int. Low SLR (feet)	100-year Storm Surge + 2070 Int. High SLR (feet)	King Tide + 2040 Int. High + 100-Year Rainfall
Bal Harbour Park	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	2.56	3.95	4.57	5.26	5.98	5.82	7.85	7.89
Harbour Way Park	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	1.63	4.91	5.53	6.22	6.94	6.78	8.81	2.40
Oceana Park	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	0.00	3.55	4.17	4.86	5.58	5.42	7.45	1.35
Bal Harbour Waterfront Park, Main Office	Park Facilities	Natural, Cultural, Historic Resources	Bal Harbour Village	0.00	2.96	3.58	4.27	4.99	4.83	6.86	0.94
Bal Harbour Beach	Parks	Natural, Cultural, Historic Resources	Miami Dade County	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Dune Linear Park	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	0.00	0.58	0.47	1.16	1.88	1.72	3.75	1.59
Bal Harbour Municipal Police Station (Temporary)	Law Enforcement Facilities	Critical Community and Emergency Facilities	Bal Harbour Village	0.00	3.68	4.30	4.99	5.72	5.55	7.58	1.47
BAL HARBOUR VILLAGE POLICE DEPT HEADQUARTERS	Law Enforcement Facilities	Critical Community and Emergency Facilities	Bal Harbour Village	0.00	2.96	3.58	4.27	4.99	4.83	6.86	0.94
BAL HARBOUR VILLAGE HALL	Local Government Facilities	Critical Community and Emergency Facilities	Bal Harbour Village	0.00	2.96	3.58	4.27	4.99	4.83	6.86	0.94
BAL HARBOUR WATERFRONT PARK	Community Centers	Critical Community and Emergency Facilities	Bal Harbour Village	0.00	3.02	3.64	4.33	5.05	4.89	6.92	1.10
Harbour Way Debris Management Site	Disaster Debris Management Sites	Critical Infrastructure	Bal Harbour Village	1.53	4.81	5.43	6.12	6.84	6.68	8.71	2.17
Pump Station	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.26	3.88	4.57	5.29	5.13	7.16	0.28
Weir Box	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	2.91	3.53	4.22	4.94	4.78	6.81	0.49
Downstream Defender	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.06	3.68	4.37	5.09	4.93	6.96	0.49
Exfiltration Trench	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.58	4.20	4.89	5.61	5.45	7.48	0.49

Exfiltration Trench	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	0.00	3.35	3.97	4.66	5.38	5.22	7.25	0.51
Harbourfront Park and Cutwalk	Parks	Natural, Cultural, Historic Resources	USACE	2.56	5.84	6.46	7.15	7.87	7.71	9.74	6.59
Beach Access Path	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	0.00	10.45	11.07	11.76	12.48	12.32	14.35	6.06
Founders Circle	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	0.00	2.20	2.82	3.51	4.23	4.07	6.10	0.51
Collins Ave Underpass	Parks	Natural, Cultural, Historic Resources	Bal Harbour Village	2.76	6.04	6.66	7.35	8.07	7.91	9.94	8.09

**Table B-3: Flood Depths for Polyline Critical and Regionally Significant Assets**

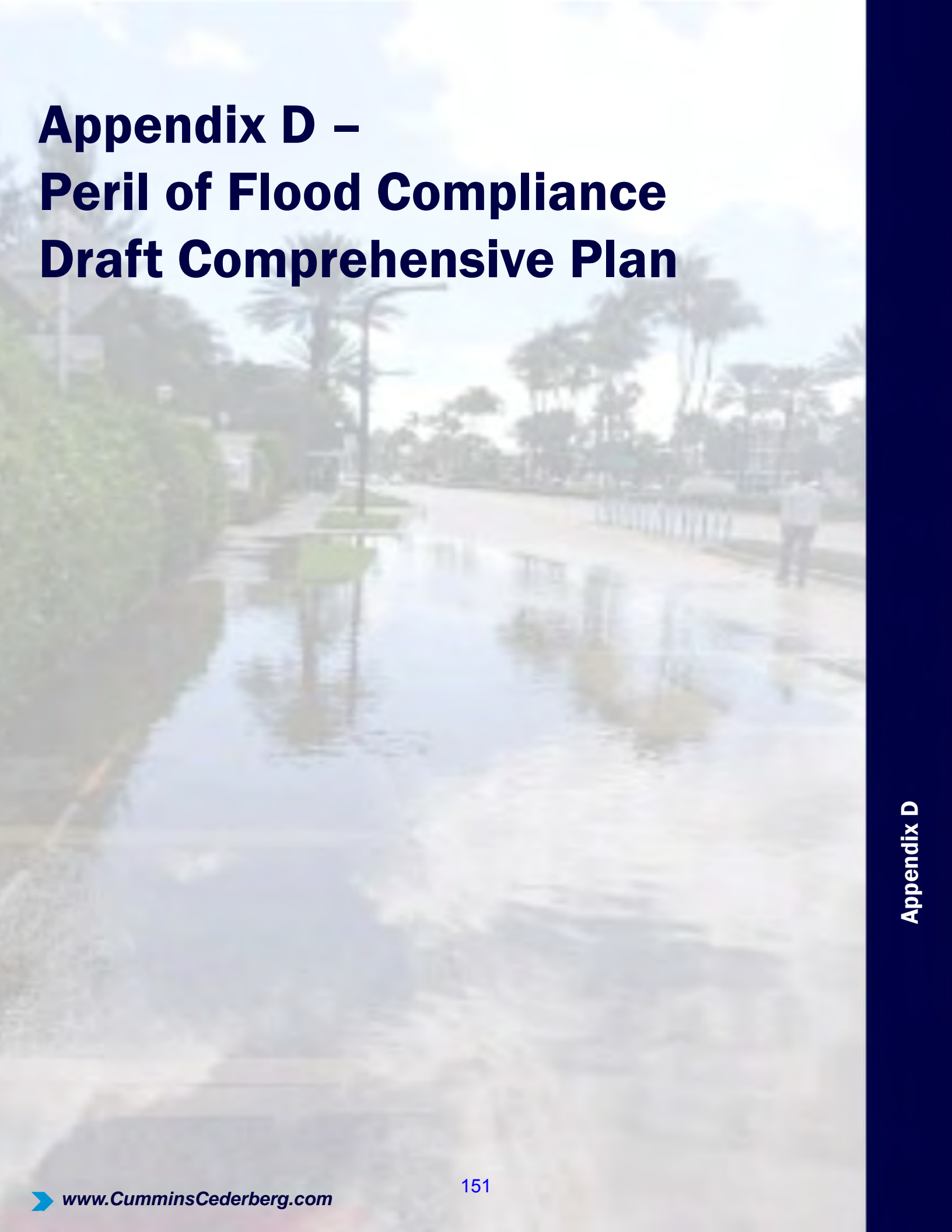
ASSET_NAME	ASSET_TYPE	ASSET_CLAS	ASSET_OWNE	25-year Storm Surge (feet)	25-year Storm Surge + 2070 Int. High SLR (feet)	100-year Storm Surge (feet)	100-year Storm Surge + 2040 Int. Low SLR (feet)	100-year Storm Surge + 2040 Int. High SLR (feet)	100-year Storm Surge + 2070 Int. Low SLR (feet)	100-year Storm Surge + 2070 Int. High SLR (feet)	King Tide + 2040 Int. High + 100-Year Rainfall
BAKERS HAULOVER INLET	Bridges	Transportation and Evacuation Routes	State Highway Agency	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Kane Concourse	Bridges	Transportation and Evacuation Routes	City or Municipal Highway Agency	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
96TH ST	Evacuation Routes	Transportation and Evacuation Routes	Bal Harbour Village	0.18	3.75	4.37	5.06	5.78	5.62	7.65	1.88
COLLINS AVE	Evacuation Routes	Transportation and Evacuation Routes	Bal Harbour Village	2.43	3.25	3.87	4.56	5.28	5.12	7.15	1.03
COLLINS AVE	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.27	3.89	4.58	5.30	5.14	7.17	1.03
96TH ST	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.18	3.77	4.39	5.08	5.80	5.64	7.67	1.91
HARDING AVE	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.14	3.76	4.45	5.17	5.01	7.04	1.27
BYRON AVE	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.75	4.37	5.06	5.78	5.62	7.65	0.00
Harbour Way	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.37	3.65	4.27	4.96	5.68	5.52	7.55	1.62
Harbour Way	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.74	4.02	4.64	5.33	6.05	5.89	7.92	1.68
Bal Bay	Major Roadways	Transportation and Evacuation Routes	Bal Harbour Village	0.00	3.94	4.56	5.25	5.97	5.81	7.84	2.03
Atlantic Ocean Shoreline	Shorelines	Natural, Cultural, Historic Resources	Miami Dade County	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Rock Jetty	Shorelines	Natural, Cultural, Historic Resources	USACE	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Bakers Haulover Inlet Seawall	Shorelines	Natural, Cultural, Historic Resources	FDOT	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
One Bal Harbour Seawall	Shorelines	Natural, Cultural, Historic Resources	Miami Dade County	0	0	0	0	0	0	1.61	0
Harbourfront Park and Cutwalk Seawall	Shorelines	Natural, Cultural, Historic Resources	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Kane Concourse Seawall	Shorelines	Natural, Cultural, Historic Resources	FDOT	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Bal Harbour Park Seawall	Shorelines	Natural, Cultural, Historic Resources	Bal Harbour Village	0	0	0.7	1.39	2.11	1.95	3.98	1.65
Wastewater Lines*	Wastewater Treatment Facilities and Lift Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999



Stormwater Lines*	Stormwater Treatment Facilities and Pump Stations	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999
Water Lines*	Water Utility Conveyance Systems	Critical Infrastructure	Bal Harbour Village	-9999	-9999	-9999	-9999	-9999	-9999	-9999	-9999

\*All wastewater lines, stormwater lines, and water lines were not shown for clarification.

# **Appendix D – Peril of Flood Compliance Draft Comprehensive Plan**



# Peril of Flood Compliance

## Background and Context

### Comprehensive Plan

Following Florida's 1985 Growth Management Act, the Village completed its first Comprehensive Plan in 1988. Hurricane Andrew in 1992 and Evaluation and Appraisal Reports (1995 and 2010) led to minor changes in several elements, including the Coastal Management Element (CME), but otherwise the Plan remains largely unchanged since 1988. A 1997 amendment to the CME focused on enforcing development restrictions seaward of the Coastal Construction Control Line (CCCL). The CME contains 11 sections of data and analysis and two special sections:

- Section 12. Special Coastal Planning Efforts, and,
- Section 13. Plan Summary and Identification of Significant Issues.

The 11 data and analysis sections address natural resources and wildlife, land uses, estuarine water quality, beach and dune systems, beach renourishment projects, shorelines, hurricane preparedness and evacuation, post disaster planning and coastal high hazard areas, archaeological resources, public access, and village infrastructure. The Biscayne Bay Aquatic Preserve Management Plan is the one special planning effort listed in Section 12. Summary issues identified in Section 13 are the need to continue periodic beach renourishment and “... *major land use issues revolve round how best to develop the last remaining oceanfront tract in the high density zone and the future redevelopment of other existing developed tracts.*” Section 14 contains the Local Goals, Objectives, and Policies (GOPs). The five CME goals are:

Goal 1: Balancing Growth, Redevelopment and Coastal Resources

Goal 2: Reducing Vulnerability to Hurricanes

Goal 3: Public Access

Goal 4: Infrastructure

Goal 5: Intergovernmental Coordination to Protect Coastal Resources

The Village's Planner has indicated that digital files of the 36-year-old Comp Plan are limited, and those that exist are of varying quality. Peril of Flood requirements in s. 163.3178(2)(f), F.S., necessitates a review of the entire CME, updating at least part of the data and analysis sections, and reevaluating existing CME goals, objectives, and policies to ensure that the new draft Peril of Flood comprehensive plan language is not conflicting with any existing policy narratives.

### National Flood Insurance Program

Florida's Peril of Flood requirement is intertwined with the FEMA National Flood Insurance Program (NFIP) and the NFIP Community Rating System (CRS), and with established regulatory frameworks governing construction standards and activities outlined in the Florida Building Code (FBC), Code of Federal Regulations (C.F.R.), and in other sections of Florida Statutes. Draft



comprehensive plan CME language compliant with paragraph 163.3178(2)(f), F.S., addresses the following six items (copied from 2023 statute, **emphasis** added):

1. Include development and redevelopment principles, strategies, and engineering solutions **that reduce the flood risk in coastal areas** which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
2. Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions **that will result in the removal of coastal real property from flood zone designations** established by the Federal Emergency Management Agency.
3. Identify site development techniques and best practices **that may reduce losses due to flooding and claims made under flood insurance policies** issued in this state.
4. Be consistent with, or more stringent than, **the flood-resistant construction requirements** in the Florida Building Code and applicable **flood plain management regulations** set forth in 44 C.F.R. part 60.
5. Require that any **construction activities seaward of the coastal construction control lines** established pursuant to s. 161.053 be consistent with chapter 161.
6. Encourage local governments to **participate in the National Flood Insurance Program Community Rating System** administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

The Village has participated in the NFIP CRS Program since 1996. As of May 2017, the Village has a CRS Class rating of 8 which provides for a 10 percent insurance rate discount. Out of the 264 communities participating in the CRS Program in Florida, over two-thirds are CRS Class 5, 6, or 7. The nationwide average is Class 5 (25% discount). In South Florida, Class 5 communities include the City of Miami Beach, City of Key West, Miami-Dade County and Palm Beach County. Both Pinellas and Monroe counties have achieved Class 3 as of 2021 and 2022 respectively.<sup>1</sup>

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<sup>1</sup> As of October 2023 data downloaded from [Community Rating System | FEMA.gov](https://www.fema.gov/community-rating-system).

# Peril of Flood Compliance

## Draft Comprehensive Plan CME Language

### Chapter 163.3178, Coastal management, 163.3178(2)(f), 2023 F.S.

**Main/New CME GOAL: Increase Village resilience to the adverse impacts of flooding and sea level rise.**

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

**1.** Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.

Background. A vulnerability assessment was conducted in 2023-24 to assess the vulnerability of and risk to the Village's critical assets pursuant to section 380.093, Florida Statutes, which requires an analysis of tidal flooding, including future high tide flooding, current and future storm surge flooding, and two sea level rise scenarios for planning horizons 2040 and 2070. Four Focus Areas were identified, and adaptation strategies recommended for specific assets within each Focus Area.

#### POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

Objective A. The Village will continue to protect and preserve the existing beach and dune system and its' stabilizing vegetation.

Policy 1. The Village will continue sand renourishment, controlled public access, dune protection, tree canopy and vegetation maintenance, and elimination of invasive species.

Policy 2. With the 2024 Vulnerability Assessment and Adaptation Plan, the Village will consider additional beach and dune protections that can help reduce inland flood risks, which may include increasing dune height elevations, adding more storm-resilient vegetation, introducing wave-dissipating features, and nature-based solutions.

Objective B. The Village will establish a comprehensive drainage and stormwater management program to effectively address and manage current and future high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.

Policy 1. The Village will conduct a thorough inventory and analysis of its' existing drainage system and stormwater management plans and prepare a comprehensive SWM master plan update that can potentially meet the intent of one of the NFIP CRS Program's three main goals: *"Foster comprehensive floodplain management."*

Policy 2. The Village will ensure the program is consistent with FEMA NFIP approaches to stormwater management, which includes (1) stormwater management regulations, (2)

stormwater/watershed master planning, (3) erosion and sediment controls, and (4) water quality regulations.

Policy 3. In SWM master planning, the Village will incorporate the CRS Program guidance of eight components of a watershed master plan, as applicable and appropriate to the Village context. This may include for example onsite management of future peak flows and volumes, identifying and preserving existing natural open spaces, and prohibiting alteration of existing natural channels.

Objective C. The Village will implement appropriate engineering standards and solutions that reduce flood risks to public/Village assets.

Policy 1. The Village will incorporate resiliency standards into ongoing and future public projects, including the proposed new City Hall-Police-Emergency Auxiliary Complex. Vulnerability of this site is outlined in the Village’s 2024 Vulnerability Assessment and recommended strategies detailed in the Village’s 2024 Adaptation/Resiliency Plan. Strategies include minimum finish floor elevations, harmonization with adjacent properties and infrastructure, and long-term sustainability.

Policy 2. The Village will fully evaluate topographical and accessibility harmonization needs of adjacent properties if or when road raising and seawall raising projects are introduced.

Objective D. The Village will obtain examples or develop a set of incentives and Best Management Practices (BMPs) that will effectively encourage private and other non-public entities to implement appropriate engineering standards and solutions that reduce flood risks.

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(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

**2.** Encourage the use of best practices development and redevelopment principles, strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.

Background. As a barrier island, the Village has flood zone designations common among Florida’s island and coastal communities. According to the 2009 Effective Flood Insurance Rate Map (FIRM), most of the Village is in Zone AE and Zone VE, both Special Flood Hazard Areas (SFHAs).<sup>1</sup> FEMA issued preliminary FIRM revisions February 25, 2021, with intended final maps published in December 2023 that are expected to be effective in April 2024. Once effective, properties within the Village will see a more granular representation of flood zones with some individual parcels outside of Zone AE but with other areas formerly excluded but now inside Zone AE.

 POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

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<sup>1</sup> [FEMA Flood Map Service Center | Search By Address.](#)



Objective A. The Village will build floodplain administrator and other staff capacity of FEMA NFIP programs and strengthen its' relationship with the FEMA NFIP through the CRS Program and other channels.

Policy 1. With FEMA's guidance, the Village will ensure understanding of the definition of "coastal real property" which may include the physical land or soil, structures and resources attached to the land, and common law ownership and usage rights; and what constitutes "removal of," and associated redesignation of flood zone processes.

Policy 2. The Village will familiarize itself with the revised FIRM and FIS report for Miami-Dade County issued locally on February 25, 2021, and with notice of changes as published in the Miami Daily Business Review in December 2023, expected to become a new Effective FIRM in April 2024.<sup>2</sup>

Policy 3. With outcomes and findings of the Village's 2024 Vulnerability Assessment and Adaptation Plan, the Village will transmit state-of-the-art local knowledge and most recent plans to FEMA and request that they are reflected in NFIP flood maps and published FIRMs.

Policy 3a. The Village will continue to liaise and collaborate with FEMA, Miami-Dade County, and other relevant parties as appropriate during future flood map amendment processes.

Objective B. The Village will explore and evaluate all potential strategies that can result in the removal of coastal real property, as defined, from FEMA flood zone designations.

Policy 1. The Village will explore opportunities to submit one or more requests for a Letter of Map Amendment (LOMA) along with FEMA Elevation Certificates that verify the BFE/FFE of critical and other key assets and therefore potentially exempt from flood insurance policy requirements. This may be for Village-owned properties and/or in partnership with other property owners.

Policy 1a. The Village will work to develop an effective public information strategy to increase understanding of flood insurance, encourage private sector participation in adaptation strategies and resiliency solutions, and advance the best practices that help lower premium costs.

Policy 2. The Village will consider policies that provide an option, upon significant damage, to remove or relocate a structure or asset to an alternate location inland or to higher lands or to abandon the structure or asset altogether.

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**(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:**

**3.** Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.

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<sup>2</sup> [23-04-5056P-120659.pdf \(fema.gov\)](https://www.fema.gov/23-04-5056P-120659.pdf)

Background. The Village’s 2024 Vulnerability Assessment and Adaptation Plan identified flood risks and vulnerabilities to critical assets, the identification of four Focus Areas, and a suite of adaptation strategies. As defined in statutes, there are four classes of critical assets and multiple types of assets within each class. Flood insurance policies are issued on numerous properties that are excluded from the statutorily required assets in a vulnerability assessment, for example, residential and commercial properties. Some communities<sup>3</sup> include residential and commercial properties in their analyses to gain a more holistic understanding of the flood risks to an entire jurisdiction and the impacts to flood insurance policies.

 POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

Objective A. The Village will consider the risks and impacts to all properties subject to flood insurance requirements within Village jurisdictional boundaries, above and beyond identified critical assets, before implementing any proposed adaptation principles, policies, or engineering solutions outlined in the Village’s 2024 Adaptation Plan or from other guides or sources.

Policy 1. The Village will establish a goal of identifying within and/or explore opportunities for additional resources to gather additional data to analyze the current and future flood risk to properties not specifically identified in the 2024 Vulnerability Assessment.

Outside of the Village’s own resources, this may include collaboration with other government entities, e.g., FDOT and Miami-Dade County, partnerships with condominium corporations or associations, involving resident organizations and non-profit volunteer groups, and grant funding.

Policy 2. Additionally, the Village will establish a goal of identifying within and/or explore opportunities for additional resources to conduct comprehensive stormwater or floodplain management planning and hydrological studies Village-wide to more fully evaluate adaptation strategies (e.g., adding fill, raising seawalls, higher roads) to ensure there are no unintended consequences or ‘maladaptation’ that could negatively impact property owners with flood insurance policies.

Objective B. With additional data and analysis, the Village will advance site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued to all Village properties, including residential and commercial properties. Adaptation strategies will be implemented once “no rise” and no maladaptation are assured.

---

(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

**4.** Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in 44 C.F.R. part 60.

---

<sup>3</sup> North Miami *Climate Change Vulnerability Assessment and Adaptation Planning*, April 2021.

Background. The Florida Building Code (FBC) and applicable flood plain management regulations set forth in 44 C.F.R. part 60 govern lowest finish floor elevations (FFE), allowable uses below the FFE, materials and methods of construction below FFEs, and other building and development criteria that can improve flood resistance. Some Florida communities have introduced freeboard and other ordinances which are more stringent than the FBC and 44 C.F.R. Part 60. Freeboard is defined as an additional factor of safety height above minimum requirements for structures or assets located in flood hazard areas. For example, the City of Miami Beach has established a minimum of one foot freeboard (concurrent with FBC) and maximum of five feet of freeboard within certain flood zones and zoning districts.

 POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

Objective. The Village will fully evaluate and consider more stringent flood-resistant construction requirements that may be regulatory tools and/or achieved through voluntary compliance.

Policy 1. The Village will consider adopting a freeboard ordinance with minimum finish floor elevations that meet or exceed FBC, 44 C.F.R. Part 60, and ASCE 24. With a current minimum FBC requirement of one foot above the base flood elevation (BFE) for many types of structures, an additional freeboard elevation may range from 6-12” to several feet and may include maximum limits.

Policy 2. The Village will evaluate additional flood-resistant design and construction requirements that meet or exceed FBC, 44 C.F.R. Part 60, and ASCE 24 requirements and consider additional Best Management Practices (BMPs).

---

(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:

**5.** Require that any construction activities seaward of the coastal construction control lines established pursuant to s. [161.053](#) be consistent with chapter 161.

Background. The Coastal Construction Control Line (CCCL) was established for Dade County in 1982 by the State of Florida. In the Village the CCCL runs north-south parallel to Highway A1A and the Atlantic Ocean shoreline.<sup>4</sup> The CCCL is landward of the protective dune system and bisects oceanfront properties. The CCCL is regulated by the Florida Department of Environmental Protection (FDEP) and supported locally in the Village’s Code of Ordinances, Chapter 8.5, Flood Damage Prevention and Chapter 21, Zoning.<sup>5</sup>

 POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

Objective. The Village will continue to require all construction activities seaward of the coastal construction control lines established pursuant to Section 161.053, F.S., be consistent with Chapter 161, F.S., Beach and Shore Preservation.

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<sup>4</sup> [Map Direct: Coastal Construction Control Line \(state.fl.us\).](#)

<sup>5</sup> [Search | Bal Harbour, FL | Municode Library](#)



Policy 1. The Village will review its current Code of Ordinances and ensure continued support for the regulation of all construction activities seaward of the CCCL including construction, reconstruction, and other physical activities; beach and shore preservation districts; coastal zone protection; and oceans and coastal resources for consistency with Chapter 161, F.S.

---

**(f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:**

**6.** Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

Background. The Village has participated in the NFIP CRS Program since 1996 and as of May 2017 has a CRS Class rating of 8 which provides for a 10 percent insurance rate discount. Out of the 264 communities participating in the CRS Program in Florida, over two-thirds are CRS Class 5, 6, or 7. The nationwide average is Class 5, which translates to a 25 percent discount. In South Florida, Class 5 communities include the City of Miami Beach, City of Key West, Miami-Dade County and Palm Beach County. Both Pinellas and Monroe counties have achieved Class 3 as of 2021 and 2022 respectively,<sup>6</sup> and Miami-Dade County recently became Class 3.<sup>7</sup>

 POTENTIAL LANGUAGE FOR DRAFT COMP PLAN CME AMENDMENT:

Objective A. The Village will work towards improving its' NFIP CRS class rating to realize discounted insurance premiums for their residents.

Policy 1. The Village will collaborate with Miami-Dade County and other relevant parties to gather important data and analysis, policy recommendations, and other best practices needed to apply for additional CRS points and achieve a lower CRS class rating.

Policy 2. In drainage and stormwater master planning, the Village will incorporate the CRS Program guidance to managing stormwater and watershed master plan development, as applicable and appropriate to the Village context.

Policy 3. Prior to NFIP submittal, the Village will consider all potential activities including, for example, open space preservation, acquisition and relocation projects, and higher regulatory standards to achieve necessary points for improved CRS class rating.

Policy 4. The Village will incorporate the consideration of sea level rise and future flood conditions to each applicable activity in the CRS Program.

Objective B. The Village may consider NFIP CRS class rating determinations to be an ongoing process of improvement and establish a goal of achieving class ratings the same or better than Miami-Dade County and/or comparable communities in the region.

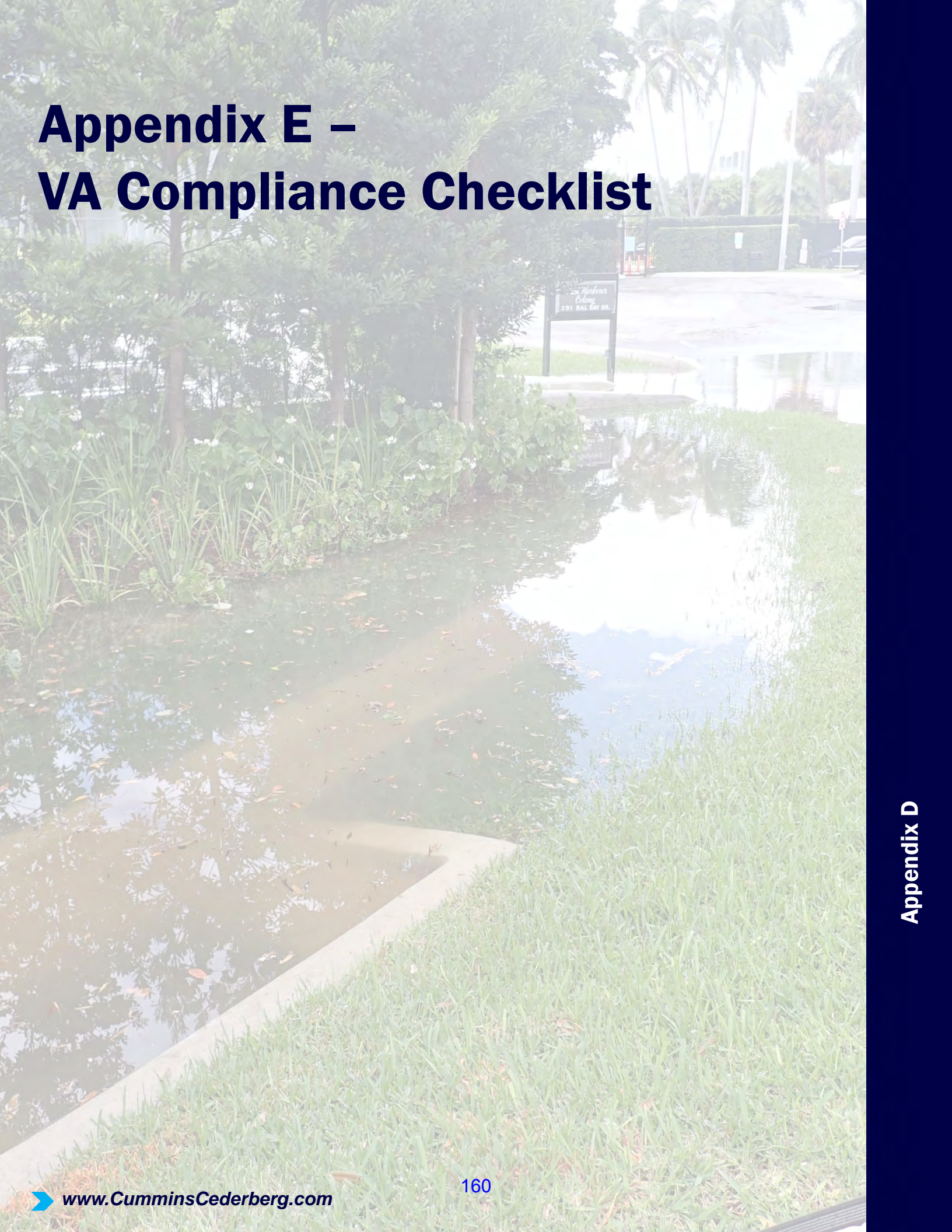
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<sup>6</sup> As of October 2023 data downloaded from [Community Rating System | FEMA.gov](https://www.fema.gov/community-rating-system).

<sup>7</sup> Per JNP email 3/5/2024.



# Appendix E – VA Compliance Checklist





**STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RESILIENT FLORIDA GRANT PROGRAM  
REVISED VULNERABILITY ASSESSMENT COMPLIANCE CHECKLIST CERTIFICATION**

**Exhibit I-1**

*Required for all planning grant agreements.*

DEP Agreement Number: 22PLN61

Project Title: Village of Bal Harbour Vulnerability Assessment and Adaptation Plan

Grantee: Village of Bal Harbour

In accordance with subsection 380.093(3), F.S., the following components, scenarios, data, and information are required for a comprehensive Vulnerability Assessment (VA). The checklist must be completed and submitted with the final VA Report deliverable, pursuant to Attachment 3, Grant Work Plan. The Grantee must abide by the Department's GIS Data Standards found on the Resilient Florida Program webpage at the link below:

<https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>

**Part 1 – Subparagraph 380.093(3)(c)2., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
a	<input checked="" type="checkbox"/>	Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables.	
<b>All electronic mapping data used to illustrate flooding and sea level rise impacts that are identified in the VA must be provided in the format consistent with the Department's GIS Data Standards and include the following three (3) items:</b>			
b	<input checked="" type="checkbox"/>	Geospatial data in an electronic file format.	
c	<input checked="" type="checkbox"/>	GIS metadata.	
d	<input checked="" type="checkbox"/>	List of critical assets for each jurisdiction, including regionally significant assets, that are impacted by flooding and sea level rise. The list must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset	Pages20-22

**Part 2 – Subparagraphs 380.093(3)(d)1. and 380.093(3)(d)2., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
e	<input checked="" type="checkbox"/>	Peril of Flood Compliance Plan amendments developed that address paragraph 163.3178(2)(f), F.S., if applicable.	Appx. D Pages 65-66

**Exhibit I-1**



		<input type="checkbox"/> Not applicable <input type="checkbox"/> Already in compliance	
f	<input checked="" type="checkbox"/>	Depth of tidal flooding, including future high tide flooding, using thresholds published and provided by the Department.	Pages 11-13
g	<input type="checkbox"/>	To the extent practicable, analysis geographically displays the number of tidal flood days expected for each scenario and planning horizon. <i>(optional)</i>	
h	<input checked="" type="checkbox"/>	Depth of current and future storm surge flooding using publicly available NOAA or FEMA storm surge data. <i>(check one)</i> <input type="checkbox"/> NOAA data <input checked="" type="checkbox"/> FEMA data	Page 14
i	<input checked="" type="checkbox"/>	Initial storm surge event equals or exceeds current 100-year flood event.	Page 14
j	<input checked="" type="checkbox"/>	Higher frequency storm analyzed for exposure of a critical asset. <i>(optional, but must provide additional detail if included)</i>	Page 14
k	<input checked="" type="checkbox"/>	To the extent practicable, rainfall-induced flooding was considered using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. <i>(required if item e is not applicable)</i>	Page 15
l	<input type="checkbox"/>	Future boundary conditions have been modified to consider sea level rise and high tide conditions. <i>(optional)</i>	
m	<input type="checkbox"/>	Depth of rainfall-induced flooding for 100-year storm and 500-year storm event. <i>(required if item e is not applicable)</i>	
n	<input checked="" type="checkbox"/>	To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding. <i>(optional)</i>	Pages 18-19

**Part 3 – Subparagraph 380.093(3)(d)3., F.S.**

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
o	<input checked="" type="checkbox"/>	All analyses performed in North American Vertical Datum of 1988.	
p	<input checked="" type="checkbox"/>	Includes at least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections.	Pages 10-11
q	<input checked="" type="checkbox"/>	Includes at least two planning horizons, which must include years 2040 and 2070.	Pages 10-11
r	<input checked="" type="checkbox"/>	Utilizes local sea level data that has been interpolated between the two closest NOAA tide gauges.	Page 10
s	<input checked="" type="checkbox"/>	Local, publicly available, sea level data was taken from one of the two closest NOAA tide gauges, which must be the gauge with the highest mean sea level <i>(if so, provide Department approval)</i> .	

**Exhibit I-1**

2 of 3







# BAL HARBOUR

- V I L L A G E -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**A RESOLUTION APPROVING THE ACCEPTANCE OF A FLORIDA INLAND NAVIGATION DISTRICT (FIND), WATERWAYS ASSISTANCE PROGRAM GRANT AWARD FOR THE HARBOURFRONT PARK PHASE III (SEGMENT B) STRUCTURAL CONSTRUCTION PROJECT, IN THE ESTIMATED GRANT FUNDED AMOUNT OF THREE MILLION DOLLARS (\$3,000,000).**

### Issue:

Should the Village Council approve the acceptance of the Florida Inland Navigational District (FIND) Waterways Assistance Program grant?

### The Bal Harbour Experience:

- |   |  |   |
|---|--|---|
| <input checked="" type="checkbox"/> Beautiful Environment   | <input checked="" type="checkbox"/> Safety               | <input checked="" type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input checked="" type="checkbox"/> Destination & Amenities | <input checked="" type="checkbox"/> Exclusivity & Access | <input checked="" type="checkbox"/> Resiliency & Sustainable Community          |

### Item Summary / Recommendation:

The resolution presented before the Council pertains to the approval of Phase III (Segment B) funding for the Harbourfront Park Project structural package. Following previous grants for Phases I and II, which focused on design and Segment A (seawall, jetty, cutwalk) structural construction activities, this grant application seeks additional funding of \$3 million to address Segment B of the Project. This segment extends from the jetty bulkhead to the tip of the hook, targeting structural restoration of the extension reach.

To ensure the effective implementation of this grant, it is recommended that the Council authorize the Village Manager or designated representative to execute grant agreements and manage fund allocation as outlined in the application. This authorization, subject to legal review and limited to amendments without additional fiscal impact, will facilitate timely project completion and adherence to grant requirements. The resolution will be submitted to FIND by May 2024.

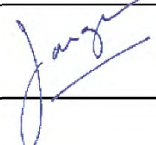
**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

	Amount	Account	Account #
	X	X	X

### Sign off:

<b>Capital Program Director</b> Matilde E. Reyes	<b>Chief Financial Officer</b> Claudia Dixon	<b>Village Manager</b> Jorge M. Gonzalez
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# BAL HARBOUR

- V I L L A G E -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE SUBMISSION AND ACCEPTANCE OF A FLORIDA INLAND NAVIGATION DISTRICT (FIND), "WATERWAYS ASSISTANCE PROGRAM" GRANT FOR THE HARBOURFRONT PARK PHASE III STRUCTURAL PROJECT, IN THE ESTIMATED GRANT FUNDED AMOUNT OF THREE MILLION DOLLARS (\$3,000,000); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Resolution.

### BACKGROUND

At the March 19, 2019, Bal Harbour Village Council Meeting, Resolution No, 2019-03-19 approved the Basis of Design Report for a project located at Baker's Haulover Inlet south jetty extension and extension reach that would convert the area from a deteriorated seawall, cutwalk, jetty, and extension reach to a more resilient inlet barrier and linear waterfront park.

In 2020, the Florida Inland Navigation District (FIND) approved a grant award to the Village for Phase I of the Project for design services. Subsequently, in 2022, FIND approved a grant award to the Village for Phase II of the Project for structural construction activities relating to the seawall, jetty, corresponding section of cutwalk, and components of the Project, which the Village refers to as Segment A of the construction phase.

In February 2024, the Village Capital Programs Director communicated with FIND Commissioner Crowley and FIND Deputy Director Kelley to discuss Phase III of the Project, which would include Segment B of the construction phase that extends from the Jetty bulkhead to the end of the hook of the walkway referred to by the Village and Army Corps as the "extension reach," owned by the Village, and that gives the Project its name of a Harbourfront Park. Following the meeting with FIND to discuss Phase III (Segment B structural construction activities), FIND encouraged the submission of a third application for grant funding related to the Project's Segment B construction costs.

## **ANALYSIS**

In March of 2024, a Waterway Assistance Program (WAP) grant application was submitted to FIND requesting funding in the amount of three million dollars (\$3,000,000). If awarded, Phase III (Segment B structural construction activities) funding will be available for October 2024 and will be used as a supplement to the budget for the Harbourfront Park construction costs.

Project Title: Village Harbourfront Park Phase III Structural Project

Total Estimated Total Project Cost: \$22,580,000

Total Estimated Grant Phase III Project Costs: \$11,290,000

Brief Description of the Project: The Phase III Project involves Segment B structural construction costs related to the Harbourfront Park, also known as the "extension reach," adjacent to the Baker's Haulover Inlet south jetty extension and cutwalk of the construction phase. This waterfront park is situated near 10295 Collins Avenue, Bal Harbour, Florida 33154. The Village issued a public advertisement in February 2024 to procure a Construction Manager at Risk (CMAR). It is anticipated that 100% construction documents will be available by the summer of 2024, with construction of Segment A expected to commence around that time. Segment A encompasses construction work on the seawall, jetty, and corresponding section of cutwalk.

Segment B will follow soon after, extending from the jetty bulkhead to the end of the "extension reach", or the tip of the hook. To maximize grant funding opportunities and ensure compliance with grant timelines, the Project was divided into Segment A and Segment B, although construction will largely proceed concurrently. However, there is a time-sensitive deadline for completing the structural work for Segment A, which is set by the 2022 FIND grant award that sets a hard deadline for September 2025. Segment B, the primary focus of this Phase III grant application, encompasses the extension reach to the tip of the hook. Following structural constructability reviews and extensive design, it has been determined that significant structural restoration and reinforcement are necessary for Segment B as well to ensure the resilience and protection of the beachside area of the Village.

The resolution that accompanies this memorandum has FIND grant specific language requesting approval and stipulating future acceptance of the grant. The approved resolution will be submitted to FIND by their May 2024 deadline. If the Council wishes to rescind the grant application for any reason, we can notify the FIND Commission at that time.



### **THE BAL HARBOUR EXPERIENCE**

The design for the restoration of the Harbourfront Park, specifically the “extension reach” to the tip of the hook, is aligned with our vision for the Village and directly corresponds to the goals of the Bal Harbour Experience.

- Resiliency and Sustainable Community
- Safety
- Destination and Amenities
- Modernized Public Facilities + Infrastructure
- Exclusivity and Access
- Beautiful Environment

The “extension reach” to the tip of the hook holds significant importance for the resiliency of our coastal community. This portion of the Harbourfront Park not only serves as a recreational area but also acts as a vital barrier protecting the beachside. Enhancing the structural integrity of this section is crucial to safeguarding against erosion and mitigating the impacts of coastal flooding. By reinforcing and restoring this area, we increase our resilience against natural hazards, ensuring the long-term protection of our shoreline and the sustainability of our coastal ecosystem.

### **CONCLUSION**

Based on the review of the FIND grant requirements and the WAP grant application submitted in March of 2024 for the Phase III Project, I recommend that the Council authorize the Village Manager or Manager’s designee to execute any future grant award agreements, amendments, and other documents required by FIND and the grant. This authority should be exercised following approval by the Village Attorney to ensure legal sufficiency. However, this delegation of authority is limited to executing amendments that do not impose additional fiscal impacts on the Village and are otherwise eligible under the FIND Waterways Assistance Program. Furthermore, I recommend that the Council authorize the Village Manager or Manager’s designee to receive and expend all funds for the purposes outlined in the funding request, on behalf of Bal Harbour Village.

### **Attachments:**

1. FIND Waterway Assistance Program grant application.

RESOLUTION NO. 2024-\_\_\_\_

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE SUBMISSION AND ACCEPTANCE OF A FLORIDA INLAND NAVIGATION DISTRICT (FIND), "WATERWAYS ASSISTANCE PROGRAM" GRANT FOR THE HARBOURFRONT PARK PHASE III STRUCTURAL PROJECT, IN THE ESTIMATED GRANT FUNDED AMOUNT OF THREE MILLION DOLLARS (\$3,000,000); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Village is interested in carrying out the following described project for the enjoyment of the citizenry of Bal Harbour Village and the State of Florida:

Project Title: Village Harbourfront Park - Phase III Structural Project

Total Estimated Total Project Cost: \$22,580,000

Total Estimated Grant Phase III Project Costs: \$11,290,000

Brief Description of the Project: The Phase III Project consists of structural construction costs associated with the Harbourfront Park (also known as the "extension reach" adjacent to the Baker's Haulover Inlet south jetty extension and cutwalk) located near 10295 Collins Avenue, Bal Harbour, Florida; and

**WHEREAS**, the Village submitted a grant application to the Florida Inland Navigation District (FIND) in March of 2024; and

**WHEREAS**, FIND has previously awarded grants for the Phase I design and Phase II construction of the jetty and cutwalk structural components; and

**WHEREAS**, FIND financial assistance is required for the Project mentioned above; and

**WHEREAS**, as part of its application process, FIND requires that a resolution be adopted by the agency seeking FIND grant funds in substantially the form of this resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA**, that this Council authorizes the submittal of a grant application for \$3,000,000 (approximately 26.57% of the estimated cost of Phase III) to the

FIND Waterways Assistance Program with a Village match of \$8,290,000 from the Capital Budget, and the Council further authorizes the acceptance of FIND grant funding for this Project.

**AND, BE IT FURTHER RESOLVED AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted, confirmed, and that the Village will accept the terms and conditions set forth in FIND Rule 66B-2 F. A. C. which will be a part of the Project Agreement for any assistance awarded under the proposal.

**Section 2. Program Approved.** That the Village is in complete accord with the proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any change has been received from the District.

**Section 3. Implementation.** That the Village has the ability and intention to finance its share of the cost of the Project and that the Project will be operated and maintained at the expense of Bal Harbour Village for public use.

**Section 4. Anti-Discrimination.** That the Village will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by handicapped persons as well as other federal, state and local laws, rules and requirements.

**Section 5. Financial Records.** That the Village will maintain adequate financial records on the proposed Project to substantiate claims for reimbursement.

**Section 6. Post-Audit.** That the Village will make available to FIND, if requested, a post-audit of expenses incurred on the Project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.



**Section 7. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

## ATTACHMENT E-1

### APPLICATION CHECKLIST

WATERWAY ASSISTANCE PROGRAM FY 2024

<b>Project Title:</b>	Harbourfront Park Restoration Phase III Structural
<b>Applicant:</b>	Bal Harbour Village

**This checklist and the other items listed below in items 1 through 13 constitute your application. The required information shall be submitted in the order listed.**

**An electronic copy shall be emailed (15mb maximum file size) to CKelley@aicw.org. Application must be received by the deadline, no exceptions.**

**All information will be printed on 8 ½"x11" paper to be included in agenda books bound by staff.**

	<u>YES</u>	<u>NO</u>
1. District Commissioner Review prior to March 4rd <b>NOTE: <u>For District Commissioner initials ONLY!</u></b> <b>District Commissioner must initial the yes line on this checklist for the application to be deemed complete)</b>	_____	_____
	1/11/24	
2. Application Checklist – E-1 (Form No. 90-26, 2 pages Form must be signed and dated	<input checked="" type="radio"/>	<input type="radio"/>
3. Applicant Info/Project Summary – E-2 (Form No. 90-22, 1 page) <b>Form must be completed and signed</b>	<input checked="" type="radio"/>	<input type="radio"/>
4. Project Information – E-3 Form No. 90-22a, 1 page	<input checked="" type="radio"/>	<input type="radio"/>
5. Application and Evaluation Worksheet – E-4 +) Form No.91-25) One proper sub-attachment included, 7 pages) Must answer questions 1-10. <b>No signatures required</b>	<input checked="" type="radio"/>	<input type="radio"/>
6. Project Cost Estimate – E-5 Form No. 90-25, 1 page) <b>Must be on District form</b>	<input checked="" type="radio"/>	<input type="radio"/>
7. Project Timeline – E-6 Form No. 96-10, 1 page	<input checked="" type="radio"/>	<input type="radio"/>
8. Official Resolution Form – E-7 (Form No. 90-21, 2 pages) <b>Resolution must be in District format and include items 1-6)</b>	<input checked="" type="radio"/>	<input type="radio"/>

**ATTACHMENT E-1 (Continued)**

**APPLICATION CHECKLIST**

WATERWAY ASSISTANCE PROGRAM FY 2024

	<u>YES</u>	<u>NO</u>
9. Attorney's Certification (Land Ownership) – E-8 <b>Must be on or follow format of Form No. 94-26, Legal descriptions NOT accepted in lieu of form)</b>	<input checked="" type="radio"/>	<input type="radio"/>
10. County/City Location Map	<input checked="" type="radio"/>	<input type="radio"/>
11. Project Boundary Map	<input checked="" type="radio"/>	<input type="radio"/>
12. Clear Detailed Site Development Plan Map	<input checked="" type="radio"/>	<input type="radio"/>
13. Copies of all Required Permits: ACOE, DEP, WMD (Required of development projects only)	<input checked="" type="radio"/>	<input type="radio"/>

The undersigned, as applicant, acknowledges that Items 1 through 12 above constitutes a complete application and that this information is due in the District office no later than 4:30 PM, April 1, 2024. By May 15, 2024 my application must be deemed complete (except for permits) or it will be removed from any further consideration by the District. I also acknowledge that the information in Item 13 is due to the District no later than September 16, 2024. If the information in Item 13 is not submitted to the District office by September 16, 2024, I am aware that my application will be removed from any further funding consideration by the District.

LIAISON: Matilde E. Reyesc, RA TITLE: Capital Programs Director

*ME Reyesc*

**SIGNATURE - PROJECT LIAISON**

3/29/24

DATE

**FIND OFFICE USE ONLY**

Date Received: \_\_\_\_\_

Local FIND Commissioner Review: \_\_\_\_\_

All Required Supporting Documents: \_\_\_\_\_

Applicant Eligibility: \_\_\_\_\_

Project Eligibility: \_\_\_\_\_ Available Score: \_\_\_\_\_

Compliance with Rule 66B-2 F.A.C.: \_\_\_\_\_

Eligibility of Project Cost: \_\_\_\_\_



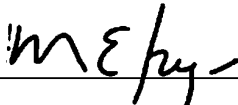
## ATTACHMENT E-2

### APPLICANT INFORMATION & PROJECT SUMMARY

WATERWAY ASSISTANCE PROGRAM FY 2024

<b>APPLICANT INFORMATION</b>			
<b>Applicant:</b> Bal Harbour Village			
<b>Department:</b> Capital Programs			
<b>Project Title:</b> Harbourfront Park Restoration Phase III Structural			
<b>Project Director:</b> Matilde E. Reyes		<b>Title:</b>	Capital Programs Director
<b>Project Liaison:</b> <i>if different from Director)</i>	Kristina Brown	<b>Title:</b>	Grant Administrator
<b>Mailing Address:</b>	655 96th Street		
<b>City:</b> Bal Harbour Village		<b>Zip Code:</b>	33154
<b>Email Address:</b> progrant@balharbourfl.gov		<b>Phone #:</b>	(305) 297-8549
<b>Project Address:</b>	10295 Collins Avenue, Bal Harbour, Fl 33154 / Bakers Haulover Inlet south jetty extension		

\*\*\* I hereby certify that the information provided in this application is true and accurate.

SIGNATURE:  DATE: 3/29/24

**PROJECT NARRATIVE** (Please summarize the project in space provided below in 2 paragraphs or less.)

Bal Harbour Village, a coastal community at the entrance of Baker's Haulover Inlet in Miami-Dade County, Florida, strives for inclusivity while maintaining its tranquil beach town atmosphere. The Village aims to revitalize the expansive area along the south jetty extension into a waterfront accessible linear park, extending from the cutwalk entrance to the jetty and continuing into a hook-like formation reaching the Atlantic Ocean. In collaboration with a design firm since 2019, the Village has pursued this ambitious project, supported by grants from FIND in 2020 and 2022 for design and structural improvements (Segment A). However, additional structural work and elevation enhancements are required for Harbourfront Park, spanning from the bulkhead to the tip of the hook (Segment B), to protect adjacent properties from wave intrusion and provide a safe, accessible waterfront experience.

The Village's current submission to FIND focuses on Phase III Segment B of the project, covering structural improvements from the bulkhead to the tip of the hook. The extension reach, constructed by the Village in the 1970s, requires reinforcement and elevation increase to ensure safety, resilience, and preservation of navigational integrity. Grant funds will be allocated to this critical phase, essential for safeguarding properties, enhancing accessibility, and maintaining the openness of the inlet for safe passage of boats from the Intracoastal Waterways to the Atlantic Ocean. As stewards of this valuable coastal asset, the Village is committed to creating a vibrant waterfront amenity that enriches the lives of residents and visitors alike, while preserving the unique charm of Bal Harbour Village.

**ATTACHMENT E-3**  
**PROJECT INFORMATION**

WATERWAY ASSISTANCE PROGRAM FY 2024

<b>Applicant:</b> Bal Harbour Village	<b>Project Title:</b> Harbourfront Park Restoration Phase III Structural	
<b>Total Project Cost:</b> \$ 11,290,000	<b>FIND Funding Requested:</b> \$ 3,000,000	<b>% of Total Cost:</b> 27%
<b>Amount of Applicant's Matching Funds:</b>	\$8,290,000	
<b>Source of Applicant's Matching Funds:</b>	Village Funds	

1. **Ownership of Project Site (check one):** Own:  Leased:  Other:

2. **If leased or other, please describe lease or terms and conditions:**

N/A

3. **Has the District previously provided assistance funding to this project or site?** Yes:  No:

4. **If yes, please list:**

In 2020, a design and permitting grant was approved under agreement number DA-BH-20-258. In 2022, a phase II structural restoration grant was also approved for the portion of the project extending from the seawall to the jetty (Segment A), identified under agreement DA-BH-22-270.

5. **What is the current level of public access in terms of the number of boat ramps, boat slips and trailer parking spaces, linear feet of boardwalk etc.)?** (as applicable):

Harbourfront Park, Jetty, and Cutwalk are fully accessible to the public. However, the absence of safety features such as railings and properly paved paths poses significant hazards, particularly during inclement weather conditions. The entire project site spans approximately 1,500 linear feet.

6. **How many additional ramps, slips, parking spaces or other access features will be added by this project?**

The Project will add railings, an accessible walkway to the hook of Harbourfront Park, benches, an amphitheater, and 4,914 square feet of additional improvements, including a new USCG light tower.

7. **Are fees charged for the use of this project?** No:  Yes: \*\*

\*\*If yes, please attach additional documentation of fees and how they compare with fees from similar public private facilities in the area.

**Please list all Environmental Resource Permits required for this project:**

AGENCY	Yes / No / N/A	Date Applied For	Date Received
WMD	N/A	N/A	N/A
DEP	Yes	08/24/2020	09/09/2022
ACOE	Yes	08/24/2020	09/15/2022

**ATTACHMENT E-4**  
**EVALUATION WORKSHEET**

WATERWAY ASSISTANCE PROGRAM FY 2024

**DIRECTIONS:**

All applicants will complete questions 1 through 6, and then based on the type of project, complete one and only one subsection (E-4A, B, C, D or E) for questions 7-10.

**\*\*\*Please keep your answers brief and do not change the pagination of Attachment E-4\*\*\***

All other sub-attachments that are not applicable to an applicant's project should not be included in the submitted application.

<b>Project Title:</b>	Harbourfront Park Restoration Phase III Structural
<b>Applicant:</b>	Bal Harbour Village

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**1) PRIORITY LIST:**

- a) Denote the priority list category of this project from Attachment C in the application.**  
(The application may only be of **one** type based upon the predominant cost of the project elements.)

11. Public waterfront parks and boardwalks and associated improvements.

- b) Explain how the project fits this priority category.**

The project aligns with Category #11, Public Waterfront Parks and Boardwalks, by enhancing public access to coastal areas and promoting recreational opportunities along the waterfront. By revitalizing the south jetty extension into Harbourfront Park, the project creates a vibrant and inclusive space for residents and visitors to enjoy the waterfront amenities. The addition of amenities such as benches, an amphitheater, a boardwalk and an accessible walkway not only improves the overall aesthetic appeal but also fosters community engagement and social cohesion. Furthermore, the installation of railings and safety features ensures a safe and enjoyable experience for all individuals, reinforcing the importance of public waterfront spaces in promoting health, well-being, and environmental stewardship.

*(For reviewer only)*

Max. Available Score for application \_\_\_\_\_

Question 1. Range of Score (1 to \_\_\_ points)

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## 2) WATERWAY RELATIONSHIP:

- a) Explain how the project relates to the ICW and the mission of the Navigation District.**

The project's revitalization of the south jetty extension directly supports FIND's mission by enhancing public waterfront access and ensuring safe navigation along the critical Atlantic Intracoastal Waterway (ICW) corridor, reflecting FIND's commitment to coastal stewardship.

- b What public access or navigational benefit to the ICW or adjoining waterway will result from this project?**

Project Segment B will significantly benefit the public and improve the navigational corridor by elevating the hook, reinforcing the structural wall and riprap, and introducing a living wall with relocated coral. These enhancements will support the marine environment, protect adjacent beach and upland properties, and ensure the safety of the inlet corridor passageway.

*(For reviewer only)*  
*(1-6 points)*

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## 3) PUBLIC USAGE & BENEFITS:

- a) Describe how the project increases/improves boater/public access. Estimate the amount of total public use.**

The project substantially enhances public access by creating safe pathways, seating areas, and amenities along the renovated Jetty and Cutwalk, facilitating closer proximity to the waterways. With an estimated 500,000 visitors anticipated to utilize these improved facilities, the project significantly increases recreational opportunities and fosters safer enjoyment of the waterfront for both residents and the millions of annual visitors.

- b Discuss the regional and local public benefits provided by the project. Can residents from other counties of the District reasonably access and use the project? Explain.**

As the only above jetty park in the country, the project represents a monumental advancement in navigational jetty design, providing a unique attraction that attracts individuals from across the region and beyond. Additionally, residents from other counties can reasonably access and utilize the project, as its innovative design and strategic location make it an accessible and appealing destination for individuals from near and far.

- c) Has the local Sponsor implemented or plans to implement any boating access, speed zone, commercial access or other restrictive use of this site?**

Public access to the park will be managed responsibly, ensuring a safe and enjoyable experience for all visitors. While there are no planned restrictive measures beyond the already implemented speed zones and other appropriate safety protocols, any commercial activity will be regulated and limited to approved vendors selected to offer recreational services or food options within the park.

*(For reviewer only)*  
*(1-8 points)*

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#### 4) TIMELINESS:

- a) Describe current status of the project and present a reasonable and effective timeline for the completion of the project consistent with Attachment E-6.**

The project is currently in the construction bidding phase, with the Village seeking a Construction Manager-at-Risk to act as both contractor and provide limited value engineering support. Consultants project completion of Segment A structural work by summer 2025, followed by Segment B's completion by summer 2026.

- b Briefly explain any unique aspects of this project that could influence the timeline.**

The timeline for Segment B may be influenced by its complexity, particularly regarding the incorporation of a living coral wall for increased resilience and elevation of the hook. Additional permitting or support for this aspect could potentially extend the project's completion until March 2027.

*(For reviewer only)*  
*(1-3 points)*

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#### 5) COSTS EFFICIENCY:

- a) List funding sources and the status and amount of the corresponding funding that will be utilized to complete this project including any cash match or matching grant funds.**

\$8,290,000 will be allocated from the Village's Capital Programs budget, with funding already earmarked in the budget to ensure the timely completion of all project components.

- b) Identify and describe any project costs that may be increased because of the materials utilized or specific site conditions.**

Construction costs have surged since 2020, driven by the COVID-19 pandemic, with rising prices of materials like concrete, lumber and steel due to global supply chain disruptions. Labor shortages have compounded these challenges, leading to higher wages.

- c) Are there any fees associated with the use of this facility? If so, please list or attach fee sheet.**

No fees are associated with the use of the project area, although there may be food vendors utilizing parts of the site who could potentially charge for their products. However, access to Harbourfront Park itself will be completely free of charge.

- d) If there are any fees, please explain where these fees go and what they are used for. In addition, please provide a listing of the fees charged by similar facilities, public and private, in the project area.**

No fees are anticipated for this project. Access to all aspects of the project, including Harbourfront Park, will be free of charge.

*(For reviewer only)*  
*(1-6 points)*

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**6 PROJECT VIABILITY:**

**a Why is the project necessary and what need will it fill? Why are existing facilities insufficient to meet demand?**

The project is essential to create a resilient and accessible public waterfront park while also addressing the critical need to maintain navigational channels in Baker's Haulover Inlet. By enhancing the Harbourfront Park area with features such as elevated walkways, benches, and a living coral wall, the project not only provides residents and visitors with safe recreational spaces but also contributes to the preservation of the inlet's navigational infrastructure. Jetties and similar structures are vital for channel maintenance, ensuring safe passage for vessels navigating between the Intracoastal Waterways and the Atlantic Ocean. Additionally, the elevation of the tip of the hook will enhance the beach adjacent to it, protecting it from erosion caused by storm surges and promoting the longevity of the coastal ecosystem. Thus, the project serves a dual purpose by promoting community engagement, supporting the long-term sustainability of the inlet's navigational corridors, and improving overall coastal resilience.

**b) Clearly demonstrate how the project will continue to be maintained and funded after funding is completed.**

The maintenance and funding for the Harbourfront Park, Jetty, and Cutwalk improvements will be ensured through a collaborative effort between the County and Bal Harbour. This partnership, fortified by ongoing support from USACE, commits to sustaining the project site well beyond its completion. The Village resources have been the primary source of maintenance for the site for the past 50 years.

**c) Is this project referenced or incorporated in an existing maritime management, public assess or comp plan?**

Yes, Harbourfront Park, including the jetty and extension reach, is integrated into the Baker's Haulover Inlet Management Plan. Additionally, collaboration among FDEP, USACE, Miami-Dade County, and Bal Harbour Village demonstrates a unified effort to address issues concerning this project site, ensuring alignment with broader maritime management goals and objectives.

*(For reviewer only)  
(1-7 points)*

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**SUB-TOTAL \_\_\_\_\_**



**ATTACHMENT E-4A**  
**EVALUATION WORKSHEET**  
**DEVELOPMENT & CONSTRUCTION PROJECTS**

WATERWAY ASSISTANCE PROGRAM FY 2024

THIS ATTACHMENT IS TO BE COMPLETED IF YOUR PROJECT IS A DEVELOPMENT OR CONSTRUCTION PROJECT BUT **IS NOT** AN INLET MANAGEMENT OR BEACH RENOURISHMENT PROJECT.

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**7 PERMITTING:**

- a) Have all required environmental permits been applied for? (USACE, DEP and WMD)  
If permits are NOT required, explain why not.**

Yes, all have been applied for and approved.

- b) If the project is a Phase I project, please provide a general cost estimate for the future Phase II work.**

N/A

- c Detail any significant impediments that may have been identified that would potentially delay the timely issuance of the required permits.**

N/A

*(For reviewer only)*  
*(1-4 points)*

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## 8) PROJECT DESIGN:

- a) Has the design work been completed?  
If this is a Phase I project, has a preliminary design been developed?**

Yes, the design work for the project has been completed. However, finalization of construction documents is pending value engineering from the soon-to-be-onboarded Construction Manager-at-Risk (CMAR). Any necessary revisions to the drawings to ensure fiscal responsibility will be conducted by no later than summer 2024.

- b Are there unique beneficial aspects to the proposed design that enhance public usage or access, minimize environmental impacts, improve water quality or reduce costs?**

The proposed design uniquely enhances public usage and access by creating the Village's first large-scale waterfront park on and around a jetty. Integrating a living coral wall and elevating the park not only promotes resiliency but also ensures the navigational corridor remains open and preserves the surrounding beach and upland properties.

*(For reviewer only)  
(1-2 points)*

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## 9) CONSTRUCTION TECHNIQUES:

- a) Briefly explain the construction techniques and materials to be utilized for this project. Identify any unique construction materials that may significantly alter the project costs. If a Phase 1, elaborate on potential techniques.**

Construction techniques for the Harbourfront Park project will involve the installation of precast concrete platforms supported by concrete piles over the water. Grated walkways will provide visitors with a closer connection to nature, offering views of the surrounding reefs. Additionally, precast concrete slabs will be added to elevate walkways and enhance structural integrity, mitigating storm conditions. Project costs will encompass mobilization, demolition, platform construction, grating, railing installation, and reinforcement of existing structures. Furthermore, the project will feature a unique coral living wall, contributing to the park's ecological sustainability and aesthetic appeal.

- b What is the design life of the proposed materials compared to other available materials?**

Accoya modified timber (or equivalent), with a 25-year lifespan, will be utilized for wooden components. All structural materials are selected to endure the corrosive marine environment, ensuring a 75-year lifespan. Stainless steel, chosen for its superior longevity in marine settings, surpasses galvanized materials in durability.

*(For reviewer only)  
(1-3 points)*

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## 10 ENVIRONMENTAL COMPONENTS:

**a How has the facility where the project is located demonstrated commitment to environmental compliance, sustainability, and stewardship?**

The Village has taken significant steps to ensure environmental compliance and sustainability throughout the project. Environmental studies conducted by expert consultants have carefully examined potential impacts on the marine environment and beachside area. The wave reflection report concluded that proposed improvements would not significantly alter existing wave conditions, minimizing risks of toe scour, navigation hazards, or beach erosion. Additionally, the benthic study identified the presence of coral colonies, emphasizing the need to relocate the coral, which will be done as a living wall.

**b) What considerations, if any, have been made for sea level rise impacts in the design and life span of this project?**

Key considerations have been integrated into the design and lifespan of the project to address sea level rise. Comprehensive assessments, including wave reflection studies, slope stability calculations, geotechnical reports, benthic resource surveys, coastal engineering reports, and sea-level rise vulnerability assessments, have been conducted for the site. The project has been designed to enhance resilience against storm surges, with a focus on addressing projections for sea level rise over the next 100 years. These measures ensure that the project can withstand future environmental challenges.

*(For reviewer only)*  
*(1-3 points)*

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**RATING POINT TOTAL** \_\_\_\_\_

**Note:**

The total maximum score possible is dependent upon the project priority category but cannot exceed 50 points unless the project qualifies as an emergency-related project. The minimum score possible is 10 points. A score of 35 points or more is required to be considered for funding.

Form No. 91-25A  
Rule 66B-2.005 (Effective Date: 3-21-01, revised 4-24-06, 1-27-14)



## ATTACHMENT E-5

### PROJECT COST ESTIMATE

WATERWAY ASSISTANCE PROGRAM FY 2024

(See Rule Section 66B-2.005 & 2.008 for eligibility and funding ratios)

<b>Project Title:</b>	Harbourfront Park Restoration Phase III Structural
<b>Applicant:</b>	Bal Harbour Village

<b>Project Elements</b> <i>Please list the MAJOR project elements and provide general costs for each one. For Phase I Projects, please list the major elements and products expected)</i>	<b>Total Estimated Cost</b>	<b>Applicant's Cost</b> <small>To the nearest \$50)</small>	<b>FIND Cost</b> <small>(To the nearest \$50)</small>
Mobilization/Demolition	290,000.00	290,000.00	0.00
Structural work to include, concrete, rip rap and related for reinforcement and elevation	10,000,000.00	7,000,000.00	3,000,000.00
Lighting, railing, benches, and related safety surface features	1,000,000.00	1,000,000.00	0.00

<b>TOTALS =</b>	<b>\$ 11,290,000.00</b>	<b>\$ 8,290,000.00</b>	<b>\$ 3,000,000.00</b>
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**ATTACHMENT E-6**  
**PROJECT TIMELINE**

WATERWAY ASSISTANCE PROGRAM FY 2024

<b>Project Title:</b>	Harbourfront Park Restoration Phase III Structural
<b>Applicant:</b>	Bal Harbour Village

The applicant is to present a detailed timeline on the accomplishment of the components of the proposed project including, as applicable, completion dates for: permitting, design, bidding, applicant approvals, initiation of construction and completion of construction.

**NOTE: All funded activities must begin AFTER October 1<sup>st</sup>**  
(or be consistent with Rule 66B-2.005(3) - Pre-agreement expenses)

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Date	Component
June 2024	Construction Manager-At-Risk Selected
September 2024	Final GMP Approved by Council
October 2024	Construction Commences
September 2025	Segment A Completed
September 2026	Segment B Completed
March 2027	Overall Project Completion

**ATTACHMENT E-7**

**RESOLUTION FOR ASSISTANCE 2024**

UNDER THE FLORIDA INLAND NAVIGATION DISTRICT WATERWAYS ASSISTANCE PROGRAM

**RESOLUTION NO. 2024-\_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING THE SUBMISSION AND ACCEPTANCE OF A FLORIDA INLAND NAVIGATION DISTRICT (FIND), “WATERWAYS ASSISTANCE PROGRAM” GRANT FOR THE HARBOURFRONT PARK RESTORATION PHASE III STRUCTURAL PROJECT, AS DETAILED WITHIN THE GRANT APPLICATION SUBMITTED MARCH 2024; IN THE ESTIMATED GRANT FUNDED AMOUNT OF TWO AND A HALF MILLION DOLLARS (\$2,500,000); PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village is interested in carrying out the following described project for the enjoyment of the citizenry of Bal Harbour Village and the State of Florida:

Project Title: Village Harbourfront Park Restoration Phase III Structural Project

Total Estimated Total Project Cost: \$22,580,000

Total Estimated Grant Phase III Project Costs: \$11,290,000

Brief Description of the Project: The Phase III project consists of structural construction cost associated with the renovation of the Harbourfront Park (also known as the “extension reach” adjacent to the Baker’s Haulover Inlet south jetty extension and cutwalk) located near 10295 Collins Avenue, Bal Harbour, Florida 33154; and

**WHEREAS**, the Village submitted a grant application to the Florida Inland Navigation District (FIND) in March of 2024; and

**WHEREAS**, FIND has previously awarded grants for the Phase I design and Phase II construction of the jetty and cutwalk structural components; and

**WHEREAS**, FIND financial assistance is required for the project mentioned above; and

**WHEREAS**, as part of its application process, FIND requires that a resolution be adopted by the agency seeking FIND grant funds in substantially the form of this resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA**, that this Council authorizes the submittal of a grant application for \$2,500,000 (approximately 22.14% of the estimated cost of Phase III) to the FIND Waterways Assistance Program with a Village match of \$8,790,000 from the Capital Programs Budget, and the Council further authorizes the acceptance of FIND grant funding for this project.

**AND, BE IT FURTHER RESOLVED AS FOLLOWS:**



**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted, confirmed, and that the Village will accept the terms and conditions set forth in FIND Rule 66B-2 F. A. C. and which will be a part of the Project Agreement for any assistance awarded under the proposal.

**Section 2. Program Approved.** That it is in complete accord with the proposal and that it will carry out the Program in the manner described in the proposal and any plans and specifications attached thereto unless prior approval for any change has been received from the District.

**Section 3. Implementation.** That it has the ability and intention to finance its share of the cost of the project and that the project will be operated and maintained at the expense of Bal Harbour Village for public use.

**Section 4. Anti-Discrimination.** That it will not discriminate against any person on the basis of race, color or national origin in the use of any property or facility acquired or developed pursuant to this proposal, and shall comply with the terms and intent of the Title VI of the Civil Rights Act of 1964, P. L. 88-352 (1964) and design and construct all facilities to comply fully with statutes relating to accessibility by handicapped persons as well as other federal, state and local laws, rules and requirements.

**Section 5. Financial Records.** That it will maintain adequate financial records on the proposed project to substantiate claims for reimbursement.

**Section 6. Post-Audit.** That it will make available to FIND, if requested, a post-audit of expenses incurred on the project prior to, or in conjunction with, request for the final 10% of the funding agreed to by FIND.

**Section 7. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this \_\_\_ day of \_\_\_\_\_, 2024.



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Mayor Gabriel Groisman

ATTEST:

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Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

**ATTACHMENT E-8**  
**ATTORNEYS CERTIFICATION OF TITLE 2024**  
(See Rule 66B-2.006(4) & 2.008(2) FAC)

March 29, 2024

Dear FIND Commissioners,

After extensive communication and collaboration between the Village of Bal Harbour, Miami-Dade County, FDEP, and USACE, the ownership of the Project site has been confirmed as follows:

- The seawall extending from under the Baker's Haulover Bridge to the beginning of the south jetty is owned by Miami-Dade County.
- The 200-foot south jetty is owned by USACE.
- The extension reach, spanning from the end of the jetty/bulkhead to the tip of the hook, was constructed and is owned by the Village of Bal Harbour, dating back to 1975-1979 (as confirmed by the attached USACE report).
- All land below the mean high water line is considered submerged lands owned by the State of Florida (FDEP), with the Village holding an easement granted by FDEP.
- The County has authorized the Village to maintain the south jetty and its extension as part of a non-federal sponsor agreement with USACE.

This ownership structure has been documented through historical records, newspaper articles from the 1970s, as well as easements and permits granted by the involved agencies.

Sincerely,



Matilde E. Reyes, RA  
Capital Programs Director  
Bal Harbour Village

cc: Maria V. Currais, Village Attorney

FIND Form No. 94-26 (effective date 5-25-00)





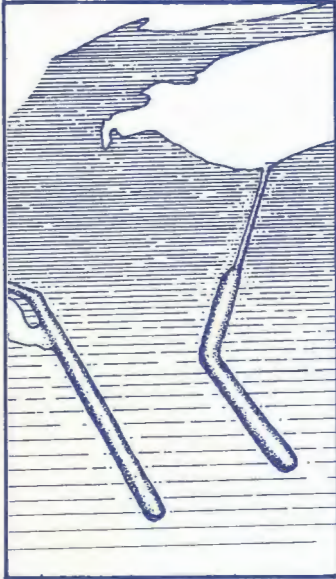
US Army Corps  
of Engineers

# SHORE PROTECTION MANUAL

## VOLUME II

Coastal Engineering Research Center

DEPARTMENT OF THE ARMY  
Waterways Experiment Station, Corps of Engineers  
PO Box 631  
Vicksburg, Mississippi 39180



1984

Approved For Public Release; Distribution Unlimited



Prepared for

DEPARTMENT OF THE ARMY  
US Army Corps of Engineers  
Washington, DC 20314

original fill material remains on the upper beach. During this time, the 1968 artificial borrow pit, which parallels the beach about 430 meters (1,400 feet) from shore, has shoaled to about half its original depth with sand moving in from deeper water. The position of the borrow zone, just seaward of the 9-meter MLLW contour, was thus well chosen for this site as it is beyond the zone of cyclic onshore and offshore sand transport of beach material. Large volumes of sand are transported offshore at Redondo Beach during storms and particularly during the winter season, then returned by natural onshore transport during summer swells. The offshore borrow pit is far enough seaward so that it does not trap this beach sand or interfere with its cyclic exchange between the beach and the nearshore profile.

This was the first project in the United States where a hydraulic pipeline dredge was operated successfully in a high wave energy coastal area. Although highly successful in this project, this procedure has a critical limitation--the necessity for a nearby harbor. The experience gained on this project and the hopper-dredge operation at Sea Girt, New Jersey (Mauriello, 1967; U.S. Army Engineer District, Philadelphia, 1967) provided the techniques for many subsequent beach nourishment projects that utilized offshore sand deposits.

c. Dade County, Florida (U.S. Army Engineer District, Jacksonville, 1975). The Dade County Beach Erosion and Hurricane Protection Project, which includes Miami beach, was designed to provide beach nourishment and storm surge protection for one of the most highly developed beach-front areas on the Atlantic coast. Erosion, greatly accelerated by manmade structures and modifications, had reduced the beach along this part of the barrier island to the point where ocean waves often reached the many protective seawalls built by hotel and private property owners.

The project includes about 16.1 kilometers (10 miles) of shore between Government Cut to the south and Bakers Haulover Inlet (see Figs. 6-23 and 6-24). The plan called for an initial placement of 10.3 million cubic meters (13.5 million cubic yards) of beach-fill material. This placement provided a dune 6 meters wide at 3.5 meters (11.5 feet) above MLW and a dry beach 55 meters (180 feet) wide at an elevation 3 meters (9 feet) above MLW, with natural slopes as shaped by the wave action. At Haulover Beach Park the plan provided a level berm 15 meters wide at elevation 3 meters above MLW with natural slopes. In addition, the project provides for periodic beach nourishment to compensate for erosion losses during the first 10 years following the initial construction. The nourishment requirements are estimated to be at the annual rates of 161,300 cubic meters (211,000 cubic yards) of material. Nourishment would be scheduled at 5-year intervals, or as needed. The estimated project costs of about \$67 million (1980 dollars), with the Federal share at 58.7 percent, include the 10-year beach nourishment.

In July 1975, the city of Bal Harbor initiated the project by the placement of 1,242,400 cubic meters (1,625,000 cubic yards) of beach fill over a 1.37-kilometer (0.85-mile) segment of shore fronting the city. In addition, the south jetty of Bakers Haulover Inlet was extended to a total length of about 245 meters (800 feet).

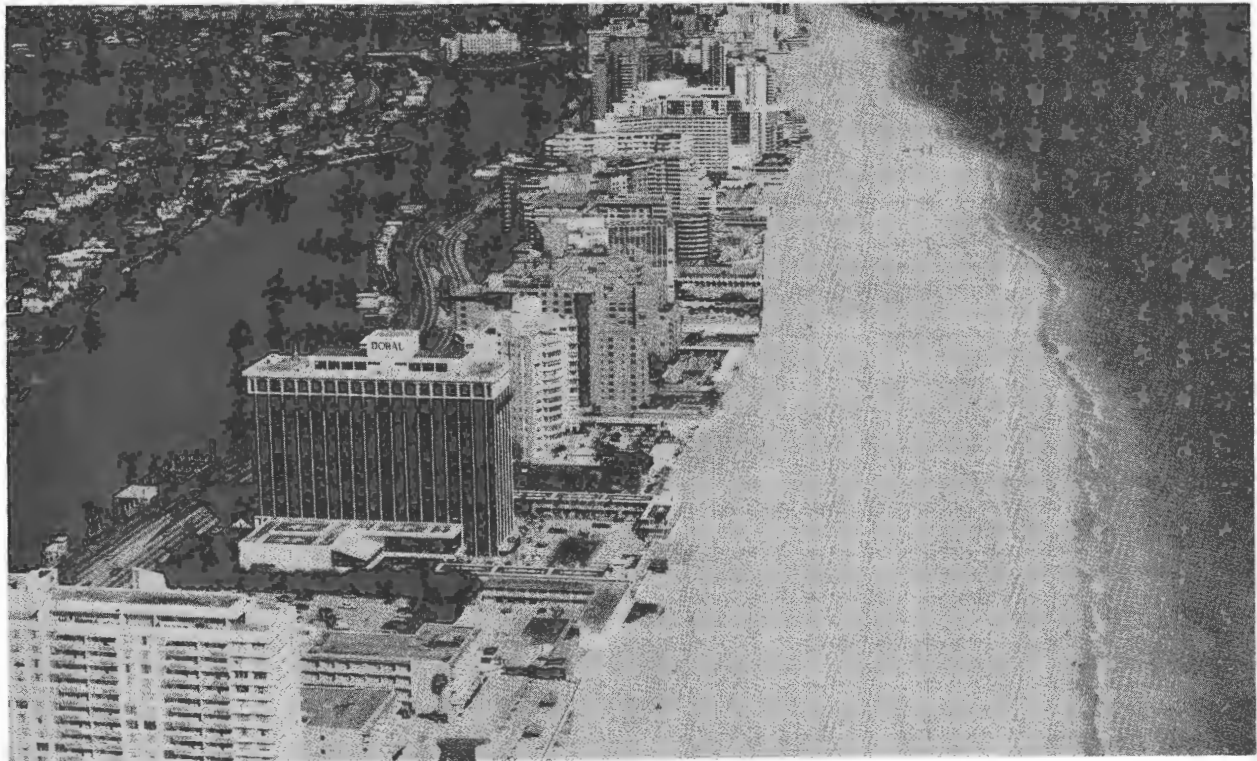
Because of the project size, the remaining 15.53 kilometers (9.65 miles)





(Feb. 1978)

Before restoration



(Oct. 1979)

After restoration

Figure 6-23. View of protective beach facing north from 48th Street, Dade County, Florida.



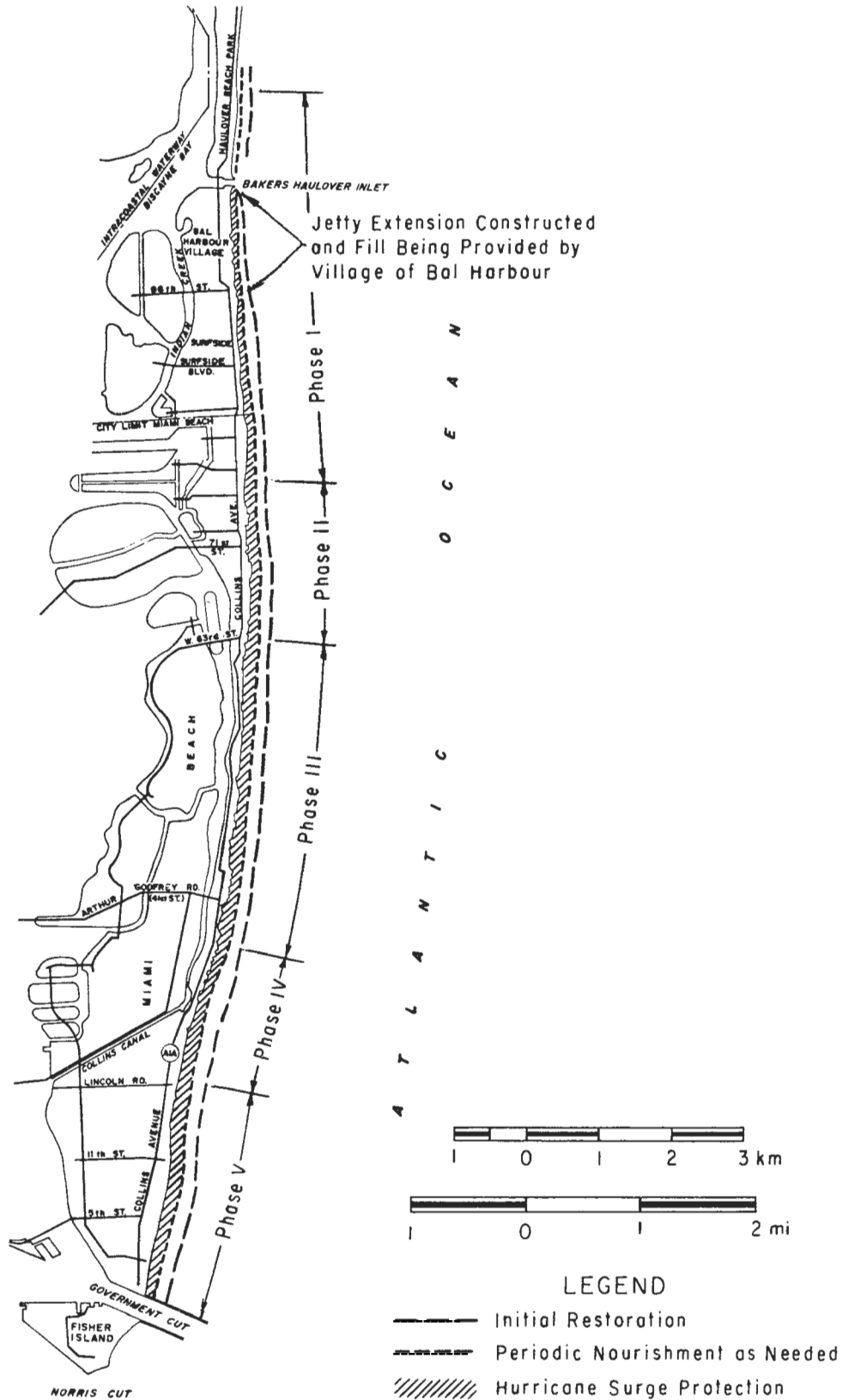


Figure 6-24. Project area depicting five phases of beach restoration, Dade County, Florida.

of shore was divided into five segments or phases; each was to be handled by a separate contract (see Fig. 6-24).

The *phase I* contract included the beach between 96th and 80th Streets at Surfside and about 0.8 kilometer of beach at Haulover Beach Park for a total of 4.35 kilometers (2.7 miles). A total estimate of 2,248,000 cubic meters (2,940,000 cubic yards) of beach-fill material was placed. Work began on this phase in May 1977 and had to be discontinued in October 1977 because of rough seas, which normally occur during the winter months. Work resumed in June 1978, with contract completion in November 1978.

The *phase II* contract covered the 2.25 kilometers (1.4 miles) of Dade County Beach between 80th and 83rd Streets, the northern part overlapping the southern end of the first contract. This overlapping was done in all phases to replace the losses experienced at the downdrift segment of the prior contract during the time between contracts. The phase II contract called for placement of 1,170,000 cubic meters (1,530,000 cubic yards) of beach fill, and after a delayed start, work began in August 1978 at 63rd Street and proceeded to the north. Prior to termination for the winter months, 56 percent of the beach included under this contract had been placed. The remaining sections were completed during the 1979 dredging season.

The *phase III* contract involved the placement of 2,429,000 cubic meters (3,177,100 cubic yards) of beach-fill material along 3.4 kilometers (2.1 miles) between 83rd and 86th Streets (see Fig. 6-23). In an attempt to complete this contract in one dredging season, a part of the work was subcontracted. Two dredges, the 70-centimeter (27-inch) dredge, Illinois, and the 80-centimeter (32-inch) dredge, Sensibar Sons, worked simultaneously on different sections of the beach. However, operations had to be discontinued for a month beginning in late August because of Hurricane David and persistent rough sea conditions. Dredging resumed for 2 weeks before termination for the winter season and was again resumed in July 1980. The contract was completed in October 1980.

The *phase IV* contract called for placement of 1,682,000 cubic meters (2,200,000 cubic yards) of fill on the beach, which extended from 36th to 17th Streets, a 2.6-kilometer (1.6-mile) length. An added requirement of this contract was the removal of all rock greater than 2.5 centimeters (1 inch) in diameter. To accomplish this, the contractor built a three story grizzly-grid rock separator on the beach. Any rock greater than 2.5 centimeters in diameter was either stockpiled and hauled offsite or passed through a centrifugal rock crusher. The crushed rock was conveyed and remixed with the screened dredge slurry. The screened beach-fill material was then pumped to the outfall.

A booster pump was necessary because of the long distance between the borrow and the fill areas and the utilization of the rock screening device. The dredging associated with this contract began in May 1980 and was completed in December 1981. Approximately 1,426,700 cubic meters (1,866,000 cubic yards) of material was placed on the beach.

The *phase V* contract called for the placement of 1,526,000 cubic meters (1,996,000 cubic yards) of beach fill along the remaining 2.9 kilometers (1.8 miles) of the project from 17th Street to Government Cut. This phase began in

June 1981 and was 80 percent completed by December 1981. During this phase a hopper dredge and a hydraulic pipeline dredge were employed.

Originally, it was intended to obtain beach-fill material from borrow areas located in back of the barrier beach in Biscayne Bay. Prior to beginning construction, the borrow area was relocated to the offshore areas to avoid possible adverse environmental impacts on the Key Biscayne estuary.

A variety of geological investigations were made to locate and define several borrow areas seaward of Miami Beach. The borrow areas consisted of trenches that ran parallel to the shoreline 1,800 to 3,700 meters (6,000 to 12,000 feet) offshore between submerged ancient cemented sand dunes. These trenches, filled with sand composed of quartz, shell, and coral fragments, vary up to 300 meters (1,000 feet) or more in width and from 1 meter to more than 12 meters in depth. The borrow sands generally have a high carbonate (shell) content. The sand size ranges from fine to coarse, with some silty fines generally present. Shells and coral fragments (gravel size to cobble size) are relatively common. The bulk of the sand was in the fine- to medium-size range. The silty fines form a small percent of the total and are within acceptable limits. The quartz present is usually of fine-grain size while the larger sizes are composed of locally derived shell and coral fragments. The sand sizes generally are finer grained in the deposits that lie farther from shore and in deeper water. The dredged sand is equal to or coarser than the beach sand.

The water depth in the borrow area is 12 to 18 meters (40 to 60 feet), and the excavation was accomplished primarily by either 70-centimeter (27-inch) diesel-electric dredges or by an 80-centimeter (32 inch) electric dredge running off land-based power. These large dredges excavate material at depths greater than 27 meters. The average daily yield was about 19,000 cubic meters (25,000 cubic yards), with a maximum of 32,000 cubic meters (42,000 cubic yards) being obtained for a 24-hour period.

When wave conditions exceeded 1 to 2 meters, the operations had to be curtailed due to the breaking up of the floating pipeline and possibility of damaging the cutterhead and ladder. For these reasons, dredging was conducted only during the calm season from the end of May to mid-October.

One problem area encountered during the project was the existence of a small percentage (usually less than 5 percent) of stones in the beach-fill material. Until the phase IV contract, the elimination of all stones had been considered impractical. Therefore, removal of stones greater than 5 centimeters (2 inches) in diameter was required only in the upper 30 centimeters (12 inches) of the surface. This was accomplished using a machine originally designed for clearing stones, roots, and other debris from farmland. Dade County has purchased one of these machines and also two smaller versions for conducting an active beach maintenance program.

The phase IV contract requirement to remove all stones larger than 2.5 centimeters in diameter was prompted by the problems involved in removing stones deposited subaqueously, which tend to concentrate in the nearshore trough. Several methods are being used to relieve this problem. This was not a problem in the phase IV and phase V contract areas.



The completed part of the beach has functioned effectively for several years, including the period when exposed to Hurricane David in 1979.

#### IV. SAND DUNES

Foredunes are the dunes immediately behind the backshore (see Ch. 4, Sec. VI and Ch. 5, Sec. IV). They function as a reservoir of sand nourishing beaches during high water and are a levee preventing high water and waves from damaging the backshore areas. They are valuable, nonrigid shore protection structures created naturally by the combined action of sand, wind, and vegetation, often forming a continuous protective system (see Fig. 6-25).

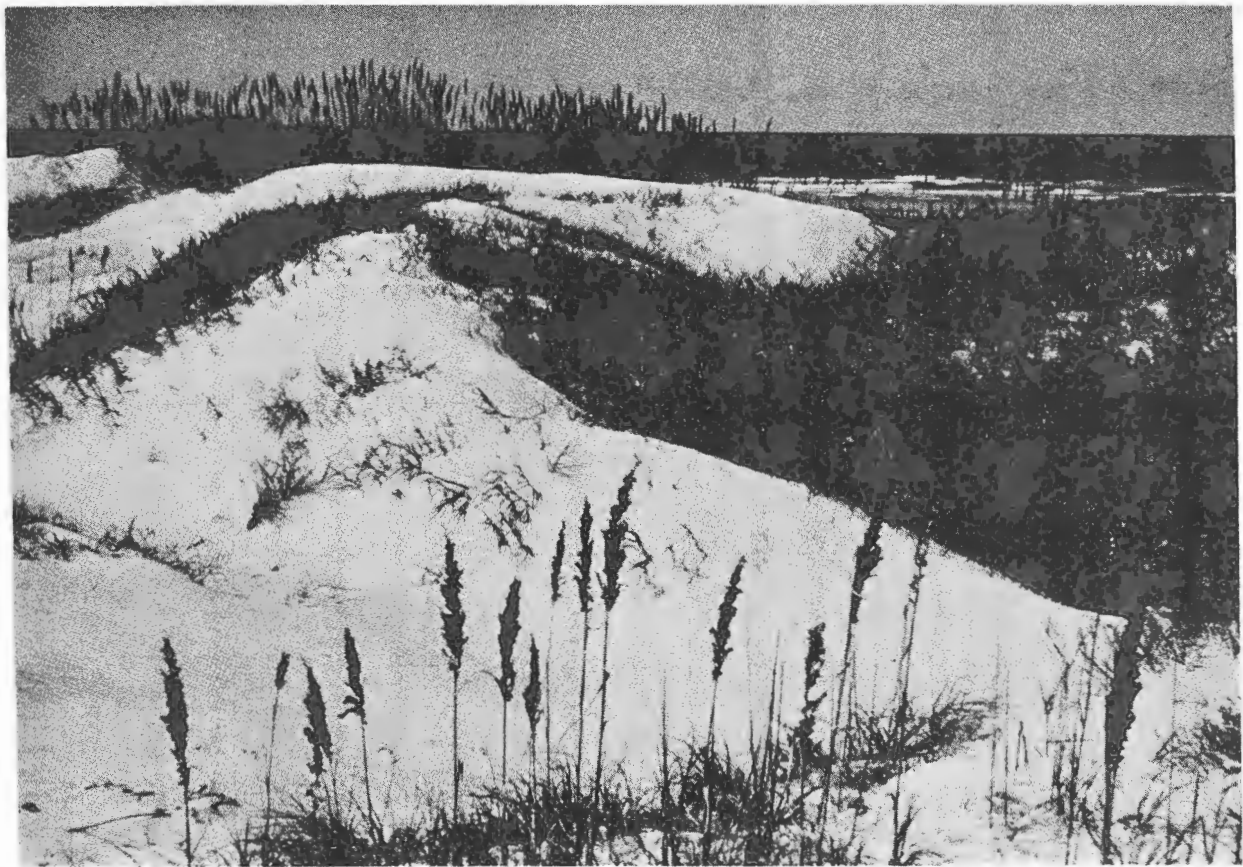


Figure 6-25. Foredune system, Padre Island, Texas.

(1976)

##### 1. Sand Movement.

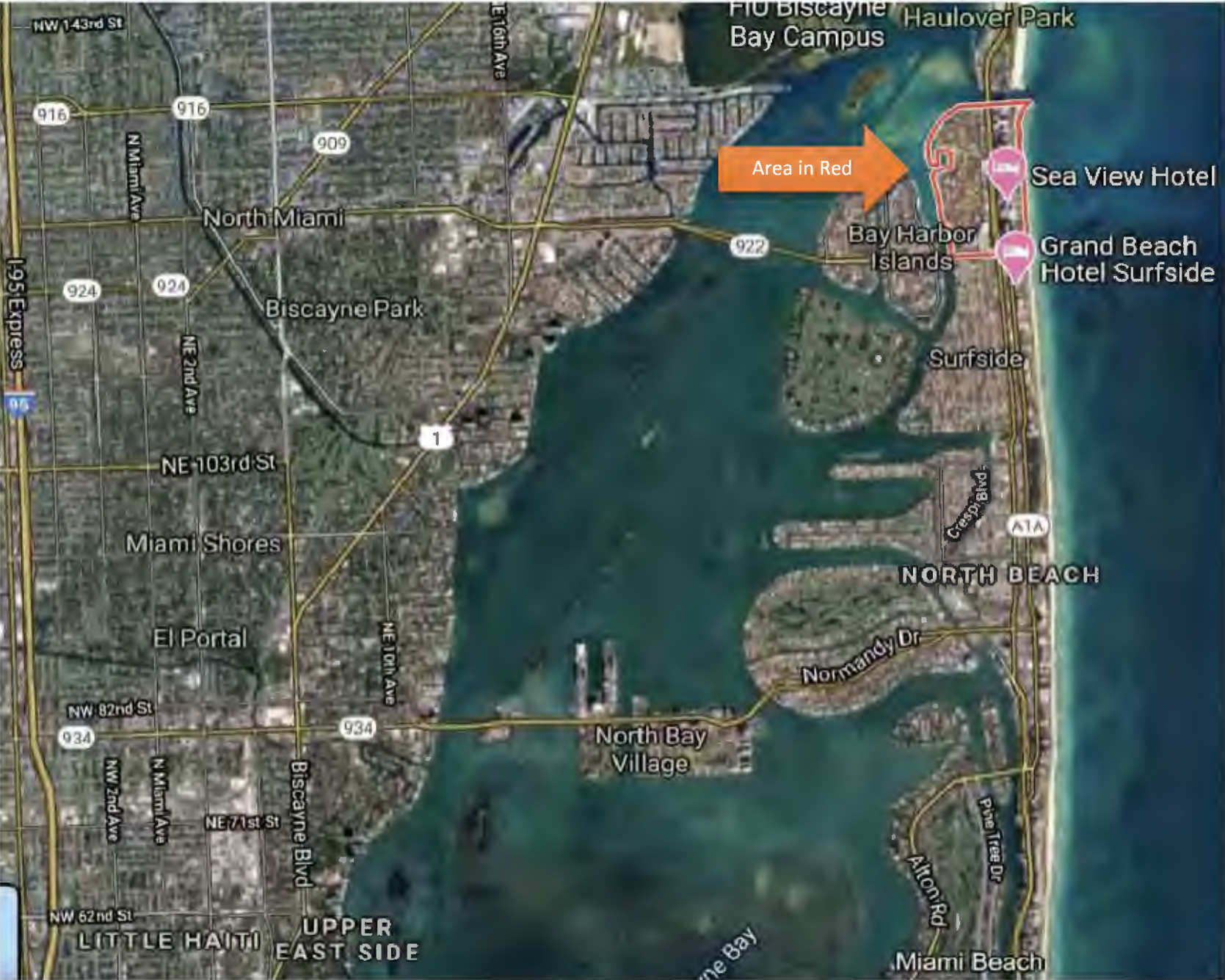
Winds with sufficient velocity to move sand particles deplete the exposed beach by transporting sand in the following three ways.



*Point Reyes National Seashore, California, 8 April 1969*

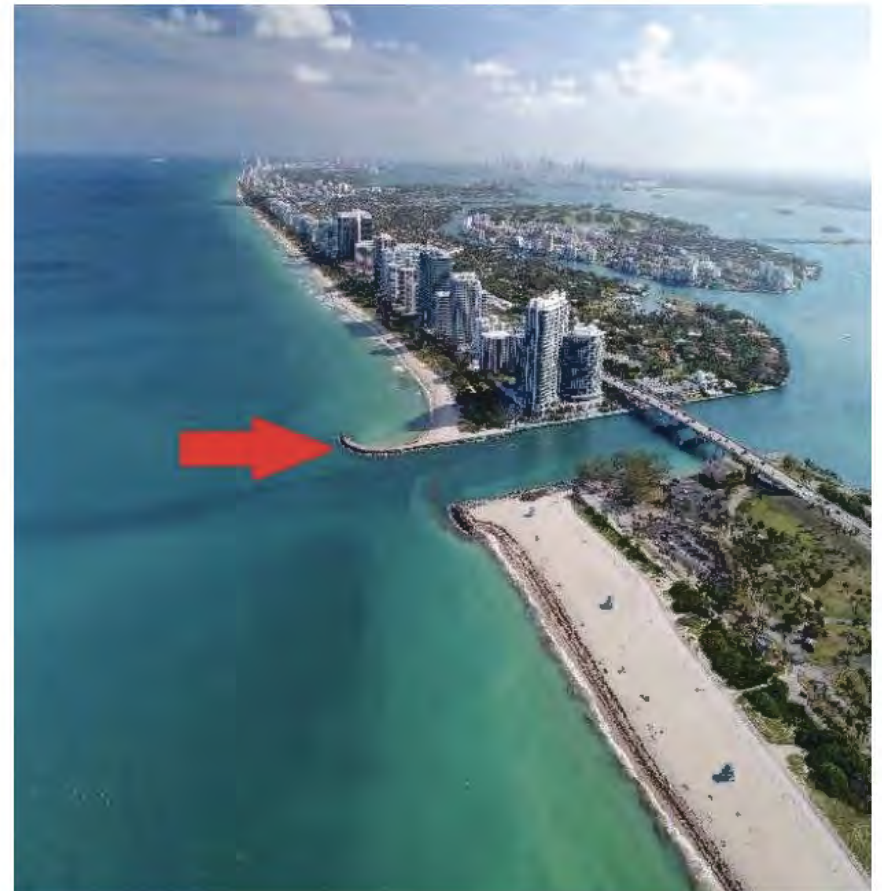


**Village Location Map**

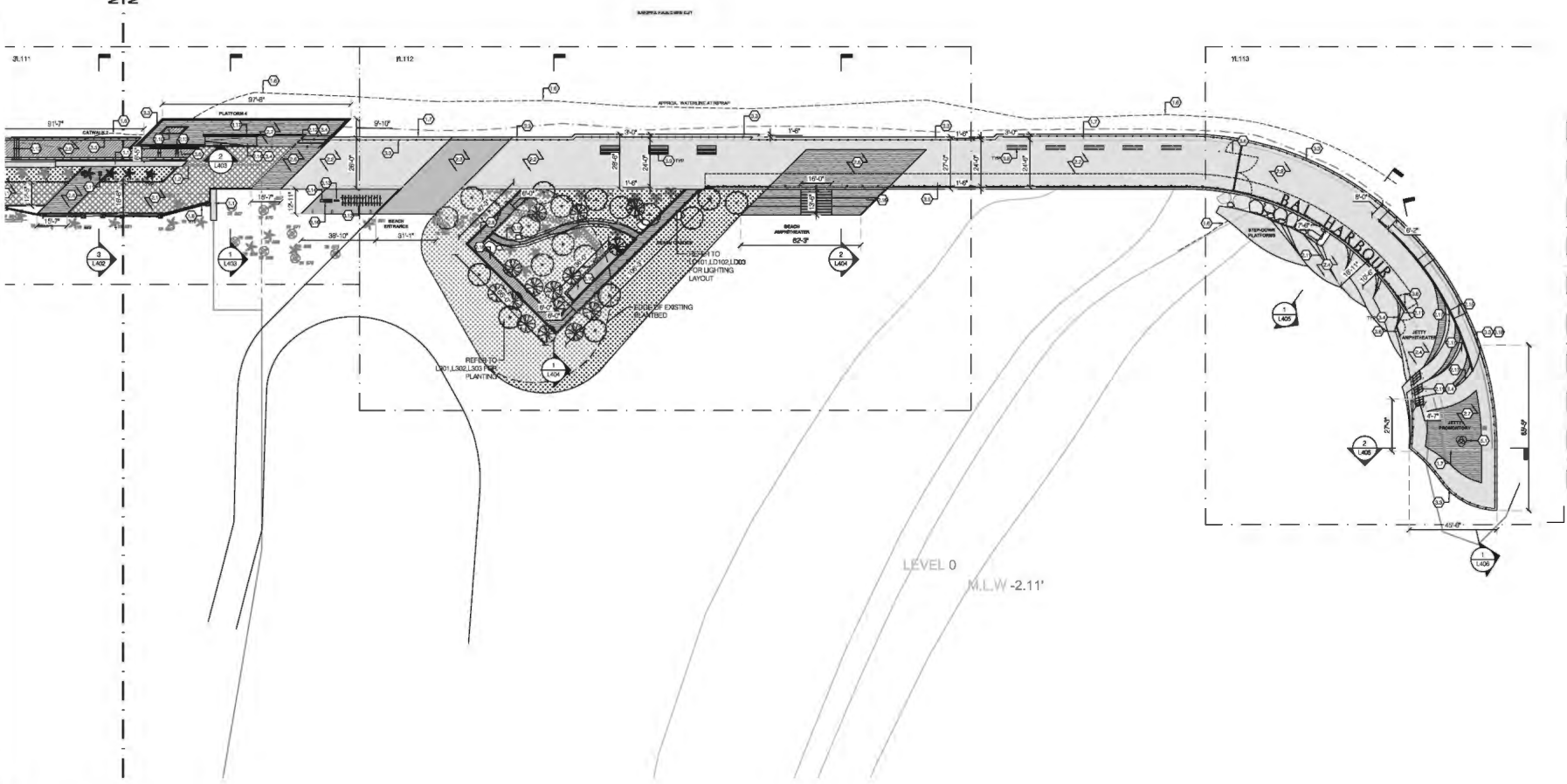




# Project Boundary Map



**Clear & Detailed Site  
Development Plan Map**  
Phas III Seg<sub>t</sub> B



- LEGEND**
- |  |  |  |  |
|--|--|--|--|
| <p><b>1.00 EXISTING / PROPOSED SITE CONDITIONS BY OTHERS</b></p> <ul style="list-style-type: none"> <li>1.01 EXISTING SEAWALL TO REMAIN AND RECONDITIONED</li> <li>1.02 EXISTING SEAWALL TO BE REMOVED ABOVE GROUND</li> <li>1.03 EXISTING PAVEMENT TO REMAIN AND BE PROTECTED</li> <li>1.04 EXISTING CATCH BASIN</li> <li>1.05 APPROX. WATERLINE AT RR/RAP</li> <li>1.06 EDGE OF EXISTING JETTY, BELOW</li> <li>1.07 EXISTING FENCES TO REMAIN AND BE PROTECTED</li> <li>1.08 EXISTING STAIRS TO REMAIN</li> <li>1.09 EXISTING UTILITY</li> </ul> | <p><b>2.00 PAVEMENT, SURFACES, STEPS, AND RAMPS</b></p> <ul style="list-style-type: none"> <li>2.01 PRECAST CONCRETE TIE/MER, COLOR VARIES</li> <li>2.02 PRECAST CONCRETE PLATFORM GRADE</li> <li>2.03 PRECAST CONCRETE PLATFORM</li> <li>2.04 WOOD PLATFORM AT GRADE</li> <li>2.05 WOOD DECKING</li> <li>2.06 WOOD ELEVATED BOARDWALK</li> <li>2.07 METAL GRATING BOARDWALK</li> <li>2.08 METAL GRATING WINDOW</li> <li>2.09 STAIRS, CONCRETE</li> <li>2.10 STAIRS, WOOD</li> <li>2.11 STAIRS, METAL</li> <li>2.12 ACCESSIBLE RAMP, WOOD</li> <li>2.13 ACCESSIBLE RAMP, CONCRETE</li> <li>2.14 BEACH AMPHITHEATER</li> <li>2.15 JETTY AMPHITHEATER</li> <li>2.16 METAL GRATING BOARDWALK</li> </ul> | <p><b>3.00 STEELEMENTS</b></p> <ul style="list-style-type: none"> <li>3.01 MONOLITHIC CONCRETE GUARDRAIL</li> <li>3.02 MONOLITHIC CONCRETE GUARDRAIL</li> <li>3.03 WOOD CLADDING</li> <li>3.04 METAL GUARDRAIL</li> <li>3.05 METAL HANDRAIL</li> <li>3.06 METAL CANOPY</li> <li>3.07 SECURITY GATE</li> <li>3.08 FLOOD GATE</li> <li>3.09 WOOD BENCH TYPE 1</li> <li>3.10 WOOD BENCH TYPE 2</li> <li>3.11 ANGLED NET HAMMOCK SEAT</li> <li>3.12 SEA VIEW CHAIRS</li> <li>3.13 BIKE RACK</li> <li>3.14 TRASH RECEPTACLE</li> <li>3.15 ADVENTURE BRIDGE</li> <li>3.16 WATER FOUNTAIN</li> <li>3.17 LEANING RAIL</li> <li>3.18 PUMP RAIL</li> </ul> | <p><b>4.00 LANDSCAPE</b></p> <ul style="list-style-type: none"> <li>4.01 REFER TO L301, L302, L303 FOR PLANTING</li> <li>4.02 LIGHTING</li> <li>4.03 LIGHT BEACON</li> <li>4.04 REFER TO L101, L102, L103 FOR LIGHTING LAYOUT</li> </ul> |
|--|--|--|--|

**Client**  
Bal Harbour Village

**Design Landscape Architect**  
MyYoung Kim Design  
110 Bradmore St, Suite 120  
Boston, MA 02134  
(617)762-9130

**Landscape Architect of Record**  
Cadenor  
436 N Andrews Ave No 2 O  
Fort Lauderdale, FL 33301  
(954)765-4972 O

**Civil**  
Bolan Thurlow Engineering  
3409 NW 8th Ave Suite 1102  
Fort Lauderdale, FL 33309  
(954)955-0888

**MEP (Elec, Mech, Plumb) O**  
TWR Engineers  
10219 SW 132nd St  
Miami, FL 33186  
(305)570-0200 ext.200

**Structural Engineers**  
Engineers  
Rosenblatt & Partners, FL 33334  
(561)900-3220

**Environmental O**  
The Chappell Group  
714 E. Michigan Rd  
Pompano Beach, FL 33060 O  
(954)765-1928

**Lighting**  
Miami Lighting Design O  
2550 S Bayshore Drive Suite 206  
Miami, FL 33133  
(305)374-1139

**PROJECT NUMBER:** 4418

**DESIGN DEVELOPMENT / PRELIMINARY**

**DATE:** 08/20/2018

**SCALE:** 1/4"=1'-0"

**DATE:** 08/20/2018

**DESIGNED BY:**

**CHECKED BY:**

**APPROVED BY:**

**LAYOUT AND MATERIALS PLAN 2**

**DATE:** 08/20/2018





# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** Village of Bal Harbour  
c/o Jorge Gonzalez, Village Manager

**Permit No:** SAJ-2014-00671

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

The applicant seeks authorization to conduct the following activities as part of the repair and rehabilitation of the existing Haulover Jetty:

1. Repair of 426 linear feet of seawall along the western most portion of the project adjacent to Collins Avenue to receive a new top profile
2. Reinforcement of 631 linear feet of existing seawall with a combination of sheet piles and 54-12" concrete king piles on the landward side of the existing seawall along the south side of Haulover inlet adjacent to the existing condo building.
3. Installation of 43 augured cast piles to be installed landward of the existing seawall to be used to support the cantilever precast beams to support the proposed platforms and catwalks
4. Repair and stabilization of 186 linear feet of existing riprap revetment with 53 cubic yards of grouting to fill voids and installation of Eco-concrete material forms within the exiting footprint along the inside of the jetty hook area. Installation is within the same footprint of the existing riprap revetment.
5. Installation of 892 square feet of concrete cantilevered platforms over water along the existing north shoreline. The structures having varying over water distances from 3 feet to 14 feet and will not extend any further waterward than the existing riprap revetment along the shoreline.
6. Installation of 1,830 square feet of cantilevered grated catwalks over water connecting platform 2 and 3 and between platform 3 and the uplands. The catwalks will vary in width between 7 to 8 feet wide and will not extend beyond the footprint of the existing riprap revetment.
7. Installation of 1,803 square feet of concrete platform extending over existing jetty edge landward of the MHWL along the north shore of the existing jetty.
8. Extension of 882 square feet of proposed jetty head extended over water as part of the upland expansion and elevation of the structure.
9. Installation of 342 square feet of overhanging stepdown platforms with railings along the

inside edge of the existing jetty hook area.

10. Expansion of the jetty deck footprint by 2,384 square feet along the terminus and inside portion of the existing jetty hook. The expansion will be done within the existing footprint of the current riprap revetment. No additional riprap will be added or extended beyond the current toe of the revetment.
11. A total of 4,914 square feet of additional improvements (boardwalks, pavers, stairs) will be installed in the upland areas abutting the existing concrete jetty deck on the south side (beachside) of the structure.

All work will be conducted from the uplands. The project will include the temporary deployment of turbidity curtains surrounding the construction areas.

**Some of the proposed structure will be located in the uplands outside of the Corps jurisdictional boundary, however they are included in the list above due to their connection with the overall project activities that are being proposed on or over Waters of the U.S.**

The work described above is to be completed in accordance with the plans date stamped by the U.S. Army Corps of Engineers on 14 September 2022 (19 pgs.) and attachments affixed at the end of this permit instrument.

**Project Location:** The project would affect waters of the United States associated with Haulover Inlet and the near shore waters of the Atlantic Ocean. The project site is located at 10295 Collins Avenue in Section 44, Township 22 South, 26 East, Bal Harbour, Florida 33154 (Folio # 12-2226-005-0030).

**Directions to site:** I-95, east on NE 125<sup>th</sup> St, east on NE 123<sup>rd</sup> St, North on A1-A.

**Approximate Central Coordinates:** Latitude 25.899446°  
Longitude -80.122376°

### **Permit Conditions**

#### **General Conditions:**

1. The time limit for completing the work authorized ends on **15 September 2027**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

**Special Conditions:**

**1. Reporting Address:** The Permittee shall submit all reports, notifications, documentation, and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

- a. For electronic mail (preferred): [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil) (not to exceed 15 MB).
- b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

The Permittee shall reference this permit number, SAJ-2014-00671 ( SP-AG), on all submittals.



**2. Permit Conditions Prevail:** If information in the permit attachments conflict with the special conditions of this permit, the requirements of the permit special conditions shall prevail.

**3. Pre-Construction Meeting:** The Permittee will schedule a pre-construction meeting with a Corps representative no later than 30 days prior to the start of work to review the special conditions of the permit. The Permittee shall not start work prior to the pre-construction meeting. Please contact the Compliance and Enforcement Section at [SAJ-RD-Enforcement@usace.army.mil](mailto:SAJ-RD-Enforcement@usace.army.mil).

**4. Commencement Notification:** Within 10 days from the date of initiating the work authorized by this permit, the Permittee shall submit a completed "Commencement Notification" form (attached).

**5. Posting of Permit:** The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.

**6. Local Notice to Mariners:** The contractor is required to contact the United States Coast Guard office a minimum of 2 weeks prior to commencement and provide locations affected, equipment, hours of operation, and duration of the project so that the information can be published in the Local Notice to Mariners.

**7. Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

**8. Federal Channel Setback:** The most waterward edge of the authorized project shall be constructed as shown in shown in the approved plans date stamped by the U.S. Army Corp of Engineers on 14 September 2022 (19 pgs.)

**9. Individual Section 408 Approval:** It has been determined that the activities authorized do not impair the usefulness of the Dade County Beach Erosion Control and Hurricane Protection Project and the Bakers Haulover Inlet South Jetty Project and are not injurious to the public interest. The Permittee shall adhere to the conditions and limitations referenced in the Section 408 approval letter attached to this permit as

well as the Engineering Circular 1165-2-220, dated 10 September 2018, Policy and Procedural Guidance for Processing Requests to Alter US Army Corps of Engineers Civil Works Projects Pursuant to 33 USC 408, Appendix K, paragraphs 1 to 16 (enclosed). All documentation required in the Section 408 approval memo, including certification that the work was completed in accordance with the approved plans and specifications, GPS readings for the limits of the work performed, as-built drawings, and the date the work started and was completed shall be submitted either electronically by email at ENPermits.CESAJ@usace.army.mil or by standard mail at Post Office Box 4970, Jacksonville Florida 32232-0019. For all questions related to the Section 408 approval, contact the Corps, Jacksonville Engineering Division by telephone at 904-232-1604. Engineering Division is the appropriate authority to determine compliance with the terms and conditions of Section 408 approval.

**10. MANATEE CONDITION:** The Permittee shall comply with the “Standard Manatee Conditions for In-Water Work – 2011,” attached to this permit.

**11. Turbidity Barriers:** Prior to the initiation of any of the work authorized by this permit, the Permittee shall install floating turbidity barriers with weighted skirts that extend within 1 foot of the bottom around all work areas that are in, or adjacent to, surface waters. The turbidity barriers shall remain in place and be maintained daily until the authorized work has been completed and turbidity within the construction area has returned to ambient levels. Turbidity barriers shall be removed upon stabilization of the work area.

**12. Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area into waters of the United States. The erosion control measures shall remain in place and be maintained until all authorized work is completed and the work areas are stabilized.

**13. Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance in toxic amounts, in accordance with Section 307 of the Clean Water Act.

**14. Best Management Practices:** Environmental controls and best management practices must be implemented to properly contain construction materials and prevent fugitive particulates from entering surrounding waters during the construction of the project.

**15. Avoidance and Minimization:**

- a) The applicant shall avoid and minimize the impacts to existing non-listed corals currently growing on the riprap boulders within the inside (beachside) of the existing jetty hook by relocating all existing corals pursuant to the Coral Relocation Plan prepared by the Chappell Group, Inc dated May 2022 (attached). The permittee will ensure that the final coral relocation site is outside any U.S. Army Corps of Engineers Operations and Maintenance areas.
- b) The Permittee shall not store or stockpile tools, equipment, materials, etc., within the adjacent beach areas or within any surface waters of the U.S. without prior written approval. Storage, stockpiling or access of equipment on, in, over or on any areas that do not occur within the proposed project work footprint as shown on the approved drawings is prohibited.
- c) Staging areas and temporary storage for construction equipment shall be located off the beach during the project construction. The Permittee shall not conduct any project operations or store project-related equipment within any beach dune areas, or otherwise impact dune vegetation
- d) Anchoring or spudding of vessels and barges within beds of aquatic vegetation or hardbottom is also prohibited.
- e) Temporary construction access activities (temporary fills, coffer dams, fill pads, access fills etc.) are not authorized by this permit and will require a separate approval from the Department of the Army.
- f) The permittee has agreed to conduct all activities related to this authorization outside of the marine turtle and shorebird nesting/breeding seasons [March 1 through November 30].

**16. Agency Changes:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the **Miami** Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.



PERMIT NUMBER: SAJ-2014-00671  
PERMITTEE: VILLAGE OF BAL HARBOUR  
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**17. Water Quality Certification:** The Permittee shall comply with the specific conditions included in the Florida Department of Environmental Consolidated Joint Coastal Permit and Sovereign Submerged Lands Authorization, permit number 0413775-001-JC on 9 September 2022.

**18. Jacksonville District Programmatic Biological Opinion (JAXBO):** Structures and activities authorized under this permit will be constructed and operated in accordance with all applicable PDCs contained in the JAXBO, based on the permitted activity. Failure to comply with applicable PDCs will constitute noncompliance with this permit. In addition, failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take. The NMFS is the appropriate authority to determine compliance with the Endangered Species Act. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division website in the Endangered Species section of the Sourcebook located at: <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

JAXBO may be subject to revision at any time. The most recent version of these JAXBO must be utilized during the design and construction of the permitted work.

**19. Protected Species Construction Conditions:** The Permittee shall comply with National Marine Fisheries Service's "Protected Species Construction Conditions, NOAA Fisheries Southeast Regional Office" dated May 2021 (attached).

**20. Historic Properties:**

a. No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

**21. As-Built Certification with X-Y Coordinates:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and complete the enclosed "As-Built Certification by Professional Engineer or Surveyor" form, ((attached) to the Corps. The drawings shall be signed and sealed by a registered professional engineer or a professional land surveyor confirming the actual location of all authorized work/structures with respect to the Federal channel and/or within the Federal easement and include the following:

- a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawings shall include the X & Y State Plane coordination points of the most waterward point of the structure. The drawings shall include the dimensions of the structure, location of mean high water line (MHWL), depth of water (at mean low water) at the waterward end of the structure, and the distance from the waterward end of the structure to the near design edge of the Federal channel.
- b. List of any deviations between the work authorized by this permit and the work as constructed. In the event the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the

work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the Corps.

- c. The Department of the Army Permit number.
- d. Within 60 days of completion of the work authorized by this permit, the Permittee shall provide a courtesy copy of the signed and sealed As-Built drawings to the Corps, Engineering Division. Submittals shall be sent either electronically by email at ENPermits.CESAJ@usace.army.mil or by standard mail at Post Office Box 4970, Jacksonville Florida 32232-0019.

**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

Section 404 of the Clean Water Act (33 U.S.C. 1344)

Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413)

Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408)

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:



a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

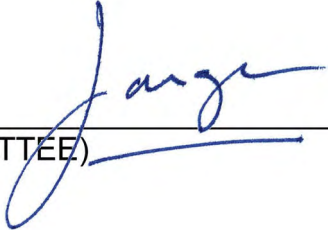
c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.


Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

PERMIT NUMBER: SAJ-2014-00671  
PERMITTEE: VILLAGE OF BAL HARBOUR  
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6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

  
\_\_\_\_\_  
(PERMITTEE)




\_\_\_\_\_  
SEPTEMBER 15, 2022  
(DATE)

JORGE M. GONZALEZ, VILLAGE MANAGER  
\_\_\_\_\_  
(PERMITTEE NAME-PRINTED)

ATTEST:   
\_\_\_\_\_  
DWIGHT S. DANIE, VILLAGE CLERK

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

  
\_\_\_\_\_  
For: JAMES L. BOOTH  
Colonel, EN  
Commanding

Date: September 15, 2022

PERMIT NUMBER: SAJ-2014-00671  
PERMITTEE: VILLAGE OF BAL HARBOUR  
PAGE 12 of 15

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

\_\_\_\_\_  
(TRANSFEREE-SIGNATURE)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(NAME-PRINTED)

\_\_\_\_\_  
(ADDRESS)

\_\_\_\_\_  
(CITY, STATE, AND ZIP CODE)



PERMIT NUMBER: SAJ-2014-00671  
PERMITTEE: VILLAGE OF BAL HARBOUR  
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***Attachments to Department of the Army  
Permit Number SAJ-2014-00671***

1. PERMIT DRAWINGS: 19 pages, dated 14 February 2022
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. 18 pages.
3. MANATEE CONDITIONS: 2 pages, *Standard Manatee Conditions for In-Water Work – 2011*
4. JAXBO CONDITIONS
5. NOAA PROTECTED SPECIES CONDITIONS MAY 2021: 2 pages
6. AS-BUILT CERTIFICATION FORM: 2 pages
7. PERMIT TRANSFER FORM
8. EN 408 Approval letter to Village of Bal Harbour dated 15 September 2022
9. ENGINEERING CIRCULAR 1165-2-220, App. K 2021: 3 pages
10. CORAL RELOCATION PLAN dated May 2022
11. COMMENCEMENT NOTICE FORM



# FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

## CONSOLIDATED JOINT COASTAL PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

### PERMITTEE:

Village of Bal Harbour  
Attn: Jorge Gonzalez  
655 96<sup>th</sup> Street  
Bal Harbour, FL 33154  
[manager@balharbourfl.gov](mailto:manager@balharbourfl.gov)

### AGENT:

Kathryn Bongarzone  
The Chappell Group, Inc.  
714 East McNab Road  
Pompano Beach, FL 33060  
[kathryn@thechappellgroup.com](mailto:kathryn@thechappellgroup.com)

### PERMIT INFORMATION:

Permit Number: 0413775-001-JC

Project Name: Bal Harbour Jetty  
Improvements

County: Miami-Dade

Issuance Date: September 9, 2022

Expiration Date: September 9, 2037

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### REGULATORY AUTHORIZATION:

This permit is issued under the authority of Chapter 161 and Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). Pursuant to Operating Agreements executed between the Department of Environmental Protection (Department) and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity.

### PROJECT DESCRIPTION:

The project is to restore and enhance the existing Bal Harbour south jetty and associated seawall and cutwalk. Restoration will involve installation of new top profile along 426 feet of seawall, reinforcement of 631 feet of seawall, installation of 186 feet of new bulkhead wall, removal and reinstallation of approximately 2,800 tons of riprap along the jetty, and improvements to the existing boardwalk.

### PROJECT LOCATION:

The project site is located on the south side of Haulover Inlet at R-27 in Miami-Dade County, Section 26, Township 52 South, Range 42 East, facing Haulover Inlet and the Atlantic Ocean, Class III Waters.

**PROPRIETARY AUTHORIZATION:**

This activity also requires a proprietary authorization, as the activity is located on sovereign submerged lands held in trust by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, F.S. The activity is not exempt from the need to obtain a proprietary authorization. The Board of Trustees delegated, to the Department, the responsibility to review and take final action on this request for proprietary authorization in accordance with Section 18-21.0051, F.A.C., and the Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C. This proprietary authorization has been reviewed in accordance with Chapter 253 F.S., Chapter 18-21 and Section 62-330.075, F.A.C., and the policies of the Board of Trustees.

The Department has also determined that the jetty restoration construction activities qualify for a Letter of Consent to use sovereign, submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein. Therefore, consent is hereby granted pursuant to Chapter 253.77, F.S., to perform the activity on the specified sovereign submerged lands.

As staff to the Board of Trustees, the Department has reviewed the project described above, and has also determined that the jetty restoration activity requires a public easement for the use of those lands, pursuant to Chapter 253.77, F.S. The Department has issued public easement No. 27999, pursuant to the conditions outlined in the previously issued *Consolidated Intent to Issue* and in the Recommended Proprietary Action (entitled *Delegation of Authority*).

**COASTAL ZONE MANAGEMENT:**

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Zone Management Act.

**WATER QUALITY CERTIFICATION:**

This permit constitutes certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 U.S.C. 1341.

**OTHER PERMITS:**

Authorization from the Department does not relieve you from the responsibility of obtaining other permits (Federal, State, or local) that may be required for the project. When the Department received your permit application, a copy was sent to the U.S. Army Corps of Engineers (Corps) for review. The Corps will issue their authorization directly to you, or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date that your application was received by the Department, contact the nearest Corps regulatory office for status and further information. Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.



**AGENCY ACTION:**

The above named Permittee is hereby authorized to construct the work that is outlined in the Project Description and Project Location of this permit and as shown on the approved permit drawings, plans and other documents attached hereto. This agency action is based on the information submitted to the Department as part of the permit application, and adherence with the final details of that proposal shall be a requirement of the permit. **This permit and authorization to use sovereign submerged lands are subject to the General Conditions, General Consent Conditions and Specific Conditions, which are a binding part of this permit and authorization.** Both the Permittee and their Contractor are responsible for reading and understanding this permit (including the permit conditions and the approved permit drawings) prior to commencing the authorized activities, and for ensuring that the work is conducted in conformance with all the terms, conditions and drawings.

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**GENERAL CONDITIONS:**

1. All activities authorized by this permit shall be implemented as set forth in the project description, permit drawings, plans and specifications approved as a part of this permit, and all conditions and requirements of this permit. The Permittee shall notify the Department in writing of any anticipated deviation from the permit prior to implementation so that the Department can determine whether a modification of the permit is required pursuant to Rule 62B-49.008, F.A.C.
2. If, for any reason, the Permittee does not comply with any condition or limitation specified in this permit, the Permittee shall immediately provide the Department and the appropriate District office of the Department with a written report containing the following information: a description of and cause of noncompliance; and the period of noncompliance, including dates and times; and, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.
3. This permit does not eliminate the necessity to obtain any other applicable licenses or permits that may be required by federal, state, local or special district laws and regulations. This permit is not a waiver or approval of any other Department permit or authorization that may be required for other aspects of the total project that are not addressed in this permit.
4. Pursuant to Sections 253.77 and 373.422, F.S., prior to conducting any works or other activities on state-owned submerged lands, or other lands of the state, title to which is vested in the Board of Trustees, the Permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees shall not be considered received until it has been fully executed.

**Joint Coastal Permit  
Bal Harbour Jetty Improvements  
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5. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
6. This permit does not convey to the Permittee or create in the Permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the Permittee. The issuance of this permit does not convey any vested rights or any exclusive privileges.
7. This permit or a copy thereof, complete with all conditions, attachments, plans and specifications, modifications, and time extensions shall be kept at the work site of the permitted activity. The Permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
8. The Permittee, by accepting this permit, specifically agrees to allow authorized Department personnel with proper identification and at reasonable times, access to the premises where the permitted activity is located or conducted for the purpose of ascertaining compliance with the terms of the permit and with the rules of the Department and to have access to and copy any records that must be kept under conditions of the permit; to inspect the facility, equipment, practices, or operations regulated or required under this permit; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance with this permit or Department rules.
9. At least 48 hours prior to commencement of activity authorized by this permit, the Permittee shall electronically submit to the Department, by email at [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us), and the appropriate District office of the Department a written notice of commencement of construction indicating the actual start date and the expected completion date and an affirmative statement that the Permittee and the contractor, if one is to be used, have read the general and specific conditions of the permit and understand them.
10. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, shipwreck remains or anchors, dugout canoes or other physical remains that could be associated with Native American cultures, or early Colonial or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The Permittee, or other designee, shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section at (850)245-6333 or (800)847-7278, as well as the appropriate permitting agency office. Project activities shall not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, F.S.

11. Within 30 days after completion of construction or completion of a subsequent maintenance event authorized by this permit, the Permittee shall electronically submit to the Department, by email at [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us), and the appropriate District office of the Department a written statement of completion and certification by a registered professional engineer. This certification shall state that all locations and elevations specified by the permit have been verified; the activities authorized by the permit have been performed in compliance with the plans and specifications approved as a part of the permit, and all conditions of the permit; or shall describe any deviations from the plans and specifications, and all conditions of the permit. When the completed activity differs substantially from the permitted plans, any substantial deviations shall be noted and explained on as-built drawings electronically submitted to the Department, by email at [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us).

**GENERAL CONSENT CONDITIONS:**

1. Authorizations are valid only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use shall constitute a violation. Violation of the authorization shall result in suspension or revocation of the grantee's use of the sovereignty submerged land unless cured to the satisfaction of the Board.
2. Authorizations convey no title to sovereignty submerged land or water column, nor do they constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations may be modified, suspended or revoked in accordance with their terms or the remedies provided in Sections 253.04 and 258.46, F.S., or Chapter 18-14, F.A.C.
4. Structures or activities shall be constructed and used to avoid or minimize adverse impacts to sovereignty submerged lands and resources.
5. Construction, use or operation of the structure or activity shall not adversely affect any species that is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C.
6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity shall be modified in accordance with the court's decision.
7. Structures or activities shall not create a navigational hazard.
8. Structures shall be maintained in a functional condition and shall be repaired or removed if they become dilapidated to such an extent that they are no longer functional. This shall not be construed to prohibit the repair or replacement subject to the provisions of Rule



18-21.005, F.A.C., within one year, of a structure damaged in a discrete event such as a storm, flood, accident or fire.

9. Structures or activities shall be constructed, operated and maintained solely for water dependent purposes, or for non-water dependent activities authorized under paragraph 18-21.004(1)(f), F.A.C., or any other applicable law.

**SPECIFIC CONDITIONS:**

1. All reports or notices relating to this permit shall be electronically submitted to the Department's JCP Compliance Officer (e-mail address: [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us)) unless otherwise specified in the specific conditions of this permit.
2. The Permittee shall not store or stockpile tools, equipment, materials, etc., within littoral zones or elsewhere within surface waters of the state without prior written approval from the Department. Storage, stockpiling or access of equipment on, in, over or through beds of submerged aquatic vegetation, wetlands or hardbottom is prohibited unless it occurs within a work area or ingress/egress corridor that is specifically approved by this permit and is shown on the approved permit drawings. Anchoring or spudding of vessels and barges within beds of aquatic vegetation or hardbottom is also prohibited.
3. The Permittee shall not conduct project operations or store project-related equipment in, on or over dunes, or otherwise impact dune vegetation, outside the approved staging, beach access and dune restoration areas designated in the permit drawings.
4. For each construction event under this permit, no work shall commence until the Permittee has satisfactorily submitted all information noted in this condition. Unless otherwise noted, the Permittee shall submit the following items for review by the Department. Unless notified by the Department within 15 days of receipt of all information specified below, the Permittee shall assume the submittals are satisfactory:
  - a. An electronic copy of ***detailed final construction plans and specifications*** for all authorized activities. The plans and specifications must be consistent with the project description, conditions and approved drawings of this permit. These documents shall be certified by a professional engineer (P.E.), who must be registered in the State of Florida. The Permittee shall point out any deviations from the Project Description of this permit (as stated above) or the approved permit drawings (attached to this permit), and any significant changes that would require a permit modification. The plans and specifications shall include a description of the dredging and construction methods to be utilized and drawings and surveys which show all biological resources and work spaces (e.g. anchoring area, pipeline corridors, staging areas, boat access corridors, etc.) to be used for this project.

- b. ***Turbidity Monitoring:*** In order to assure that turbidity levels do not exceed the compliance standards established in this permit, construction at the project site shall be monitored closely by an independent third party with formal training in water quality monitoring and professional experience in turbidity monitoring for coastal construction projects. Also, an individual familiar with beach construction techniques and turbidity monitoring shall be present at all times when turbidity generating activities are occurring. This individual shall have authority to alter construction techniques or shut down the dredging or beach construction operations if turbidity levels exceed the compliance standards established in this permit.
  - i. ***Qualifications.*** The names, credentials (demonstrating experience and qualifications) and 24-hour contact information of those individuals performing these functions;
  - ii. ***A Scope of Work*** for the turbidity monitoring to ensure that the right equipment is available to conduct the monitoring correctly at any location, and under any conditions;
  - iii. ***Draft turbidity sampling map.*** An example of the geo-referenced map that will be provided with turbidity reports, including aerial photography and the boundaries of biological resources and/or OFW (pursuant to Specific Condition 14)
- c. ***Coral transplantation and monitoring qualifications.*** The names, credentials (documentation demonstrating expertise/experience in transplantation and monitoring of corals and octocorals) and contact information for the individuals who will conduct the coral transplantation shall be provided to the Department for review prior to the initiation of transplantation required by Specific Condition 11. The Department will provide written comments regarding any perceived deficits in qualifications or experience.
- d. Documentation from the U.S. Fish and Wildlife Service (USFWS) that this work will be covered under a Statewide Programmatic **Biological Opinion** or a Biological Opinion(s) (BO) issued for construction on this project site. If the BO contains conditions that are not already contained herein, a permit modification may be required prior to construction to include those additional conditions.
- e. **Fish & Wildlife Monitoring Qualifications:** To ensure that individuals conducting monitoring of fish and wildlife resources have appropriate qualifications, the Permittee shall provide documentation demonstrating expertise/experience in surveying the types of resources that are present in the project. The Department and the Florida Fish and Wildlife Conservation Commission (FWC) will review this information for confirmation that the monitors are capable of meeting the requirements in Specific Conditions 6 through 10. This documentation shall include the following:

- i. **Marine Turtle Protection:** A list of the names and FWC permit numbers for the Marine Turtle Permit Holders;
  - j. Documentation that the **Public Easement** has been executed to the satisfaction of the Department.
5. **Pre-Construction Conference.** After all submittals required by 4a through j have been submitted, the Permittee shall conduct a pre-construction conference to review the specific conditions and monitoring requirements of this permit with Permittee's contractors, the engineer of record, those responsible for turbidity monitoring and the JCP Compliance Officer (or designated alternate) prior to each construction event. In order to ensure that appropriate representatives are available, at least twenty-one (21) days prior to the intended commencement date for the permitted construction, the Permittee is advised to contact the Department, and the other agency representatives listed below:

JCP Compliance Officer  
e-mail: [JCPCompliance@dep.state.fl.us](mailto:JCPCompliance@dep.state.fl.us)

Imperiled Species Management Section  
email: [marineturtle@myfwc.com](mailto:marineturtle@myfwc.com)

FWC Regional Biologist  
See Contact list for phone numbers:  
(<http://myfwc.com/conservation/you-serve/wildlife/shorebirds/contacts>)

The Permittee is also advised to schedule the pre-construction conference at least a week prior to the intended commencement date. At least seven (7) days in advance of the pre-construction conference, the Permittee shall provide written notification, advising the participants of the agreed-upon date, time and location of the meeting, and also provide a meeting agenda and a teleconference number.

If the actual construction start date is different from the expected start date proposed during the preconstruction conference, at least 48 hours prior to the commencement of construction, the Permittee shall ensure that notification is sent to the FWC indicating the actual start date and the expected completion date to [MarineTurtle@MyFWC.com](mailto:MarineTurtle@MyFWC.com). The Permittee shall also ensure that all contracted workers and observers are provided a copy of all permit conditions.

## **Fish and Wildlife**

6. **In-water Activity.** The Permittee shall adhere to the following requirements for all in-water activity:

- a. The Permittee shall instruct all personnel associated with the project about the presence of marine turtles and manatees, and the need to avoid collisions with (and injury to) these protected marine species. The Permittee shall be responsible for harm to these resources and shall require their contractors to advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees or marine turtles, which are protected under the Endangered Species Act, the Marine Mammal Protection Act, the Marine Turtle Protection Act and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate project area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels shall follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers (if used) shall be made of material in which manatees and marine turtles cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers shall not impede manatee or marine turtle movement or travel.
- d. The Permittee is responsible for all on-site project personnel and shall require them to observe water-related activities for the presence of marine turtles and manatee(s). All in-water operations shall be immediately shut down if a marine turtle or manatee comes within 50 feet of the operation. For unanchored vessels, operators shall disengage the propeller and drift out of the potential impact zone. If drifting would jeopardize the safety of the vessel then idle speed may be used to leave the potential impact zone. Activities shall not resume until the animal(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the animal(s) has not reappeared within 50 feet of the operation. Animals shall not be herded away or harassed into leaving.
- e. Any collision with (or injury to) a marine turtle or manatee shall be reported immediately to the FWC Hotline at 888-404-3922, and to the FWC at [ImperiledSpecies@MyFWC.com](mailto:ImperiledSpecies@MyFWC.com). Any collision with (and/or injury to) a marine turtle shall also be reported immediately to the Sea Turtle Stranding and Salvage Network (STSSN) at [SeaTurtleStranding@MyFWC.com](mailto:SeaTurtleStranding@MyFWC.com).
- f. Temporary signs concerning manatees shall be prominently posted prior to and during all in-water project activities, at sufficient locations to be regularly and easily viewed by all personnel engaged in water-related activities. Two temporary signs, which have already been approved for this use by the FWC, shall be posted at each location. One sign shall read "Caution Boaters - Watch for Manatees". A second sign measuring at least 8 ½" by 11", shall explain the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations. All signs shall be removed by the Permittee upon completion of the project. These signs can be viewed at



MyFWC.com/manatee. Questions concerning these signs can be sent to [ImperiledSpecies@MyFWC.com](mailto:ImperiledSpecies@MyFWC.com).

7. **Construction Area Project Lighting. No temporary lighting of the construction area is authorized at any time during the main portion of marine turtle nesting season (March 1 through November 30).** During early and late nesting season, direct lighting of the beach and nearshore waters shall be limited to the immediate area of active construction. Staging areas, if visible from the nesting beach, shall not be illuminated unless specifically reviewed and authorized by FWC staff. Lighting on offshore and onshore equipment shall be minimized by reducing the number of fixtures, shielding, lowering the height and appropriately placing fixtures to avoid excessive illumination of the water's surface and nesting beach. The intensity of lighting shall be reduced to the minimum standard required for general construction area safety. Shields shall be affixed to the light housing on dredge and on land-based lights and shall be large enough to block lamp light from being transmitted outside the construction area or to the adjacent marine turtle nesting beach. (Figure 1 below).

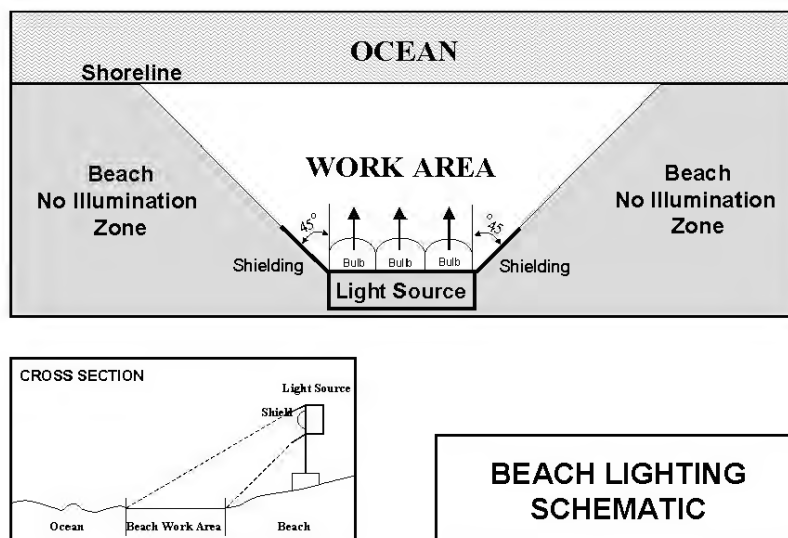


Figure 1

8. **Wildlife Conditions for All Beach Related Activities.** The Permittee shall adhere to the following requirements for all beach-related activities during marine turtle and shorebird nesting/breeding seasons [March 1 through November 30].
- a. **Beach Maintenance.**
- i. The Permittee shall require their contractor and protected species monitors to inspect all work areas that have excavations and temporary alterations of beach topography each day, to determine which areas have deviations (such as

depressions, ruts, holes, and vehicle tracks) capable of trapping flightless shorebird chicks or marine turtle hatchlings. If so, the deviations within the entire project area shall be filled or leveled from the natural beach profile prior to 9:00 p.m. each day. The beach surface shall also be inspected subsequent to completion of the project, and all tracks, mounds, ridges or impressions, etc. left by construction equipment on the beach shall be smoothed and leveled.

- ii. All debris, including derelict construction or coastal armoring material, concrete and metal, found on the beach placement site, shall be removed from the beach to the maximum extent practicable prior to any placement of fill material. If debris removal activities will take place during protected species nesting seasons, the work shall be conducted during daylight hours only, and shall not commence until completion of daily monitoring surveys.

**b. Equipment Storage and Placement.**

- i. Staging areas and temporary storage for construction equipment shall be located off the beach to the maximum extent practicable. Nighttime storage of construction equipment that is not in use shall be located off the beach. If staging and storage areas off the beach are not possible, then additional marine turtle and shorebird protective measures shall be implemented. Such protective measures shall be determined in coordination with the Department and the FWC prior to beginning of construction.

- c. **Beach Driving.** All vehicles operated on the beach shall operate in accordance with the FWC's Best Management Practices for Operating Vehicles on the Beach (<http://myfwc.com/conservation/you-serve/wildlife/beach-driving/>). Specifically, the vehicle shall be operated at speeds less than 6 mph and run at or below the high-tide line. All personnel associated with the project shall be instructed about the potential presence of protected species, and the need to avoid injury and disturbance to these species.

9. **Marine Turtle Nesting Surveys.** For construction activities that occur during the period from March 1 through November 30, daily early morning surveys shall be conducted of all sandy beaches within 100 feet of the jetty that are seaward of any existing coastal armoring structures or dune crest, and all areas used for beach access. The Permittee shall comply with the following marine turtle monitoring requirements:

- a. Daily marine turtle nesting surveys shall be initiated 65 days prior to jetty restoration activities, or by the beginning of marine turtle nesting season, whichever is later. Daily nesting surveys shall continue through November 30, or until two weeks after the last crawl in the project area, whichever is earlier.

- b. Daily nesting surveys shall be conducted between sunrise and 9 a.m. within the project area
- c. No construction activity may commence until completion of the marine turtle nesting survey each day, and all work shall be conducted during daylight hours only.
- d. The Permittee shall ensure that nesting surveys are only conducted by personnel with a valid FWC Marine Turtle Permit, that covers all project activities as required by Chapter 68E-1, F.A.C. If needed, contact FWC at [MTP@myfwc.com](mailto:MTP@myfwc.com) for information on the authorized marine turtle permit holders in the project area.
- e. Nests deposited within the project area shall be marked and left in place. The Marine Turtle Permit Holder shall install on-beach markers at the nest site and shall also install a secondary marker at a point as far landward as possible to assure that the nest can be located should the on-beach marker be lost. No activity shall occur within the marked area, nor shall any activities occur that could result in impacts to the nest. Nest sites shall be inspected daily to assure nest markers remain in place and the nest has not been disturbed by the project activity.

Relocation of nests is not authorized for this project.

- 10. **Marine Turtle or Nest Encounters.** Upon locating a dead or injured marine turtle adult, hatchling, or egg that may have been harmed or destroyed as a result of the project, the Permittee shall be responsible for notifying the FWC Wildlife Alert at 888-404-FWCC (3922). Care shall be taken in handling injured marine turtles or exposed eggs to ensure effective treatment or disposition, and in handling dead specimens to preserve biological materials for later analysis.
- 11. Prior to beginning construction, all coral colonies equal to or greater than 5 cm in diameter shall be removed from the foundation of the jetty head and transplanted to suitable onsite locations, such as existing jetty rock or concrete structures on the jetty head **outside of the project footprint**. When transplanting corals from the jetty foundation to recipient sites, the attached “Bal Harbour Coral Relocation Plan” shall be followed. The plan includes methodologies to remove corals from the limestone boulders, to attach to new substrates, and to map and monitor the transplants. Post-transplantation monitoring of corals will be conducted immediately following transplantation, 6 months after transplantation, and 1 year after transplantation.

**MONITORING REQUIRED:**

- 12. Water Quality - Turbidity shall be monitored as follows:

Units: Nephelometric Turbidity Units (NTUs).

**Frequency:** Monitoring shall be conducted 3 times daily, approximately 4 hours apart and at any other time that there is a likelihood of an exceedance of the turbidity standard, during all in-water construction operations. Sampling shall be conducted **while the highest project-related turbidity levels are crossing the edge of the mixing zone**. The compliance samples and the corresponding background samples shall be collected at approximately the same time, i.e., background sample shall immediately follow the compliance sample.

**Location:** Background: Sampling shall occur at mid-depth, upcurrent from the point of jetty construction, where turbidity is being generated, at the same distance offshore as the associated compliance sample.. All background sampling shall occur clearly outside the influence of any artificially generated turbidity plume or the influence of an outgoing inlet plume.

**Compliance:** **For activities encompassed by a turbidity curtain or similar turbidity control device**, samples shall be collected at mid-depth, downcurrent from the project-related turbidity source, within the densest portion of any visible turbidity plume, immediately outside of the turbidity control device.

**For activities not encompassed by a turbidity curtain or similar turbidity control device**, sampling shall occur at mid-depth, within the densest portion of any visible turbidity plume generated by this project, 150 meters downdrift from the point of construction.

**Calibration:** The instruments used to measure turbidity shall be fully calibrated with primary standards within one month of the commencement of the project, and at least once a month throughout the project. Calibration with secondary standards shall be verified each morning prior to use, after each time the instrument is turned on, and after field sampling using two secondary turbidity “standards” that bracket the anticipated turbidity samples. If the post-sampling calibration value deviates more than 8% from the previous calibration value, results shall be reported as estimated and a description of the problem shall be included in the field notes.

Analysis of turbidity samples shall be performed in compliance with DEP-SOP-001/01 FT 1600 Field Measurement of Turbidity:

<http://publicfiles.dep.state.fl.us/dear/sas/sopdoc/2008sops/ft1600.pdf>

If the turbidity monitoring protocol specified above prevents the collection of accurate data, the person in charge of the turbidity monitoring shall contact the JCP Compliance Officer to establish a more appropriate protocol. Once approved in writing by the Department, the new protocol shall be implemented through an administrative permit modification.



13. The **compliance** locations given above shall be considered the limits of the temporary mixing zone for turbidity allowed during construction. If monitoring reveals turbidity levels at the **compliance** sites that are greater than 29 NTUs above the corresponding background turbidity levels, construction activities shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. Any such occurrence shall also be immediately reported to the JCP Compliance Officer via email at [JCPCCompliance@dep.state.fl.us](mailto:JCPCCompliance@dep.state.fl.us) and include in the subject line, “TURBIDITY EXCEEDANCE”, and the Project Name and Permit Number. Also notify the Department’s Southeast District office.

Any project-associated turbidity source shall be monitored as close to the source as possible. If the turbidity level exceeds 29 NTUs above background, the construction activities related to the exceedance shall **cease immediately** and not resume until corrective measures have been taken and turbidity has returned to acceptable levels. This turbidity monitoring shall continue every hour until background turbidity levels are restored or until otherwise directed by the Department. The Permittee shall notify the Department, by separate email to the JCP Compliance Officer, of such an event within 24 hours of the time the Permittee first becomes aware of the discharge. The subject line of the email shall state “OTHER PROJECT-ASSOCIATED DISCHARGE, TURBIDITY EXCEEDANCE”.

When reporting a turbidity exceedance, the following information shall also be included:

- a. the Project Name;
- b. the Permit Number;
- c. location and level (NTUs above background) of the turbidity exceedance;
- d. the time and date that the exceedance occurred; and
- e. the time and date that construction ceased.

Prior to re-commencing the construction, a report shall be emailed to the Department with the same information that was included in the “Exceedance Report”, plus the following information:

- a. turbidity monitoring data collected during the shutdown documenting the decline in turbidity levels and achievement of acceptable levels;
- b. corrective measures that were taken; and
- c. cause of the exceedance.

14. **Turbidity Reports:** All turbidity monitoring data shall be submitted within one week of analysis. The data shall be presented in tabular format, indicating the measured turbidity levels at the compliance sites for each depth, the corresponding background levels at each depth and the number of NTUs over background at each depth. Any exceedances of the turbidity standard (29 NTUs above background) shall be highlighted in the table. In addition to the raw and processed data, the reports shall also contain the following information:
- a. time of day samples were taken;
  - b. dates of sampling and analysis;
  - c. GPS location of sample and source. *When possible, coordinates should be provided in decimal degrees with a 5 decimal level of precision (i.e., 0.00001). Please also indicate the datum;*
  - d. depth of water body;
  - e. depth of each sample
  - f. antecedent weather conditions, including wind direction and velocity;
  - g. tidal stage and direction of flow;
  - h. water temperature;
  - i. a geo-referenced map, overlaid on an aerial photograph, indicating the sampling locations (background and compliance), location of active construction, the visible plume pattern and direction of flow. The map shall also include the boundaries of any benthic resources or OFW. A sample map shall be submitted to and reviewed by the Department prior to construction (Specific Condition 4);
  - j. a statement describing the methods used in collection, handling, storage and analysis of the samples;
  - k. a statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection, calibration of the meter, accuracy of the data and precision of the GPS measurements;
  - l. When samples cannot be collected, include an explanation in the report. If unable to collect samples due to severe weather conditions, include a copy of a current report from a reliable, independent source, such as an online weather service.

Monitoring reports shall be submitted by email to the Department's JCP Compliance Officer. In the subject line of the reports, include the Project Name, Permit Number and the dates of the monitoring interval. Failure to submit reports in a timely manner constitutes grounds for revocation of the permit. When submitting this information to the Department's JCP Compliance Officer, on the cover page to the submittal and at the top of each page, please state: **"This information is provided in partial fulfillment of the monitoring requirements in Permit No. 0413775-001-JC, for the Bal Harbour Jetty Improvements Project"**

15. Within 30 days after completing construction of the authorized activity, the Permittee shall submit an As-Built Survey that is signed, sealed and dated by a Florida-licensed Surveyor and Mapper in accordance with Chapter 61G17-7, F.A.C. The survey shall depict the boundaries of the easement and shall show the size and dimensions of all structures over sovereign submerged lands and activities located within the easement area. The survey shall contain a statement that all of the depicted structures and activities occur within the easement boundary. If the surveyor observes that structures or activities are occurring outside of the easement area, the surveyor shall document the condition in the statement and note the deviations on the survey. Constructed deviation may require a permit or easement modification.

#### **NOTICE OF RIGHTS**

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action.

#### **Petition for Administrative Hearing**

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;

- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us). Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### **Time Period for Filing a Petition**

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within **14** days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

#### **Extension of Time**

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at [Agency\\_Clerk@dep.state.fl.us](mailto:Agency_Clerk@dep.state.fl.us), before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### **Mediation**

Mediation is not available in this proceeding.



**Judicial Review**

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

**EXECUTION AND CLERKING:**

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



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Gregory W. Garis  
Program Administrator  
Beaches, Inlets and Ports Program  
Office of Resilience and Coastal Protection

**Attachment(s):**

1. Approved Permit Drawings (68 pages)
2. Bal Harbour Jetty Coral Relocation Plan (approved July 2022)
3. Public Notice Publication

**CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this permit and all attachments were sent on the filing date below.

**FILING AND ACKNOWLEDGMENT**

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.

*Shenicka Miller*  
Clerk

09/09/2022  
Date



# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH AND AMEND PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023, AS AMENDED) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING.**

### Issue:

Should the Village Council adopt the Ordinance establishing and amending Chapter 21 "Zoning" regulations for Live Local Act 2023, as amended?

### The Bal Harbour Experience:

Beautiful Environment     Safety     Modernized Public Facilities/Infrastructure  
 Destination & Amenities     Unique & Elegant     Resiliency & Sustainable Community

### Item Summary / Recommendation:

**ACTIONS SINCE MARCH 5, 2024 COUNCIL MEETING**

Since the March 5<sup>th</sup> 2024, Village Council meeting, the State Legislature have passed amendments to the Live Local Act of 2023 (FS 166.04151(7), by 2024 Senate Bill 328 ("SB 328"), also known as the "Glitch Bill"). Therefore, it has been determined that this Ordinance is necessary to respond to the 2024 amendments to the Act, by specifying that the affordable residential units within the mixed use residential project must be rental, incorporating the statutory preemption of and standards for FAR regulation, addressing the impact of adjacent single family zoning on the statutory height preemption, and of any bonuses or other variations to the statutory height, FAR, and density preemptions, identifying that the Village considers reduction of parking requirements for proposed LLA Development located within one-quarter mile of a transit stop, and requiring the posting of a policy containing procedures and expectations for administrative approval on the Village website. Also included in this Ordinance is the incorporation of Section 21-289 of the OF Oceanfront District, which establishes minimum habitable unit sizes of residential units, into the standards for an LLA Development.


At the March 5, 2024, Regular Council Meeting, the Council adopted the LLA Ordinance by a vote of 5-0. The changes from the March 5 version are highlighted in yellow for ease of reference and are proposed to address the Glitch Bill as well as to ensure consistency with continually updating Code Provisions.

The Administration recommends that the Council approve the readoption and amendment of this Ordinance in order to address the requirements of the Glitch Bill, improve the LLA regulations by requiring that such development conform to the OF minimum habitable unit sizes, and address the alleged concerns over the propriety of the notice for the original adoption of this Ordinance.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024, council meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.**

### Sign off:

<b>Director Title</b>	<b>Building Official</b>	<b>Village Manager</b>
<b>Director Name</b>	<b>Eliezer Palacio</b>	<b>Jorge M. Gonzalez</b>
		

# BAL HARBOUR

- V I L L A G E -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH AND AMEND PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023, AS AMENDED) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.**

### **ADMINISTRATIVE RECOMMENDATION**

I am recommending approval of this Ordinance in 2<sup>nd</sup> Reading.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024 council meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.

### **ACTIONS SINCE MARCH 5, 2024 COUNCIL MEETING**

Since the March 5<sup>th</sup> 2024, Village Council meeting, the State Legislature has passed amendments to the Live Local Act of 2023 (FS 166.04151(7)), by 2024 Senate Bill 328 ("SB 328"), also known as the "Glitch Bill". Therefore, it has been determined that this Ordinance is necessary to respond to the 2024 amendments to the Act, by specifying that the affordable residential units within the mixed use residential project must be rental, incorporating the statutory preemption of and standards for FAR regulation, addressing the impact of adjacent single family zoning on the statutory height preemption, and addressing the impact of any bonuses or other variations to the statutory height, FAR, and density preemptions, identifying that the Village considers reduction of parking requirements for proposed LLA Development located within one-quarter mile of a transit stop, and requiring the posting of a policy containing procedures and expectations for administrative approval on the Village website.



Also included in this Ordinance is the incorporation of Section 21-289 of the OF Oceanfront District, which establishes minimum habitable unit sizes of residential units, into the regulations for an LLA Development.

At the March 5, 2024, Regular Council Meeting, the Council adopted the LLA Ordinance by a vote of 5-0. This Ordinance is being proposed to be readopted in full, in an abundance of caution to ameliorate any concerns over the alleged noticing deficiencies. The changes from the March 5 version are highlighted in yellow for ease of reference, and are made to respond to the Glitch Bill as well as to ensure consistency with continually updating Code Provisions.

The Administration recommends that the Council approve the readoption and amendment of this Ordinance in order to address the requirements of the Glitch Bill, improve the LLA regulations by requiring that such development conform to the OF minimum habitable unit sizes, and address the alleged concerns over the propriety of the notice for the original adoption of this Ordinance.

### **BACKGROUND**

Early last year, the Village began to address Code provisions that were outdated, required updating, or addressed matters of concern to the quality of life or our residents. Certain amendments were approved to the "Noise" ordinance, construction site standards, underground parking provisions and certain elements of the Ocean Front district development standards and uses. These amendments were a result of feedback from our residents, concerns over safety and unsightliness of construction sites, resiliency and climate change concerns with underground parking facilities, as well as the overall character of our community. In light of the growing trend of further state preemption of local laws, it is advisable to continue to review our zoning code and make the necessary amendments to bring them up to current standards, address resiliency where needed and implement protections to the character of our community and the quality of life of our residents.

During the 2023 legislative session, the Florida Legislature adopted the "Live Local Act of 2023" (LLA or the Act) for the stated purpose of promoting the development and availability of affordable housing the State. While the stated purpose is admirable and well intended, the act is a significant and further preemption of local authority in zoning matters. The Act specifically preempts the Village from regulating use, height and density on specific LLA projects that meet specified requirements. The LLA, however, does not entirely preempt local authority and as a result, there are several proposed amendments in this agenda item that are necessary to properly implement the LLA and at the same time protect the built-out character of our community and the quality of life of all our residents.

Therefore, as we continue to review and address Code provisions as mentioned above, it is appropriate to also consider the impacts of the Act and how the Village should best address its implementation and application. A review of other communities who have made amendments to their Zoning Code to address implementation of the Act was conducted and the relevant best practices which would best apply in Bal Harbour Village were identified. In addition, our Village Planner, Michael Miller and Associates was tasked with a similar review and development of recommendations to consider. Lastly, our Village Attorneys were asked to coordinate with staff.

This collaboration has resulted in a set of recommended amendments for Village Council consideration that, we believe, capture the best ideas from the review of other communities as well as being tailored to the unique applications in Bal Harbour Village.

At the January 19, 2024 Council Meeting, in response to the overwhelming public comment received from the community regarding the recently received application from the Bal Harbour Shops under the LLA, the Village Council instructed the Village Attorney to explore the feasibility and advisability of establishing a Moratorium to review and address the impacts of the LLA. After careful consideration, the Village Attorney has advised that a Moratorium is not necessary at this time.

Instead, staff has worked to develop the necessary code amendments that would ensure proper implementation of the LLA in Bal Harbour.

These amendments will ensure that the Village is completely compliant with the Act, while working to both retain the character of our master planned community, as well as ensure that the affordable housing developed is dignified and respectful, and not segregated nor potentially unequal or discriminatory in any way.

### **Live Local Act**

The LLA implements many strategies to accomplish its stated goal. Among them are several preemptions of local government planning and zoning authority. Below is a brief summary of some of the key relevant provisions that affect local government generally found in Section 166.0415(7) of the Act ("Subsection 7"):

*(7)(a) A municipality must authorize multifamily and mixed-use residential as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development are, for a period of at least 30 years, affordable as defined in s. 420.0004. Notwithstanding any other law, local ordinance, or regulation to the contrary, a municipality may not require a proposed multifamily development to obtain a zoning or land use change, special exception, conditional use approval, variance, or comprehensive plan amendment for the building height, zoning, and densities authorized*

*under this subsection. For mixed-use residential projects, at least 65 percent of the total square footage must be used for residential purposes.*

*(b) A municipality may not restrict the density of a proposed development authorized under this subsection below the highest allowed density on any land in the municipality where residential development is allowed.*

*(c) A municipality may not restrict the height of a proposed development authorized under this subsection below the highest currently allowed height for a commercial or residential development located in its jurisdiction within 1 mile of the proposed development or 3 stories, whichever is higher.*

*(d) A proposed development authorized under this subsection must be administratively approved and no further action by the governing body of the municipality is required if the development satisfies the municipality's land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.*

*(e) A municipality must consider reducing parking requirements for a proposed development authorized under this subsection if the development is located within one-half mile of a major transit stop, as defined in the municipality's land development code, and the major transit stop is accessible from the development.*

*(f) A municipality that designates less than 20 percent of the land area within its jurisdiction for commercial or industrial use must authorize a proposed multifamily development as provided in this subsection in areas zoned for commercial or industrial use only if the proposed multifamily development is mixed-use residential.*

*(g) Except as otherwise provided in this subsection, a development authorized under this subsection must comply with all applicable state and local laws and regulations.*

*(h) This subsection does not apply to property defined as recreational and commercial working waterfront ins. 342.201(2)(b) in any area zoned as industrial.*

*(i) This subsection expires October 1, 2033.*

The Act imposes various obligations, including the requirement for a municipality to permit mixed-use residential development as an allowable use in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units are, for a period of at least 30 years, affordable as defined in Section 420.0004, Florida Statutes.

Section 420.0004, Florida Statutes, defines "affordable" as follows:

*"Affordable" means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households indicated in subsection (9) [extremely-low-income persons], subsection (11) [low-income persons], subsection (12) [moderate-income persons] or subsection (17) [very-low-income persons]."*

*"Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.*

*"Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.*

*"Very-low-income persons" means one or more natural persons or a family, not including students as defined herein, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.*



*“Extremely-low-income persons” means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.*

The Village has one commercial zoning district, the B Business District, in which the LLA applies (no industrial or mixed use zoning districts), and the B Business District does not allow residential use. The Village has “Commercial” land use areas (the BHS site / Truist Bank site are the areas that are zoned B). Under subsection 7(f) of the LLA, if less than 20% of the land in a community is designated as “Commercial” on the adopted Future Land Use Map (FLUM), any residential development must be within a mixed-use development (not free-standing). Approximately 4% of the land area in the Village is designated “Commercial”. As such, any application under LLA must be “Mixed -Use Residential.”

Finally, subsection 7(d) of the Act provides that LLA development applications must be “administratively approved” if the development “satisfies the Village’s land development regulations for multifamily developments ... and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height and land use. Such land development regulations include, but are not limited to, regulations relating to setbacks and parking requirements.”

Furthermore, in recent meetings with members of the State Legislature, we were explicitly advised that the LLA does not preempt anything other than Use, Height and Density; and they reassured us that the various concurrency requirements in our community must be met. Lastly, some legislators encouraged the Village to consider ordinances that would result in the delivery of dignified and respectful housing that would not be segregated nor potentially unequal or discriminatory in any way.

### **ANALYSIS**

The purpose of this Ordinance is to amend Chapter 21, the Village’s zoning code, to provide uniformity, clarity and predictability to the Village’s implementation of the Act, and the Village therefore determines that it is appropriate for all applications for LLA Development to be processed in accordance with these regulations, regardless of the timing of such application or submission. Also, any application for LLA Development submitted after the effective date of the Act but before the effective date of this Ordinance shall be subject to, and processed pursuant to this Ordinance.

It is the intention of the Village to comply with the Act by adoption of this Ordinance, and provide for affordable housing for Village residents of a quality and character respectful of the dignity of Village residents, in a manner that is not discriminatory to any resident in terms of their access to the amenities and quality of development in which they reside.

It is not a best practice to rely solely on administrative interpretation to harmonize the requirements of the LLA with those of the Village Code. Therefore, for ease of reference, it is appropriate to amend the B Business District of the Village's Zoning Code in Chapter 21 to specifically reference the statutorily permitted uses and statutorily mandated regulations and processes for LLA Development.

In addition, the Village requires submission of a major site plan amendment pursuant to Section 21-322 of the B Business District of the Code in order to determine that these other requirements are satisfied. The major site plan process requires Village Council approval, but the minor site plan process requires an administrative approval by the Village Manager, considering the review and recommendation of the Village's Architectural Review Board. As a result, this minor site plan process is most similar to the requirements of the Act and most suitable for LLA Development.

After a review of the existing Village Code provisions and a review of best practices from other communities, the Village finds it appropriate and in the public interest that the land development regulations applicable to LLA Development be based on those regulations applicable to development of residential uses in the OF Oceanfront District, in large part because it is the Village's only zoning district that allows more than 45 feet in height. While 56 feet is the height allowed in the B Business District, the preemption introduced by the Live Local Act could allow for much greater height than is already approved. Therefore, the OF Oceanfront District is the only other suitable model.

The proposed amendments to Chapter 21 define terms and revise regulations and procedures to appropriately implement the requirements of the Act, as it may be amended from time to time. Adopting these regulations aligns with best practices followed by other municipalities. Additionally, it streamlines the overarching policy and criteria for maintaining consistency during the review of LLA Development submissions. The most critical concern within our Village is the gradual erosion of its unique character and charm due to the impacts of overdevelopment, which could greatly affect the quality of life of our residents.

The Village was completely master-planned and is essentially built-out as an exclusive high-end community, with distinct land use areas (known as Euclidian Zoning). This includes high-rise residential / hotel / resort development along the Atlantic Ocean east of Collins Avenue, low-rise (2-4 story) multifamily development located along the west side on Collins Avenue and at a few other locations within the gated area along Park Drive at the south end of the community or near the Haulover Inlet, single-family homes within the gated area between Park Drive and the Indian Creek Waterway, the Bal Harbour Shops (BHS) Mall located west of Collins Avenue and north of 96<sup>th</sup> Street, a small commercial site north of 96<sup>th</sup> Street between Collins Avenue and Harding Avenue, various municipal facilities (Village Hall / Parks / beach / etc.) and various private open spaces and recreational facilities (passive parks / marina).

The community can be best described as a suburban neighborhood to the City of Miami - clearly not Urban in character in the context of Miami-Dade County. Along Collins Avenue large setbacks have always been required, originally by plat and later by zoning. The beachfront sites are a minimum of 200 feet in width and extend hundreds of feet toward the oceanfront. Shorter buildings / structures like parking garages on the Ocean Front (OF) sites are limited to 22 feet / 2-stories in height and have a 100-foot minimum setback. Towers must have at least a 150' setback from Collins Avenue. The low-rise multiple-family development along the west side of Collins Avenue is limited to 4-stories in height and has a minimum 50-foot building setback. The Village was designed specifically to avoid the appearance of a high-rise "concrete canyon" along its roadways.

The BHS site is generally limited to 3-stories / 56 feet in height with an exception for 5-stories for parking garages (same overall height). A slightly taller (69') carve-out area is allowed within a small portion of the site. All of the single-family homes are limited to 2-stories. Following established urban design guidelines, similar types of land development should follow the same pattern of setbacks, scale, building height, and bulk. The Charter and Code reinforce the above via various land development regulations.

The amended language and new section added to the B Business District for LLA as described below has been drafted to protect and maintain the character of the Village as initially planned:

## **B" Business District Permitted Uses**

The proposed Code amendment will include a new definition for "statutory uses" such as LLA Mixed-Uses per Florida Statute.

(c) Statutory uses: Mixed Use multifamily development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, as it may be amended. For purposes of this section, "Mixed Use" means a combination of residential uses and their amenities with nonresidential uses, where the percentage of FAR devoted to nonresidential uses does not<sup>1</sup> exceed 35% of the total FAR. The nonresidential uses shall be those uses allowed as permitted or conditional uses provided in subsections (a) and (b) above.

Please see attached Ordinance which identifies the various proposed amendments.

## **"B" Business District Maximum Building Height**

The proposed amendment will simply include a reference to the 2023 LLA building height exception.

For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, the Village will comply with the building height requirements set forth in section 166.04151(7), F.S., as it may be amended from time to time.

Please see attached Ordinance which identifies the various proposed amendments.

**"B" Business District Yards / Setbacks** (Sec. 21-319) - The current Code contains those building setbacks created over the years for Village's "B" Business District commercial uses. These were created specifically for a maximum 56-foot height / 3-story commercial development, not high-rise buildings. As the current 2023 LLA potentially allows a developer to utilize a higher standard, staff has analyzed the long-established land development regulations for the OF District to ensure similar types of development utilize the same or similar setbacks and other regulations, as allowed by the LLA.

In the OF District, the original 1946 subdivision plat included a minimum setback from Collins Avenue of 100 feet for any building. Subsequently, as oceanfront development

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<sup>1</sup> As noted at first reading, a typo resulted in the words "does not" being missing from the first reading version of the Ordinance. That typo is corrected here and in the Ordinance for second reading.



was built, the Village adjusted some of the setbacks and other land development regulations. The current OF District requires a minimum 100-foot setback for parking garages with a maximum height of 22 feet above street grade. Any towers must be set back a minimum of 150 feet from Collins Avenue. As a building gets taller additional setbacks are required.

Similarly the setbacks for other roadways listed in the B Business District are intended for the existing specified commercial development. The existing setbacks are not suited for taller buildings that could overshadow / overscale the adjoining roadways and nearby low-density residential development. Therefore, staff recommends that the Village adopt amendments to the "B" Business District regulations to mandate similar setbacks as have existed in the OF District for decades.

(2) Front Yard Setback for Live Local Act Development. To ensure that the appearance and scale of all taller buildings are consistent as to appearance and separation from the right of way and surrounding uses, the following front Yard Setbacks from the OF Oceanfront District shall be maintained for development pursuant to the Live Local Act (which allows additional height for mixed use or residential development in the B Business District, based on the maximum building height in the OF Oceanfront District):

a. From Collins Avenue/Bal Harbour Boulevard and Harding Avenues: All buildings and structures used for residential or mixed use of 17 stories or less shall be set back a minimum of 150 feet from the right of way. Each story above the 17th story shall be set back an additional 25 feet from the story below: i.e., 18 stories, 175-foot setback; 19 stories, 200-foot setback; etc. Buildings may comply by either setting back each higher story by the minimum amount or by placing the entire building at the maximum setback from the right of way. Parking Structures used for residential or mixed use shall be set back a minimum of 100 feet from the right of way.

b. From 96th St.: 0 feet for all Buildings, Parking Structures, and all other Structures.

c. From Bal Bay Drive, Park Dr. and Bal Cross Drive: All Buildings and Structures used for residential or mixed use shall be set back a minimum of 100 feet from the property line of the listed roadways. The following requirements shall apply to such Buildings and Structures, including their Parking Structures that are taller than 56 feet (or 69 feet as provided in Section 21-318):

(i) The minimum setback shall be the height of the Building or Structure.

(ii) Each story above the 10th story shall be set back an additional 25 feet from the story below: i.e., 11 stories, 125-foot setback; 12 stories, 150-foot setback; etc.

(iii) Buildings and Structures may comply by either setting back each higher story by the minimum amount or by placing the entire Building or Structure at the maximum setback from the property line of the listed roadways.

Please see attached Ordinance which identifies the various proposed amendments.

**“B” Business District Floor Area Ratio (FAR) (Sec. 21-321)** – The current state law does not include any preemption allowing an LLA Development to apply a higher FAR from another building or zoning district in the Village; however, were that to change, this provision would apply.

(c) For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida (which allows residential development in the B Business District):

1. FAR shall be determined by the B Business District regulations; if state law later preempts the application of this FAR standard, FAR shall be as defined in Section 21-280 for the OF Oceanfront District, and shall comply with the FAR requirements of the OF Oceanfront District in Section 21-286, so that only the FAR of Parking Structures under 22 feet in height shall be exempt from the calculation of maximum FAR; and

2. The Village will comply with the density requirements set forth in section 166.04151 (7), F.S., as it may be amended from time to time, by applying the density requirements of Section 21-285(1) of the OF Oceanfront District.

Please see attached Ordinance which identifies the various proposed amendments.

**“B” Business District Site Plan Review (Sec. 21-322)** – The proposed amendments will add revised site plan review procedures for LLA developments, as required by state law. Currently the ARB is required to review and Village Council is required to approve all development in the “B” Business District. The LLA mandates that such development be approved administratively if the project complies with local land development regulations.

Please see attached Ordinance which identifies the various proposed amendments so that the minor site plan process, culminating in approval by the Village Manager, will apply, while the substantive standards for major site plan review will continue to apply.

**“B” Business District Administrative Review & Design Criteria for LLA Projects** - This new Code section is intended to establish project review procedures and adopt project design criteria for mixed-use development in the district. The recommended project design criteria are similar to the Village’s current ARB review procedures and building criteria. However, as related to mixed-use development, additional criteria is proposed for the residential uses (affordable & market rate housing), and sets forth urban design parameters (breezeways / building lengths / building articulation) to avoid large massive unbroken building appearances.

Please see attached Ordinance which identifies the various proposed amendments assuring the affordability and equity/dignity of the affordable residential uses, and controlling the mass of the mixed use buildings to make them more compatible with the neighboring low intensity residential uses to the north, and to preserve the character of the Collins Avenue corridor.

**“B” Business District Off-Street Parking (Sec. 21-381 and 21-382)** - The Village’s Code includes separate off-street parking provisions for the Special Business Improvement District. The proposed amendment will require the use of the standard off-street parking regulations for all residential uses, as they differ greatly from the specialized criteria allowed for this exclusive commercial mall.

(d) For development pursuant to the Live Local Act in the B Business District, 100% of required parking spaces for residential uses shall be fully enclosed, designated for residential use only, and integrated into the Building containing the residential units served by that parking. Parking spaces serving any nonresidential uses in the Building open to the public shall be in accordance with the requirements of the Business (B) District.

Please see attached Ordinance which identifies additional Off-Street Parking requirements for residential development in the B Business District pursuant to the Act.

### **THE BAL HARBOUR EXPERIENCE**

By amending the Village Code, the Village would continue to “implement smart policies and strategic solutions to address the challenges of today and to ensure that we remain a Resilient and Sustainable community able to protect our future.”

### **CONCLUSION**

This Ordinance seeks to amend Chapter 21 by defining terms and revising regulations and procedures to implement the requirements of the Live Local Act, as it may be amended, from time to time. The purpose of this Ordinance is to provide uniformity, clarity and predictability to the Village’s implementation of the LLA. In addition, the proposed Ordinance streamlines the overarching policy and criteria for maintaining consistency during the review of LLA Development submissions.

At first reading, Vice Mayor Salver inquired as to whether the section of the Ordinance addressing the enforcement of the affordability requirements of the Act needed to be strengthened with additional details. The Ordinance creates the obligation to report and the opportunity to audit, which are the key powers needed. Following adoption of this Ordinance, the Administration will develop administrative guidance for how this obligation will be enforced to assure full compliance with state law and with our Code on this important issue. This process will not be implemented until after any project pursuant to the Act is constructed, so there is time to develop these guidelines.

The Village Council approved the LLA Ordinance in 2<sup>nd</sup> Reading on March 5, 2024.

The Administration recommends that the Council approve the readoption and amendment of this Ordinance in order to address the requirements of the Glitch Bill, improve the LLA regulations by requiring that such development conform to the OF minimum habitable unit sizes, and address the alleged concerns over the propriety of the notice for the original adoption of this Ordinance.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024 council meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.



ORDINANCE NO. 2024\_\_\_\_

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH AND AMEND PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023, AS AMENDED) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE MULTIFAMILY RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

**WHEREAS**, the Bal Harbour Village (the "Village") Council finds it periodically necessary to amend its Code of Ordinances (the "Village Code") in order to update regulations and procedures to implement municipal goals and objectives; and

**WHEREAS**, Section 166.04151(7), Florida Statutes, as created by Chapter 2023-17, Laws of Florida, known as the Live Local Act of 2023 (the "Live Local Act"), as amended by 2024 Senate Bill 328 ("SB 328") (the "Act") in relevant part, requires municipalities to permit mixed-use multifamily residential development in areas zoned for commercial use if at least 40% of the multifamily residential units are, for a period of at least 30 years, affordable as defined in Section 420.0004, Florida Statutes; and

**WHEREAS**, the Live Local Act expires on October 1, 2033; and

**WHEREAS**, the Village seeks to amend Chapter 21 by defining terms and revising regulations and procedures to implement the requirements of the Live Local Act, as it may be amended, for the period of time in which it is effective; and

**WHEREAS**, the Village has one commercial zoning district, the B Business District, in which the Live Local Act applies (no industrial or mixed use zoning districts), and the B Business District does not allow residential use; and

**WHEREAS**, Section 166.04151(7)(f), Florida Statutes, provides that, if a municipality has designated less than 20% of the land area within its jurisdiction for commercial or industrial use, it is required to allow multifamily development pursuant to the Act as part

of a mixed-use development, and the Village finds and determines that less than 20% of the Village's land area is designated for commercial use; and

**WHEREAS**, the Act requires that such mixed-use multifamily development ("LLA Development") involve a combination of residential and nonresidential components, as well as a minimum 40% percentage of residential dwelling units that qualify as affordable housing units; and

**WHEREAS**, the Act requires that the residential component of LLA Development must be a minimum of 65% of the total square footage of the LLA Development; and

**WHEREAS**, the Act contains self-executing provisions regarding LLA Development that affect the application of the list of permitted uses and the density and height regulations applicable to such development in commercial zoning districts, and the Village hereby acknowledges and incorporates those mandatory provisions into this Ordinance for ease of reference; and

**WHEREAS**, rather than rely on administrative interpretation and for ease of reference, it is appropriate to amend the B Business District of the Village's zoning code in Chapter 21 to specifically reference the statutorily permitted uses and statutorily mandated regulations and processes for LLA Development; and

**WHEREAS**, the Village finds it appropriate and in the public interest that the land development regulations applicable to LLA Development be based on those regulations applicable to development of residential uses in the OF Oceanfront District, because it is the Village's only zoning district that allows more than 45 feet in height; greater height is available for development in the B Business District, and the Act's height preemption introduces the potential for much greater height for LLA Development than is already allowed in the B Business District; and

**WHEREAS**, the Planned Development option for development in the OF Oceanfront District requires a discretionary rezoning decision of the Village Council, based on the negotiation of a site plan and development agreement that establish development standards which may vary from the OF Oceanfront District standards, so it is therefore not relevant to the application of the Act in the Village; and

**WHEREAS,** certain modifications to the OF Oceanfront District standards are necessary for them to be applied to LLA Development in the B Business District because mixed use development is not allowed in the OF Oceanfront District as of right; and

**WHEREAS,** the addition of LLA Development to an existing B Business development is a change that triggers the requirement of the B Business District for a major site plan amendment; and

**WHEREAS,** the Act provides that LLA Development must be “administratively approved” if it satisfies the Village’s regulations for multifamily developments, and is otherwise consistent with the Village’s Comprehensive Plan and Code requirements (aside from the use, height and density preemptions of the Act), and the Village requires submission of a major site plan amendment pursuant to Section 21-322 of the B Business District of the Code in order to determine that these other requirements are satisfied; and

**WHEREAS,** the major site plan process requires Village Council approval, but the minor site plan process requires an administrative approval by the Village Manager considering the review and recommendation of the Village’s Architectural Review Board, and is therefore the process most similar to the requirements of the Act and most suitable for LLA Development; and

**WHEREAS,** the purpose of this Ordinance is to provide uniformity, clarity and predictability to the Village’s implementation of the Act, and the Village therefore determines that it is appropriate for all applications for LLA Development to be processed in accordance with the regulations herein, regardless of the timing of such application or submission, and that any application for LLA Development submitted after the effective date of the Act but before the effective date of this Ordinance shall be subject, and processed pursuant to this Ordinance; and

**WHEREAS,** it is the intention of the Village to comply with the Act by adoption of this Ordinance, and provide for affordable housing for Village residents of a quality and character respectful of the dignity of Village residents, that is not discriminatory to any resident in terms of their access to the amenities and quality of development in which they reside; and

**WHEREAS**, the Village Council specifically finds and determines that this Ordinance is necessary to facilitate the orderly development of affordable multifamily housing pursuant to the Act; identify the B Business District as the sole zoning district in the Village eligible for LLA Development; confirm that LLA Development must be mixed-use residential rather than solely residential as provided by the Act; confirm which land development regulations are applicable to LLA Development, while incorporating the statutory mandates as to density, height, and use; confirm the minimum dwelling unit square footage of the residential component in order to provide reasonable living conditions; provide a maximum commercial square footage of 35% to ensure the statutory mandate for mixed-use; confirm the maximum Floor Area Ratio for LLA Development and how it applies to Parking Structures; and designate the B Business District minor site plan process as the administrative approval process for LLA Development, including provisions for appeals of administrative decisions; and

**WHEREAS**, the Village Council further finds and determines that this Ordinance is necessary to respond to the 2024 amendments to the Act, by specifying that the affordable residential units within the mixed use residential project must be rental, incorporating the statutory preemption of and standards for FAR regulation, addressing the impact of adjacent single family zoning on the height preemption, addressing the impact of any bonuses or other variations to the statutory height, FAR, and density preemptions, identifying that the Village considers reduction of parking requirements for proposed LLA Development located within one-quarter mile of a transit stop, and requiring the posting of a policy containing procedures and expectations for administrative approval on the Village website; and

**WHEREAS**, the Village Council further desires to add minimum habitable unit sizes of residential units in an LLA Development, as required in Section 21-289 of the OF Oceanfront District; and

**WHEREAS**, the Village Administration recommended approval of this Ordinance in its report for the **March 27, 2024** Village Council meeting; and

**WHEREAS**, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed public hearing in accordance with law on \_\_\_\_\_,



2024, determined that this Ordinance is consistent with the Village’s Comprehensive Plan, and recommended approval; and

**WHEREAS**, the Village Council conducted a first and second reading of this Ordinance at duly noticed public hearings, as required by law, and after having received input from and participation by interested members of the public and staff, the Village Council has determined that this Ordinance is consistent with the Village’s Comprehensive Plan and in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Village Code Amended - Chapter 21, Article III, Division 11.** That Chapter 21 “Zoning,” Article III “District Regulations,” Division 11 “B Business District” of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:<sup>1</sup>

**CHAPTER 21. - ZONING**

\* \* \*

**ARTICLE III. - DISTRICT REGULATIONS.**

\* \* \*

**DIVISION 11. - B BUSINESS DISTRICT.**

**Sec. 21-316. - Permitted uses.**

No Building or land shall be used in the B Business District and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged, or intended to be used for any purpose, unless otherwise provided for in this chapter, except for one or more of the following permitted, ~~or conditional~~ or statutory uses:

\* \* \*

(c) Statutory uses: Mixed Use multifamily development pursuant to the Live Local Act of

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<sup>1</sup> Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~striketrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double striketrough~~ font.

2023, Chapter 2023-17, Laws of Florida, as it may be amended. For purposes of this section, "Mixed Use" means a combination of residential uses and their amenities with nonresidential uses, where the percentage of FAR devoted to nonresidential uses does not exceed 35% of the total FAR. The nonresidential uses shall be those uses allowed as permitted or conditional uses provided in subsections (a) and (b) above.

\* \* \*

### **Section 21-318. Maximum Building Height.**

Except as set forth herein, no Building or Structure in the B Business District shall exceed 56 feet or three Stories in Height, whichever is less. No Parking Structure shall exceed 56 feet or five Stories above the surface parking level in Height, whichever is less. Any Parking Structure which exceeds 36 feet or three Stories shall require a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a). Notwithstanding any other limitation herein, for any assemblage of contiguous Lots now or hereafter owned by the same owner in the Business District which contains five or more contiguous acres, an area not to exceed 42,600 square feet thereof may, after a public hearing in accordance with the procedures set forth in Sections 21-51 and 21-52 and the standards set forth in Section 21-53(a), contain Structures not to exceed 69 feet in Height. Except as provided below, when a parapet wall is provided, the vertical distance shall be measured from the highest point of any street bounding the property to the highest point of the parapet wall. Parapet walls shall not exceed four feet in Height as measured from the highest point of the roof to the highest point of the parapet wall. Except as otherwise provided herein, a "Story" of a Structure shall be considered to be no greater than 19 feet in Height and a "Story" of a Parking Structure shall be considered to be no greater than 11 feet six inches in Height. For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, the Village will comply with the building height requirements set forth in section 166.04151(7), F.S., as it may be amended from time to time.

### **Section 21-319. Yards; Setbacks.**

\* \* \*

(b) Front Yard Setback.

(1) Front Yard Setback for Commercial Development. The following front Yard Setbacks shall be maintained for commercial development of uses permitted in the B Business District as permitted or conditional uses:

- a. From Collins/Bal Harbour Boulevard and Harding Avenues: 1. 50 feet for Buildings occupied and used for the sale of merchandise or services at retail. 2. 100 feet for Parking Structures and all other Structures.
- b. From 96th Street: 7.5 feet for all Buildings, Parking Structures and all other Structures.
- c. From Bal Bay Drive: 20 feet for all Buildings, Parking Structures and all other Structures.
- d. From Park Drive: 100 feet for all Buildings, Parking Structures and all other Structures.
- e. From Bal Cross Drive: 50 feet for all Buildings, Parking Structures and all other Structures.

(2) Front Yard Setback for Live Local Act Development. To ensure that the appearance and scale of all taller buildings are consistent as to appearance and separation from the right of way and surrounding uses, the following front Yard Setbacks from the OF Oceanfront District shall be maintained for development pursuant to the Live Local Act (which allows additional height for mixed use or residential development in the B Business District, based on the maximum building height in the OF Oceanfront District):

- a. From Collins Avenue/Bal Harbour Boulevard and Harding Avenues: All buildings and structures used for residential or mixed use of 17 stories or less shall be set back a minimum of 150 feet from the right of way. Each story above the 17th story shall be set back an additional 25 feet from the story below: i.e., 18 stories, 175-foot setback; 19 stories, 200-foot setback; etc. Buildings may comply by either setting back each higher story by the minimum amount or by placing the entire building at

the maximum setback from the right of way. Parking Structures used for residential or mixed use shall be set back a minimum of 100 feet from the right of way.

b. From 96th St.: 0 feet for all Buildings, Parking Structures, and all other Structures.

c. From Bal Bay Drive, Park Dr. and Bal Cross Drive: All Buildings and Structures used for residential or mixed use shall be set back a minimum of 100 feet from the property line of the listed roadways. The following requirements shall apply to such Buildings and Structures, including their Parking Structures that are taller than 56 feet (or 69 feet as provided in Section 21-318):

(i) The minimum setback shall be the height of the Building or Structure.

(ii) Each story above the 10th story shall be set back an additional 25 feet from the story below: i.e., 11 stories, 125-foot setback; 12 stories, 150-foot setback; etc.

(iii) Buildings and Structures may comply by either setting back each higher story by the minimum amount or by placing the entire Building or Structure at the maximum setback from the property line of the listed roadways.

~~(23)~~ *Interior, side and rear Yards.* There shall be interior, side and rear Yards having a width of not less than seven feet six inches on each side of a Building or Structure, including Parking Structures.

~~(34)~~ *Waterfront Setback.* There shall be a waterfront Setback of 40 feet, as measured from the outside face of the Seawall.

\* \* \*

**Sec. 21-321. - Floor Area Ratio, Minimum Habitable Unit Floor Areas, and Density.**

(a) The maximum allowable Floor Area Ratio for the B Business District shall be FAR 0.70.

(b) The maximum allowable Floor Area Ratio for the Special Business Improvement Area shall be FAR 1.22.



(c) For development pursuant to the Live Local Act of 2023, Chapter 2023-17, Laws of Florida (which allows residential development in the B Business District):

1. FAR shall be determined by the B Business District regulations; if state law later preempts the application of this FAR standard, FAR shall be as defined in Section 21-280 for the OF Oceanfront District, and shall comply with the FAR requirements of the OF Oceanfront District in Section 21-286, so that only the FAR of Parking Structures under 22 feet in height shall be exempt from the calculation of maximum FAR; and

2. Minimum habitable unit floor areas shall be as provided in the OF Oceanfront District, as follows: Efficiency dwelling units: 600 square feet; One-bedroom dwelling units: 900 square feet; Two-bedroom dwelling units: 1,150 square feet; Three-bedroom dwelling units: 1,500 square feet; and For each additional bedroom over three, an additional 200 square feet of floor area shall be required. Spaces which are convertible to additional bedrooms shall be considered as bedrooms for purposes of determining minimum habitable unit floor areas.; and

2.3. The Village will comply with the density requirements set forth in section 166.04151 (7), F.S., as it may be amended from time to time, by applying the density requirements of Section 21-285(1) of the OF Oceanfront District.

**Sec. 21-322. - Site plan review.**

(a) *Definitions and Applicability.*

(1) For purposes of this section and Section 21-323, the following terms are defined:

a. *Adjacent* shall mean contiguous with, or located immediately across any roadway, right-of-way or easement from, a development site that is subject to this section.

b. *Development* shall mean (1) construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a building or structure; or (2) any change in the use or intensity of use of any building, structure or use of land. When appropriate to the context, development refers to the act of development or to the result of development.

c. *Development Site* shall mean a lot, tract or parcel of land, or combination of lots, tracts or parcels of land, which has been developed or is proposed to be developed as a unified project.

d. *Municipal Building* shall mean a Building, Structure or other improvement owned by the Village.

e. *Exterior Facing* shall mean work subject to this section or Section 21-323 which faces a property which is not owned by the applicant, or is not located in the B Business District.

f. *Interior* shall mean work subject to this section or Section 21-323 which is not Exterior Facing.

(2) Site plan review and approval as hereinafter provided shall be required prior to issuance of a building permit for any new Development, modification, or redevelopment, including an amendment to a previously approved site plan, that would result in one or more of the following:

a. A horizontal shift of the exterior-facing boundaries of the existing building footprint of any Structure which results in an increase in Floor Area Ratio or lot coverage;

b. An increase in the height of any existing Structure;

c. Alterations to existing physical features affecting traffic circulation or access patterns between the site and any right-of-way; or

d. A change in use of a Structure, or any part thereof, to a Conditional Use or Statutory Use as listed in Section 21-316.

e. A reduction or relocation of more than ten percent of the parking spaces existing on a Development Site.

\* \* \*

(4) A site plan application for LLA Development shall be presumed to be a major site plan. Any site plan application shall be presumed to be a major site plan unless the applicant

demonstrates to the satisfaction of the Village Manager or designee that the proposed Development and/or Conditional Use will not significantly alter existing impacts to Adjacent premises or significantly increase the burden on existing infrastructure or public services, in which case it shall be reviewed as a minor site plan. In evaluating such impacts, the Village Manager or designee shall consider, as appropriate for the circumstances of the application:

- a. The extent to which the Development would create or alleviate environmental problems such as air or water pollution or noise;
- b. The amount of pedestrian or vehicular traffic likely to be generated;
- c. The number of persons, including employees, likely to be present;
- d. The size of the Development;
- e. The likelihood that additional or subsidiary Development will be generated; and
- f. The extent to which the Development would create an additional demand for, or additional use of, energy, water, sewer capacity, road infrastructure, and other public services.

(b) *Application*. The application shall be in a form prescribed by the Village Manager or designee, and shall be accompanied by a current survey, detailed site plan, a description of the intended use, a conceptual building plan and elevations, preliminary engineering plans, proposed preliminary design guidelines, exterior lighting plan, and a landscaping plan, as applicable, and in no event shall require disclosure of the name of the prospective tenant. The application shall be reviewed by the Village Manager or designee to determine whether the application involves a minor or major site plan, and whether any additional supporting documentation is required for review. A minor site plan application shall be accompanied by a nonrefundable fee of \$1,02,500.00. A major site plan application shall be accompanied by a nonrefundable application fee of \$3,5,000.00. The Village shall maintain a record of all costs of review of a major site plan application including, but not limited to, fees of Village staff and consultants and out of pocket costs. Prior to scheduling a major site plan application for a public hearing, the applicant shall pay the Village for all

actual costs over \$~~3,500~~0.00. The application fee does not include the costs of advertising and public notice; all such advertising and public notice costs shall be borne by the applicant.

*(c) Review of Minor Site Plan Applications.*

(1) *Procedure.* A minor site plan application shall be evaluated by the Village Manager or designee, for compliance with the criteria described in sub-paragraph (f) of this section. If the Village Manager or designee determines that more information is warranted, additional materials that are reasonably related to the application may be requested from the applicant. The Architectural Review Board shall review the application in accordance with sub-paragraph (d) below, and the Board's comments and recommendation, if any, shall be provided to the Village Manager or designee. The Village Manager or designee shall review the application, and the comments and recommendations of the Architectural Review Board, if any, and shall render a final written decision on the application within 21 days of the Architectural Review Board meeting on the application. At least seven days prior to the Village Manager or designee rendering a final decision, posted notice regarding the application shall be provided on the property and at a conspicuous location at Village Hall. The posted notices shall provide that any interested person may contact the Village Clerk and request a written notice of the final decision on the application. In issuing the final decision, the Village Manager or designee may attach conditions including, but not limited to, requirements for screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, and relocation of proposed open space or alteration of use of such space. The final written decision of the Village Manager or designee shall be mailed to the applicant and to any interested parties who have requested written notice of the decision, along with instructions on the process for an appeal.

(2) *Expiration.* Failure to obtain a master building permit within 12 months from the approval of a minor site plan shall render the site plan approval void.

(3) *Appeal.* If the applicant, or any other substantially affected party, disagrees with the final decision of the Village Manager or designee, the decision may be appealed by filing



a written request with the Clerk accompanied by a \$1,500.00 appeal fee within 15 days of the date of issuance of the final decision. In the event of such appeal, the Village Council shall review the minor site plan application on a regularly scheduled agenda and shall have the power to approve, reverse or modify the decision of the Village Manager or designee. At its discretion, the Council may assess any portion of the costs associated with the appeal against the losing party to the appeal, or may order the appeal fee refunded to the appellant.

(d) *Advisory Review of Site Plan Applications by the Architectural Review Board.* The Architectural Review Board shall review each major and minor site plan application.

(1) *Criteria for ARB Review.* The Board shall evaluate the application under the following review criteria, and the design and aesthetic appearance of the site and Buildings. Definitions of capitalized terms shall be as defined in this Chapter and Section 5.5-2 of the Code.

- a. The Exterior Building Components and External Architectural Features shall have Attractive and cohesive Architectural Character.
- b. The orientation, appearance and design of External Architectural Features of new and existing Buildings and Structures, and/or additions or modifications to existing Buildings and Structures, shall indicate sensitivity to and shall be compatible with the Streetscape and Adjacent Buildings and Structures, enhance the appearance of surrounding properties, and create or maintain important view corridor(s).
- c. Landscaping and paving materials shall ensure a cohesive relationship with and enhancement of the overall site plan design.
- d. Buffering materials shall ensure that headlights of vehicles, noise, and light from Structures are adequately shielded from public view, Adjacent properties and pedestrian areas.
- e. Colors shall be subtle and harmonious with the Landscaping and nearby Buildings and Structures. Bright or brilliant colors shall be used for accent only.

f. All rooftops of buildings with flat roof decks, including parking garage roof decks, shall be designed to minimize negative appearances by screening Mechanical Equipment and Utility Hardware, and by minimizing the ponding of stormwater through use of drains and scuppers. Rooftops shall be designed to allow for the continued maintenance of the roof surface in an attractive manner in accordance with Section 21-324.

g. Mechanical Equipment and Utility Hardware on roofs, ground or buildings shall be screened from public view with materials harmonious with the building, or shall be located so as not to be visible from streets, Waterways, service alleys, and adjoining properties. Screening shall be of such material and color so that it matches or blends with the existing roof or portion above the top floor where it is installed. This provision shall not be interpreted to require screening of Mechanical Equipment and Utility Hardware from adjoining buildings that may exceed the height of the rooftop upon which the Mechanical Equipment or Utility Hardware is installed. In this instance, only screening to the maximum height of the equipment or hardware is required.

h. The choice of materials and their usage shall be conducive to regular maintenance and durability in accordance with Section 21-324.

(2) *Conditions.* The Board may recommend to the Village Manager or designee specific conditions to address potential incompatibility, to better address the applicable criteria, or other impacts to surrounding properties.

(3) *Additional Reviews.* The initial review by the Board is mandatory for each site plan application proposed. All subsequent reviews by the Board, should they be requested, are at the option of the applicant.

(4) *Response to ARB Review.* If the Board does not recommend approval of the site plan and the applicant elects not to pursue further review by the Board, the Board's position on the site plan and any comments discussed at the meeting shall be included within the staff report to the Village Manager (for an application for minor site plan approval) or the Village Council (for an application for major site plan approval), as applicable.

(e) *Staff Review of Site Plan Applications.* The Village Manager or designee shall review the application when complete and shall prepare a staff report to the Village Council (for an application for major site plan approval), or to the Architectural Review Board (for an application for minor site plan approval), as applicable, including (without limitation) an assessment of whether the review criteria of Section 21-322(d)(1) are met. The staff report shall include a recommendation for approval, approval with conditions, or denial of the site plan.

(f) *Village Council Determination of Major Site Plan Applications.* The Village Council shall consider the major site plan application at a public hearing that is noticed in the manner set forth in Section 21-52. The Village Council may approve, approve with conditions, defer or deny the application. In rendering its decision, the Village Council shall consider the Village Manager or designee's recommendation. Approval of the proposed application and intended use shall require a finding that the major site plan and intended use(s):

(1) Are designed and scaled to be compatible with and avoid depreciation of Adjacent properties and to minimize adverse impacts to Adjacent Development and the surrounding neighborhood by virtue of the proposal's nature, location, design, Building mass, intensity of use, or mitigation measures; and

(2) Will not create excessive noise, traffic, illumination or other adverse impacts; and

(3) Provide for safe, efficient, convenient and harmonious groupings of Structures, uses and facilities and for appropriate relationship of space inside and outside of Buildings to intended uses and to structural and architectural features within the site; and

(4) Uphold the basic intent and purpose of zoning and other land use regulations, observing the spirit of the regulations and assuring public safety and welfare, without tending to create a fire or other equally or more dangerous hazard or provoke the excessive overcrowding or concentration of people or population.

In connection with the approval of the application, the Village Council may impose reasonable limitations on the permissible uses, and conditions for Development and operation to ensure the compatibility of the uses with Adjacent Development(s) and the surrounding neighborhood and the mitigation of any adverse impacts from the proposed

Development. Such mitigation may include, without limitation, screening or buffering, landscaping, limitations on manner, scope, and extent of operation(s), changes in proposed construction, location or design of Buildings, relocation of proposed open space or alteration of use of such space, changes in traffic circulation or signalization, and any other matter reasonably calculated to address potential impacts to Adjacent Development and the surrounding neighborhood.

(g) *Extensions of Major Site Plan Approvals.* Failure to obtain a building permit within 18 months of the Village Council's approval of the application shall render the major site plan void, unless after good cause shown, an extension to this timeframe has been granted by the Village Council. The major site plan extension shall be advertised and noticed in the same manner as a major site plan application. The Village Council shall consider the Village Manager or designee's recommendation on the major site plan extension and render its decision after a public hearing.

(h) *Development Agreement.* As a condition of a major site plan application, a Development Agreement, or amendment to an existing Development Agreement, may be required in order to mitigate the impacts that the proposed Development will have on the Village. The Development Agreement shall provide for one or more of the following, as appropriate for the circumstances of the application: (1) the applicant's dedication of property and/or construction of facilities to mitigate its impacts upon the Village; (2) any deed restrictions, covenants, and bonded commitments that are necessary and acceptable to the Village to ensure timely completion of the Development according to the approved major site plan; (3) any new or continuing operational obligations and maintenance of areas, functions and facilities which are not proposed to be provided, operated or maintained at public expense; and (4) any other matter determined by the Village to be appropriate to mitigate impacts of Development. Unless otherwise specifically agreed to in the Development Agreement and otherwise approved by variance in the manner provided for in this Chapter 21, construction of all Structures shall comply with all provisions within the Village Code of Ordinances. If approved, the Development Agreement shall be recorded at the applicant's expense in the Miami-Dade County public records.



(i) Administrative Review and Design Criteria of Live Local Act Development.

(1) Definitions. For purposes of this subsection (i), the following terms are defined:

a. The Live Local Act or the Act means the Live Local Act of 2023, Chapter 2023-17, Laws of Florida, as it may be amended.

b. LLA Development means mixed use multifamily development pursuant to the Act. All components of the LLA Development shall be located on the same parcel or on one unified parcel.

(2) Intent. The Act requires that the Village allow LLA Development in the B Business District even though this district does not permit residential use. The Act further requires that the Village allow height, density, floor area ratio, and use inconsistent with the otherwise applicable requirements of the Code. LLA Development shall comply with all requirements of the Code for such development unless otherwise specified for LLA Development in the B Business District. The Village Manager shall review and approve a major site plan or major site plan amendment for LLA Development, if:

a. no further action by the Village is required (e.g., no variance, conditional use or other approval is required); and

b. the proposed development satisfies the land development regulations for multifamily developments in areas zoned for such use and is otherwise consistent with the comprehensive plan, with the exception of provisions establishing allowable densities, height, floor area ratio, and land use, in the manner further specified herein.

(3) Review Process. The review process shall assure that LLA Development satisfies all requirements of the Act, as well as the Village Comprehensive Plan and Code provisions that are not preempted by the Act for a major site plan, and all other applicable laws. LLA Development shall follow the minor site plan process, with review by the Administration of whether the LLA Development satisfies all requirements of law, including (without limitation) the review criteria of Section 21-322(d)(1) and other requirements for major site plan approval, a recommendation by the ARB, and administrative approval by the Village

Manager rather than approval by the Village Council. The Village Manager shall promulgate a policy containing procedures and expectations for administrative approval, and shall maintain it on the Village website.

(4) Density and height.

a. The maximum density of a residential component of an LLA Development is the highest currently allowed density on any land in the Village where residential development is allowed (55 dus/acre), or as otherwise provided by statute.

b. The maximum height of a residential component of an LLA Development shall be the highest currently allowed for a commercial or residential development within the Village and within 1 mile of the proposed development, or 3 stories, whichever is higher.

c. When determining "highest currently allowed density" or "highest currently allowed height," the following shall not be considered:

(i) an LLA Development;

(ii) a development that is not in compliance with the current zoning code (such as non-conforming structures); and

(iii) a development with increased height or increased density, if any, allowed as a bonus or incentive, or as a variance.

d. Any LLA development eligible for additional height, FAR, or density bonuses is permitted to utilize them.

(5) Standards for LLA Development Residential Components. LLA Development shall meet all requirements for major site plan approval. As LLA Development is the only type of development in the B Business District allowed to include residential uses in a mixed use project, the following additional standards are provided to assure that such residential development is equitable, is consistent with the quality of Village development, and avoids discrimination against any Village resident.

a. Required residential and non-residential uses.

(i) Residential uses. At least 65 percent of the total square footage of an LLA Development shall be used for residential purposes. Lobby, service areas, and amenity areas exclusively serving the residential uses of the LLA Development shall not be considered residential square footage. Common/shared ground floor lobby, service areas, and amenity areas shall be proportionately allocated to the residential and non-residential square footage requirements.

(ii) Non-residential uses. A maximum 35 percent of the total square footage of the LLA Development shall be devoted to main or principal (and not accessory) nonresidential uses. Retail or restaurant uses shall be located on the first 75 feet of the ground floor of any Building of the LLA Development facing Collins Avenue/Bal Harbour Boulevard and Harding Avenues or 96<sup>th</sup> Street.

b. Equivalency of affordable dwelling units.

(i) No segregation of units. Affordable dwelling units and market rate units within an LLA Development shall be located within the same Building or shall be proportionately distributed between multiple Buildings, if multiple Buildings are proposed. In no event shall an LLA Development Building's residential component consist entirely of market rate units.

(ii) Equal access to amenities. All common areas and amenities within an LLA Development shall be equally accessible and available to all residents (both affordable and market rate units).

(iii) Equal access to units. Access to the required affordable dwelling units in an LLA Development shall be provided through the same principal entrance(s) and with the same elevators/stairwells utilized by market rate dwelling units in the development. For townhouse-style affordable dwelling units, each unit shall have its own entrance.

(iv) Equal access to parking. Parking for affordable dwelling units shall be provided in the same manner, with the same level of convenience and proximity as parking for market rate units.

(v) Equal quality of construction and common areas. The design and construction of the affordable dwelling units and associated common areas shall be of the same quality as the design and construction of the market rate units and associated common areas.

(vi) Equal provision of a range of unit types. The number of each type of affordable dwelling unit provided in an LLA Development shall be approximately proportional to the number of each type of market rate unit in the LLA Development, with type determined by the number of bedrooms. For purposes of this subparagraph, "approximately proportional" shall mean that the percentage of each type of unit among the affordable dwelling units shall be within 5 percentage points of the percentage of each type of unit among the market rate dwelling units (e.g. if 25 percent of the market rate units are two-bedroom units, then between 20 percent and 30 percent of the affordable units shall also be two-bedroom units, etc., maintaining an approximately proportional distribution of affordable and market rate units and unit types within the LLA Development). If the 5 percent calculation results in less than a full unit, then the amount shall be rounded up and "approximately proportional" shall mean a difference of one unit.

d.c. Affordability commitment. Pursuant to the Act, at least 40 percent of the residential units within a proposed LLA Development shall be rental units and shall be "affordable" as defined in Section 420.0004, Florida Statutes, and shall remain affordable for a period of at least 30 years. This requirement shall be incorporated as a condition of any administrative approval of an LLA Development. Furthermore, as a prerequisite to the issuance of a building permit, the Owner shall execute and deliver to the Village for recordation in the public records, on a form approved by the Village Attorney, a deed restriction in favor of the Village ensuring compliance with, and enforcement of, this affordability requirement. Additionally, the property owner shall provide to the Village, each year on January 15, copies of all leases then in effect for the affordable units, together with such other documentation necessary to demonstrate that such leases meet the affordability criteria as set forth in Section 420.0004, Florida Statutes, and confirm that the occupants of the affordable units



meet the requirements of the income standards. The Village has the right to audit the evidence of compliance with Section 420.0004, Florida Statutes, at any time if warranted.

e.d. Tower articulation. To avoid large unbroken “boxy” massing appearances of taller Buildings and Parking Structures, the Village adopts the following required design criteria.

(i) Length of Building or Parking Structure. For Buildings or Parking Structures over 56 feet in height, the maximum overall length of any single Building or Parking Structure in a linear shape, with no breaks or angles greater than 15 degrees, shall not exceed 200 feet, as further regulated by the requirements provided below.

(ii) Breezeways. For purposes of this section, a “breezeway” is an open area that divides two buildings or structures, or parts of buildings or structures, that may be crossed by a path or bridge. A Building or Parking Structure may exceed 120 feet in length if breezeways divide such Building or Parking Structure, into parts not exceeding 120 feet in length. Such breezeways shall have a minimum unobstructed width of at least 20 feet for their entire length. Components of a Building(s) or Parking Structure(s) may be connected through bridges, which may have covers. The top floor bridge may be covered by the roof of the overall Building or Parking Structure.

(iii) Distance Between Buildings/Parking Structures. The minimum distance, unobstructed, between Buildings and Parking Structures on a lot, plot or parcel of land shall be 20 feet.

(iv) Alternative Design. Notwithstanding the above, the Village may modify the application of this tower articulation requirement in instances where enhanced architectural articulation and detailing is provided on

the Building or Parking Structure facade(s) to break the massing of the Building or Parking Structure.

\* \* \*

**Section 3. Village Code Amended - Chapter 21, Article V.** That Chapter 21 "Zoning," Article V "Off-Street Parking" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:

## **CHAPTER 21. - ZONING**

\* \* \*

### **ARTICLE V. - OFF-STREET PARKING.**

\* \* \*

#### **Sec. 21-381. - Generally.**

(a) Except as otherwise provided in this chapter, when any Building or Structure is erected or structurally altered, off-street parking spaces shall be provided in accordance with the regulations set out in this article.

(b) In the Ocean Front (OF) District, 100 percent of required parking spaces shall be contained in a fully enclosed Parking Structure.

(c) In all other zoning districts, off-street parking spaces may be located in surface parking facilities open to the sky, or within enclosed parking garages.

(d) For development pursuant to the Live Local Act in the B Business District, 100% of required parking spaces for residential uses shall be fully enclosed, designated for residential use only, and integrated into the Building containing the residential units served by that parking. Parking spaces serving any nonresidential uses in the Building open to the public shall be in accordance with the requirements of the B Business District. The Village Manager may, after consideration of the LLA Development application, reduce parking requirements for the proposed development if the development is located within one-quarter mile of and accessible to a transit stop.

#### **Sec. 21-382. - Interpretation of requirements.**

(a) *Alterations and change in use.* Whenever a Building, Structure or use is enlarged by the addition of floor area, number of units, employees, seating capacity or otherwise, which

creates a requirement for increased off-street parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(b) *Change in use.* When the use of any Structure or premises is changed, in total or part, to a different use, parking spaces shall be provided on the basis of the change in use.

(c) *Mixed uses.* In the case of mixed uses within a Building or Structure, the parking spaces required shall equal the sum of the requirements of the various uses computed separately, unless otherwise approved by the Village Council, based on a traffic study, or parking study or both submitted by the applicant meeting the technical specifications required by the Village Manager. For development pursuant to the Live Local Act in the B Business District, the Village Manager shall require the same studies and may approve any parking variations based on the internalization of uses or sharing of parking based on his reasonable determination of whether the study findings are professionally acceptable.

\* \* \*

(m) *Tandem parking.* Tandem parking is a parking layout in which one or more automobiles must be moved in order to retrieve another automobile. Where tandem parking is employed, full-time parking attendants are required, and no self-parking shall be permitted, and tandem parking must not be more than two stalls in depth. The restrictions of this paragraph, requiring parking attendants and prohibiting self-parking, shall not apply if the tandem parking spaces which restrict access to one another are assigned to the same occupancy or dwelling unit, in accordance with a restrictive covenant filed in the official records of Miami-Dade County, Florida, and approved as to legal form and sufficiency by the Village Attorney. Where tandem parking is employed in a Special Business Improvement District, spaces shall not be limited to a two-stall depth but shall meet all other requirements for the Special Business Improvement Area. However, if residential uses are provided pursuant to the Live Local Act, tandem stalls shall not be used for the parking constructed to serve the residential components since tandem parking is not allowed for any residential uses.

\* \* \*

(q) *Special Business Improvement Area.* These provisions shall supersede any other provisions in this section which may be in conflict, except as provided for herein.

(1) *Number of spaces.*

a. *Permanent Parking Ratio.* 2.1 permanent parking spaces for each 1,000 square feet of 90 percent of gross floor area. For residential development proposed under the Live Local Act, the off-street parking requirements for Multiple-Family residential uses in Section 21-384(2) of the OF Oceanfront District shall apply to the parking constructed to serve the residential components. The flex parking ratio and the potential reductions in parking ratios in b. and c. below shall not apply to such residential development, but will apply to the nonresidential uses.

b. *Flex Parking Ratio.* Recognizing the seasonal nature of population, tourism, business activity and parking demand in the Village of Bal Harbour, parking plans whereby spaces designed and normally used for self-parking may be converted to valet parking layout and operations to increase the parking ratio to 2.9 parking spaces for each 1,000 square feet of 90 percent of the gross floor area and higher. The capacity of the parking facility in the valet parking layout shall be used in determining the adequacy of the parking supply. The valet layout need not be striped or have bumper guards or wheel stops. In the event the property owner intends to utilize flex parking for more than six continuous months, the property owner shall provide written notice to the Village Manager of the scope of its intended use.

c. *Reductions in Permanent and Flex Parking Ratios.* The permanent parking ratio may be reduced below 2.1 but no lower than 1.8 permanent parking spaces, and the flex parking ratio may be reduced below 2.9 but no lower than 2.3 flex parking spaces, upon presentation of a professionally acceptable parking report by a parking expert demonstrating that over the immediate prior twenty-four consecutive months, parking utilization in the facility remained below the proposed reductions in the permanent and flex parking ratios 85 percent of the time. The analysis of the permanent parking ratio shall exclude peak season (peak season is defined as November 1 to April 1, excluding the week of Thanksgiving, December 16 to January 2, and the week of Art Basel).

\* \* \*



(6) *Minimum dimensions.* Parking layouts shall conform to the minimum requirements of this section. For any residential development proposed under the Live Local Act, the minimum parking lot design criteria listed in Section 21-385(a)-(p) for Multiple-Family residential uses shall apply to the parking constructed to serve the residential components.

\* \* \*

(8) *Mechanical Parking:* Mechanical parking, including mechanical lifts and stackers, shall be permitted and shall count towards permanent or flex parking ratios. Mechanical parking may not be placed in surface parking lots located along Collins Avenue or 96th Street. Mechanical parking structures shall not be interpreted to be structures as defined by this Chapter, and shall be subject to the screening requirements of Section 21-386. For any residential development proposed under the Live Local Act, mechanical parking facilities are prohibited for the parking constructed to serve the residential components to assist in reduced construction costs, living costs, and safety concerns for those residents.

\* \* \*

**Section 4. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6. Conflict.** That all Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 7. Effective Date.** That this Ordinance shall become effective upon adoption on second reading. This Ordinance shall apply only to building permits for which a process number is issued after the effective date of this Ordinance.

PASSED AND ADOPTED on first reading this 27<sup>th</sup> day of March, 2024.

PASSED AND ADOPTED on second reading this 9<sup>th</sup> day of April, 2024.



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Mayor Jeffrey P. Freimark

ATTEST:

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Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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Village Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.

## **NOTICE OF LOCAL PLANNING AGENCY HEARING** **AND REGULAR VILLAGE COUNCIL MEETING** **FOR SECOND READING ZONING ORDINANCES**

**NOTICE IS HEREBY GIVEN** that public hearings will be held by the Bal Harbour Village Council, sitting in its capacity as the **LOCAL PLANNING AGENCY** and **BAL HARBOUR VILLAGE COUNCIL**, **Tuesday, April 9, 2024, at 6:30 p.m.** or soon thereafter. The in-person hearings will be conducted at **Bal Harbour Village Hall, Bal Harbour, FL 33154 in the Council Chamber**. The purpose of the Local Planning Agency hearings is to consider and make recommendations to the Village Council on the following ordinances, after which, the **BAL HARBOUR VILLAGE COUNCIL** will meet to consider adopting the same following ordinances on second reading.

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Public Comments may be submitted by telephone at 305-865-6449 or emailed to [meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov) before and during the meeting. The proposed ordinances may be inspected by the public at the Village Clerk's Office, 655 - 96<sup>th</sup> Street, Bal Harbour, Florida 33154, or online at [www.balharbourfl.gov](http://www.balharbourfl.gov) under the heading "Council Meeting Information".

All persons who are disabled and who need special accommodations to participate in this proceeding should contact the Village Clerk's Office (305.866.4633) not later than two business days before such proceeding (Americans with Disabilities Act of 1990).

If a person decides to appeal any decision made by the Village Council, to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).







# BAL HARBOUR

- V I L L A G E -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES. (SECOND READING)**

### Issue:

Shall the Village Council amend Chapter 11 "Nuisance," Article II "Noise" of the Code to align the regulations for the B District with the rest of the Village to address quality of life concerns?

### The Bal Harbour Experience:

Beautiful Environment     Safety     Modernized Public Facilities/Infrastructure  
 Destination & Amenities     Unique & Elegant     Resiliency & Sustainable Community

### Item Summary / Recommendation:

On December 18, 2018, at the Regular Council Meeting, the Village Council approved amendments to Section 11-32 which regulates construction noise in the Business District.

On June 20, 2023, the Village Council approved amendments to Chapter 11 of the Village Code, which regulates nuisances such as construction noises, and prohibited exterior construction noises on Saturdays. Additionally, the proposed amendments only applied to the residential areas of the Village. The regulation of these activities in the "B" Business District listed in Section 11-32 of the Village Code were not affected by these amendments.

The proposed amendments to Section 11-32 of the Village Code seek to bring the Business District into alignment with the rest of the Village. This action is based on feedback from the community, who have expressed a desire not to have construction noise during the weekends or during hours which affect the overall quality of life. This is also more relevant to the Business District now, as the construction activity associated with the Bal Harbour Shops expansion has shifted from 96<sup>th</sup> Street to the north in much closer proximity to the residential community. The proposed amendments for the Business District seek to bring the noise regulations in line with the rest of the Village. The desire is to provide a respite from noisy work, which affects the overall quality of life for residents.

#### **Actions Since March 5, 2024, Council Meeting**

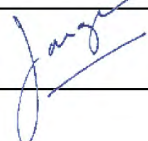
On March 5, 2024, at the Regular Village Council Meeting the Council adopted this Ordinance by a vote of 5-0. It has been alleged that this Ordinance had not been properly noticed. Therefore, in an abundance of caution and to ameliorate any concerns about the noticing, this Ordinance is being presented to the Village Council for approval on First Reading again.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024 Council Meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE ON SECOND READING.**

### Sign off:

Director Title	Chief of Police	Village Manager
Director Name	Raleigh M. Flowers, Jr.	Jorge M. Gonzalez

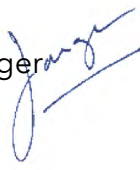


# BAL HARBOUR

- V I L L A G E -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE. (SECOND READING)**

### **ADMINISTRATIVE RECOMMENDATION**

I am recommending approval of this Ordinance on Second Reading.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024 council meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.

### **ACTIONS SINCE MARCH 5, 2024 COUNCIL MEETING**

On March 5, 2024, at the Regular Village Council Meeting the Council adopted this Ordinance by a vote of 5-0. The Council also provided for a courtesy period for implementation of these amendments to be in effect until June 1, 2024. It has been alleged that this Ordinance had not been properly noticed. Therefore, in an abundance of caution and to ameliorate any concerns about the noticing, this Ordinance is being presented to the Village Council for approval on First Reading again.

### **BACKGROUND**

On June 20, 2017, at the Regular Village Council meeting, the Village Council approved an amendment to the Code of Ordinances by adopting regulations for construction noise in the Business District. This initial ordinance placed the onus strictly on the property owner for all violations related to construction noise. The ordinance provided for specific decibel levels and times during which construction noise is prohibited. However, the ordinance also allows for construction activities that occur "completely within the exterior walls of a building" to occur within those prohibited times as long as the activities do not exceed 55 decibels. This allows construction noise to occur continuously.

On December 18, 2018, at the Regular Council Meeting, the Village Council approved amendments to Section 11-32 which regulates construction noise in the Business District. The amendments are highlighted in the bullets below:

- Created relevant definitions.
  - The amendment created definitions so that regulatory distinctions can be drawn between the property owner, the Permit Applicant, and the Violator.
  - The Permit Applicant is defined as the person who hired or will serve as the contractor or company to perform the construction activities.
  - The Violator is the general contractor, subcontractor, company, or person performing the construction activities in violation of the provisions of the noise ordinance.
- Provided for mitigation to address community complaints through coordination of meetings between the owner and the affected residents. The Village Manager may also impose reasonable conditions or request further noise mitigation. The owner may appeal to the Village Manager's imposed conditions or noise mitigation requests to the Village Council.
  - The amendment added the Permit Applicant and/or Violator to the meeting process as well, and to allow the Owner's representative to attend.
- Established a procedure for applicants to request permission from the Village Manager to exceed the permitted decibel levels after demonstrating a need.

At the Village Council Retreat last year, the Village Council expressed concerns about construction noises being a nuisance on Saturdays. These concerns were shared with the Council by their constituents, and they are reflective of the impact of construction noise on the everyday lives of residents. The Council provided direction to explore amending the current ordinance which allows for exterior construction from Monday through Saturday from 8:30 a.m. through 5:30 p.m., excluding certain holidays. The work being conducted on Saturdays, while permitted by the code, was still affecting the overall quality of life for residents who generally utilize the weekend to enjoy time with their families and for religious observances. The desire to provide a respite from noisy work was addressed through the following amendments to the Village Council.

On June 20, 2023, the Village Council approved amendments to Chapter 11 of the Village Code, which regulates nuisances such as construction noises, and prohibited exterior construction noises on Saturdays. The approved amendment allowed for landscaping work and activities of similar intensity to landscaping to continue to occur on Saturdays. Additionally, the proposed amendments only applied to the residential areas of the Village. The regulation of these activities in the "B" Business District listed in Section 11-32 of the Village Code were not affected by these amendments.

Unfortunately, this created an inconsistent and ambiguous condition. In addition, the concern about construction noise on Saturdays remains partially unresolved. The

proposed amendments to Section 11-32 of the Village Code seek to bring the Business District into alignment with the rest of the Village. This action is based on feedback from the community, who have expressed a desire not to have construction noise during the weekends or during hours which affect the overall quality of life. This is also more relevant to the Business District now, as the construction activity associated with the Bal Harbour Shops expansion has shifted from 96<sup>th</sup> Street to the north in much closer proximity to the residential community. As a result, the Village has recently received complaints associated with construction noise from the community. Moreover, as we strive to provide an enhanced quality of life for all residents during the weekend, the utilization of two different construction noise standards throughout the Village makes the attainment of this goal untenable and hard to manage.

On February 20, 2024, the Village Council considered the proposed amendments at the Regular Council meeting. The proposed amendments were passed on First Reading by a vote of 5-0. As part of the public comment associated with this item, a suggestion was made to further amend this code to prohibit construction noise on all federal holidays, as opposed to the seven (7) federal holidays currently prohibited, in addition to Good Friday, Yom Kippur, and Rosh Hashanah. Currently, there are a total of ten (10) holidays outlined in the code on which construction noise is restricted.

On March 5, 2024, at the Regular Village Council Meeting the Council considered this Ordinance and adopted it by a vote of 5-0. The Council also provided for a courtesy period for implementation of these amendments to be in effect until June 1, 2024.

### **ANALYSIS**

Section 11-32, as adopted, deems violations as irreparable in nature as a matter of law, delineates enhanced enforcement penalties within the Business District, and incorporates procedures and standards to address any violation.

The proposed amendments to Section 11-32 are as follows:

The first amendment updates the prohibited hours of construction to eliminate work currently allowed on Saturdays and provide for an end time of 9 p.m. for activities that occur completely within the exterior walls of a building. The 9 p.m. time is consistent with the hours allowed for interior work for the rest of the Village. The amendments do not seek to alter the allowable decibel levels for the Business District.

(b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:

- (1) *Prohibited Hours of Construction:* Construction Noise is prohibited from 6:00 p.m. ~~Friday~~ ~~Saturday~~ through 8:30 a.m. Monday, and all day on federally recognized holidays, ~~New Year's Day~~, ~~Independence Day~~, ~~Labor Day~~, ~~Thanksgiving Day~~, ~~Memorial Day~~, ~~Veteran's Day~~, Good Friday, Yom Kippur, and Rosh Hashanah, and ~~Christmas Day~~. Construction activities that occur completely within the exterior walls of a Building may occur ~~within the prohibited hours of~~



~~construction from 6:00 p.m. through 9:00 p.m. Monday through Friday, so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.~~

- (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
  - a. *Night:* ~~55 decibels for all hours outside of those defined as Day in subsection b. from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday, and~~
  - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, ~~and from 10:00 a.m. to 4:00 p.m. Saturday.~~

The second proposed amendment pertains to the enforcement section of this code. The amendment does not seek to change the schedule of civil penalties within the Business District. The amendment does add the Property Owner to every step of the civil penalties. The Code currently only provides for the Violator and Permit Applicant to be cited and only provides for the Property Owner to have a penalty imposed after continued or recurring violations. The addition of the Property Owner to the violation is consistent with how noise violations are handled throughout the rest of the Village. This provides for a mechanism through which the Village may assess liens if penalties are not complied. This amendment also increases the amount of time needed for the civil penalties to reset for recurring violations from six (6) months to twelve (12) months.

(e) *Enforcement.* This section shall be enforced by the Village Manager in accordance with the following procedures and standards. The Village finds that Construction Noise violations are irreparable or irreversible in nature as a matter of law, and the penalties for such violations are established as follows in accordance with F.S. § 162.09(2).

(1) *Verbal warning.* If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the Violator, Permit Applicant, and Property Owner requiring immediate correction of the violation.

(2) *Civil penalties.*

a. *First citation.* If the violation is not corrected immediately after issuance of the verbal warning, the Village Manager shall issue a citation requiring immediate correction of the violation, shall impose fines in the amount of \$500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~

b. *Second citation.* If the violation is not corrected immediately after issuance of the first citation, or the violation recurs within a 60-day period, the Village Manager shall issue a second citation requiring immediate correction of the violation, shall impose fines in the amount of \$1,000.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~

- c. *Third citation.* If the violation is not corrected immediately after issuance of the second citation, or the violation recurs within a 60-day period, the Village Manager shall issue a third citation requiring immediate correction of the violation, shall impose fines in the amount of \$2,500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
  - d. *Continuing or recurring violations.* In the event that the violation continues after or recurs within 60 days of issuance of the third citation, the Village Manager ~~shall revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for seven consecutive days, and may impose an additional penalty of \$5,000.00 against both the Violator, and Permit Applicant, and Property Owner. The Village Manager may revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for periods of time in excess of seven consecutive days, in the event that the Violator or Permit Applicant has more than three violations in a six-month period of time and the Violator or Permit Applicant has failed to address and resolve the violations.~~ In such event, the Village Manager may also impose a penalty of \$5,000.00 against the Property Owner if the Property Owner is not the Permit Applicant.
  - e. *Future violations.* If no other violation occurs for ~~six~~ twelve consecutive months after a violation is complied, the enforcement procedures of this subsection shall reset as to all parties and any future violations will again result first in a verbal warning, followed by the escalating progression of citations and penalties as set forth in subsections a–e.
- (3) *Criminal penalties.* In addition to or in lieu of the civil penalties set forth above, with respect to any of the provisions of this section, the Violator may be arrested and punished by imprisonment in the county jail for a period not to exceed 60 days.

The third amendment allows for noises associated with landscaping to continue as is allowed in the residential districts of the Village.

(3) The regulations of this subsection shall not be interpreted to apply to noise arising from landscaping activities.

The fourth and final amendment changes the holidays on which construction noise is prohibited from specific holidays to federally recognized holidays. This change adds Martin Luther King, Jr. Day, Presidents Day, Juneteenth Independence Day, and Columbus Day to the holidays which are already restricted in the code. Good Friday, Yom Kippur, and Rosh Hashanah would remain as days on which construction noise is prohibited. This change would increase the number of total holidays on which

construction noise is prohibited from ten (10) to fourteen (14). A change of this nature would be applied to all zoning districts within the Village.

These changes could be accomplished as follows:

**Sec. 11-31. - Certain Noises restricted to specified hours.**

(a) *Regulated Noises.* Noises, other than those enumerated in section 11-29 because of their nature and characteristics, shall be grouped as follows for the purpose of control and restriction:

\* \* \*

(b) *Prohibited Times.*

(1) The Noises set forth in subsection (a)(1) of this section are hereby prohibited at any location and at any hour on Saturdays and Sundays and on federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day~~, Good Friday, Yom Kippur, and Rosh Hashanah, and on Mondays through Fridays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d) and (e) of this section.

(2) The Noises set forth in subsection (a)(2) of this section are hereby prohibited at any location and at any hour on Sundays and on federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day~~, Good Friday, Yom Kippur, and Rosh Hashanah, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d) and (e) of this section.

\* \* \*

**Sec. 11-32. Construction Noise in the "B" Business District.**

\* \* \*

(b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:

(1) *Prohibited Hours of Construction:* Construction Noise is prohibited from ~~6~~4:00 p.m. ~~Friday~~ ~~Saturday~~ through 8:30 a.m. Monday, and all day on federally recognized holidays, ~~New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day~~, Good Friday, Yom Kippur, and Rosh Hashanah, ~~and Christmas Day~~. Construction activities that occur completely within the exterior walls of a Building may occur ~~within the prohibited hours of construction from 6:00 pm. through 9:00 p.m. Monday through Friday~~, so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.

- (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
- a. *Night:* 55 decibels for all hours outside of those defined as Day in subsection b. from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday, and
  - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, and from 10:00 a.m. to 4:00 p.m. Saturday.

The Council may also wish to consider providing for a courtesy period for the implementation of these amendments to the code upon approval at Second Reading. The elimination of currently available workdays may affect the timeline and scheduling of certain projects and vendors. The additional time provided for implementation would afford these owners and vendors the ability to adjust their project accordingly.

The Council provided direction at the June 20, 2023, Council Meeting regarding the changes to the code which prohibited construction noise on Saturdays. In that instance there was a courtesy period which ran from the approval of the amendments on Second Reading on June 20, 2023, through August 31, 2023. This provided for seventy-two (72) days to allow for education on the new changes and to give time for the vendors to adjust their projects accordingly.

At the March 5, 2024 Village Council meeting the Council provided direction to have enforcement of this Ordinance begin on June 1, 2024.

Additionally, these amendments to restrict construction noise on federal holidays, necessitate amending Section 19-7 of the Village Code which regulates parking of commercial vehicles. The amendment to Section 19-7 would bring all the restricted holidays into alignment and would be presented for the Council's consideration on First Reading at the April 9, 2024 Village Council meeting.

### **THE BAL HARBOUR EXPERIENCE**

The approval of these amendments would meet *The Bal Harbour Experience* by enhancing *the Beautiful Environment of the Village* by allowing for additional days during which noisy work is restricted, thereby increasing the quality of life.

### **CONCLUSION**

The proposed amendments were already adopted by Village Council action for the residential districts on June 20, 2023. The proposed amendments for the Business District seek to bring the noise regulations in line with the rest of the Village. The desire is to provide a respite from noisy work, which affects the overall quality of life for residents.



The Administration recommends the approval of the Ordinance on Second Reading. We will follow the Council's direction concerning the rollout of enforcement of these new requirements.

The Village Council unanimously approved the proposed Ordinance on First Reading at the March 27, 2024 council meeting. It is recommended that the proposed Ordinance be approved on Second Reading following consideration of the recommendation of the Local Planning Agency on April 9, 2024.

**ORDINANCE NO. 2024\_\_\_\_**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village Council of Bal Harbour Village ("Village") seeks to amend regulations related to certain noises on in the "B" Business district; and

**WHEREAS**, with the transition of construction activity from the 96<sup>th</sup> Street parking garage to the north, the noise impacts of construction are now much closer to the neighboring single family residential neighborhood to the north for the first time, and the Village has received an increase in noise complaints related to this construction; and

**WHEREAS**, in 2023, the Village amended the noise regulations applicable everywhere other than the B Business District to prohibit construction noise on Saturdays, and the Village desires to bring the noise regulations in the B Business District into alignment with those of the rest of the Village; and

**WHEREAS**, the Village further seeks to more closely align the process for enforcement of noise requirements with that followed in the remainder of the Village; and

**WHEREAS**, based on feedback received following first reading of this Ordinance, the Village Council desires to expand the holidays on which construction noise is prohibited throughout the Village to include all federally recognized holidays along with those already listed in the Code; and

**WHEREAS**, the Village finds that these changes will improve the quality of life for its residents and further the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Village Code Amended - Chapter 11.** That Chapter 11 "Nuisances", Article II "Noise" of the Code of Bal Harbour Village, Florida, is hereby

amended to read as follows:<sup>1</sup>

## CHAPTER 11 - NUISANCES

\* \* \*

### ARTICLE II. - NOISE

#### Sec. 11-31. - Certain Noises restricted to specified hours.

(a) *Regulated Noises.* Noises, other than those enumerated in section 11-29 because of their nature and characteristics, shall be grouped as follows for the purpose of control and restriction:

\* \* \*

(b) *Prohibited Times.*

(1) The Noises set forth in subsection (a)(1) of this section are hereby prohibited at any location and at any hour on Saturdays and Sundays and on federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day,~~ Good Friday, Yom Kippur, and Rosh Hashanah, and on Mondays through Fridays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d) and (e) of this section.

(2) The Noises set forth in subsection (a)(2) of this section are hereby prohibited at any location and at any hour on Sundays and on federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day,~~ Good Friday, Yom Kippur, and Rosh Hashanah, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d) and (e) of this section.

\* \* \*

#### Sec. 11-32. Construction Noise in the "B" Business District.

(a) *Definitions.* For the purposes of this section, the following terms will have the following prescribed meaning unless the context indicates otherwise:

(1) *Permit Applicant* means the person who hired or will serve as the contractor or company to perform the construction activities.

---

<sup>1</sup> Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikethrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double strikethrough~~ font.

- (2) *Noise Receptor Site* means a Lot which is the recipient of Construction Noise emanating from outside of the Lot's property line or, in the event that the Lot is part of an approved site plan, outside of the boundary of the site plan, regardless of whether that Lot is located in the Village.
  - (3) *Permitted Decibel Level* means the maximum decibel level permitted for Construction Noise.
  - (4) *Violator* means the general contractor, subcontractor, company, or person performing the construction activities in violation of the provisions of this Section.
- (b) *Regulations.* Construction Noise in the "B" Business District shall conform to the following regulations:
- (1) *Prohibited Hours of Construction:* Construction Noise is prohibited from ~~6:00 p.m. Friday Saturday~~ through 8:30 a.m. Monday, and all day on federally recognized holidays, New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, and Rosh Hashanah, and Christmas Day. Construction activities that occur completely within the exterior walls of a Building may occur ~~within the prohibited hours of construction~~ from 6:00 pm. through 9:00 p.m. Monday through Friday, so long as Construction Noise does not exceed 55 decibels when measured from a Noise Receptor Site.
  - (2) *Permitted Decibel Levels:* The Permitted Decibel Level of Construction Noise shall not exceed the following limits during the specified times, when measured from a Noise Receptor Site:
    - a. *Night:* 55 decibels for all hours outside of those defined as Day in subsection b. from 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday, and
    - b. *Day:* 80 decibels from 8:30 a.m. to 6:00 p.m., Monday through Friday, ~~and from 10:00 a.m. to 4:00 p.m. Saturday.~~
  - (3) The regulations of this subsection shall not be interpreted to apply to noise arising from landscaping activities.

\* \* \*

- (e) *Enforcement.* This section shall be enforced by the Village Manager in accordance with the following procedures and standards. The Village finds that Construction Noise violations are irreparable or irreversible in nature as a matter of law, and the penalties for such violations are established as follows in accordance with F.S. § 162.09(2).
- (1) *Verbal warning.* If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the Violator, Permit Applicant, and Property Owner requiring immediate correction of the violation.
  - (2) *Civil penalties.*
    - a. *First citation.* If the violation is not corrected immediately after issuance of the



- verbal warning, the Village Manager shall issue a citation requiring immediate correction of the violation, shall impose fines in the amount of \$500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
- b. *Second citation.* If the violation is not corrected immediately after issuance of the first citation, or the violation recurs within a 60-day period, the Village Manager shall issue a second citation requiring immediate correction of the violation, shall impose fines in the amount of \$1,000.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
  - c. *Third citation.* If the violation is not corrected immediately after issuance of the second citation, or the violation recurs within a 60-day period, the Village Manger shall issue a third citation requiring immediate correction of the violation, shall impose fines in the amount of \$2,500.00 against ~~both the Violator, and Permit Applicant, and shall notify the Property Owner of the violation.~~
  - d. *Continuing or recurring violations.* In the event that the violation continues after or recurs within 60 days of issuance of the third citation, the Village Manager shall ~~revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for seven consecutive days, and may impose an additional penalty of \$5,000.00 against both the Violator, and Permit Applicant, and Property Owner. The Village Manager may revoke the ability of both the Violator and Permit Applicant to make any Construction Noise between 6:00 p.m. Monday through Thursday to 8:30 a.m. the following day, and from 6:00 p.m. Friday to 10:00 a.m. Saturday for periods of time in excess of seven consecutive days, in the event that the Violator or Permit Applicant has more than three violations in a six-month period of time and the Violator or Permit Applicant has failed to address and resolve the violations.~~ In such event, the Village Manager may also impose a penalty of \$5,000.00 against the Property Owner if the Property Owner is not the Permit Applicant.
  - e. *Future violations.* If no other violation occurs for ~~six~~ twelve consecutive months after a violation is complied, the enforcement procedures of this subsection shall reset as to all parties and any future violations will again result first in a verbal warning, followed by the escalating progression of citations and penalties as set forth in subsections a–e.
- (3) *Criminal penalties.* In addition to or in lieu of the civil penalties set forth above, with respect to any of the provisions of this section, the Violator may be arrested and punished by imprisonment in the county jail for a period not to exceed 60 days.

\* \* \*

**Section 3. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any

reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Conflict.** That all Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 27<sup>th</sup> day of March, 2024.

PASSED AND ADOPTED on second reading this 9<sup>th</sup> day of April, 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.

## **NOTICE OF LOCAL PLANNING AGENCY HEARING** **AND REGULAR VILLAGE COUNCIL MEETING** **FOR SECOND READING ZONING ORDINANCES**

**NOTICE IS HEREBY GIVEN** that public hearings will be held by the Bal Harbour Village Council, sitting in its capacity as the **LOCAL PLANNING AGENCY** and **BAL HARBOUR VILLAGE COUNCIL**, **Tuesday, April 9, 2024, at 6:30 p.m.** or soon thereafter. The in-person hearings will be conducted at **Bal Harbour Village Hall, Bal Harbour, FL 33154 in the Council Chamber**. The purpose of the Local Planning Agency hearings is to consider and make recommendations to the Village Council on the following ordinances, after which, the **BAL HARBOUR VILLAGE COUNCIL** will meet to consider adopting the same following ordinances on second reading.

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 21 "ZONING," OF THE CODE OF ORDINANCES TO ESTABLISH PROCEDURES AND REGULATIONS TO IMPLEMENT SECTION 166.04151(7), FLORIDA STATUTES, AS CREATED BY CHAPTER 2023-17, LAWS OF FLORIDA (THE LIVE LOCAL ACT OF 2023) FOR DEVELOPMENT OF STATUTORILY AUTHORIZED MIXED-USE RESIDENTIAL DEVELOPMENT INCLUDING AFFORDABLE HOUSING; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, EXPIRATION, AND FOR AN EFFECTIVE DATE.

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 11 "NUISANCES," ARTICLE II "NOISE" OF THE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Public Comments may be submitted by telephone at 305-865-6449 or emailed to [meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov) before and during the meeting. The proposed ordinances may be inspected by the public at the Village Clerk's Office, 655 - 96<sup>th</sup> Street, Bal Harbour, Florida 33154, or online at [www.balharbourfl.gov](http://www.balharbourfl.gov) under the heading "Council Meeting Information".

All persons who are disabled and who need special accommodations to participate in this proceeding should contact the Village Clerk's Office (305.866.4633) not later than two business days before such proceeding (Americans with Disabilities Act of 1990).

If a person decides to appeal any decision made by the Village Council, to any matter considered at a meeting or hearing, that person will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).







# BAL HARBOUR

- V I L L A G E -

## COUNCIL ITEM SUMMARY

### Condensed Title:

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE I "IN GENERAL", "SECTION 19-7 "PARKING OF COMMERCIAL VEHICLES AND VEHICLES DISPLAYING SIGNAGE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE. (FIRST READING)

### Issue:

Should the Village Council amend Section 19-7 of the Village Code to restrict parking of commercial vehicles on all federally recognized holidays?

### The Bal Harbour Experience:

Beautiful Environment     Safety     Modernized Public Facilities/Infrastructure  
 Destination & Amenities     Unique & Elegant     Resiliency & Sustainable Community  
 Other: \_\_\_\_\_

### Item Summary / Recommendation:

The Village Council recently considered and adopted revisions to Sections 11-31 and 11-32 which regulate construction noise within the Village. These revisions included an amendment to restrict construction noise on all federally recognized holidays as opposed to the specific holidays listed in the code. This change to the restricted holidays necessitates amending Section 19-7 of the Village Code which regulates the parking of commercial vehicles. The amendment to Section 19-7 would bring all the restricted holidays into alignment with the amended noise regulations.

A change of this nature would add Martin Luther King, Jr. Day, Presidents Day, Juneteenth Independence Day, and Columbus Day to the holidays which are already restricted in the code. Good Friday, Yom Kippur, and Rosh Hashanah would remain as days on which parking of commercial vehicles is prohibited. This change would increase the number of total holidays on which parking of commercial vehicles is prohibited from ten (10) to fourteen (14).

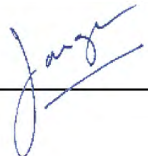
**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.**

### Financial Information:

	Amount	Account	Account #
	X	X	X

### Sign off:

	Chief of Police Raleigh Flowers, Jr.	Village Manager Jorge M. Gonzalez
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# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE I "IN GENERAL", "SECTION 19-7 "PARKING OF COMMERCIAL VEHICLES AND VEHICLES DISPLAYING SIGNAGE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE. (FIRST READING)**

### ADMINISTRATIVE RECOMMENDATION

I am recommending approval of this Ordinance on First Reading.

### BACKGROUND

The Village Council recently considered and adopted revisions to Sections 11-31 and 11-32 which regulate construction noise within the Village. These revisions included an amendment to restrict construction noise on all federally recognized holidays as opposed to the specific holidays listed in the code. This change to the restricted holidays necessitates amending Section 19-7 of the Village Code which regulates the parking of commercial vehicles. The amendment to Section 19-7 would bring all the restricted holidays into alignment with the amended noise regulations.

### ANALYSIS

A change of this nature would add Martin Luther King, Jr. Day, Presidents Day, Juneteenth Independence Day, and Columbus Day to the holidays which are already restricted in the code. Good Friday, Yom Kippur, and Rosh Hashanah would remain as days on which parking of commercial vehicles is prohibited. This change would increase the number of total holidays on which parking of commercial vehicles is prohibited from ten (10) to fourteen (14).

The proposed amendment is as follows:

#### **Sec. 19-7. - Parking of commercial vehicles and vehicles displaying signage.**

(a) It shall be unlawful for any person to park any truck, tractor, or commercial vehicle, or any personal vehicle displaying signage, in any residential district of the Village between the hours of 9:00 p.m. and 8:30 a.m. Monday through Saturday and at any time on Sunday, federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day,~~

~~Veteran's Day~~, Good Friday, Yom Kippur, and Rosh Hashanah, unless fully enclosed in a garage or other structure or completely screened from public view by landscaping.

(b) The prohibition contained in subsection (a) shall not apply to:

(1) To a truck or van belonging to a resident of the location where it is parked so long as the truck or van does not display any signage;

(2) To a vehicle responding to an emergency, including but not limited to issues involving the essential systems of residences such as electric, plumbing and HVAC;

(3) To a vehicle delivering goods or personal services to a property. However, this subsection shall not be interpreted to allow:

(i) Delivery of bulk materials, supplies, or equipment and construction, maintenance or landscaping activity, when such delivery or activity is not related to an emergency; and

(ii) Delivery of party goods and supplies.

The proposed amendment only seeks to change the section of this code which relates to restricted holidays. The remaining provisions of the code would remain unchanged. Additionally, the Council provided direction to establish a courtesy period for the noise regulations from adoption of the Ordinance through June 1, 2024. It is the Administration's recommendation that the same courtesy period be established for this Ordinance.

### **THE BAL HARBOUR EXPERIENCE**

The approval of these amendments would meet *The Bal Harbour Experience* by enhancing *the Beautiful Environment of the Village* by aligning the holidays during which noisy work and parking of commercial vehicles is restricted, thereby increasing the quality of life.

### **CONCLUSION**

The proposed amendment does not seek to change activities which are currently regulated in Section 19-7 which addresses the parking of commercial vehicles. However, the proposed changes do seek to bring into alignment the holidays during which the parking of commercial vehicles and construction noises are restricted. Therefore, it is recommended that the proposed amendment to this Ordinance be approved on First Reading.

ORDINANCE NO. 2024\_\_\_\_

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA AMENDING CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE I "IN GENERAL", "SECTION 19-7 "PARKING OF COMMERCIAL VEHICLES AND VEHICLES DISPLAYING SIGNAGE" OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of Bal Harbour Village ("Village") seeks to amend regulations related to parking of commercial vehicles, in light of recent revisions to the noise regulations related to construction in the Village; and

WHEREAS, the Village finds that these changes will improve the quality of life for its residents and further the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Village Code Amended - Chapter 19.** That Chapter 19 "Traffic and Motor Vehicles", Article I "In General" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:<sup>1</sup>

**Chapter 19 - TRAFFIC AND MOTOR VEHICLES**

**ARTICLE I. - IN GENERAL**

\* \* \*

**Sec. 19-7. - Parking of commercial vehicles and vehicles displaying signage.**

(a) It shall be unlawful for any person to park any truck, tractor, or commercial vehicle, or any personal vehicle displaying signage, in any residential district of the Village between the hours of 9:00 p.m. and 8:30 a.m. Monday through Saturday and at any time on Sunday,

<sup>1</sup> Additions to existing Village Code text are shown by underline; deletions from existing Village Code text are shown by ~~strikethrough~~. Any changes between first and second reading are shown by highlighted double underline and ~~double strikethrough~~ font.



federally recognized holidays, ~~New Year's Day, Christmas Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, and Rosh Hashanah~~, unless fully enclosed in a garage or other structure or completely screened from public view by landscaping.

(b) The prohibition contained in subsection (a) shall not apply to:

(1) To a truck or van belonging to a resident of the location where it is parked so long as the truck or van does not display any signage;

(2) To a vehicle responding to an emergency, including but not limited to issues involving the essential systems of residences such as electric, plumbing and HVAC;

(3) To a vehicle delivering goods or personal services to a property. However, this subsection shall not be interpreted to allow:

(i) Delivery of bulk materials, supplies, or equipment and construction, maintenance or landscaping activity, when such delivery or activity is not related to an emergency; and

(ii) Delivery of party goods and supplies.

**Secs. 19-8–19-25. - Reserved.**

**Section 3. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 4. Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become and be made a part of the Bal Harbour Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 5. Conflict.** That all Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 6. Effective Date.** That this Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 9<sup>th</sup> day of April, 2024.

PASSED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_\_, 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 10, SECTION 10-31 "PROHIBITED ACTS" AND SECTION 19-27 "OPERATION OF VEHICLES" OF THE CODE RELATING TO THE OPERATION OF MOTORIZED VEHICLES AND DEVICES ON PATHS AND SIDEWALKS; AMENDING SECTION 2-191, "SCHEDULE OF CIVIL PENALTIES"; PROVIDING FOR AN EFFECTIVE DATE.**

### Issue:

Should the Village Council adopt amendments to the Village Code to prohibit the use of electric bicycles, electric scooters, and other motorized mobility devices on all sidewalks and the hard pack area of the beach vehicle access road?

### The Bal Harbour Experience:

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Beautiful Environment   | <input checked="" type="checkbox"/> Safety | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities | <input type="checkbox"/> Unique & Elegant  | <input type="checkbox"/> Resiliency & Sustainable Community          |
| <input type="checkbox"/> Other: _____            |  |  |

### Item Summary / Recommendation:

The proliferation of motorized means of transportation, such as electric bicycles and scooters, is leading to increased usage on sidewalks and in the hard pack sand on the beach. This increase threatens the public health and safety of pedestrians traveling by foot or on human-powered devices because of the risk and severity of injuries attributable to collisions with motorized means of transportation. In order to ensure that motorized means of transportation are directed to more compatible areas away from pedestrian traffic, the Village desires to amend the Village Code of Ordinances to redirect motorized means of transportation away from the Village's sidewalks and the path located in the area of hard pack sand on Village beach.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS ORDINANCE.**

### Financial Information:

	Amount	Account	Account #
	X	X	X

### Sign off:

	Chief of Police	Village Manager
	Raleigh Flowers, Jr.	Jorge M. Gonzalez
		

# BAL HARBOUR

- V I L L A G E -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 10, "MARINE STRUCTURES, ACTIVITIES AND WAYS," ARTICLE II, "USE OF PUBLIC BEACHES," SECTION 10-31 "PROHIBITED ACTS" AND CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE II, "OPERATION OF VEHICLES," SECTION 19-27 OF THE VILLAGE CODE RELATING TO THE OPERATION OF MOTORIZED VEHICLES AND DEVICES ON PATHS AND SIDEWALKS; AMENDING SECTION 2-191, "SCHEDULE OF CIVIL PENALTIES" OF CHAPTER 2 "ADMINISTRATION" TO CREATE RELATED PENALTIES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.**

### ADMINISTRATIVE RECOMMENDATION

I am recommending approval of these Ordinances on First Reading.

### BACKGROUND

On January 18, 2022, at the Village Council Meeting, Councilman Sklar led a discussion item regarding the increased usage of electric bicycles and other motorized devices on the hard pack area of the beach and on Village sidewalks. The discussion focused on the increased pedestrian activity in the Village, and the dangers posed by the increased speeds at which these motorized devices can travel.

The Council was advised that currently, the Village Code allows for human powered non-motorized bicycles to utilize both the hard pack area of the beach and Village sidewalks. However, Florida State Statute 316.20655 was adopted in order to regulate the usage of electric bicycles. This statute provided for users of electric bicycles to be entitled to the same rights and privileges as users of human powered bicycles. This provision could possibly present a conflict in the interpretation of bicycles as it relates to the Village Code.

The Council was also advised that FSS 316.20655 also allowed for the Village to adopt ordinances governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction. This statute authorized the municipal adoption of ordinances prohibiting the operation of an electric bicycle on a bicycle path, multiuse path, or trail network. Operation of any vehicle other than by human power upon a bicycle path or sidewalk is already prohibited per FSS Section 316.1995(1).



The Council provided direction to create an ordinance for their consideration, which would prohibit the use of electric bicycles and all other motorized means of transportation from all Village sidewalks and the hard park multiuse path adjacent to the beach.

On February 15, 2022, at the Village Council Meeting, the Council considered an Ordinance which proposed to prohibit electric bicycles and all other motorized means of transportation on Village sidewalks and the hardpack. The proposed Ordinance was not adopted on First Reading by a vote of 2-3. See attached minutes for the February 15, 2022 Village Council Meeting.

On February 20, 2024, at the Village Council Meeting, Councilman Sklar led a discussion item regarding the continued proliferation of electric bicycles and other motorized devices on the hard pack area of the beach and recent incidents in other jurisdictions involving these devices. The discussion focused on the increased interactions of pedestrians in the Village with these electric bicycles and scooters, and the dangers posed by the increased speeds at which these motorized devices can travel.

The Council provided direction to create an ordinance for their consideration, which would prohibit the use of electric bicycles and other motorized vehicles and devices from all Village sidewalks, the hard pack multiuse path adjacent to the beach, and throughout the remainder of the Village.

### **ANALYSIS**

Legal staff conducted a review of the Florida State Statutes which regulate the operation of electric bicycles and all other motorized means of transportation upon sidewalks or paths. The analysis revealed the following:

- Section 316.007, Florida Statutes, provides that municipalities may only adopt ordinances on matters that are expressly authorized under Chapter 316, the Uniform Traffic Control Law.
- Section 316.20655, Florida Statutes, provides that a local government, through the exercise of its powers under Section 316.008, Florida Statutes, may adopt an ordinance "governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction..."
- Section 316.20655, Florida Statutes, further provides that a municipality is not prevented from adopting an ordinance "restricting or prohibiting the operation of an electric bicycle on a bicycle path, multiuse path, or trail network..."
- Section 316.2128, Florida Statutes, provides that a municipality is not prevented, through the exercise of its powers under Section 316.008, Florida Statutes, "...from adopting an ordinance governing the operation of micromobility

devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction.”

- Section 316.008(1)(n), Florida Statutes, provides that a municipality may “prohibit[] or regulat[e] the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic.”

The proposed changes and amendments to the Village Code would include expanding Section 19-27 - Operation on Sidewalks, Jogging Path. This section currently states:

**Sec. 19-27. Operation on Sidewalks, jogging path.**

It shall be unlawful to operate motorized vehicles on the Village jogging path or any Sidewalk within the Village. Non-motorized vehicles are permitted on Sidewalks, but not on the Village jogging path located just east of the beach vehicle access road.

The proposed amendment would expand the existing language, which already prohibits motorized vehicles on the Village sidewalks and on the Village jogging path. This language would also clearly define the prohibition of electric bicycles, motorized scooters, and other motorized mobility devices within designated areas of the Village. The designated area defined in the proposed amendment would include the beach vehicle access road; commonly referred to as the hard pack, all sidewalks and sidewalk areas within the Village over which the Village has jurisdiction, or has been given express authority to enforce provisions of this section of the code. This is important to note, as the sidewalks along Collins Avenue and 96th Street are on Florida Department of Transportation (FDOT) right of way.

The Village has approached FDOT regarding its desire to regulate the use of the sidewalks in this manner. FDOT’s initial response has been that it does not object to the Village’s efforts. We continue to communicate with FDOT, and will advise at second reading regarding our progress and how FDOT might document its concurrence.

Additionally, as this proposed Ordinance only pertains to sidewalks and the hard pack area of the beach. Individuals would still be able to operate their electric bicycles, motorized scooters, and other motorized mobility devices on all roadways within the Village whether they are governed by FDOT right of way or Village right of way such as in the gated community. These devices would not be restricted inside of the gated community as this area does not currently have any sidewalks.

The proposed amendment also provides an exception for the following circumstances:

1. An Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device within Designated Areas by government personnel acting within their official capacity, including on-duty police or emergency personnel.
2. Motorized wheelchairs or similar mobility devices having three or more wheels being operated by a disabled person for mobility purposes.

The proposed amendment to Section 19-27 would read as follows:

**Section 19-27. - Operation of Motorized Vehicles Outside of Travel Lanes on Sidewalks, jogging path.**

- (a) It shall be unlawful to operate motorized vehicles on the Village jogging path or any Sidewalk within the Village. Non-motorized vehicles are permitted on Sidewalks, but not on the Village jogging path located just east of the beach vehicle access road.
- (b) It is the intent of this Section to prohibit the use of Electric Bicycles, Motorized Scooters, and Other Motorized Mobility Devices within the Designated Areas of the Village.
  - (1) Definitions. As used in this Section, the following words, terms and phrases, shall have the meanings ascribed to them unless the context otherwise indicates:
    - a. Designated Area shall mean all sidewalks and sidewalk areas within the Village, including sidewalks and sidewalk areas over which the Village has, or has been given, express authority to enforce the provisions of this Section, and the beach vehicle access road (hard pack)(the striped area depicted under Section 10-31(1) of the Village Code).
    - b. Electric Bicycle shall mean an electric bicycle as defined by Section 316.003(23), Florida Statutes.
    - c. Motorized Scooter shall mean a motorized scooter as defined by Section 316.003(48), Florida Statutes.
    - d. Other Motorized Mobility Devices shall mean any device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on one or more wheels including, but not limited to, powered boards, powered skateboards, powered skates, powered hoverboards, or other similar powered motorized mobility devices. This definition does not include Electric Bicycles, Motorized Scooters, or Motorized wheelchairs or similar mobility

devices having three or more wheels being operated by a disabled person for mobility purposes.

(2) Unless otherwise authorized under this Section, the operation of an Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device is prohibited within any Designated Area in the Village. Notwithstanding the foregoing, nothing in this Section shall prohibit the operation of:

- a. An Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device within Designated Areas by government personnel acting within their official capacity, including on-duty police or emergency personnel;
- b. Motorized wheelchairs or similar mobility devices having three or more wheels being operated by a disabled person for mobility purposes.

The Council is also considering whether they wish to amend another section of the Village Code: Section 10-31- Prohibited Acts. The use of ordinary bicycles would continue to be allowed on the hard pack area of the beach. The amendment would clarify that the operation of electric bicycles, motorized scooters and other mobility devices would be governed by Section 19-27 of the Village Code. The amendment would also include maps that clearly depict the areas to which Section 10-31 pertains in the Code itself, rather than referencing them.

The proposed amendment to Section 10-31 would read as follows:

### **Section 10-31. - Prohibited acts.**

It shall be unlawful for any Person to:

- (1) Drive, operate, propel, or place any vehicle (whether or not such vehicle is motorized, propelled by human power or otherwise propelled) on the Public Beach or upon any public land, easement or right-of-way within the Public Beach, except that the operation of Electric Bicycles, Motorized Scooters, and Other Motorized Mobility Devices shall be governed by Section 19-27 of the Village Code. This prohibition does not apply to on-duty police or emergency vehicles or to the use of human powered, non-motorized bicycles pursuant to paragraph (1)a. below:







activity proscribed or required by this Code, the relevant Code section must be examined.

(b) The following is the schedule of civil penalties:

	Code section	Description of violation	Civil penalty
***			
<del>(47)</del>	<del>19-27</del>	<del>Operation of an Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device in a Designated Area.</del>	<del>50.00</del>
<del>(47)</del> (48)	20-1	Tampering with public utilities	250.00
<del>(48)</del> (49)	21-362	Using property in residential districts for unpermitted purposes	250.00
<del>(49)</del> (50)	21-362(b)	Conducting open houses and garage sales in residential districts	100.00

\* \* \*

The Amendments would take effect immediately upon adoption on Second Reading. However, the Village Manager or his designee will engage in public education to inform all stakeholders of the new provisions. The recommendation would be to provide for a sixty (60) day courtesy period to allow for education and the placement of signage throughout the Village.

A violation of any of these codes could be addressed by a Code Enforcement Officer or a Sworn Police Officer. The individual being cited would be able to dispute the violation through the Special Magistrate process.

**THE BAL HARBOUR EXPERIENCE**

This Ordinance corresponds to *The Bal Harbour Experience* by seeking to increase the safety of all residents and visitors.

The proliferation of existing and developing motorized vehicles and devices, including but not limited to electric bicycles and scooters, is leading to the increased usage of such vehicles and devices on sidewalks and the bicycle path located in the area of hard pack sand on the beach.

The use of these motorized vehicles and devices threatens the public health and safety of pedestrians traveling by foot or on human-powered devices because of the increased risk and severity of injuries attributable to collisions.

### **CONCLUSION**

The adoption of this Ordinance seeks to address a safety concern raised by the Village Council and residents. The adoption would ensure that motorized vehicles and devices are directed to more compatible areas away from pedestrian traffic on the Village's sidewalks and the multiuse path located in the area of hard pack sand on the Village beach. Therefore, it is recommended that the proposed amendments be approved on First Reading.

### **Attachments:**

1. Bal Harbour Village Council Meeting Minutes - February 15, 2022.



ORDINANCE NO. 2024-\_\_\_\_

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 10, "MARINE STRUCTURES, ACTIVITIES AND WAYS," ARTICLE II, "USE OF PUBLIC BEACHES," SECTION 10-31 "PROHIBITED ACTS" AND CHAPTER 19 "TRAFFIC AND MOTOR VEHICLES," ARTICLE II, "OPERATION OF VEHICLES," SECTION 19-27 OF THE VILLAGE CODE RELATING TO THE OPERATION OF MOTORIZED VEHICLES AND DEVICES ON PATHS AND SIDEWALKS; AMENDING SECTION 2-191, "SCHEDULE OF CIVIL PENALTIES" OF CHAPTER 2 "ADMINISTRATION" TO CREATE RELATED PENALTIES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

**WHEREAS**, Bal Harbour Village (the "Village") is a coastal community with only one public street in each direction, Collins Avenue running North-South, and 96<sup>th</sup> Street running East-West, which are both heavily traveled state roads and major hurricane evacuation routes for surrounding communities; and

**WHEREAS**, the operation of motorized vehicles and devices such as electric bicycles and motorized scooters within the Village along the sidewalks of Collins Avenue and 96<sup>th</sup> Street and the beach vehicle access road on the Public Beach has increased tremendously over the last couple of years; and

**WHEREAS**, this increase in the operation of motorized vehicles and devices on paths and sidewalks has resulted in vehicular/pedestrian incidents and many near misses within the Village, and has created an unsafe environment for pedestrians; and

**WHEREAS**, the risk of incidents between pedestrians and individuals operating motorized vehicles and devices is particularly pronounced within this densely populated barrier island community, where residents and tourists can and do walk to all of the Village's destinations and to meet most of their daily needs and religious observances; and

**WHEREAS**, due to this heavy pedestrian traffic, the operation of motorized vehicles and devices on sidewalks and paths is incompatible with the normal and safe movement of traffic within the Village; and

**WHEREAS**, Section 316.007, Florida Statutes, provides that municipalities may only adopt ordinances on matters that are addressed by Chapter 316, the Uniform Traffic Control Law, that are expressly authorized by the state; and

**WHEREAS**, Section 316.20655, Florida Statutes, provides that a local government, through the exercise of its powers under Section 316.008, Florida Statutes, may adopt an ordinance “governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction”; and

**WHEREAS**, Section 316.20655, Florida Statutes, further provides that a municipality is not prevented from adopting an ordinance “restricting or prohibiting the operation of an electric bicycle on a bicycle path, multiuse path, or trail network”; and

**WHEREAS**, Section 316.2128, Florida Statutes, provides that a municipality is not prevented, through the exercise of its powers under Section 316.008, Florida Statutes, “...from adopting an ordinance governing the operation of micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas under the local government’s jurisdiction”; and

**WHEREAS**, Section 316.008(1)(n), Florida Statutes, provides that a municipality may “prohibit[] or regulat[e] the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic”; and

**WHEREAS**, the Village Council finds its necessary to adopt an Ordinance, pursuant to its authority under Article VIII of the Florida Constitution, the Village Charter, and Sections 316.008(1)(n), 316.20655, and 316.2128 of the Florida Statutes, to prohibit the operation of electric bicycles, motorized scooters, and other motorized mobility devices on all sidewalks and sidewalk areas under the Village’s jurisdiction, including sidewalks and sidewalk areas over which the Village has, or has been given, express authority to enforce the provisions of this Ordinance, and on the beach vehicle access road (hard pack); and

**WHEREAS**, the Village Council hereby finds and determines that this Ordinance is in the best interest of public health, safety, and welfare.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

\* \* \*

**Section 2. Amending Chapter 19 of the Village Code.** That Section 19-27, "Operation on Sidewalks, jogging path," of Chapter 19, "Traffic and Motor Vehicles," of the Village Code is hereby amended to read as follows:

**CHAPTER 19 - TRAFFIC AND MOTOR VEHICLES**

\* \* \*

**ARTICLE II. - OPERATION OF VEHICLES**

\* \* \*

**Section 19-27. - Operation of Motorized Vehicles Outside of Travel Lanes on Sidewalks, jogging path.**

(a) It shall be unlawful to operate motorized vehicles on the Village jogging path or any Sidewalk within the Village. Non-motorized vehicles are permitted on Sidewalks, but not on the Village jogging path located just east of the beach vehicle access road.

(b) It is the intent of this Section to prohibit the use of Electric Bicycles, Motorized Scooters, and Other Motorized Mobility Devices within the Designated Areas of the Village.

(1) Definitions. As used in this Section, the following words, terms and phrases, shall have the meanings ascribed to them unless the context otherwise indicates:

a. Designated Area shall mean all sidewalks and sidewalk areas within the Village, including sidewalks and sidewalk areas over which the Village has, or has been given, express authority to enforce the provisions of this Section, and the beach vehicle access road (hard pack) (the striped area depicted under Section 10-31(1) of the Village Code).

b. Electric Bicycle shall mean an electric bicycle as defined by Section 316.003(23), Florida Statutes.

- c. Motorized Scooter shall mean a motorized scooter as defined by Section 316.003(48), Florida Statutes.
  - d. Other Motorized Mobility Devices shall mean any device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on one or more wheels including, but not limited to, powered boards, powered skateboards, powered skates, powered hoverboards, or other similar powered motorized mobility devices. This definition does not include Electric Bicycles, Motorized Scooters, or Motorized wheelchairs or similar mobility devices having three or more wheels being operated by a disabled person for mobility purposes.
- (2) Unless otherwise authorized under this Section, the operation of an Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device is prohibited within any Designated Area in the Village. Notwithstanding the foregoing, nothing in this Section shall prohibit the operation of:
- a. An Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device within Designated Areas by government personnel acting within their official capacity, including on-duty police or emergency personnel;
  - b. Motorized wheelchairs or similar mobility devices having three or more wheels being operated by a disabled person for mobility purposes.

\* \* \*

**Section 3. Amending Chapter 10 of the Village Code.** That Section 10-31 of Article II, "Use of Public Beaches," of Chapter 10 of the Village Code is hereby amended to read as follows:

**CHAPTER 10 - MARINE STRUCTURES, ACTIVITIES AND WAYS**

\* \* \*

**ARTICLE II - USE OF PUBLIC BEACHES**

\* \* \*

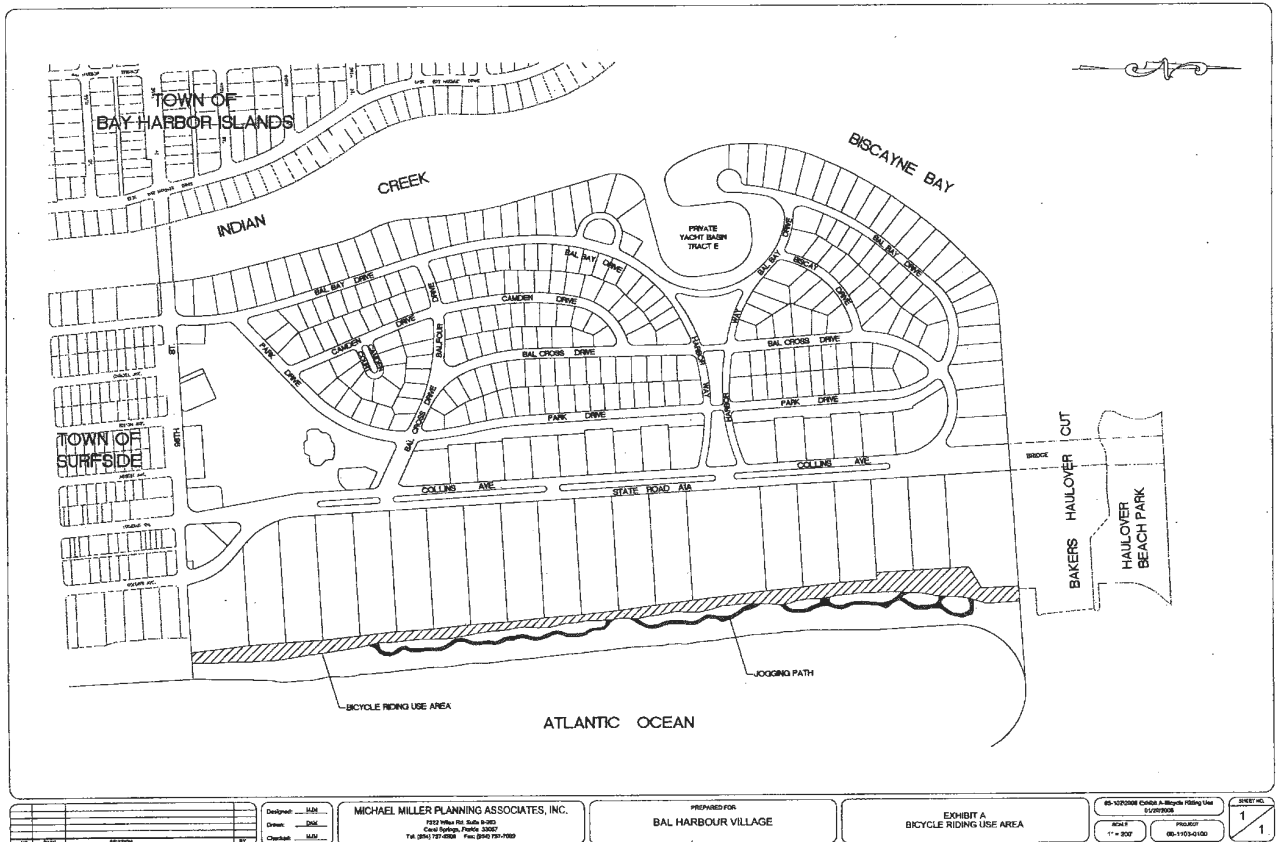
**Section 10-31. - Prohibited acts.**

It shall be unlawful for any Person to:

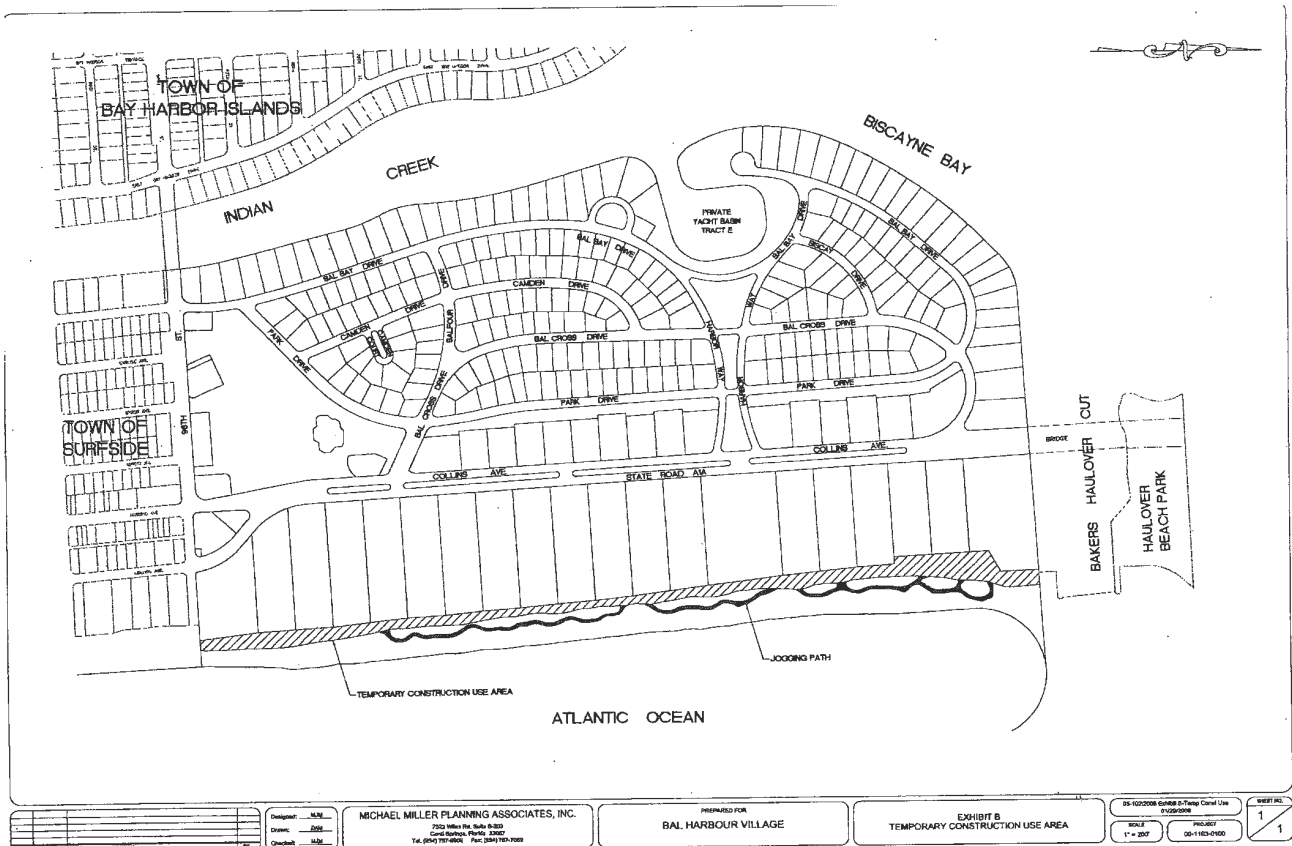


(1) Drive, operate, propel, or place any vehicle (whether or not such vehicle is motorized, propelled by human power or otherwise propelled) on the Public Beach or upon any public land, easement or right-of-way within the Public Beach, except that the operation of Electric Bicycles, Motorized Scooters, and Other Motorized Mobility Devices shall be governed by Section 19-27 of the Village Code. This prohibition does not apply to on-duty police or emergency vehicles or to the use of human powered, non-motorized bicycles pursuant to paragraph (1)a. below:

a. The vehicle prohibition which is set forth in paragraph (1) above, is hereby modified so that human powered, non-motorized bicycles may be operated on a limited portion of the Public Beach, within the area shown below which is described in Exhibit "A", a copy of which is attached hereto and incorporated herein, during daylight hours of each day between the time of sunrise and the time of sunset only, subject to posted rules and protocols governing the program for bicycle use as administered by the Village Manager or his designee.



b. Further, notwithstanding the motorized vehicle prohibition which is set forth above, the Village Manager is hereby authorized to grant special permits for construction vehicles to temporarily utilize a limited portion of the Public Beach, within the area ~~shown below which is described in Exhibit "B", a copy of which is attached hereto and incorporated herein~~, upon the Village Manager finding that temporary construction vehicle access is necessary in order to provide ingress and egress to construction sites to complete pending ocean-front construction projects in a manner which minimizes interference with routine public road traffic within the Village or which facilitates convenient access of construction materials and supplies to portions of ocean-front construction sites.



\*\*\*

**Section 4. Amending Chapter 2 of the Village Code.** That Section 2-191, "Schedule of Civil Penalties," of Chapter 2, "Administration," of the Village Code is hereby amended to read as follows:

CHAPTER 2 - ADMINISTRATION

\*\*\*

ARTICLE V. - CODE ENFORCEMENT

\*\*\*

Section 2-191. - Schedule of civil penalties.

(a) The following table shows the sections of this Code, as they may be amended from time to time, and the dollar amount of civil penalty for the violation of these sections as they may be amended. Each "Description of Violations" below is for informational purposes only and is not meant to limit or define the nature of the violations or the subject matter of the listed Code sections. To determine the exact nature of the activity proscribed or required by this Code, the relevant Code section must be examined.

(b) The following is the schedule of civil penalties:

	Code section	Description of violation	Civil penalty
***			
<del>(47)</del>	<del>19-27</del>	<del>Operation of an Electric Bicycle, Motorized Scooter, or Other Motorized Mobility Device in a Designated Area.</del>	<del>50.00</del>
<del>(47)</del> <del>(48)</del>	20-1	Tampering with public utilities	250.00
<del>(48)</del> <del>(49)</del>	21-362	Using property in residential districts for unpermitted purposes	250.00
<del>(49)</del> <del>(50)</del>	21-362(b)	Conducting open houses and garage sales in residential districts	100.00

\*\*\*

**Section 5. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any

reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6. Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that this Ordinance shall become effective and made part of the Village Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7. Conflict.** That all sections or parts of sections of the Village Code, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 8. Effective Date.** That this Ordinance shall become effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 9<sup>th</sup> day of April, 2024.

PASSED AND ADOPTED on second reading this \_\_ day of \_\_\_\_\_, 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.



# BAL HARBOUR

- V I L L A G E -

Mayor Gabriel Groisman  
Vice Mayor Seth E. Salver  
Councilman David J. Albaum  
Councilman Jeffrey P. Freimark  
Councilman Buzzy Sklar

Village Manager Jorge M. Gonzalez  
Village Clerk Dwight S. Danie  
Village Attorneys Weiss Serota  
Helfman Cole & Bierman, P.L.

## **Bal Harbour Village Council** Regular Council Meeting Minutes February 15, 2022 At 6:30 PM

Bal Harbour Village Hall • 655 - 96th Street • Bal Harbour • Florida 33154

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*This meeting was conducted in-person and virtually via "Zoom" in order to minimize exposure to the Coronavirus to Councilmembers and members of the public. The meeting was also broadcast on the Village's website ([www.balharbourfl.gov](http://www.balharbourfl.gov)) and members of the public were encouraged to participate by email ([meetings@balharbourfl.gov](mailto:meetings@balharbourfl.gov)) or by telephone at 305-865-6449.*

**CALL TO ORDER/ PLEDGE OF ALLEGIANCE** - Mayor Gabriel Groisman called the meeting to order at 6:37 P.M.

The following were present:

Mayor Gabriel Groisman  
Vice Mayor Seth Salver  
Councilman David Albaum  
Councilman Jeffrey Freimark  
Councilman Buzzy Sklar

Also present:

Jorge M. Gonzalez, Village Manager  
Dwight S. Danie, Village Clerk  
Susan Trevarthen, Village Attorney

The Pledge of Allegiance was led by Mayor Groisman.

### **REQUESTS FOR ADDITIONS, WITHDRAWALS AND DEFERRALS**

There were no requests.

### **PRESENTATIONS AND AWARDS**

Introduction of David Whitaker, President & CEO, Greater Miami Convention and Visitors Bureau

Mayor Groisman introduced Mr. David Whitaker and Mr. Gonzalez provided a brief overview of Mr. Whitaker's experience in working with the community. Mr. Whitaker thanked everyone saying that he had met with Mr. Gonzalez and understands the high expectations for tourism destination marketing. He said that the hotel and Shops average daily rate numbers are currently phenomenal and that it will be interesting to see how long they can be maintained with the collaboration with the Village. He said that he is looking forward to working with the Village as partner.

Mayor Groisman thanked Mr. Whitaker and encouraged him to utilized the Village, and get the Village involved as much as possible.

## **CONSENT AGENDA**

### **C6 - COUNCIL MINUTES**

January 18, 2022 Village Council Meeting Minutes

### **C7 - RESOLUTIONS**

**C7A** A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; RATIFYING THE BUILDING OFFICIAL'S APPROVAL OF THE UNITY OF TITLE, SUBMITTED BY SHAWN WAX JTRS AND RONALD DOBRIN JTRS, FOR THE PROPERTIES LOCATED AT 10205 COLLINS AVENUE, UNITS 1501 AND 1503, BAL HARBOUR FLORIDA, 33154, TO COMBINE THE TWO CONDOMINIUM UNITS INTO ONE CONDOMINIUM UNIT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**MOTION: A motion to approve the Consent Agenda was moved by Vice Mayor Seth Salver and seconded by Councilman Buzzy Sklar.**

**VOTE: The Motion passed by unanimous voice vote (5-0).**

### **R5 - ORDINANCES**

**R5A** AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 13, "PENSIONS AND RETIREMENT BENEFITS," BY AMENDING THE POLICE OFFICERS' PENSION PLAN TO CREATE A NEW SECTION 13-63, "EARLY RETIREMENT INCENTIVE PLAN"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that the ordinance was consistent with the Collective Bargaining Agreement approved in November, and that this being the early retirement portion, he expects that there will be three employees that will participate. He said he was suggesting a slight amendment to the ordinance to allow for the staggering of departures, where the language would be changed to require a release of claims form on the last day of employment, instead of February 28. He then provided a brief progress report of the hiring of new officers.

There were no comments from the public.

Ms. Trevarthen read the language to be amended, adding that she was also suggesting that the word "final" be inserted before "wage cost" in Section (c)4.

**MOTION: A motion to amend the ordinance to change the time for the release of claim form to be required on the last day of employment was moved by Mayor Gabriel Groisman and seconded by Vice Mayor Seth Salver.**

**VOTE: The Motion passed by unanimous voice vote (5-0).**

**MOTION: A Motion to pass the Ordinance on second reading as amended was moved by Mayor Gabriel Groisman and seconded by Vice Mayor Seth Salver.**

ROLL CALL	VOTE
Mayor Gabriel Groisman	Yes
Vice Mayor Seth E. Salver	Yes
Councilman David J. Albaum	Yes
Councilman Jeffrey P. Freimark	Yes
Councilman Buzzy Sklar	Yes

**VOTE: The Motion passed on second reading by unanimous roll call vote (5-0).**

**R5B** AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA; CREATING SECTION 17-52 OF ARTICLE II, "SIDEWALKS," OF CHAPTER 17 OF THE CODE OF ORDINANCES RELATING TO THE USE OF MOTORIZED MEANS OF TRANSPORTATION ON SIDEWALKS WITHIN THE VILLAGE; AMENDING SECTION 10-31 OF ARTICLE II, "USE OF PUBLIC BEACHES," OF CHAPTER 10 OF THE CODE TO PROHIBIT THE USE OF MOTORIZED MEANS OF

TRANSPORTATION ON THE AREA OF HARD PACK SAND ON VILLAGE BEACHES WEST OF THE SAND DUNES; AMENDING SECTION 19-27 OF CHAPTER 19, "TRAFFIC AND MOTOR VEHICLES," OF THE CODE TO CLARIFY PROHIBITIONS ON THE USE OF MOTORIZED VEHICLES ON VILLAGE SIDEWALKS AND THE VILLAGE JOGGING PATH; AMENDING SECTION 2-191, "SCHEDULE OF CIVIL PENALTIES," OF CHAPTER 2 TO CREATE RELATED PENALTIES; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

Mr. Gonzalez introduced the item saying that this ordinance was before the Council per the Council's request following a discussion item in the January 2022 meeting. Captain Mauricio Escarra, Bal Harbour Police, provided an overview of the requirements of the ordinance and State statutes regarding the allowance of the use human powered vehicles, but not motorized vehicles, on sidewalks. He said that the Beach Path fell into the category of multi-use paths, so that unlike sidewalks, vehicles could be restricted.

Council Sklar proposed that use of an ordinary bicycle under human power should be allowed on the Beach Path. He suggested that there should be a ban on electric bicycles, whether or not they are being operated with human power only, to which Councilman Freimark said that thought that that idea was too restrictive.

Mayor Groisman said that non-electric bicycles are also problematic in that they are easily capable of being operated at speeds in excess of twenty miles per hour. He said that many people, including seniors, operate electric bikes at much slower speeds. He said that he would not be opposed to regulating electric bikes on the Beach Path. He suggested that any further regulation of sidewalks be removed from this ordinance so as not to push traffic into Collins Avenue, which he said is dangerous. He also suggested that the penalties should be tiered, with a written warning being the first step.

Vice Mayor Salver said that the sidewalks were more dangerous and compact with existing pedestrian and vehicular traffic. He said that he was okay with electric bicycles, that were diverted from the Beach Path, being operated under human-power-only on the sidewalks.

Babak Raheb, 128 Balfour Drive, said that it should not matter whether or not a bicycle is powered manually or with an electric motor. He said that electric bikes are generally safer than manual bikes, and that more older people use electric bikes for that reason.

Councilman Albaum said both manually powered bikes and electric bikes can be operated at high speeds and asked what was the goal of this ordinance, to which Councilman Sklar said that electric bikes allow for a non-athletic person at the same speeds as an athletic person.

David Wolf, 223 Bal Bay Drive, asked what was the impetus of the ordinance, and asked if there had been accidents. He asked if this ordinance could actually be enforced. He added that other electric vehicles, i.e. scooters, were not capable of reaching higher speeds.



Councilman Sklar responded he had observed that the traffic on the Beach Walk was getting more congested that he had presented the item to be proactive in maintaining safety.

Penny Sepler, 10275 Collins Avenue, said that the sidewalks were more problematic than the Beach Path, in that the bus stops and be sidewalks being narrow, make the sidewalks more dangerous.

**MOTION: A motion pass the ordinance as written was moved by Vice Mayor Salver and seconded by Councilman Sklar.**

Councilman Freimark said that he felt that the Council was lurching from on issue to another in regards to the sidewalks and the Beach Path, and said that with all the money being invested ongoing projects, a professional guidance and a plan are needed to layout the public areas.

Mayor Groisman said that the intent of the ordinance is right, but nothing would be changed, adding that design is the only way effectively solve the issue. Councilman Freimark added that there has to be a better way for children to get to the new park, other than using Collins Avenue.

**MOTION: A Motion carve out the sidewalks from the Ordinance on was moved by Mayor Gabriel Groisman. There was no second.**

Councilman Albaum said that he had proposed a comprehensive plan at the time the leash ordinance was under consideration, and that he felt that he was not so sure the Council was prepared to consider this item.

<b>ROLL CALL</b>	<b>VOTE</b>
Mayor Gabriel Groisman	<b>No</b>
Vice Mayor Seth E. Salver	<b>Yes</b>
Councilman David J. Albaum	<b>No</b>
Councilman Jeffrey P. Freimark	<b>No</b>
Councilman Buzzy Sklar	<b>Yes</b>

**VOTE: The Motion failed by roll call vote (2-3).**

There was a general consensus that a comprehensive plan, backed by data, was the next step. Mr. Gonzalez said that he would seek proposals from those that have the unique of skill sets required.

## **R7 - RESOLUTIONS**

There were not resolutions to consider.

## **R9 - NEW BUSINESS AND COUNCIL DISCUSSION**

### **R9A** Discussion Item regarding an On-Demand Shuttle Service - Village Manager Jorge Gonzalez

Mr. Gonzalez provided a recap of the discussion held during the January Council meeting regard the On-Demand Shuttle Service. He reviewed pricing information, provided by Jason Spiegel, Freebee, the provider of the on-demand ride service, who was attending the meeting via Zoom.

He then presented vehicle options and showed maps of the geographic areas covered by a 3-mile radius and a 5-mile radius. He said that the Village was being asked to share the costs equally with Bay Harbor Island and Surfside, resulting in a \$67,000 cost for Bal Harbour, which would include 2 cars and a third for an ADA compliant vehicle. Grant money, \$34,000 for the Village, would also be available. He then presented stand-alone costs of around \$101,000 for one vehicle and an ADA backup solely for Village residents. He said that the question before the Council was whether or not we wanted a unified service with the other communities or have our own service.

Vice Mayor Salver said he was assured that the grant was renewable, and that there was little to lose to enter into a MOU with the other communities, in a spirit of cooperation and comradery, adding that if it doesn't work, we can bring it in house and do better.

Councilman Sklar said that the importance of a service like this was the convenience to the residents.

Councilman Albaum said that he agreed with Councilman Sklar, but that he did question the need for the service. He added that he would like to see the service extend to Mt. Sinai.

Mayor Groisman said that he also agreed with Councilman Sklar. He said that since this service is becoming commonplace, and that it is being used more and more, it will be used a lot by residents of Bay Harbor and Surfside to the detriment of Village residents. He suggested that the geo-fence be narrow, encompassing Haulover, Surfside and Bay Harbor, so that trips and waiting times would be short.

Councilman Freimark said Jeffrey said that he would like to see more facts to make a decision and that the need to provide a service to Mt. Sinai can't be understated.

Mr. Spiegel said that geo-fences can be fully customized depending on the goals of the municipality, whether it be for longer travel distances with longer waiting times or shorter distances and shorter waiting times. He said that the services would be for 56 hours per week, 8 hours per day. He said that the average waiting time in Coral Gables was eight minutes, while the average waiting time in Miami Beach was fifteen to twenty-minutes.

There was a general consensus from the Council for Mr. Gonzalez to meet with Mr. Spiegel to present different options available to the Village with the goal of keeping wait times from ten to fifteen minutes.

Babak Raheb, 128 Balfour Drive, said that the service should be for Bal Harbour residents and agreed with the goal of a ten-to-fifteen-minute wait time.

Penny Sepler, 10275 Collins Avenue, said that she agreed that the service should be the Village's alone, and if successful it could be expanded. She said that if someone need to wait more than fifteen minutes, they just as easily take a bus, which would also be free for elders. She added that Uber is also available.

David Wolf, 223 Bal Bay Drive said that it was important to understand what the goals of the service are, for example, serving residents or serving anybody in the area, adding that he liked the ability to have control.

## **R9B PUBLIC COMMENT**

Penny Sepler, 10275 Collins Avenue, asked why the traffic on Collins Avenue was so terrible up until 96<sup>th</sup> Street. Vice Mayor Salver said the problem stemmed from lane alignment, to which Mayor Groisman added that the it is also due to traffic light timing and generally more full-time residents.

Babak Raheb, 128 Balfour Drive said that he was experience and issue caused by zoning. He explained that a new house was being constructed next to his on a property whose back boundary faces the side of his property, and that zoning code does not require tiered setbacks on the back, as it does on the sides, thus presenting the effect of a thirty-foot wall the entire length of his property. He said that he was hoping for an ordinance change that would address this particular issue. He said that the Architectural Review Board could only recommend that he address the issue with the neighbor, since the project was in compliance with zoning. Mayor Groisman offered to help Mr. Raheb mediate with the neighbor.

**R10 - VILLAGE MANAGER REPORT**

**R11 - VILLAGE CLERK REPORT**

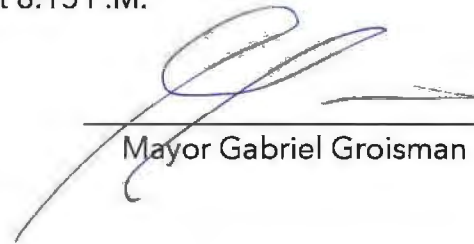
R11A Lobbyist Report

**R12 - VILLAGE ATTORNEY REPORT**

R12A Village Attorney Report

**END OF REGULAR AGENDA**

**ADJOURNMENT** - The meeting was adjourned at 8:15 P.M.



\_\_\_\_\_  
Mayor Gabriel Groisman



Attest:



\_\_\_\_\_  
Dwight S. Danie, Village Clerk



# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

A RESOLUTION CALLING FOR A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, IN BAL HARBOUR VILLAGE FOR THE PURPOSE OF ELECTING TWO VILLAGE COUNCILMEMBERS FROM VILLAGE COUNCIL DISTRICTS 2 AND 4; PROVIDING FOR A RUNOFF ELECTION, IF NECESSARY; AND PROVIDING FOR CONDUCT OF SAID ELECTION BY THE MIAMI-DADE COUNTY ELECTIONS DEPARTMENT.

### Issue:

The Village Council shall call for the General Municipal Election, a Runoff Election, if necessary, and establish the Candidate Qualifying Period.

### The Bal Harbour Experience:

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Beautiful Environment              | <input type="checkbox"/> Safety           | <input type="checkbox"/> Modernized Public Facilities/Infrastructure |
| <input type="checkbox"/> Destination & Amenities            | <input type="checkbox"/> Unique & Elegant | <input type="checkbox"/> Resiliency & Sustainable Community          |
| <input checked="" type="checkbox"/> Other: <u>Elections</u> |   |  |

### Item Summary / Recommendation:

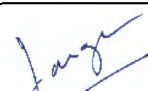
It is recommended that the Village Council approve the Resolution; calling for a Bal Harbour General Municipal Election for Village Council Districts 2 and 4, to be scheduled on Tuesday, November 5, 2024; setting the Candidate Qualifying period for said election to begin Monday, August 12, 2024, and to end on Friday August 16, 2024; providing for a runoff election in the event of a General Election tie vote.

**THE ADMINISTRATION RECOMMENDS APPROVAL OF THIS RESOLUTION.**

### Financial Information:

	Amount	Account	Account #
	\$4,000 for Nov. 5	Election Expense	01-19-504930
	\$18,000 for Nov. 19 runoff if needed	Election Expense	01-19-504930

### Sign off:

<b>Village Clerk</b>	<b>Chief Financial Officer</b>	<b>Village Manager</b>
Dwight S. Danie	Claudia Dixon	Jorge M. Gonzalez
		

# BAL HARBOUR

- VILLAGE -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **A RESOLUTION CALLING FOR A GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, IN BAL HARBOUR VILLAGE FOR THE PURPOSE OF ELECTING TWO VILLAGE COUNCILMEMBERS FROM VILLAGE COUNCIL DISTRICTS 2 and 4; PROVIDING THAT MIAMI-DADE COUNTY ELECTIONS DEPARTMENT SHALL CONDUCT SAID ELECTION; PROVIDING THAT THE VOTING PRECINCT FOR SAID ELECTION SHALL BE ESTABLISHED BY MIAMI-DADE COUNTY; PROVIDING FOR NOTICE OF SAID ELECTION; PROVIDING FOR A RUNOFF ELECTION, IF NECESSARY; PROVIDING FOR THE FORMS OF BALLOT AND REGISTRATION OF VOTERS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR PAYMENT FOR CONDUCTING ELECTIONS TO MIAMI-DADE COUNTY.**

### **ADMINISTRATIVE RECOMMENDATION**

I am recommending approval of this Resolution.

### **BACKGROUND**

The Charter of Bal Harbour Village, Florida calls for a General Municipal Election to be held in Bal Harbour Village every two years in November. This year, the election will fall on Tuesday, November 5, 2024, from 7:00 a.m. to 7:00 p.m. for the purpose of electing two (2) members of the Village Council, from Village Council Districts 2 and 4.

### **ANALYSIS**

This Resolution calls for the Bal Harbour General Municipal Election for Village Council Districts 2 and 4, to be scheduled on Tuesday, November 5, 2024; sets the Candidate Qualifying period for said election to begin Monday, August 12, 2024 and end on Friday August 16, 2024; provides for a Runoff Election in the event of a General Election tie vote; and provides for public notice in accordance with the provisions of Section 100.021, Florida Statutes, and Section 8-7 of the Code of Bal Harbour Village.

### **THE BAL HARBOUR EXPERIENCE**

This election is in accordance with Section 14 of the Village Charter, Ordinance 2010-545 by express authority of Florida Statutes Sections 100.3605(2) and 200.021, and Section 8 of the Bal Harbour Village Code.

**CONCLUSION**

Funds for this election will be included in the FY 2023/24 Operating Budget. Approval to expend these funds in the manner described above is recommended. Costs for Early Voting for the General Election, scheduled for October 21 through November 3, 2024, are covered by Miami-Dade County as part of the County/State/Federal General Election.

RESOLUTION NO. 2024\_\_\_\_\_

A RESOLUTION CALLING FOR A GENERAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, IN BAL HARBOUR VILLAGE FOR THE PURPOSE OF ELECTING TWO VILLAGE COUNCILMEMBERS FROM VILLAGE COUNCIL DISTRICTS 2 AND 4; PROVIDING THAT MIAMI-DADE COUNTY ELECTIONS DEPARTMENT SHALL CONDUCT SAID ELECTION; PROVIDING THAT THE VOTING PRECINCT FOR SAID ELECTION SHALL BE ESTABLISHED BY MIAMI-DADE COUNTY; PROVIDING FOR NOTICE OF SAID ELECTION; PROVIDING FOR A RUNOFF ELECTION, IF NECESSARY; PROVIDING FOR THE FORMS OF BALLOT AND REGISTRATION OF VOTERS IN ACCORDANCE WITH STATE LAW; PROVIDING FOR PAYMENT FOR CONDUCTING ELECTIONS TO MIAMI-DADE COUNTY.

BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE:

**SECTION 1** In accordance with provisions of the Charter of Bal Harbour Village, Florida, a General Municipal Election is hereby called and directed to be held in Bal Harbour Village, Florida, from 7:00 a.m. to 7:00 p.m. on November 5, 2024 for the purpose of electing two (2) members of the Village Council, in Districts 2 and 4, respectively, each of whom shall hold office for the terms as provided by law.

**SECTION 2** That the appropriate and proper Miami-Dade County election officials shall conduct the said General Election hereby called, with acceptance of the certification of the results of said elections to be performed by the Village. The official returns shall be furnished to the Village Clerk of Bal Harbour Village as soon as the ballots have been tabulated.

**SECTION 3** That the said voting precinct in the Village of said General Municipal Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling place and the voting precinct as determined by the Miami-Dade County Supervisor of Elections.

**SECTION 4** That the said candidate qualifying period for the General Municipal Election shall be conducted beginning on Monday, August 12, 2024, at 8:30 AM and ending on Friday, August 16, 2024, at 4:30 PM.

**SECTION 5** Bal Harbour Village shall have notice published, two times in a



newspaper of general circulation 30 days prior to the beginning of candidate qualifying. Such publication shall be made in accordance with the provisions of Section 100.342 of the Florida Statutes and Section 8.7 of the Bal Harbour Village Code.

**SECTION 6** The Notice of Elections shall be substantially in the following form:

BAL HARBOUR VILLAGE, FLORIDA  
NOTICE OF GENERAL ELECTION

NOTICE IS HEREBY GIVEN THAT A GENERAL ELECTION HAS BEEN CALLED BY THE MAYOR AND VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AND WILL BE HELD IN SAID VILLAGE FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 5TH DAY OF NOVEMBER 2024, FOR THE PURPOSE OF ELECTING TWO (2) COUNCILMEMBERS IN DISTRICTS 2 AND 4, RESPECTIVELY, EACH OF WHOM SHALL HOLD OFFICE FOR THE TERMS AS PROVIDED BY LAW.

Said Notice shall further set forth the polling place in the election precinct as established in accordance with Section 3 hereof and shall further set forth pertinent information regarding eligibility of electors to participate in said election.

**SECTION 7** That the official ballot to be used in the General Election to be held on November 5, 2024, hereby called, shall be in substantially the following form, to-wit:

"OFFICIAL BALLOT"  
GENERAL ELECTION FOR  
ELECTING THE TWO (2) COUNCILMEMBERS  
DISTRICTS 2 and 4 OF  
BAL HARBOUR VILLAGE, FLORIDA  
ON NOVEMBER 5, 2024

FOR VILLAGE COUNCILMEMBER DISTRICT 2

(insert names)

Vote for one (1) only:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR VILLAGE COUNCILMEMBER DISTRICT 4  
(insert names)  
Vote for one (1) only:

_____	_____
_____	_____
_____	_____

**SECTION 8** The Village Clerk shall prepare the ballots for the General Election so that the names of qualified candidates will appear on said ballots in alphabetical order according to surname; provided, however, the form of the ballots to be used in said Elections and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

**SECTION 9** Registration of persons desiring to vote in the General Election shall be in accordance with the general laws of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the Village Clerk, Village Hall 655 96th Street, Bal Harbour, Florida 33154, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for the General Election until 5:00 p.m. on Tuesday, October 7, 2024. All persons eligible to vote in the General Election must be registered before the times and dates set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections Office. All questions concerning voter registration should be directed to the Miami-Dade County Elections Office, 2700 N.W. 8th Avenue, Doral, Florida 33172; Telephone: (305) 499-VOTE (8683).

**SECTION 10** That the vote-by-mail voters participating in said General Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to absentee voting.

**SECTION 11** That in accordance with the provision of Section 8-3 of the Village

Code, a run-off election shall be held in the event of a General Election tie vote, no less than two weeks following the General Election, or at the time determined by the Miami-Dade County Supervisor of Elections.

**SECTION 12** That Bal Harbour Village shall pay Miami-Dade County for all expenses for conducting this General Election upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

**SECTION 13** If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Resolution.

PASSED AND ADOPTED this 9<sup>th</sup> day of April 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.





# BAL HARBOUR

- VILLAGE -

## COUNCIL ITEM SUMMARY

### Condensed Title:

**A RESOLUTION AUTHORIZING THE SPONSORSHIP OF UP TO \$50,000 FOR THE 2024 ICE CREAM WE LOVE EVENT AT THE BAL HARBOUR SHOPS; TO BENEFIT THE HOLTZ CHILDREN'S HOSPITAL / UNIVERSITY OF MIAMI-JACKSON HEALTH SYSTEM.**

### Issue:

Should the Village Council approve the Resolution to sponsor the 6th annual "Ice Cream We Love" event on May 18-19, 2024 at the Bal Harbour Shops?

### The Bal Harbour Experience:

Beautiful Environment     Safety     Modernized Public Facilities/Infrastructure  
 Destination & Amenities     Unique & Elegant     Resiliency & Sustainable Community

### Item Summary / Recommendation:

The Bal Harbour Shops (BHS) and the Holtz Children's Hospital have invited the Village to sponsor the 6<sup>th</sup> annual "Ice Cream We Love" event scheduled for May 18-19, 2024 at the BHS. For the first few years of this event, the Village was not a financial sponsor but assisted in the promotion and providing other in-kind contributions. For the 2022 and 2023 editions, the Village was an official sponsor at the \$50,000 level each year. Sponsorship of this event would afford the placement of the Village Logo to be featured prominently in all marketing, PR, and social media placements which may generate media impressions and positive public relations coverage. Bal Harbour residents and hotel guests will enjoy a designated 'pre-sales' period to ensure tickets are available in addition to "early access" to the event. At the March 11, 2024 Resort Tax Committee, this item was presented for discussion with a representative from the BHS. Several issues were raised during the Committee discussion, including asking if this event would still take place this year if the Village is unable to serve as a financial sponsor. The BHS representative indicated that they are offering the right of first refusal to the Village and that if we are not able to proceed as a sponsor, the BHS would work to identify other partner(s) to secure funding. The Resort Tax Committee ultimately voted to move the item forward in order to allow the Council the ability to decide if the Village should serve as a sponsor. The Council should consider this request and determine whether a sponsorship relationship this year is warranted.

### Advisory Board Recommendation:

The Resort Tax Committee discussed this event at their March 11, 2024 meeting, with the Committee raising several issues, but moved the item forward to allow the Village Council to decide if the Village should sponsor this event this year.

### Financial Information:

	Amount	Account	Account #
	\$50,000	Resort Tax - Sponsorships	10-52-504826

### Sign off:

Assistant Village Manager	Chief Financial Officer	Village Manager
Ramiro Inguanzo	Claudia Dixon	Jorge M. Gonzalez

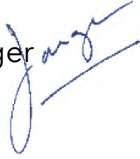


# BAL HARBOUR

- V I L L A G E -

## COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager 

DATE: April 9, 2024

SUBJECT: **A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE SPONSORSHIP OF UP TO \$50,000 FOR THE ICE CREAM WE LOVE EVENT AT THE BAL HARBOUR SHOPS TO BENEFIT THE HOLTZ CHILDREN'S HOSPITAL / UNIVERSITY OF MIAMI-JACKSON HEALTH SYSTEM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

### **ADMINISTRATIVE RECOMMENDATION**

The Village Council should consider this request and determine whether a sponsorship relationship this year is warranted or advisable.

### **BACKGROUND**

The Bal Harbour Shops (BHS) and the Holtz Children's Hospital / University of Miami-Jackson Health System have invited Bal Harbour Village to sponsor the 6<sup>th</sup> annual "Ice Cream We Love" event scheduled to take place on May 18 and 19, 2024 at the Bal Harbour Shops.

For the first several years this event took place, Bal Harbour Village was not a sponsor nor did the Village make a financial contribution, although the Village assisted in other areas such as promotion and providing in-kind contributions. At the request of the Bal Harbour Shops, the Village was an official sponsor at the \$50,000 level each year for the 2022 and 2023 editions.

This ticketed event, with approximately 500 tickets sold per day, raises funds for the Holtz Children's Hospital in support of their efforts in caring for patients in need. Sales of the tickets will be done in advance of the event, with limited tickets being sold each day at the event. Ice Cream We Love vendors will be selected from local providers as well as from state and nationally recognized brands. Additionally, activations for children are also planned for each day of the event with face-painting, caricature sketch artists, coloring tables, story time activities, and a variety of games.

Through the Resort Tax, Bal Harbour Village has approved contributions for past activations at the Bal Harbour Shops. As was mentioned earlier, the Village was not a sponsor nor did we make any financial contributions to this event the first several years it took place. However, in 2022 and 2023, the Village was an official sponsor at the \$50,000 level for each of those two years. Previous sponsorships for events held at the

BHS have included: \$100,000 for the 2007 and 2009 Destination Fashion events, and \$125,000 for the 2016 event in support of The Buoniconti Fund to Cure Paralysis, the fundraising arm of The Miami Project to Cure Paralysis. In 2020, the Village made a \$50,000 contribution for the Official Miami Super Bowl LIV Host Committee VIP Party event which featured an auction to benefit The Buoniconti Fund to Cure Paralysis.

### **ANALYSIS**

The Village's sponsorship of this event would consist of \$50,000 to cover 50% of the estimated \$100,000 production costs (Décor/Entertainment, Signage, logistics). The Bal Harbour Shops will also be contributing 50% of these production costs at \$50,000 as well as covering all the costs associated with the marketing, PR and Security costs. Holtz Children's Hospital will be responsible for the logistics and staffing of the Children's activity areas, as well as staffing for the check-in and management of ticket sales.

Section 19-41 of the Village Code states that Resort Tax funds collected by Bal Harbour Village shall:

*"be used for the promotion of the tourist industry, which shall include but not be limited to the following: publicity, advertising, news bureau, promotional events, convention bureau activities, capital improvements and the maintenance of all physical assets in connection therewith..."*

Using funds from the Resort Tax Fund Balance to sponsor this event could be appropriate given the media impressions and public relations which is expected to be generated. Media and Influencers are invited to the event to ensure wide-ranging coverage across all media channels.

The Village's contribution of \$50,000 would be paid from the Resort Tax Operating Budget and would provide the following benefits:

- Bal Harbour Village logo will be featured in all marketing and PR (including press release, BHS newsletter, placement on BHS Website, Step and Repeats for media photos, and emails) and social media placements;
- Limited Pre-Sale of tickets exclusive to Bal Harbour Residents and Hotel Guests;
- Early admittance to event exclusively for Bal Harbour Residents and Hotel Guests;

A copy of the proposal from the Bal Harbour Shops is attached.

At the March 11, 2024 Resort Tax Committee, this item was presented for discussion with a representative from the BHS presenting the item. Several issues were raised during the Committee discussion. The Resort Tax Committee ultimately voted to move the item forward to allow the Village Council the ability to decide if the Village should sponsor the event this year. Specifically, the Committee Members asked for clarification on the following questions and costs associated with sponsoring this event:

1. Amount generated and amount donated to Holtz's Childrens Hospital each year the event has been held?
  - The Bal Harbour Shops estimates that between \$70,000-\$95,000 has been donated to Holtz's Childrens Hospital each year the event has been held.
2. The total costs to produce the event each year?
  - The Bal Harbour Shops stated that the cost to produce this event is \$100,000 for the Production Hard Costs (Staffing, Décor/Entertainment, Signage, Food & Beverage) with an additional \$40,000 for the Marketing, Logistics and Security production costs, including the Google advertising, design package for invitations, signage, printing and advertising (email and social media).
3. List of other sponsors for this year's event and at what level/contribution amounts?
  - All other sponsorships are arranged through Holtz Children's Hospital and are still being finalized.
4. The Resort Tax Committee inquired if this event would still take place this year if Bal Harbour Village is unable to serve as a financial sponsor.
  - The Bal Harbour Shops representative indicated that they are offering the right of first refusal to Bal Harbour Village and that if the Village is not able to proceed as a sponsor, the Bal Harbour Shops would work to identify other partner(s) to secure funding.

### **THE BAL HARBOUR EXPERIENCE**

The Ice Cream We Love event supports the *Bal Harbour Experience* by contributing to the Destination & Amenities and Unique & Elegant pillars by providing a special and unique event for our residents and guests to enjoy.

### **CONCLUSION**

The Village Council should consider this request and determine whether a sponsorship relationship this year is warranted or advisable.

### **Attachments:**

1. 2024 Ice Cream We Love Sponsorship Proposal from the Bal Harbour Shops



**RESOLUTION NO. 2024-**

**A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AUTHORIZING AND APPROVING THE SPONSORSHIP OF UP TO \$50,000 FOR THE ICE CREAM WE LOVE EVENT AT THE BAL HARBOUR SHOPS TO BENEFIT THE HOLTZ CHILDREN'S HOSPITAL / UNIVERSITY OF MIAMI-JACKSON HEALTH SYSTEM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the 6<sup>th</sup> annual "Ice Cream We Love" event ("Event") will be held at the Bal Harbour Shops on May 18 and 19, 2024; and

**WHEREAS**, Bal Harbour Village previously served as a sponsor of the Event in 2022 and 2023 with a \$50,000 contribution each year and provided in-kind sponsorship in the four previous years; and

**WHEREAS**, the Bal Harbour Shops, along with Holtz Children's Hospital / University of Miami-Jackson Health System, are inviting Bal Harbour Village to once again partner with, and co-sponsor the 2024 Event, with the net proceeds of the Event going to benefit the Hospital; and

**WHEREAS**, the Village sponsorship will consist of up to \$50,000 Cash Sponsorship and will deliver the following benefits: the Village will be treated as an equal partner for the Event; the Village's Logo will be prominently displayed in all marketing materials and Social Media placements promoting the Event; and the Village will be allotted limited pre-sale tickets and early admission to the Event exclusive to Bal Harbour residents and guests; and

**WHEREAS**, the Village's Resort Tax Committee discussed the sponsorship of the 2024 event and voted to move the item forward so that the Village Council would consider the expenditure of Resort Tax funds up to \$50,000 for this sponsorship; and

**WHEREAS**, the Village Council finds that contributing an amount not to exceed \$50,000 from Resort Tax funds for this Event is in the best interest of the Village.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** That the above stated recitals are hereby adopted and confirmed.

**Section 2. Sponsorship Authorized.** That the sponsorship up to \$50,000 is

hereby authorized and approved and the source of funding is derived from available Fiscal Year 2023-24 Resort Tax funds.

**Section 3. Expenditure Approved.** That the expenditure of identified budgeted funds from the Resort Tax for this Event in an amount not to exceed \$50,000 is hereby approved.

**Section 4. Implementation.** That the Village Manager is hereby authorized to take all actions necessary to implement the Agreement and the purposes of this Resolution.

**Section 5. Effective Date.** That this Resolution shall take effect immediately upon the adoption hereof.

PASSED AND ADOPTED this 9<sup>th</sup> day of April, 2024.



\_\_\_\_\_  
Mayor Jeffrey P. Freimark

ATTEST:

\_\_\_\_\_  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Village Attorney  
Weiss Serota Helfman Cole & Bierman P.L.

## BAL HARBOUR VILLAGE ICE CREAM WE LOVE SPONSORSHIP



### *Ice Cream We Love*, benefitting Holtz Children's Hospital at the University of Miami/Jackson Memorial Medical Center

#### **Event Details**

Bal Harbour Shops, the iconic open-air, all-luxury shopping destination, will host its 6th annual **Ice Cream We Love**, a philanthropic, ticketed event, welcoming over 500 shoppers daily, benefitting Holtz Children's Hospital at the University of Miami/Jackson Memorial Medical Center on May 18th and 19th. All weekend long, Bal Harbour Shops lush walkways will be transformed into an ice cream shop bursting with 15-20 pop-ups from beloved national and local brands alongside life-sized games, ice cream toss stations, face painting and entertainment for the whole family. Ice cream enthusiasts can indulge in classic flavors and discover new favorites from gelato and paletas to ice cream sandwiches, innovative donuts with ice cream, and much more throughout all three levels of the luxury shopping destination.



# PROGRAM DETAILS

## ICE CREAM WE LOVE

A highly visible event that bolsters awareness and engagement in Bal Harbour Village



### **Distribution of Press Release Highlighting BHV as Main Partner**

- Press release is widely distributed to local and national press (2023 Cumulative Media Impressions: 21,047,093)

### **Social Media Campaign for Event Promotion**

(2023 15+ visits, 40+ posts, 7,000,000 impressions)

### **Invitation Distribution Highlighting BHV as Main Partner with Logo Inclusion**

- Invitation is distributed to BHS database
- Invitation is distributed to BHS Access database
- Invitation is distributed to Holtz Children's Hospital database of donors
- Invitation is distributed to local schools and other charitable organizations

### **Onsite**

- Event menu/programming cards highlighting BHV as main partner with logo inclusion, distributed throughout the event to all participants and shoppers
- BHV branding/logo on all ice cream pop-up booths throughout the event

### **Tickets**

- Opportunity for event tickets to go on pre-sale to BHV residents prior to opening to the public
- Complimentary event tickets to BHV Mayor and Council

### **Cross- Channel Promotion**

#### **Event Splash/Landing Page on BHS.com**

- Event Splash/Landing Page on BHS.com will highlight BHV as a main partner with logo inclusion and boiler plate

### **Newsletter**

- Newsletter highlighting ICWL and featuring BHV as a main partner

(150K Subscribers/send, 25%-30% Open Rate)

### **Social**

- Organic social posts and stories throughout weekend and pre-event will include BHV tag/handle

(846K Combined Followers)

**TOTAL COMMITMENT: \$50,000 NET**



# BAL HARBOUR

- V I L L A G E -

## DISCUSSION ITEM

TO: Jorge M. Gonzalez, Village Manager

FROM: Buzzy Sklar, Councilman

DATE: April 9, 2024

SUBJECT: **Discussion Regarding an Update on the Boat Issues Off the Bal Harbour Sandbar.**

Please place an item on the April 9, 2024, Village Council Meeting Agenda for a discussion regarding an update on the boat issues off the Bal Harbour sandbar.



# BAL HARBOUR

- V I L L A G E -

## DISCUSSION ITEM

TO: Jorge M. Gonzalez, Village Manager

FROM: David Wolf, Councilman

DATE: April 9, 2024

SUBJECT: **Discussion Regarding Artificial Turf Inside the Gated Community.**

Please place an item on the April 9, 2024, Village Council Meeting Agenda for a discussion regarding artificial turf inside the gated community.





# BAL HARBOUR

- VILLAGE -

## MEMORANDUM

TO: Honorable Mayor and Council

FROM: Dwight S. Danie, Village Clerk *OSD*

DATE: April 3, 2024

RE: Lobbyist Registration Report

Name of Lobbyist	Principal Represented	Date Registered
John Shubin	Mathew Whitman Lazenby	01/09/24
Ian DeMello	Mathew Whitman Lazenby	01/09/24
Darrell Payne	Saks Fifth Avenue LLC	01/16/24
Maria A. Gralia	Saks Fifth Avenue LLC	01/16/24
Seth P. Robert	Saks Fifth Avenue LLC	01/16/24
Previn R. Patel	Saks Fifth Avenue LLC	01/16/24
Mathew Lazenby	Bal Harbour Shops LLC	01/16/24
Benjamin Elias	Bal Harbour Shops LLC	01/16/24
Ivor Nicholas Massey	Bal Harbour Shops LLC	01/16/24
Caroline Travis	Bal Harbour Shops LLC	01/16/24
Nicholas Noto	LK Hotel, LLC	01/19/24
Carter McDowell	LK Hotel, LLC	01/19/24



# BAL HARBOUR

- V I L L A G E -

## MEMORANDUM

TO: Honorable Mayor and Council  
FROM: Susan L. Trevarthen *SLT*  
DATE: April 1, 2024  
RE: Monthly Report of Village Attorney for February 2024 Activities

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Here is the monthly report on the Village Attorney's activities. While we attend to Village business and confer with Village officials continuously, this report highlights specific tasks and projects for the month. Please contact me or Robert Meyers if you have any questions about this report.

### **Retainer Services**

Within the fixed fee retainer in February, we reviewed, advised and prepared documents for all agenda items for and attended the February Council meetings and the Council's retreat. We conferred with staff on various matters, and we attended the weekly staff meetings, the February ARB meeting, and the monthly agenda review and after action meetings. We began preparation for the March Council meetings.

Specific additional matters included:

- We met with staff and reviewed the proposed Construction Manager at Risk RFP for Village Hall services.
- We analyzed and evaluated case study summaries regarding Live Local ordinances, and worked to draft, edit, and finalize the ordinances for first reading.
- We conferred with staff, and reviewed and responded to correspondence on an unsafe structures case against the Plaza.
- We conferred with staff and drafted a demand letter to Paladin.
- We reviewed items for the April ARB meeting.
- We reviewed documents and prepared a response to David Hauser regarding his request for a partial release of a Code violation involving the Plaza.
- We conducted research and analysis regarding direction offered at the retreat concerning zoning and other matters.
- We reviewed various professional service agreements.
- We reviewed and evaluated dock-related grant issues at the Waterfront Park.

- We conducted an analysis, prepared a memorandum and attended meetings with the League of Cities and the MDC Ethics Commission concerning a draft ethics opinion on conflicting employment.
- We corresponded with Village staff concerning the status of the County website for posting Village notices and advertisements.
- We conferred with counsel for Oceana.
- We conferred with staff concerning the power and authority of the Police Legacy Foundation. We assisted with response to a subpoena for police records.

### **Additional Services**

For the Dade County PBA, we reviewed and analyzed issues related to the off-duty detail policies.

For Bal Harbour Shops submission matter, we comprehensively reviewed the application materials, attended multiple meetings with Village staff, prepared for and attended an executive session with the Village Council, conferred and coordinated with the litigators, conducted extensive research on legal issues, and reviewed a motion to dismiss.

On construction matters, we worked extensively with staff to draft correspondence, review and analyze information, and develop strategy re defects in the construction of the Waterfront Park and gate system.