

# BAL HARBOUR

- VILLAGE -

## **BUSINESS IMPACT ESTIMATE<sup>1</sup>**

**Meeting Date:** July 16, 2024

**Agenda Item R5A**

### **Summary of Proposed Ordinance and Statement of Public Purpose to be Served**

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 in order to serve the public health, safety, and welfare.

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.

On April 9, 2024, the Village Council unanimously adopted amendments to Section 11-32 of the Village Code, to bring the B District into alignment with the rest of the Village and provide a respite from noisy work. This action was 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 for residents. This was also more relevant as the construction activity associated with the Bal Harbour Shops expansion had shifted from 96th Street to the north, in much closer proximity to the residential community.

Moreover, this Ordinance further amends the Code to prohibit construction noise on all federal 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. (The reason for re-adoption of this Ordinance on July 16, 2024 is explained in the agenda memo).

The proposed changes to the Business District are in line with recent amendments to regulations established for construction noise throughout the rest of the Village.

### **Estimate of Direct Economic Impact on Private/For Profit Businesses**

#### **a. Estimate of Direct Business Compliance Costs:**

This Ordinance impacts the Business District by eliminating Saturdays as an option for construction activity. Businesses would have 52 less days throughout the year to conduct construction activity. Moreover, the Ordinance proposes to include all federal holidays as non-construction dates throughout the Village, which adds an additional four (4) days to the current Code provision for holidays.

In reviewing Police Extra Duty requests as required for construction work on Saturdays, there have been no requests for Saturday work in 2024. In 2023, construction work was conducted on 15 Saturdays and in 2022, construction work was conducted on 22 Saturdays. As a result, over the last three (3) years, construction work has occurred on an average of 12 Saturdays per year.

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Furthermore, interior construction activity will be limited to end at 9 pm. To date in 2024, there have been six (6) building permits processed for interior alterations/renovations in the Business District, while in 2023, there were twelve (12) building permits pulled for this type of work. In 2022, there were sixteen (16) permits pulled for interior alteration/renovations. Over the last three (3) years, there has been an average of eleven (11) building permits processed for this type of work per year. However, it is unclear during which hours this work is taking place, and it cannot be assumed that all these projects resulted in work occurring after 9 pm.

The proposed changes to the Business District are in line with regulations established for construction noise throughout the rest of the Village. It is not possible to estimate the costs associated with these additional non-construction working days and hours (and the days Village-wide with regard to the four additional holidays) without direct knowledge of contractual expenses associated with these construction projects. It is also important to note that the Code continues to provide a mechanism for businesses to ask for deviations from all of the Code's non-construction working days and hours.

**b. New Charges/Fees on Businesses Impacted:**

The amendment does not seek to change the schedule of civil penalties for noise violations within the Village in relation to the additional non-construction working days and hours. The amendment does add the Property Owner to every step of the civil penalties in the Business District regulations. 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 in the Business District from six (6) months to twelve (12) months.

**c. Estimate of Regulatory Costs:**

There is no additional cost to the Village for enforcing this Ordinance. Currently, Code Compliance personnel would be responsible for monitoring and addressing any violations of this Code section.

**Good Faith Estimate of Number of Businesses Likely Impacted**

Based on a review of Village Business Tax Receipts records, there are approximately 110 businesses within the Business District, which, at some point, could possibly be impacted by the changes proposed by this Ordinance to the Business District. Additionally, there are 5 commercial establishments (i.e., hotels, bank, etc.) located in other Districts that could possibly be impacted by the change to the number of holidays. However, as stated above, there have been six (6) building permits processed for interior alterations/renovations in the Business District so far this year, which accounts for approximately 5% of the licensed businesses in the Business District.

**Any Additional Information:**

N/A

<sup>1</sup> Business Impact Estimate does not apply to the following:

1. Ordinances required for compliance with federal or state law or regulation;
2. Ordinances related to the issuance or refinancing of debt;
3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
4. Ordinances required to implement a contract/agreement;
5. Emergency ordinances;

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6. Ordinances relating to procurement;
7. Ordinances enacted to implement the following:
  - a. Part II of Chapter 163, F.S.;
  - b. Sec. 190.005, F.S. and Sec. 190.046, F.S.;
  - c. Sec. 553.73, F.S. (Fla. Building Code);
  - d. Sec. 633.202, F.S. (Fla. Fire Prevention Code).