

**ORDINANCE NO. 2025\_\_\_\_**

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 8.5 "FLOOD DAMAGE PREVENTION", SECTION 8.5-2 "DEFINITIONS" OF THE CODE OF ORDINANCES; AMENDING CHAPTER 21 "ZONING", ARTICLES I - III TO AMEND DEFINITIONS, PROCEDURES, AND REGULATIONS RELATED TO HEIGHT; PROVIDING FOR CONFLICTS, SEVERABILITY, INCLUSION IN THE CODE, 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**, current Village regulations address the measurement of height, and for uses other than single family, require the measurement to begin from the average street grade of the adjacent road; and

**WHEREAS**, because the highest minimum elevation provided by applicable law is increasing with sea level rise and the related increase in the levels of groundwater in the Village, the practically available height for development is diminished by this method of measurement; and

**WHEREAS**, changing this approach to measurement of height in the Village and clarifying the maximum level of freeboard will increase the sustainability of development now and into the future, and allow reasonable developable use of the current height limits; and

**WHEREAS**, the Village Council seeks to amend Chapter 8.5 "Flood Damage Prevention" to provide for a maximum freeboard allowance at the level required by applicable county, state, or federal law; and

**WHEREAS**, the Village further seeks to amend Chapter 21 "Zoning", Article I "In General", Section 21-1 "Definitions and Rules of Construction" to amend the definitions and regulations applicable to the measurement of height of uses other than single family residential; and

**WHEREAS**, the Village Council further seeks to amend Chapter 21 “Zoning”, Article II “Administration” to establish extraordinary measures requiring greater public scrutiny and Council consensus before any future change to height regulations is approved, including the placement of a discussion item on an agenda of a regular Council meeting prior to starting the statutory adoption process for such changes, open to public comment; requiring that the Local Planning Agency (LPA) public hearing for such changes be held before the first reading by the Village Council; and requiring a supermajority of the Council (4/5 vote) to approve first and second reading of any such legislation; and

**WHEREAS**, the Village Council further seeks to amend Chapter 21 “Zoning”, Article III “District Regulations” to establish a height limit for municipal buildings that will apply to property regardless of zoning district or location; and

**WHEREAS**, the Administration recommended approval of this Ordinance in its report for the March 18, 2025 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 April \_\_, 2025, 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 8.5.** That Chapter 8.5 “Flood Damage Prevention” of the Code of Bal Harbour Village, Florida, is hereby amended to

read as follows:<sup>1</sup>

## CHAPTER 8-5. - FLOOD DAMAGE PREVENTION

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### Sec. 8.5-2. - Definitions.

(a) *Scope.* Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this section.

(b) *Terms defined in the FBC.* Where terms are not defined in this chapter and are defined in the FBC, such terms shall have the meanings ascribed to them in that code.

(c) *Terms not defined.* Where terms are not defined in this chapter or the FBC, such terms shall have ordinarily accepted meanings such as the context implies.

\* \* \*

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Freeboard results in significantly lower flood insurance rates due to lower flood risk. The Village's maximum voluntary freeboard is the amount required by applicable county, state, or federal law.

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**Section 3. Village Code Amended - Chapter 21.** That Chapter 21 "Zoning" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:

## CHAPTER 21. - ZONING

### ARTICLE I. - IN GENERAL.

#### Sec. 21-1. - Definitions and rules of construction.

(a) For the purpose of this chapter, which shall be known as the Zoning Ordinance of Bal Harbour Village, Florida, words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used for" include the

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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.

meaning "designed for"; the word "structure" includes the word "building"; the word "shall" is mandatory and not directory; and the word "lot" includes the words "plot" and "tract".

(b) Words and terms not defined in this section shall be interpreted in accord with their normal dictionary meaning and customary usage.

(c) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Height of a Building or Structure* means the vertical distance from the highest minimum elevation provided by county, state, or federal law; the Base Flood Elevation plus any additional Freeboard, as defined in section 8.5-2. of the Village Code, average Street Grade to the highest point of the coping of a flat roof or to the average height of the highest gable of a pitch or hip roof. ~~Notwithstanding the foregoing, the height of Single Family Dwellings may be measured from the highest minimum elevation provided by state or federal law; the Base Flood Elevation plus any additional Freeboard, as defined in section 8.5-2. of the Village Code.~~ Penthouses shall be considered in determining both the Height and the number of Stories of a Building. When a parapet wall is provided, the vertical distance shall be measured from the highest minimum elevation provided by county, state, or federal law; the Base Flood Elevation plus any additional Freeboard, as defined in section 8.5-2. of the Village Code, average Street Grade to the highest point of its 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.

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## ARTICLE II. ADMINISTRATION

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### DIVISION 2. - AMENDMENTS; ZONING CHANGES; VARIANCES

**Sec. 21-56. Procedures for Amendments to the Village Code that Increase Developable Height.** The following extraordinary measures, to ensure greater public scrutiny and deliberation, shall be followed whenever the Village Council proposes to amend the Village Code or take other action that increases the height limit in any zoning district in the Village:

(a) A discussion item must be placed on an agenda of a regular Village Council meeting prior to starting the statutory notice and adoption process for such proposal, and the discussion item must include public comment;

(b) The Local Planning Agency (LPA) public hearing for such a proposal must be held before the first reading by the Village Council; and

(c) A supermajority of the Village Council (4/5 vote) is required to approve both first and second readings of any such legislation or action.

**Secs. 21-567–21-75. - Reserved.**

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### **ARTICLE III. DISTRICT REGULATIONS**

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**Sec. 21-79. Height Limit for Municipal Buildings.** A height limit of 56 feet applies to municipal buildings, regardless of their zoning district or location.

**Secs. 21-7980–21-95. - Reserved.**

**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 and 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 18<sup>th</sup> day of March, 2025.

PASSED AND ADOPTED on second reading this \_\_\_ day of \_\_\_\_\_, 2025.



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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.