

ORDINANCE NO. 2021-637

AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 21 "ZONING" OF THE CODE OF ORDINANCES, BY AMENDING SECTION 21-358 "WALLS, FENCES AND LANDSCAPE PLANTINGS" TO DEFINE AND REGULATE PERIMETER WALLS AND FENCES SURROUNDING THE GATED RESIDENTIAL SECTION OF THE VILLAGE; PROVIDING FOR INCLUSION IN THE CODE, CONFLICTS, AND FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary for communities to evaluate the land development regulations to stay current with prevailing building and development trends; and

WHEREAS, there has been considerable renovation/redevelopment activity in Bal Harbour Village's (the Village's) Residential Gated Section; and

WHEREAS, the Village Council desires to create a regulation for perimeter walls and fences that surround the Residential Gated Section, to allow them to be built up to ten feet tall; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on April __, 2021, 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 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. Village Code Amended - Chapter 21. That Section 21-358 "Walls, fences and landscape plantings" of Article IV, "Supplementary District Regulations" of Chapter 21 "Zoning" of the Code of Bal Harbour Village, Florida, is hereby amended to

read as follows:¹

CHAPTER 21 - ZONING

Article IV. SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 21-358. - Walls, fences and landscape plantings.

(a) In the Single Family Residential Districts (R Districts), Private Club District (PC District) and the Multiple Family Residential Districts (RM Districts), no wall or fence shall be erected outside of the Building Lines which is higher than five feet above the elevation of the centerline of the adjoining Street. Notwithstanding the above, in the R-2 Single Family Residential District, walls or fences which are within the Front Building Line Area and are parallel to the front property line shall be structured to the following design criteria:

(1) A maximum of two feet of opaque wall surface above grade shall be permitted.

(2) The balance of allowable wall/fence height up to the maximum five-foot height may be constructed of non-opaque material such as wrought iron, aluminum, decorative open weave concrete or clay products, glass block and similar materials. Supplemental landscaping acceptable to the Village Architectural Review Board (ARB) shall be provided on the street side of any such wall or fence.

(3) Any such wall shall be decorative, with finishes on both sides and compatible with the dwelling architecture.

(4) The Architectural Review Board (ARB) may grant exceptions to the design criteria stated herein based on creative and compatible design solutions.

(b) In Blocks 1 and 12 in zoning districts R-1, and RM-4, and in Block 12a of RM-5, no wall or fence more than four feet in height shall be created between the Seawall and the front Setback line.

(c) In the Ocean Front District (OF District), no boundary wall or fence shall be constructed which is more than six feet above the elevation of the center of the adjoining Street.

(d) In the Business District (B District), no boundary wall or fence shall be constructed which is more than 20 feet above the elevation of the center of the adjoining Street along Bal Bay, Bal Cross and Park Drive and no more than six feet above the elevation of the center of the adjoining Street along Collins/Bal Harbour Boulevard, Harding and 96th Street. No other wall or fence shall be constructed which is more than six feet above the elevation of the center of any adjoining Street.

(e) A perimeter wall, with gates where needed for pedestrian or vehicular access, may be constructed around the Gated Residential Section of Bal Harbour. The perimeter wall may be constructed as follows; starting at the western property line of Lot 3 of Block 12a

¹ 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.

running south along the eastern boundary of the park properties located east of Park Drive and ending at the west side of the intersection of Park Drive and Bal Bay Drive. The height of the perimeter wall shall not be more than 10 feet above the elevation of the center of the adjoining Street.

The perimeter wall may also be continued along the northern property line of Block 1, Lot 2 to the western property line, at a height no more than 10 feet above the elevation of the center of the adjoining Street or of the finished grade of the developed lot, whichever is greater.

This subsection (e) does not apply to the B Business-zoned properties abutting Park Drive, which are regulated by subsection (d) above.

(ef) In all zoning districts, ornamental entrances, fountains, rotisseries, flower bins and similar architectural features exceeding the wall height restriction will be permitted, provided that:

- (1) No such feature shall exceed in height the wall height restriction for that district plus three feet.
- (2) There shall be only one such feature in any front, side or rear Yard, except that there may be two entrance gates.
- (3) There shall be at least ten feet between any such feature and any part of any Building on the same Lot, measured at right angles from the feature.
- (4) Such features shall not restrict passage through front, rear or side Yards to less than 88 inches in any place.

(fg) Hedges of living vegetation in the P.C. District may be kept and maintained with the same limitations for walls in said district. In all other districts, hedges may be kept and maintained without any height limitation, provided such hedges are neatly trimmed and do not interfere with traffic or visibility on public rights-of-way.

(gh) Planting of vegetation in Easement Areas.

- (1) No trees may be planted within any utility easement as shown on the recorded plats of the various subdivisions of the Village ("Easement Areas"), unless approved by the Village Council as part of a Major Site Plan Review and the owner of the easement. Trees may be planted within access easements. Nothing in this section shall be construed to prohibit the planting of low-growth Landscaping in Easement Areas ("Easement Landscaping"). Easement Landscaping is subject to removal by the Village without notice in the event that the Easement Landscaping impedes access to Easement Areas. The Village shall not be responsible for damage to Easement Landscaping removed.
- (2) Prior to planting of low-growth Landscaping in Easement Areas, a Landscaping plan shall be provided to the Village for review to ensure compliance with subsection (fe)(4) of this section.
- (3) Prior to planting of low-growth Landscaping in Easement Areas, the Owner shall execute a Permission for Removal, Release and Indemnification Agreement, in a

form acceptable to the Village, pertaining to low-growth Landscaping in Easement Areas.

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 immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 16th day of March, 2021.

PASSED AND ADOPTED on second reading this 20th day of April, 2021.

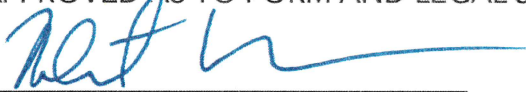


ATTEST:


Dwight S. Danie, Village Clerk


Mayor Gabriel Groisman

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

A handwritten signature in blue ink, appearing to be 'W. Serota', written over a horizontal line.

Village Attorney

Weiss Serota Helfman Cole & Bierman P.L.