

**ORDINANCE NO. 2017- 597**

**AN ORDINANCE AMENDING THE CODE OF  
ORDINANCES, CHAPTER 11 “NUISANCES,” ARTICLE II  
“NOISE” TO AMEND THE DEFINITIONS AND  
STANDARDS APPLICABLE TO NOISE; PROVIDING FOR  
SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS,  
FINDINGS, AND AN EFFECTIVE DATE**

**WHEREAS**, Article II “Noise” of Chapter 11 “Nuisances” of the Village Code of Ordinances (the “Code”) sets forth regulations governing noise occurring in the Village, and allows the Village Manager to make certain exceptions to these regulations; and

**WHEREAS**, the Village Council desires to amend the noise regulations set forth in Article II “Noise” of Chapter 11 “Nuisances” of the Code, to (a) amend or delete definitions in Section 11-26 and 11-31; (b) create a new Section 11-32 regulating Construction Noise in the “B” Business District; (c) modify Article II to be consistent with the new Section 11-32; (d) specify the parties responsible for violations in Section 11-29(d); and (e) delete Section 11-29(a)(3) providing an entitlement to extra decibels for specified after-hours construction; and

**WHEREAS**, the Village Council deems it advisable to amend the Code in this manner, to allow for comprehensive regulation of construction noise in the “B” Business District that will not otherwise disturb or negatively impact Village residents; and

**WHEREAS**, the Village Council hereby finds and determines that this Ordinance is in the best interest of the public health, safety and welfare.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL  
OF BAL HARBOUR VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1.      Recitals Adopted.** That each of the above recitals is hereby adopted and confirmed.

**Section 2.      Village Code Amended.**    That Article II "Noise" of Chapter 11

"Nuisances" of the Code of Bal Harbour Village, Florida is hereby amended by adding Section 11-32 and to read as follows<sup>1</sup>:

## **ARTICLE II. - NOISE**

### **Sec. 11-26. - Definitions.**

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

*Ambient noise level* means the sound pressure level of the all-encompassing noise emanating from a given environment, usually being a composite of sounds from many sources including the source of interest.

*ANSI* means the American National Standards Institute.

*ASTM* means the American Society for Testing and Materials.

*A-Weighted Equivalent Sound Pressure Level (L<sub>Aeq</sub>)* means a sound level descriptor based on the average sound pressure level in a specified time period. L<sub>Aeq</sub> is intended as a single number indicator to describe the sound pressure level of a sound that varies over a specified period of time. L<sub>Aeq</sub> is measured in decibels and must be A-weighted (dBA). The minimum measurement time for this regulation is defined as five minutes.

*Background noise level* means the sound pressure level of the noise in a given environment without the source of interest.

*Commercial-Apartment Neighborhood* is legally defined to include: Tracts A and B and Lots 1 through 16, Ocean Front Section of Bay Harbor, Plat Book 44, page 27; Tracts C, D and E, Bal Harbour Ocean Front Addition, Plat Book 57, page 68; Areas 1 through 5, Business Section of Bal Harbour, Plat Book 60, page 39; a portion of Tract D described in Deed Book 2886, page 198 and Deed Book 3505, page 170, Residential Section of Bal Harbour, Plat Book 44, page 98; Lots 1 through 4, Block 1, Plat Book 44, page 98; Lots 1 through 10, Block 7, Plat Book 44, page 98; Lots 1 through 5, Block 8, Plat Book 44, page 98; Lot 1, Block 8A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15; Lots 1 through 3, Block 12A, Resubdivision of Residential Section of Bal Harbour, Plat Book 53, page 15, Public Records of Dade County, Florida. This legal definition includes the area of the Village that is zoned "B" Business pursuant to Chapter 21.

*Construction Noise* means Noise resulting from construction, demolition, maintenance, additions, alterations or repairs to Structures or Buildings.

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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 ~~strikethrough~~.

*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

*Noise* means any sound which annoys or disturbs humans or which causes or which tends to cause adverse psychological or physiological effect on humans.

*Noise Disturbance* means any sound in quantities which are or may be potentially harmful or injurious to human health or welfare, or which unnecessarily interferes with the enjoyment of life or Property, including outdoor recreation, of a reasonable Person with normal sensitivities.

*Residential Neighborhood* is legally defined to include: Lots 5 through 24, Block 1; Lots 1 through 20, Block 2; Lots 1 through 33, Block 3; Lots 1 through 18, Block 4; Lots 1 through 20, Block 5; Lots 1 through 33, Block 6; Lots 1 through 21, Block 9; Lots 1 through 13, Block 10; Lots 1 through 22, Block 11; Lots 1 through 20, Block 12 and Tract E, Residential Section of Bal Harbour, Public Records of Dade County Plat Book 44, page 98.

*Sound level* means the weighted sound pressure level obtained by the use of a metering characteristic and weighting A, B, or C, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4-current edition). If the weighting employed is not indicated, the A-weighting shall apply.

*Sound Level Meter* means an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and weighting network or digital signal acquisition and analysis modules to perform these and other functions A-weighted sound level network with fast and slow integrating time constants, used to measure sound pressure levels. The output meter reads sound pressure level when properly calibrated. The sound level meter shall be of Type 1 as specified in the American National Standards Institute publication entitled "Specifications for Sound Level Meters," designated as ANSI S1.4 2014 and should be capable of measuring the A-Weighted Equivalent Sound Pressure Level (L<sub>eq</sub>) and maximum sound level. Normally, the slow meter response time constant would be employed. The period of time over which sound levels are measured reflects the nature of the situation and the minimum measurement time shall be no less than five minutes normally would be between five and ten minutes.

*Sound Pressure* means the instantaneous difference between the actual pressure and the average or barometric pressure at a given point in space, as produced by the presence of sound energy.

*Sound Pressure Level* means 20 times the logarithm to the base ten of the ratio of the RMS sound pressure to the reference pressure of 20 micro-newtons per meter squared. The sound pressure level is denoted L<sub>p</sub> (or SPL) and is expressed in decibels.

*Village Manager* means Village Manager or designee.

## **Sec. 11-27. - Noise Disturbance—Generally.**

It shall be unlawful for any Person to make, continue or cause to be made or continued any loud, excessive or unusual Noise Disturbance.

## **Sec. 11-28. - Reserved.**

## **Sec. 11-29. - Violations of article.**

- (a) *Prohibited acts generally.* The following acts, and the causing or permitting thereof, are presumed to be in violation of this article:
  - (1) Operating, playing or permitting the operation or playing of any radio, television, phonograph, drum, musical instrument or other machine or device for the producing or reproducing or amplifying of sound which creates a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.
  - (2) Owning, possessing or harboring any animal or bird which frequently or for a continued duration howls, barks or makes other sounds which create a Noise Disturbance across a real property line in a Residential or Commercial-Apartment Neighborhood.
  - (3) ~~Operating or causing the operation of any tools or equipment used in construction, drilling or repair work outside the hours specified in section 11-31 unless such activity is authorized by the prior written consent of the Village Manager or his or her designee, as provided for in subsections 11-31(d), (e) and (f); provided, however, for any noises emanating from the activities listed under section 11-31 during the hours in which such noises are permitted, the associated equivalent sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by five decibels and the associated maximum A-weighted sound levels shall not exceed the equivalent A-weighted sound level limits of subsection 11-29(b) by ten decibels.~~
  - (4) ~~(3) Using or firing explosives or similar devices, except in an Emergency, or using or firing firecrackers, skyrockets or the like if prior permission is not obtained from the Village Manager.~~
- (b) *Noises exceeding permitted decibel level.* Any noise which emits a sound measured at an A-weighted equivalent sound level (Leq) in excess of 57 decibels in a Residential Neighborhood and 64 decibels in a Commercial Apartment Neighborhood between the hours of 7:00 a.m. and 10:00 p.m. (Daytime Decibel Levels) or 54 decibels in a Residential Neighborhood and 61 decibels in a Commercial Apartment Neighborhood between the hours of 10:00 p.m. and 7:00 a.m. (Nighttime Decibel Levels), shall be presumed a nuisance and *prima facie* evidence of a violation of this article. The measurements shall be taken with a calibrated sound level meter at the location of the dwelling unit or premises of the complaining party. If there is no complaining party, the measurement shall be taken at approximately 100 feet from the property from which the noise is emanating.
- (c) *Mitigation practices.* Any person operating or causing or allowing the operation of tools or equipment used in construction, drilling or repair work, shall mitigate noise by assuring

compliance with the following noise mitigation practices or other methods that the Building Official determines, in his or her sole discretion, are at least as effective as those listed below:

- (1) Pile driving:
  - a. Substitution of hydraulic impact hammers for diesel impact hammers;
  - b. Use of augering equipment to construct bored piles;
  - c. Use of vibratory hammers for driving steel piles; and
  - d. Use of static load equipment to push rather than drive piles.
- (2) Concrete breaking:
  - a. Substitution of hydraulic, electric or gasoline-powered tools for pneumatic equipment;
  - b. Substitution of a whip-action impact hammer for a standard, excavator-mounted hammer;
  - c. Use of a thermal lance to burn holes in concrete;
  - d. Use of diamond drills and saws;
  - e. Use of hydraulic bursters or jacks;
  - f. Use of excavator-mounted hydraulic crushers;
  - g. Use of nonexplosive chemical demolition agents; and
  - h. Use of high-pressure discharge of carbon dioxide gas.
- (3) Construction site noise control: Use of sound barriers, absorptive sound blankets, and acoustic enclosures.
- (4) Operational Restrictions:
  - a. Scheduling of noisy activity to coincide with periods of least noise sensitivity;
  - b. Restricting equipment idling on-site;
  - c. Prohibiting unnecessary rattling and banging;
  - d. Use of portable radios to communicate with workers.

(d) Responsible parties. The parties responsible for a violation shall include the owner of a property, the lessee of a property where such violation occurs within lessee's leased space and the individual or entity engaged in the Noise-generating activity. Each responsible party shall be provided notice wherever notice to the violator or property owner is required by this Code.

(e) Deviations. An applicant may seek the prior written consent of the Village Manager to make Construction Noise for a limited time during the prohibited hours or in excess of the Permitted Decibel Levels. Such consent may be granted by the Village Manager if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager, that the activity producing the Construction Noise, by its very nature, cannot meet the Permitted Decibel Level or be mitigated to meet the Permitted Decibel Level. The Village Manager may impose appropriate conditions to mitigate the impact of the deviation on the Village.

#### **Sec. 11-30. - Variance for special events.**

Upon written Application to the Village (the Application), submitted a minimum of ten days prior to an event at which noise levels are expected to exceed Nighttime Decibel Levels, the applicability of Daytime Decibel Levels may be extended to 11:00 p.m. on weeknights or to 1:00 a.m. on weekends and holidays by the Village Manager subject to such conditions as he may

impose. Applications shall include a full description of the event, the location of the event, and the name of the Person responsible for the event. The decision of the Village Manager shall be final and not subject to appeal.

**Sec. 11-31. - Certain Noises restricted to specified hours.**

(a) ~~For the purposes of this section, the following terms will have the following prescribed meaning unless the context indicates otherwise.~~

(1) ~~Interior~~ shall mean that portion of a structure or structures that faces a property which is owned by the applicant or faces a property that is located in the ~~B~~ Business District.

(a)(b) 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:

I. In all zoning districts other than the "B" Business District:

- (1) Steam, gasoline or oil-operated cranes, pile drivers, excavators, dredges, ditchers and all other similar machinery;
- (2) One-cylinder steam or internal-combustion engines, horizontal or vertical;
- (3) Air compressors and pneumatic riveting machines, jackhammers, drills and other similar air equipment;
- (4) Power band and circular saws working in the open;
- (5) Hand hammers on steel or iron, structural, rivet or otherwise;
- (6) Stationary or portable concrete mixers, with engines multi-cylindered and properly muffled;
- (7) Power band and circular saws, sanders, planers, grinding machines, drills, bar benders and cutters, and similar machinery, when enclosed;
- (8) Hand operations in connection with plumbing, electrical, roofing and framing work in the open;
- (9) Transit concrete mixers, with engines multi-cylindered and properly muffled, operated to cause the least possible noise;
- (10) Hand operations in connection with plumbing, electrical, roofing and framing work, when enclosed;
- (11) Hand loading and unloading and the handling of building materials and other similar heavy trucking;
- (12) Masonry work and the hand mixing of mortar;
- (13) Plastering and the hand mixing of plaster;
- (14) Painting; and
- (15) Glazing.

To be considered enclosed, Noises shall originate within the exterior walls of a Building.

II. In all zoning districts:

- (1)(16) Landscaping; and
- (2)(17) All other Noises of similar intensity and/or annoyance to landscaping or the uses listed in subsection 11-31(a)II.

Noises, to be considered enclosed, shall originate within the exterior walls of a building.

(b)(e) Prohibited Times. The Noises set forth in subsection (a)(b) of this section are hereby prohibited at any location and at any hour on Sundays and on New Year's Day, Christmas Day, Independence Day, Labor Day and Thanksgiving Day, and on Mondays through Saturdays from 5:30 p.m. to 8:30 a.m., except as provided in subsections (d), and (e) and (f) of this section.

(c)(d) Consent for Exterior Construction and Lawn Maintenance Activities in Residential Districts During Prohibited Times. An applicant may seek the prior written consent of the Village Manager ~~or his or her designee~~ to construct or demolish, or to add to, alter or repair the exterior portion of, any dwelling, or to mow or perform any other lawn maintenance activities which require the use of machinery, in residential districts during the hours prohibited by subsection (b)(e). Such consent may be granted by the Village Manager ~~or his or her designee~~ if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager ~~or his or her designee~~, that the activities described in this paragraph (c)(d) cannot be done at any other time, and will not take more than one day to complete.

(d)(e) Hours for Interior Construction Activities in Residential Districts. Except in an Emergency which will result in damage or injury, or with the prior written consent of the Village Manager ~~or his or her designee~~, it shall be unlawful to permit independent contractors, vendors, or any other hired persons or employees to make any additions, alterations, or repairs inside any dwelling in residential districts between the hours of 9:00 p.m. and 8:30 a.m. on any day. Such consent may be granted by the Village Manager ~~or his or her designee~~ if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager ~~or his or her designee~~, that any alterations, additions, or repairs described in this subsection cannot be made at any other time, and will not take more than one day to complete.

(f) The Noises set forth in subsection (b) of this section are permitted on Mondays through Saturdays during the hours prohibited by subsection (e) in the B Business District only with the prior written consent of the Village Manager ~~or his or her designee~~. Applications for the consent of the Village Manager shall be in a form provided by the Village. Consent may be granted if an applicant submits documentation establishing, as determined in the sole discretion of the Village Manager ~~or his or her designee~~, that the Noises set forth in subsection (b) of this section can be mitigated through compliance with the mitigation practices set forth in subsection 11-29(e), and that the Noises:

- (1) ~~Are primarily generated within the Interior of a structure, and~~
- (2) ~~Are produced by activities that would interrupt or substantially impair the operations of adjacent tenants if performed during the hours that Noises are allowed by subsection (e); or~~
- (3) ~~Are produced by activities that pose a safety hazard to employees or visitors if performed during the hours that Noises are allowed by subsection (e); or~~
- (4) ~~Are produced by activities that cannot practically be performed during the hours that Noises are allowed by subsection (e).~~

The parties responsible for a violation of this subsection (f) shall include the owner of a property, the lessee of a property where such violation occurs within lessee's leased space and the individual or entity engaged in the noise generating activity.

(f)(g) An application for the consent of the Village Manager to produce the Noises set forth in subsection (a)(b) of this section during the hours prohibited in subsection (b)(e) of this section shall be made in a form approved by the Village and shall be accompanied by an application fee established by the Village Council (the "Application Fee"). Village residents filing such applications for the production of Noises at their personal residence shall be exempt from the Application Fee. In the event that the Village Manager ~~or his or her designee~~ grants their consent to perform Noise-producing activity during the hours prohibited in subsection (b)(e) of this section the Village Manager ~~or his or her designee~~ may require the applicant to post an off-duty police officer, code compliance officer, or other employee or agent of the Village at the site of the Noise-producing activity at the applicant's sole cost and expense.

(g)(h) The requirements of this section shall not be construed to prevent the operation of automobiles or light delivery vehicles at any time; provided, however, that such motor vehicles shall at all times be properly muffled and shall be so operated as to create the least possible noise or nuisance. ~~Deliveries of materials and/or equipment to be utilized in the construction, improvement or renovation of a property within the B Business District in accordance with an approval granted pursuant to subsection (f) are permitted only during the hours permitted in subsection (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) *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.

(2) *Permitted Decibel Level* means the maximum decibel level permitted for Construction Noise.

(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 4:00 p.m. Saturday through 8:30 a.m. Monday, and all day on New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Memorial Day, Veteran's Day, Good Friday, Yom Kippur, 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 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:

(i) *Night:* 55 decibels 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

(ii) 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) Measurement of Permitted Decibel Level: The Permitted Decibel Level of Construction Noise shall be measured outdoors using a calibrated Sound Level Meter at the property line of the Noise Receptor Site of a complaining party outside of the Lot or site plan from which the noise is emanating. If there is no complaining party, the measurement shall be taken at a location that is no less than 65 feet from the property line of the Lot from which the noise is emanating. If such Lot is part of an approved site plan, the measurement shall be taken no less than 65 feet from the boundary of the site plan. The measurement period shall be no less than five minutes in duration and shall be in accordance with current ANSI standards.

(4) Mitigation Practices: The Noise mitigation practices required by Section 11-29(c) shall also be followed to mitigate Construction Noise in the “B” Business District.

(c) Mitigation Conditions to Address Complaints. If complaints are received from residents who live adjacent to or near a construction site, the Village Manager or his designee may attempt to resolve such complaints by coordinating and attending meetings between the owner, general contractor or project manager, and the affected citizens or their representatives. As part of the resolution of such complaints and regardless of whether any citation has been issued or violation has occurred, the Village Manager may impose reasonable conditions on construction activities that will mitigate the Construction Noise.

(d) Deviations. An applicant may seek the prior written consent of the Village Manager to make Construction Noise for a limited time during the prohibited hours or in excess of the Permitted Decibel Levels. Such consent, which may not be unreasonably withheld, may be granted by the Village Manager if an applicant submits documentation establishing that the activity producing the Construction Noise, by its very nature, cannot meet the Permitted Decibel Level or be mitigated to meet the Permitted Decibel Level, or the activity cannot practically be performed during the permitted hours, or for other just cause as deemed reasonable by the Village Manager. The Village Manager may impose appropriate conditions to mitigate the impact of the deviation on the Village.

(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 Section 162.09(2), Florida Statutes.

(1) Verbal warning. If the Village Manager finds a violation of this section, he or she shall issue a verbal warning to the violator requiring immediate correction of the violation.

(2) Civil penalties

(i) 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, and shall impose fines in the amount of \$500.00 against the owner of the property.

(ii) 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, and shall impose fines in the amount of \$1000.00 against the owner of the property.

(iii) 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, and shall impose fines in the amount of \$2,500.00 against the owner of the property.

(iv) 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 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 the owner of the property. The Village Manager may revoke the ability 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 Owner has more than three violations in a six-month period of time and the Owner has failed to address and resolve the violations.

(v) Future violations. If no other violation occurs for six consecutive months after a violation is complied, the enforcement procedures of this subsection shall re-set 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 (i)-(v).

(3) Criminal penalties. In addition to or in lieu of the civil penalties set forth above, any person violating any of the provisions of this section may be arrested and punished by imprisonment in the county jail for a period not to exceed sixty (60) days.

(f) Appeals.

(1) Appeals of Mitigation Conditions: The property owner (or other party responsible for the violation pursuant to Subsection 11-29(d)) may appeal to the Village Council the Village Manager's mitigation conditions imposed pursuant to subsection (c). An appeal shall be submitted on forms provided by the Village within ten calendar days after the decision of the Village Manager, and shall set for the basis on which the mitigation conditions are alleged to be unreasonable. The Village Council shall hold a hearing on an appeal within 30 calendar days of the filing of such appeal, unless an extension of time is consented to by the applicant. Mitigation conditions imposed by the Village Manager shall remain effective during the time that the Village Council is considering the appeal, and the Village Council shall uphold the mitigation conditions if they are reasonable. The decision of the Village Council as to the appeal of a decision of the Village Manager shall be final.

(2) Appeals of Citations or Violations. The property owner (or other party responsible for the violation pursuant to Subsection 11-29(d)) may appeal such determination to the Village Special Master in accordance with the procedures set forth in Chapter 2, Article V "Code Enforcement" of this Code. The Special Master shall only review whether the citation or violation

was properly issued with notice, and is not authorized to adjust the penalties set forth in this section or override any revocations issued by the Village Manager

**Secs. 11-33—11-50. - 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 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 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 6. 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 7. Findings.** That in accordance with Section 163.3233, Florida Statutes, the Village Council hereby finds that it has held a public hearing and that:

1. This Ordinance is not in conflict with the laws and policies governing the Development Agreement between Bal Harbour Village and the Bal Harbour Shops, LLLC approved by the Village Council on May 16, 2017, and will not prevent development of the land uses, densities or intensities provided therein.

2. This Ordinance is not in conflict with the laws and policies governing any development agreement approved by the Bal Harbour Village Council, and will not prevent development of the land uses, densities or intensities provided in those agreements.

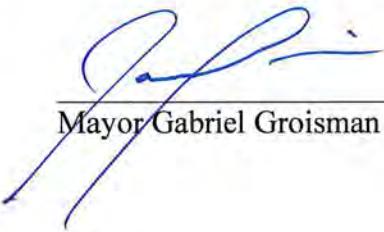
3. This Ordinance is essential to the public health, safety or welfare, and shall apply to any development that is the subject of a development agreement.

**Section 8.     Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 16<sup>th</sup> day of May, 2017.

PASSED AND ADOPTED on second reading this 20<sup>th</sup> day of June, 2017.

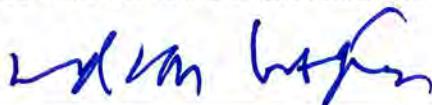


Mayor Gabriel Groisman

ATTEST:

  
Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

  
Village Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.