

## ORDINANCE NO. 20230

**AN ORDINANCE OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; AMENDING CHAPTER 6 "BUILDINGS AND BUILDING REGULATIONS" OF THE CODE OF ORDINANCES TO UPDATE AND STRENGTHEN DEMOLITION REQUIREMENTS AND STANDARDS FOR CONSTRUCTION SITE OPERATIONS; PROVIDING FOR CONFLICT, CODIFICATION, SEVERABILITY, AND FOR AN EFFECTIVE DATE.**

**WHEREAS,** Bal Harbour Village adopted its first version of Chapter 6, "Buildings and Building Regulations" in the Village Code of Ordinances in 1974; and

**WHEREAS,** the Village Council periodically studies various land development trends and issues, and considers strategies and design guidelines to encourage the proper development of lands within the Village, and amends its Code accordingly; and

**WHEREAS,** at the July 18, 2023 Village Council meeting, the Council discussed the demolition process under the Code and directed the Administration to review and identify possible improvements to these requirements to protect public safety and assure the compatibility of construction sites with the community; and

**WHEREAS,** the Village's Local Planning Agency (LPA) and Village Council held duly advertised public hearings to consider the proposed modifications to the Village's Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA:**

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

**Section 2: Village Code Amended - Chapter 6.** That the Bal Harbour Village Code is hereby amended to modify Chapter 6 "Buildings and Building

Regulations” by amending Article V, “Demolition of Structures”; and by amending and creating a new section of Article VII of Chapter 6 “Construction Site Operations”, as more fully set forth herein.

## **Chapter 6 - BUILDINGS AND BUILDING REGULATIONS**

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### **ARTICLE V. - DEMOLITION OF STRUCTURES**

\* \* \*

#### **Sec. 6-142. - Demolition plan and permit required.**

(a) Demolition Plan. The demolition plan shall include:

(1) Description.

a. For single family dwellings, a written description and/or graphic display of the buildings and/or portions of buildings to be demolished, and (2) A description of the means of demolition to be utilized.

b. For multifamily dwellings and nonresidential development, a written description and graphic display of the buildings or portions of buildings to be demolished, including signed and sealed design drawings by a structural engineer, detailing the proposed methodology, means, method and safety plan of demolition. The safety plan shall include, but not be limited to, removal of windows and interior furnishings prior to demolition of the structure.

(3) The expected date for demolition to begin, and (4) The estimated number of days necessary to complete the demolition and remove the resulting debris.

(3) The actual time of demolition, cleanup and, where applicable, regrading and revegetation of single family dwellings shall not exceed 100 working days, exclusive of Saturdays, Sundays and holidays. Such time shall not exceed 180 days for multifamily dwellings and nonresidential development.

(4) A plan to address hurricanes or other weather emergencies. The plan shall require that if a tropical storm watch or hurricane watch is issued for the village, then the owner of the property shall comply with the requirements of Section 8-16 of the Miami-Dade County Code of Ordinances, and the hurricane plan shall be implemented.

(5) Use of off-duty police to control demolition-related traffic may be required by the Chief of Police or designee.

(b) Demolition Permit. No demolition may occur without first obtaining a demolition permit. An application for a demolition permit must address all of the following items to the satisfaction of the Building Official prior to the issuance of the demolition permit:

(1) A site management plan that includes: a plan for the demolition of the structure(s); the location of utilities; location of temporary bathroom facilities; tree identification and disposition; site grading; pedestrian protection (if applicable - when sidewalks exist); adjoining property protection; dust control; runoff control, including but not limited to, a gravel bed at the entry to the site; fencing and screening; site security; and a demolition schedule.

(2) Proof of written notice to the owners of properties located within 300 feet of the site, advising them that the demolition is to occur, postmarked at least ten (10) days prior to the start of demolition.

(3) Proof of rodent control at the site provided by a licensed professional company, and of methods of control of mosquitos or other nuisances.

(4) Fencing:

(a) Issuance of a fence permit to enclose the demolition site on all sides with a temporary six-foot chain link fence with screening material.

(b) installation and inspection of the fence.

(c) close-out of the fence permit by the building department.

(5) Proof that A/C systems have been evacuated to avoid Freon leaking into the atmosphere (when applicable).

(6) If required by the Building Official, any or all of the following may be required for demolition of anything other than single family dwellings: safety plan, seismic monitoring, engineered demolition plan, and onsite structural inspector.

(7) Any additional documents that may be required by the building department including, but not limited to, a survey of the property, letter of disconnect from FPL, water and sewer capping, letter of disconnect from gas company (when applicable), and approval of outside agencies (when applicable)

such as the department of regulatory and economic resources (for asbestos, when applicable), department of health, or department of environmental protection.

(c) Additional requirements for demolitions.

(1) All demolition sites shall be dust controlled, throughout the hours of operation.

(2) All demolition sites shall comply with the village's noise ordinance and hours of construction. No demolition activity is permitted on Saturdays, Sundays or those holidays specified in Section 11-31(b) of the Code.

(3) All equipment used during demolition must be contained within the site, unless the village manager or designee approves an alternative location within the village.

(4) Compliance with the NPDES permit and related village requirements.

(5) The village manager or designee may require other documentation or impose additional requirements for any demolition in a particular site.

(d) Appeals. The Building Official's decision pertaining to a demolition permit may be appealed to the Miami-Dade County Board of Rules and Appeals ("BORA"). In the event BORA denies jurisdiction to consider the appeal, such appeal may be made to the appropriate court with jurisdiction.

**Sec. 6-143. - Regrading and revegetation plan.** If the proposed demolition will remove an entire building or any portion thereof, and (i) a building permit for a principal structure is not issued within 30 ~~calendar~~ days of completion of demolition or (ii) construction does not commence within 45 ~~calendar~~ days of completion of demolition (or such alternative timeframe approved by the building official as reasonable to the circumstances), then the applicant for a demolition permit shall also submit a regrading and revegetation plan prepared by a registered landscape architect. This plan shall include:

(1) A regrading plan providing for the regrading of the site so that it will be generally smooth and level so that there are no dropoffs, holes or other features which might pose a safety hazard or threaten to damage adjacent Property or any areas likely to hold standing water that might pose a potential health or safety hazard.

(2) A revegetation plan providing that the site shall be revegetated by being properly treated with topsoil, sprigged or sodded with a lawn grass commonly

used in Miami-Dade County, and maintained until growth is self-sustaining. If the demolition site is beachfront property and the Village Building Official determines that portions of the site are not suitable for revegetation with any of the lawn grasses commonly used in Miami-Dade County, then the Village Building Official may approve revegetation of those portions of the demolition site with plants from the following list:

<i>Scientific Name</i>	<i>Common Name</i>
Cakile	Sea rocket
Hetrotheca subaxillaris	Camphorweed
Ipomoea pes-carprae	Railroad vine/beach morning glory
Panicum amarularum	Dune panic grass
Paspalum vaginatum	Salt jointgrass
Scaevola plumieri	Inkberry
Sesuvium portulacastrum	Sea purslane
Smilax spp.	Bamboo vine
	Horsebriar
	Greenbriar
Spartina patens	Saltmeadow cordgrass
Uniola planiculata	Sea oats

or any other plants certified by a registered landscape architect as being equivalent to the species listed in this subsection. These plants shall also be maintained until they become self-sustaining.

(3) A Written estimate, certified by a registered landscape architect, specifying the cost of implementing the regrading and revegetation plans.

(4) The estimated number of days necessary to complete the implementation of the regrading and revegetation plan. This time, other than the maintenance period necessary to achieve self-sustained growth, shall not exceed ninety (90) days from the date demolition is begun.

**Sec. 6-144. - Regrading and revegetation bond.** The applicant shall post a surety bond or cash equivalent performance bond running to the Village equal to 150 percent of the estimated cost of implementing the regrading and revegetation plans, to ensure the regrading and revegetation of the Property within the time required by this Article and otherwise to protect the Village against any costs which it may incur for the subsequent revegetation of the Property if the Owner or permit holder fails to complete revegetation within the time required by this Article.

**Sec. 6-145. - Failure to regrade and revegetate site.**

- (a) ~~Notice of v~~Violation. If the Owner or permit holder fails to properly regrade and revegetate the Property within the time set forth in this Article, then they shall be subject to code enforcement pursuant to Chapter 2, Article V of the Code. ~~it shall be the duty of the Village Building Official to give written notice by registered mail to the permit holder and the Owner, as listed in the most recent property tax records of MetropolitanDade County, to remedy this condition within ten days after service of such notice or within such longer time as may be specified in the notice. The notice shall be in substantially the following form:~~

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

Name of Owner (permit holder): \_\_\_\_\_

Address of Owner (permit holder): \_\_\_\_\_

~~Our records indicate that you are the Owner(s) (or permit holder for) of the following described Property in Bal Harbour Village:~~

\_\_\_\_\_  
\_\_\_\_\_  
An inspection of this Property discloses, and the Village Building Official has found and determined, it is in such condition as to be in violation of Chapter 6, Article V of the Bal Harbour Village Code, because of your failure to properly complete demolition, regrade and revegetate the Property in accordance with the plans on file.

~~Chapter 6, Article V of the Bal Harbour Village Code provides that it shall be unlawful for you to permit this condition to continue, and you are hereby notified that unless this condition is remedied so as to comply with Chapter 6, Article V within ten days from the date hereof, you will forfeit your bond and Bal Harbour Village will proceed to remedy such condition. Further, if the cost of such regrading and revegetation exceeds the bond amount, such additional costs along with all costs incurred in establishing such lien shall be imposed as a special assessment lien upon this Property.~~

- (b) *Performance of work by Village; payment of costs.* Upon failure of the permit holder or Owner of Property to remedy the conditions in violation of the requirements of this Article ~~within ten days after service of notice as provided in this section~~, the Village Manager or designee is authorized to take all necessary steps to regrade and revegetate the Property utilizing the proceeds from the bond or cash equivalent. Any necessary costs incurred by the Village for that purpose in excess of the bond amount, along with all costs incurred in establishing such lien, shall be a special assessment lien upon such Property. The special assessment lien provided for shall be superior in dignity to all other liens, except those of taxes,

and shall bear interest at the rate of ten percent per annum from the date that the lien is established.

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## ARTICLE VII. - CONSTRUCTION SITE OPERATIONS

### Sec. 6-201. - Property Maintenance Standards.

(a) *Debris Control.* All properties with on-going construction activities shall maintain the premises in a neat and orderly manner. A trash enclosure, dumpster or other container shall be maintained on-site at all times. Loose debris shall be placed within the enclosure. A cover shall be maintained over such debris containers during periods when no construction activity is taking place.

(b) *Erosion and Dust Control.* In compliance with the Village's National Pollution Discharge Elimination System (NDPES) permit requirements, prior to beginning any clearing, grubbing or construction activities, as part of the building permit process, the contractor shall submit a plan detailing the location and handling of materials, soils and outlining the actions that will be taken to prohibit run-off of dirt, sand, fluids, vegetation or any other item into the Town's stormwater system or onto adjacent property. Piles of soil shall provide for a containment area to reduce run-off.

(c) *Temporary Bathroom Facilities.* Temporary Bathroom Facilities shall be placed at a location that minimizes visibility from off-site. Any such facility shall be enclosed within a decoratively fenced area, ~~(such as shadowbox, wood fencing, lattice wood panels, etc. wrapped with materials that)~~ to effectively screen and conceal the sides and rear of the Temporary Bathroom Facility. Plywood is not acceptable nor is chain link fencing. No Temporary Bathroom Facility may be kept on a construction site unless construction activities are occurring.

(d) *Vegetation Maintenance.* Vegetation such as grass, shrubs, trees and ground covers shall be maintained in such a fashion so that the site does not appear overgrown or unkempt. Within 30 days of demolition of an existing structure, the construction site must be sodded and properly maintained, until such time as a construction fence is erected and construction activity begins.

(e) *Emergency Plan.* If a tropical storm watch or hurricane watch is issued for the Village, then the owner of the property shall comply with the requirements of Section 8-16 of the Miami-Dade County Code of Ordinances, taking all steps necessary to secure the construction site including removal or securing of objects that could become hazardous or loose.

**Sec. 6-202. - Construction site operations.** It is the purpose of this section to promote the public health, safety, and general welfare and to minimize public and private losses arising as a result of unauthorized access to Construction Sites, or from loose and unsecured materials at Construction Sites during emergency weather conditions, to minimize exposure and prohibit activities which may pose a danger to persons located off the Construction Site, from debris, materials or activities carried on at the Construction Site by enacting the following regulations.

(a) Definitions. The following words or phrases when used in this section shall have the meanings ascribed to them herein:

(1) Construction site means all sites where new construction, renovations, or additions take place, other than just interior work that is not visible to the exterior of the premises, and any construction that shall include excavation or exposure of the interior of an existing structure. A construction site shall not include paving or repaving of a driveway, or other re-surfacing or minor interior renovations or construction that is not exposed to the elements.

(2) Secure, in reference to items, means fastening down or removing all hazardous objects, including but not limited to, construction shacks, temporary toilets, roofing tile, building materials, trash, forms, insecure structures, and temporary electric service poles. The term "secure" as applied to construction site access, includes protecting the construction site, during the hours described herein in paragraph (e), by way of locked fence surrounding the perimeter of the site, or the provision of security, or both.

(b) Temporary construction fence. Temporary construction fences are required on Construction Sites as specified below in order to avoid visual nuisances, and to prevent litter and debris from blowing or spilling outside of the construction site.

(1) Required. A temporary construction fence will be required for all construction that has a temporary toilet or construction debris or material container. Work on pools, pool installations or substantial renovations also requires a temporary construction fence at all times to avoid health and safety hazards.

(2) Installation. A temporary construction fence screening the Construction Site and enclosing the entire property shall be erected and maintained in good order at all times. Temporary construction fences shall be installed only within the platted lots, parcels or tracts, and shall not be installed within road rights-of-way shown on the recorded plats. The temporary construction fence shall be erected



and completely in place as a requirement for the issuance of a building permit and prior to the beginning of construction activities.

(3) Materials.

a. Single Family. The temporary construction fence for single family dwellings may be six feet of chain link fence with a screening material attached to visually screen and minimize impact to neighboring properties which may be affected by Construction Site dust and debris, or may comply with the materials standards for other construction.

b. Other construction. The temporary construction fence for other construction shall be at least six feet of solid wood construction covered with laminate or wrap, completely concealing the view of the construction from the right of way, with a rolling gate. The fence may be embellished with graphics in accordance with Chapter 15, the Village sign code. The silt fence shall be installed inside of the wood fence as required for the NPDES permit.

(4) Permit. A fence permit is required to be issued for the temporary construction fence, and the fence must be installed, and a final inspection approved prior to the issuance of a building permit.

(c) Construction staging plan. Staging plans shall be required for all construction projects involving the use of a trash or materials container or portable toilet. The owner, occupant or user of any Construction Site shall be required to present the staging plan to the village manager or designee for approval prior to the issuance of a building permit. The staging plan shall include, but shall not be limited to, the following elements:

(1) Parking for construction workers, which must be onsite or contracted with an offsite legal parking location.

(2) General traffic and detours including specific routes to and from the Construction Site.

(3) Delivery and location of cranes.

(4) Delivery and storage of materials, which must be to a designated delivery area adjacent to the property, as approved by the village manager or designee, coordinated and scheduled so that they can be accommodated in the designated area.

(5) Use of state certified flaggers or off-duty police officers. Off-duty police officers will be required for the following activities: a complete street closure or concrete pour lasting more than one hour, when cranes are delivered and set-up and when they are being removed from the construction site, and any other activity as may be required by the village manager or designee. Certified flaggers may be used for normal deliveries and brief single lane closures.

(6) Location and detail for construction fencing with visual/dust barrier.

(7) Location and detail for construction signs, which must display an emergency contact and conform to Chapter 15, the Village sign code.

(8) Temporary construction trailer, with approval required by the village manager or designee, provided that:

a. The location of any trailer provides for safe and efficient completion of the project with minimal disruption to existing residents, businesses, parking or traffic flows, and to ensure that public services and facilities are available.

b. No more than one trailer is permitted per Construction Site for a Single Family dwelling. The number of trailers permitted for other construction shall be as approved by the Building Official.

c. No trailer may exceed one story, or exceed 12 feet in height above grade.

d. No trailer may exceed 530 square feet in size.

e. The location of the trailer shall be approved by the village manager or designee to minimize the impact on neighboring properties.

f. The trailer and all related temporary facilities shall be removed from the Construction Site prior to the issuance of a certificate of occupancy.

g. Construction trailers are permitted to be located on a neighboring staging area if proof is submitted that the property owner agrees to its proposed location.

(9) Proposed use of right-of-way.

(10) Provision for pedestrian safety and pedestrian paths.

(11) Location of construction dumpsters and temporary bathroom facilities, as approved by the village manager or designee.

(12) Any other issues which may uniquely relate to a particular Construction Site.

The construction staging plan shall be presented in the form of site plans, location maps, critical path diagrams, and explanatory commentary. The building department will coordinate the review of the construction staging plan with the public works department, village engineer, police department, building official, village planner, code compliance department and village manager's office. No permit shall be issued on a construction project which requires a construction staging plan until such plan has been approved by all the appropriate departments. A pre-construction meeting may be required by the building official.

(d) Job site maintenance. The owner, occupant or user of a Construction Site shall complete job site maintenance, on a daily basis, prior to the conclusion of each day's work. Daily job site maintenance shall include the following:

(1) Sweeping of public roadways which are directly affected by Construction Site dust, debris or activities.

(2) Pick up and disposal of litter at or generated by the Construction Site.

(3) Washing down of any street signs or public facilities which are impacted by dust or debris from the construction activity.

(4) Stacking of construction materials in a manner which assures that the materials and the material packaging shall not fall or be transported into any canals, drainage facilities or other water bodies in the vicinity of adjacent to the Construction Site.

(5) Watering of exposed loose earth at the site so as to minimize off-site transport of particulate matter.

(6) Compliance with additional job site maintenance components which are described in an applicable construction staging plan for the Construction Site.

(e) Job site security. The owner, occupant or user of a construction site shall Secure the Construction Site from unauthorized access between the hours of 5:30 p.m. and 8:30 a.m. of the next day by the use of a locked fence or security or both, assuming construction activities are occurring during the day. In the event that a

tropical storm watch or hurricane watch is issued, the owner, occupant or user of a Construction Site shall comply with the requirements of section 8-16 of the Miami-Dade County Code, by taking all steps necessary to secure the construction site, including removal or securing of objects that could become hazardous or loose.

(f) *Parking.* Motor vehicles which are used by construction workers and others involved in the construction at the site, for the purpose of commuting to and from the Construction Site, shall not be parked off of the Construction Site except in an area or location which shall be first approved in writing by the village manager or designee. Parking areas within the Construction Site are to be properly screened from public view and shall not be detrimental to the surrounding neighborhood. The village's approval shall be based on assuring that: streets or rights-of-way are not blocked; adequate parking remains for existing residences and businesses; and any impact to public parking resources is mitigated.

(g) *Public right-of-way.* Any construction vehicles or equipment involved in construction at a Construction Site which block a public roadway or right-of-way shall require a village right-of-way use permit and approval, with appropriate conditions, as issued by the village manager or designee, 72 hours in advance of any such activities which impact a public right-of-way.

(h) *Enforcement.* Failure to abide by the provisions of this section shall constitute a violation of the Code. Any owner, occupant or user of a construction site who fails to correct a violation of this section, after being given notice by the Village, shall be subject to code enforcement as provided in Chapter 2, Article V of the Code.

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**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 for any demolition permit initially issued following adoption.

PASSED AND ADOPTED on first reading this 19<sup>th</sup> day of September, 2023.

PASSED AND ADOPTED on second reading this 17<sup>th</sup> day of October, 2023.



ATTEST:

  
Dwight S. Danie, Village Clerk

  
Mayor Jeffrey P. Freimark

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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