

ORDINANCE NO. 2021-____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 21 "ZONING" OF THE VILLAGE'S CODE OF ORDINANCES TO ADD A DEFINITION OF DWELLING AND CLARIFY THE REGULATIONS APPLICABLE TO DWELLINGS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Bal Harbour Village ("Village Council") periodically studies land development trends and issues, and amends the Village's Code of Ordinances in order to update its zoning regulations; and

WHEREAS, the Village's long-standing regulations of vacation rentals established the definition of transient or short-term residential occupancy as occupancy for fewer than six consecutive months, and those regulations are grandfathered from the state preemption of local regulation of vacation rentals; and

WHEREAS, Chapter 21 "Zoning" of the Village Code requires updating to add a definition of Dwelling to clarify that Dwellings are those residential uses with an occupancy of more than six consecutive calendar months, and to clarify that occupancy for less than that time is an unauthorized use of Single-Family Residential Dwellings, to ensure compliance with the Village Code and safeguard the quality of life of Village residents; and

WHEREAS, the Village Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed hearing on November 16, 2021, and recommended _____; 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 "Zoning" of the Code of Bal Harbour Village, Florida, is hereby amended to read as follows:¹

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 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:

* * *

Dwelling means a detached Building designed for residential occupancy for longer than six consecutive months, continuously by an individual Family only.

Dwelling, Multiple-Family, means a detached Building designed for occupancy otherwise than as a Single-Family Dwelling. The term "Multiple Dwelling" shall be understood to include Apartment Houses, Apartment Courts, and all other Family dwellings of similar character, but not to include Hotels or Apartment Hotels.

Dwelling, Single-Family, means a detached Building designed for or occupied exclusively by one Family only, living as a single housekeeping unit, together with such accessory accommodations as may be reasonably required for the proper operation of the premises as a single-family unit.

* * *

¹ 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.

Family means one or more Persons occupying premises and living together under one head as a single housekeeping unit. The term "Family" shall be deemed to include domestic or personal servants, but shall not include paying guests.

* * *

Permitted Use means any purpose for which Buildings or other Structures or land may be arranged, designed, intended or occupied.

* * *

Vacation Rental, Short-Term. A Short-Term Vacation Rental means any occupancy of a single-family, two-family, multi-family or townhouse dwelling unit for a period of time of not less than six consecutive calendar months, or such dwelling unit which is advertised or held out to the public as a place rented for a period of time of not less than six consecutive calendar months.

* * *

Sec. 21-351. - Compliance with district regulations.

In all zoning districts as listed and designated in section 21-76, no Building or land shall be used and no Building shall be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any other purpose than the classification and requirements as listed under each zoning district.

Sec. 21-362. - Unauthorized uses prohibited in Single Family Residential Districts.

(a) Every use not specifically authorized and permitted by this chapter in a Single-Family Residential District is prohibited in such districts, and nothing in this chapter shall authorize or be construed to permit the use of any part of the premises as a business, office or establishment open to the public for the purpose of carrying on any business or the practice of rendering personal, trade or professional services open to the public or for any other purpose other than as a residence.

(b) No open houses, garage sales, auctions, estate sales, or similar activities shall be permitted in any residential district; provided, however, that licensed real estate brokers may conduct open houses by a personal written invitation only and which are otherwise conducted in compliance with all other provisions of this Code.

(c) If a Dwelling located in any residential zoning district is used in such a way that it has a turnover in occupancy more than two times in any 365-day period, it is a transient, short-term dwelling that is prohibited. Changes in occupancy among the members of a Family during any period of six consecutive calendar months are not turnovers in occupancy for purposes of this subsection.

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 November, 2021.

PASSED AND ADOPTED on second reading this ___ day of _____, 2021.

Gabriel Groisman, Mayor



ATTEST:

Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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