ORDINANCE NO. 2026____

AN ORDINANCE OF BAL HARBOUR VILLAGE, FLORIDA, AMENDING CHAPTER 2 "ADMINISTRATION" OF THE CODE OF ORDINANCES TO FURTHER MODIFY PROCEDURES AND REGULATIONS APPLICABLE TO THE ARCHITECTURAL REVIEW BOARD; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, CONFLICTS, 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, Chapter 2 "Administration," Article III "Boards, Committees and Commissions," Division 3 "Architectural Review Board" of the Village Code establishes the Architectural Review Board (ARB), including its purpose, membership, processes and scope of authority; and

WHEREAS, Chapter 5.5 of the Village Code creates the Village's Appearance Code and contains the Appearance Plan, establishing architectural, design and maintenance standards for most development in the Village; and

WHEREAS, in June 2026, the Village Council modified the scope of the requirement for the ARB to issue Certificates of Appropriateness, and revised Section 2-75(c)(3). to specify that applications that add less than 30% square footage to existing buildings and do not meet the definition of substantial improvement in Chapter 8.5 in the R-1, R-2 Single Family Residential Districts and PC Private Club need not go to the ARB and may be administratively processed and approved; and

WHEREAS, Section 5.5-2(b) of the Village Code defines "External Architectural Feature" as "the architectural style and general arrangements of such portion of a building or structure as is designated to be open to view from a public street, place or way, including the kind, color and texture of the building material of such portion and the type of window, doors, lights, attached or ground signs, and other fixtures appurtenant to such portion," and Section 2-75 of the Village Code provides that if such a feature is involved in a project, it must go to the ARB for a Certificate of Appropriateness; and

WHEREAS, the Village Council desires to further modify Section 2-75(c)(3). to expand the existing exemption from the Certificate of Appropriateness requirement by defining what

it means for projects in the OF, PD and RM-5 Districts, all fronting Collins Avenue in the Village, to be "open to view from a public street, place or way"; and

WHEREAS, the Administration recommended approval of this Ordinance in its report for the October 28, 2026 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 _____, 2026, 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, IT IS HEREBY ORDAINED BY THE MAYOR AND 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. That Chapter 2 "Administration" of the Village Code is hereby amended to read as follows:[1]

CHAPTER 2. - ADMINISTRATION

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ARTICLE III. - BOARDS, COMMITTEES AND COMMISSIONS

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DIVISION 3. ARCHITECTURAL REVIEW BOARD

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Sec. 2-75. Procedure for consideration of certificates of appropriateness and applications subject to Architectural Review Board review.

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[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.

(c) *Approval by Architectural Review Board*.

(1) The ARB shall issue a certificate of appropriateness by an affirmative vote of at least three members.

(2) No building or other permit, required under this Code, for the erection, construction, alteration or repair of any building or structure shall be issued by the Building Official without a certificate of appropriateness having been issued by the ARB.

(3) The foregoing requirement shall not preclude the issuance of a building permit without such certificate of appropriateness if:

a. The Building Official shall determine that no External Architectural Feature as defined in section 5.5-2(b) is involved in the work for which the building permit is sought; or

b. The Building Official shall determine that the selected color(s) of an application for exterior painting either complies with the Village's approved Color Palette as defined in section 5.5-2(b) or is equivalent to the approved colors. If more than two colors are proposed to be used on a building and the Building Official desires to obtain the input of the ARB on whether the proposed color scheme is consistent with the intent and purposes of the Appearance Code, then the Building Official may schedule the exterior paint application for review and recommendation by the ARB; or

c. For applications in the R-1, R-2 Single-Family Residential and PC Private Club Districts, the Building Official shall determine (i) that the application involves an increase of less than 30% of the square footage of an existing Building(s) on the Lot(s), with such square footage measured as of July 1, 2026, and (ii) that it does not meet the definition of substantial improvement in Chapter 8.5~~.~~, or

d. For applications in the OF Oceanfront, PD Planned Development, and RM-5 Multiple Family Residential Districts, the Building Official shall determine that the application is not visible from Collins Avenue, 96th Street, any public or private street located to the rear of the Lot(s), the 102nd Street Beach Access Path, the public walkway along Baker's Haulover Inlet known as the Cutwalk, or from the public paths along the beach, and therefore is not open to view from a public street, place or way. In determining visibility, the Building Official shall disregard existing or proposed landscaping, removable screening, or other temporary or movable features that obstruct visibility, and such features may not be relied upon to avoid ARB review.

(4) Applications that are exempt from the issuance of a certificate of appropriateness by the ARB pursuant to (3) above will be reviewed by the Building Official and approved, approved with conditions, or denied based on the standards and conditions of any approved certificate of appropriateness for the Lot(s), Chapter 5.5 of this Code, and all other applicable laws.

* * *

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 effective 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 5. **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 6. **Effective Date.** That this Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 28th day of October, 2026.

PASSED AND ADOPTED on second reading this 17th day of November, 2026.

_____
Mayor Seth E. Salver

ATTEST:

_____
Juan D. Garcia, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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