NORTH BAY VILLAGE
EST. 1945

NORTH BAY VILLAGE
CHARTER REVIEW BOARD
PUBLIC MEETING NOTICE

Monday, March 4, 2024 at 6:00 PM
1666 Kennedy Causeway #101
North Bay Village, FL 33141

The meeting agenda is available online at:
https://northbayvillage-fl.gov/agendas-minutes

Elected Officials and Village staff will participate from the physical meeting location. Members of the public may attend the meeting in person at the physical meeting location, or, alternatively, may watch or call in to the meeting by following these instructions:

ATTEND THE MEETING IN PERSON AT THE PHYSICAL MEETING LOCATION: The meeting will be held in person at the physical meeting location stated above. Admission to the physical meeting location is on a first-come, first-serve basis and space is limited. Doors will open 30 minutes prior to the meeting start time. The Village highly encourages those in attendance to wear facial coverings and abide by social distancing as recommended by the CDC.
Watch the Public Meeting: https://northbayvillage-fl.gov/videos TV Channel 661 Facebook Live
Participate in the meeting via Zoom: Meeting ID: 826 2341 5675 Passcode: 040778
Listen via telephone to the Virtual Public Meeting: 1-305-224-1968 or 1-929-205-6099
For technical support during the meeting, please contact: (786) 309-4991

PUBLIC COMMENTS

Public comments will be accepted by the following means:

IN-PERSON COMMENTS: Members of the public may attend the meeting at the physical meeting location stated above and deliver their public comments in person during the public comment portion of the agenda.

VIRTUAL COMMENTS: ***Public comments will also be accepted during the meeting using the virtual meeting platform.***

VIA E-MAIL TO: publiccomment@nbvillage.com

Interested parties or their authorized representatives may address the Commission and/or Board via written or electronic commentary ("e-comments") by emailing the Village Clerk at least two (2) hours prior to the commencement of the meeting. E-comments will not be read during the meeting but will be distributed to the Village Commission or Board prior to the commencement of the meeting. You may send your concerns with the subject line "PUBLIC COMMENT" and the following information in the body of the email: your name, address, if you are a hired Consultant or Village Employee, and/or if you are engaged in lobbying activities and/or representing an organization.

PUBLIC RECORDS

The meeting will be recorded for later viewing and is a public record. Minutes of the meeting will be taken and will be made available.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY VILLAGE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE VILLAGE CLERK, NORTH BAY VILLAGE, 1666 KENNEDY CAUSEWAY. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE VILLAGE CLERK AT 305-756-7171 EXT 45. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE VILLAGE WEBSITE AT www.northbayvillage-fl.gov.

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK AT 786-224-8070 NO LATER THAN FIVE DAYS PRIOR TO SUCH PROCEEDING. TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT 786-224- 8070 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

LOBBYING ACTIVITIES

Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Village Clerk prior to engaging in lobbying activities per Village Code Sec. 38- 17. ""Lobbyist"" specifically includes the principal, as well as any agent, officer or employee of a principal, regardless of whether the lobbying activities fall within the normal scope of employment of the agent, officer or employee. The term ""lobbyist"" specifically excludes the following persons: lobbyists hired by the Village who are communication with Village personnel in the course of performing under their contracts; attorneys or other representatives retained to represent individuals and corporate entities in quasi-judicial proceedings where the law prohibits ex -parte communications; expert witnesses who only provide scientific, technical or other specialized information or testimony at public meetings; employees of the principal who do not engage in lobbying activities and representatives of non-profit organizations who only appear at publicly noticed meetings, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support or opposition to any item.

Have questions or need additional information?

E-mail: villageclerk@nbvillage.com

Call: 305-756-7171

North Bay Village

OFFICIAL AGENDA
CHARTER REVIEW BOARD
1666 Kennedy Causeway #101 North Bay Village, FL 33141 Meeting ID: 826 2341 5675
Passcode: 040778
Monday, March 4, 2024
6:00 PM

Decorum: Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the board shall be barred from further appearance before the board by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.

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1. OPENING ITEMS
A. Call to Order
B. Roll Call

2. APPROVAL OF MINUTES

2.A. Approval of the Following Meeting Minutes:

*** February 05, 2024 - Charter Review Board**
*** February 15, 2024 - Charter Review Board**

02.05.2024 DRAFT.docx
02.15.2024 DRAFT.docx

3. UNFINISHED BUSINESS

3.A. Review of Sections 3.02(A-D), Limitations of Powers of the Commission (Acquisition of Real Property; Capital Improvement Projects; Excess of 20% of Current Total Operating Budget; Waiver of Referendum)

Memo - Section 3.02 - Expenditures and Borrowing.PDF

4. DISCUSSION ITEMS

4.A. Discussion and Review of Final Report and Recommendations on the Proposed Charter Amendments

DRAFT 2024 Charter Report - 022824.pdf

5. PUBLIC COMMENTS

6. NEXT BOARD MEETING

7. ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK AT 305-756-7171 EXT. 45 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

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ITEM NO. 2.A

North Bay Village
Recommendation Memorandum

DATE: March 4, 2024

TO: Honorable Mayor, Vice Mayor and Members of the Village Commission

FROM: Alba L. Chang, Village Clerk

SPONSORED BY:

SUBJECT: Approval of the Following Meeting Minutes:

RECOMMENDATION

*** February 05, 2024 - Charter Review Board**
*** February 15, 2024 - Charter Review Board**

BACKGROUND AND ANALYSIS

The Charter Review Board held meetings on February 5th and February 15th, 2024, and Minutes are being provided for the Board's consideration and approval.

It is recommended that the Charter Review Board approve the meeting minutes, as presented.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

None

PERSONNEL IMPACT

None

ATTACHMENTS

02.05.2024 DRAFT.docx
02.15.2024 DRAFT.docx

NORTH BAY VILLAGE

CHARTER REVIEW BOARD MEETING MINUTES
FEBRUARY 5, 2024 | 6:00 PM
1666 Kennedy Causeway #101 North Bay Village, FL 33141
Meeting ID: 822 8051 9005 | Passcode: 200115

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1. OPENING ITEMS

A. Call to Order

The regular meeting of the Charter Review Board was called to order in the Commission Chambers at 6:05 p.m.

B. Roll Call

Board Members:
Sherry Abramson
Kip Dugal
Helena Gil
Alisha Graham
Paul Jacob
Indira Shakti

Absent
Eddie Lim

Board Liaisons
Dr. Richard Chervony, Vice Mayor (Commission Liaison)
Haydee Sera, Village Attorney
Ralph Rosado, Village Manager
Alba L. Chang, Village Clerk

2. APPROVAL OF MINUTES

2.A Approval of the January 8, 2024 Meeting Minutes

ACTION: Chair Dugal made a motion to approve the meeting minutes. Board Member Jacob seconded the motion, and it passed by unanimous voice vote.

3. UNFINISHED BUSINESS

3.A Update and Review of Sections 3.02 - 3.04 of the Village Charter

Village Attorney Haydee Sera stated that per the Board's request, Staff conducted research regarding the salaries of the Village Commission.

Further information was gathered on borrowing and expenditure practices in other cities.

Discussion ensued regarding Section 3.02 of the Village Charter concerning borrowing.

Village Attorney Sera provided research findings from Key Biscayne and the Town of Cutler Bay, highlighting their debt cap requirement in their Charters. Notably, the current Village Chapter addresses expenditure rather than debt cap.

The Village Code mandates a 20% general fund reserve, as specified in Section 35.22 of the Village Code.

Mr. Jeff De Carlo expressed that he had not encountered a provision like this before, suggesting that limiting the Village's debt may be more appropriate than imposing a spending cap.

He explained that Both Charters (Key Biscayne and Town of Cutler Bay) stipulate that the total debt should not exceed 1% of the property as certified by the Miami Dade County Property Appraiser. Figures regarding the assessed value and potential impact will be provided by the next meeting.

Discussion continued regarding defining debt service and the need for clarity within the Village's Charter.

Chair Dugal raised questions regarding Section 3.02 A-B, pondering if the 20% could serve as the debt cap.

There was a brief discussion on the different types of debts, such as General Obligation bonds requiring voter approval, while others, like water and sewer debt, may not require a referendum. There was a comparison with other cities, highlighting the potential for a recommendation to establish a debt limit or amend it through an ordinance.

Village Attorney Sera stated that the Board will need to guide goals and objectives as it relates to the section.

Update on Section 3.02 E – Sale and Lease of Municipal Property

Ms. Sera conducted initial research and will provide more information at the next meeting. It was noted that while the City of South Miami has a similar language, they did not require a referendum.

Board Member Jacob expressed concerns regarding the Board's purview in recommending matters that have already been approved by the Village Commission.

- *Update on Section 3.04 Compensation*

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At the last Board Meeting Board Member Lim provided a recommendation to raise the salaries for elected officials.

The Village Clerk presented data from the 2018 Ethics Commission survey and an informal survey from neighboring municipalities. Chair Dugal highlighted that Village elected officials' compensation was last been adjusted in 2006.

During the January 8th Board Meeting Board Member Eddie Lim proposed the following salary.
$36,000 for Mayor
$24,000 for Commissioners

Board Member Jacob suggested a cost-of-living increase (COLA) but expressed concerns about voter approval, citing the Village's Manager-Commission form of government.

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Village Attorney Sera mentioned that the Board could propose to voters that the salary be established by ordinance, potentially set by the Commission.

Board Member Abramson expressed concern about potential conflict.

Vice Mayor Chervony highlighted the benefit of Commissioners joining the health benefit plan at individual cost, emphasizing their commitment to community improvement.

Board Member Graham inquired about the last approved salary amounts.

Vice Chair Shakti proposed setting a percentage of the general fund amount. She noted that the adopted budget allocates 0.04% of the budget to Village Commission salaries.

Village Attorney Sera referenced the last failed ballot question from 2018 on the proposed compensation as follow:
$9,000 for Commissioners
$10,500 for Mayor

She recommended providing both a specific number and/or a percentage in the budget with a cap. The percentage would need to be determined.

Board Member Jacob proposed any increase in compensation could be based on the adopted budget, specifically out of the Commission budget and the increase could not exceed $500 annually.

Vice Chair Shakti emphasized that salaries should not fall below the current adopted salary.

The minimum salary should not go below the current rate, and the increase should not exceed $500 annually.

4. DISCUSSION ITEMS

4.A Discussion and Review of the Village Charter

* **Article IV. Administrative**
* **Article V. Elections**
* **Article VI. Boards**
* **Article VII Finance and Taxation**
* **Article VIII. Borrowing for Municipal Projects**

4.01 F. Removal of the Village Manager

Board Member Jacob proposed that removing the Village Manager be done in two separate sessions to allow for a cooling period.

ACTION: Board Member Jacobs made a motion to provide a provision that any consideration to remove the Village Manager be discussed in two separate meetings. Board Member Abramson seconded the motion, and it passed by unanimous voice vote.

4.02 - Village Clerk

Village Clerk Chang made a recommendation to include language similar to the Town of Cutler Bay as it relates to staff that work directly with the Office of the Village Clerk.

The Village Clerk shall be responsible for appointing, hiring, promoting, supervising, and removing of all employees of the office of the Village Clerk as authorized by the Village Commission in the annual budget or as otherwise provided by resolution or ordinance.

ACTION: Vice Chair Shakti made a motion to accept the Village Clerk's recommendation and include the suggested language. Board Member Graham seconded the motion, and it passed by unanimous voice vote.

Article V – Elections

Village Attorney Sera stated that residency requirements for the Village Commission mandate that candidates must be residents of their respective islands before submitting their qualifying papers. Recently, there was litigation from the City of Miami concerning residency requirements in the City Charter. Village Attorney Sera recommended including the proposed language as "immediate

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and continuous residency" as the intended requirement. The proposal was for candidates to have lived at their residence continuously for one year.

ACTION: Board Member Graham made a motion to accept the Village Attorney's recommendation and include the suggested text to update residency requirements. Chair Dugal seconded the motion, and it passed by unanimous voice vote.

Board Member Jacob suggested a 4-year term for the Mayor so it aligns with all the Commissioners.

There was a discussion on the possible charter amendment of the Mayor term of office.

ACTION: Board Member Jacob made a motion to extend the term of the Mayor to 4 years. Vice Chair Shakti seconded the motion, and it failed on a 2-4 vote.

Qualifying period for General Election

Village Attorney Sera explained the Village's current process of setting the qualifying period is via resolution and it is approved by the Village Commission. She explained other cities have their qualifying period set in their Charter via a calculation such as 75 days prior to but not less than 30 days before an election. It would be the Board's discretion to explore and create a calculation.

ACTION: Board Member Abramson made a motion for staff to explore a formula to set the qualifying period in the Charter for 14 days. Chair Dugal seconded the motion, and it passed by unanimous voice vote.

5.05 - Nominating Petitions

The Village Attorney stated that it is recommended to update the form for the DOB and/or voter registration to be added to the nominating petitions.

ACTION: Board Member Graham made a motion to move forward as recommended and include the date of birth and/or Voter registration number on the nominating petition. Board member Jacob seconded the motion, and it passed by unanimous voice vote.

Section 5.10 Poll Watcher and 5.11 of the Charter.

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Staff are recommending the removal of obsolete language and adding provisions to comply with state election laws.

ACTION: Board Member Abramson made a motion to accept staff recommendations and provide language to comply with state law. Board Member Jacob seconded the motion, and it passed by unanimous voice vote.

6.01 - Advisory Boards

There was a discussion on why business owners are permitted to be appointed to the Village advisory Boards.

Board Member Abramson suggested excluding business owners from participating on residents advisory boards.

Board Member Jacob stated that they have more financial interest in the Village. They are only making recommendations.

Village Attorney Sera stated there is no state requirement to have a Civil Service Board. The Charter reads that the Village *may* have one. The duties of the Civil Service Board are being handled by the union through the collective bargaining agreement.

ACTION: Board Member Graham made a motion to table the item and bring back the relevant ordinance on advisory boards. Vice Chari Shakti seconded the motion, and it passed by unanimous voice vote.

6.02 Civil Service Board

There was a consensus to leave the section as is and add language for NBV voters.

Board Member Abramson would like clarification that they are registered voters of the Village.

Chair Dugal can the ordinance clarify the provision of registered voters of North Bay Village. Village Attorney Sera responded yes; it can be updated via ordinance.

There were no recommendations for Section 6.02

6.03 Planning and Zoning Board

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Chapter 7

There were no recommended changes.

Line 343- Reimbursement of Commissioner's Legal Fees.

Board Member Graham asked how many times that provision has been exercised. She requested to see a report of the last reimbursement. The Village Attorney responded that in the last fiscal year only $50,000 had been budgeted for.

Vice Mayor Chervony stated that in the last 3 years, he has signed checks amounting to $23,000 for legal fees.

Village Attorney clarified that the section is limited to civil actions.

Board Member Graham suggested that the vote be 4/5 for Commission Reimbursement Fees.

There was consensus to table discussion to the next Board meeting.

Vice Mayor Chervony conveyed that a Commissioner had suggested to the Charter Review Board the possibility of putting the potential name change to "Miami Bay Islands" on the ballot.

However, there was no agreement reached to discuss altering the Village's name.

ACTION: Chair Dugal proposed maintaining the Village Name unchanged, a motion seconded by Board Member Abramson, and the motion passed by unanimous voice vote.

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5. PUBLIC COMMENTS

Pillar Somoza – 7510 West Drive.

6. NEXT BOARD MEETING - February 15, 2024, at 6:00 p.m.

7. ADJOURNMENT

8.

Chair Dugal made a motion to adjourn the meeting. Vice Chair Shakti seconded the motion, and it passed by unanimous voice vote.

There being no further business to address the meeting was adjourned at 9:01 p.m.

_____
Kip Dugal,
Chair

Respectfully Submitted,

_____
Alba L. Chang
Village Clerk

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NORTH BAY VILLAGE
CHARTER REVIEW BOARD MEETING MINUTES
FEBRUARY 15, 2024 | 6:00 PM
1666 Kennedy Causeway #101 North Bay Village, FL 33141
Meeting ID: 833 8735 8336 | Passcode: 056199

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1. OPENING ITEMS

A. Call to Order

The Regular Meeting of the Advisory Charter Review Board was called to order in the Commission Chambers at 6:04 P.M.

B. Roll Call

Board Members:
Sherry Abramson arrived late at 6:18 p.m.
Kip Dugal
Alisha Graham
Paul Jacob

Absent
Helena Gil
Eddie Lim
Indira Shakti

Board Liaisons
Dr. Richard Chervony, Vice Mayor (Commission Liaison)
Haydee Sera, Village Attorney
Ralph Rosado, Village Manager
Alba L. Chang, Village Clerk

2. UNFINISHED BUSINESS

2A Review of Sections 3.02(A-D), Limitations of Powers of the Commission (Acquisition of Real Property; Capital Improvement Projects; Excess of 20% of Current Total Operating Budget; Waiver of Referendum)

Village Attorney Sera addressed the unfinished business from the last Board meeting. Jeff DeCarlo was available to address any questions regarding the commencement of line 265 on the Charter, Section 3.08 a, b, c, regarding the expenditure cap. Ms. Sera asked if the Board intended to establish an expenditure cap. She provided the Code from the Town of Cutler Bay as a reference for how debt caps are calculated.
Chair Dugal suggested moving the item to the next board meeting to allow for feedback from other members.

Board Member Jacobs inquired about the legal implications of removing lines 265-290 of the Charter. The proposal was to replace this section with language similar to that of Key Biscayne and the Town of Cutler Bay.

The Board reached a consensus to defer item 2A to the next Board meeting for further discussion.

2B Review of Section 3.02(E), Limitations of Power of the Commission (Sale and Lease of Real Property)

The Village Attorney updated the Board as requested by Board Member Abramson to include a provision regarding the sale and lease of real property. The legal Team conducted research on other cities' Charters concerning this matter. The Town of Cutler Bay and the Village of Pinecrest require a referendum for any lease exceeding 5 years, while South Miami mandates a supermajority vote for certain leases involving real property.

Line 291-297 (of the Village Charter) pertains to the sale and lease of property, with Section 298 providing language on exceptions.

At the last Board meeting, the Board reference Sections 302-303 recommended extending leases/agreements, but the Board suggested extending beyond concessions agreements and software license agreements, such as agreements with yoga instructors or construction agreements. Board Member Abramson emphasized the need to streamline approval processes, citing concerns over the approval of AFA agreements for 30 years. Village Attorney Sera did *not* recommend making changes to existing provisions, with Chair Dugal recommending maintaining the language as is.

ACTION: Chair Dugal made a motion to maintain the language as is for Section 3.02. Board Member Jacobs seconded the motion, and it passed by a 3-1 poll vote with Board Member Abramson opposed.

2C Review of Section 3.04, Compensation

The Village Clerk conducted a survey of the salaries of elected officials in surrounding cities. The Board proposed a percentage increase with a cap on compensation. However, Village Attorney

Sera expressed concern regarding the percentage increase to the adopted budget. At line 384, the current compensation stands at $6,300 for Commissioners and $7,800 for the Mayor. It was recommended to adjust these figures based on the Consumer Price Index (CPI), suggesting an annual cost of living adjustment without an increase in compensation.

At this time Village Attorney Sera laid the motion taken at the January 8, 2024, Board Meeting made by Board Member Lim and seconded by Board Member Graham to increase the Village Commission as follows:

- $24,000 for Commissioners
- $36,000 for Mayor

A poll vote was taken with Board Member Abramson, Board Member Graham, Board Member Jacob, and Chair Dugal voting against.

ACTION: Board Member Jacob made a motion to keep the current compensation for elected officials with the following conditions:

- Add an annual cost of living adjustment (COLA).
- Compensation cannot be decreased.

Board Member Abramson seconded the motion, and it passed by unanimous poll vote.

2D Review of Section 6.01, Advisory Boards

During the February 5, 2024, meeting, the Board requested a copy of the ordinance concerning Advisory Boards. Board Member Abramson expressed concerns regarding residents and business owners in the Village. Section 32.08 of the Code specifies that the Planning & Zoning Board must consist of one member from each Island and two at-large members, and they must be registered voters of the Village.

Village Attorney Sera suggested that an ordinance could establish a limit on the number of business owners. No recommendations for changes were put forward.

DISCUSSION ITEMS

3A Discussion and Review of Article X. Charter Amendment and Transition

Village Attorney Sera had no recommendation for this section of the Charter.

3B Discussion and Review of Article IX. General Provisions

Board Member proposed adding language to section 9.07 to permit the existing single-family homes in Treasure Island to retain their current zoning regulations.

ACTION: Board Member Abramson made a motion to recommend a provision for future zoning relating to single-family homes in Treasure Island to retain their zoning regulations for the RS-2 zoning only. Chair Dugal seconded the motion, and it passed by unanimous poll vote.

4. PUBLIC COMMENTS

Pilar Somoza - 7510 West Drive

Mr. Mendenhall - 7510 West Drive

5. NEXT BOARD MEETING - March 4, 2024

Vice Mayor Chervony provided clarification on comments made during the previous Board Meeting regarding the Village's expenses for rebranding. It was clarified that the cost incurred for the rebranding amounted to $5,000. This cost was specifically allocated for the creation of the Seal, logo, and stationery as part of the rebranding process.

6. ADJOURNMENT

There being no further business to discuss the meeting was adjourned at 7:27 p.m.

_____

Kip Dugal,
Chair

Respectfully Submitted,

_____

Alba L. Chang
Village Clerk

ITEM NO. 3.A

North Bay Village
Recommendation Memorandum

DATE: March 4, 2024

TO: Honorable Mayor, Vice Mayor and Members of the Village Commission

FROM: Alba L. Chang, Village Clerk

SPONSORED BY:

SUBJECT: Review of Sections 3.02(A-D), Limitations of Powers of the Commission (Acquisition of Real Property; Capital Improvement Projects; Excess of 20% of Current Total Operating Budget; Waiver of Referendum)

RECOMMENDATION

BACKGROUND AND ANALYSIS

At recent January and February Board meetings, the Board discussed Section 3.02(A-D) of the Charter.

At the upcoming March 4th meeting, we recommend that the Board determine what changes, if any, should be made to this section of the Charter. Further, the Board should consider the intent/goal of Section 3.02(A-D).

The Board should keep in mind that it may recommend that Sections 3.02(A-D) of the Charter:

1. Remain “as is” (i.e., no changes to be made);
2. Be repealed;
3. Be repealed and replaced with a borrowing provision similar to those provided in the Key Biscayne and Cutler Bay Charters (see attachment for sample language from those Charters); or
4. Be amended in some other fashion.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

None

PERSONNEL IMPACT
None

ATTACHMENTS
Memo - Section 3.02 - Expenditures and Borrowing.PDF

WEISS SEROTA
HELFMAN COLE + BIERMAN

MEMORANDUM

To: North Bay Village Charter Review Board

From: Haydee Sera, Village Attorney

Date: February 5, 2024

RE: Section 3.02 (A)-(D)

At the last Charter Review Board meeting there was discussion on Section 3.02(A-D) of the Village Charter.

My partner Jeff DeCarlo, who is the Chair of my Firm's Municipal Finance and Bonds Practice Group, will be online at this evening's Board meeting for follow-up discussion on this provision of the Charter. He will also be available at a future Board meeting for additional discussion, if needed.

In advance of our next meeting, we are providing you with some information for your consideration.

Attached please find excerpts from the Village of Key Biscayne and Town of Cutler Bay's Charters. These provisions relate to the respective municipality's borrowing capabilities. The Miami-Dade County Property Appraiser's 2023 Estimated Taxable Values by Taxing Authority (attached) is pertinent to the Charters for the Town of Cutler Bay and Village of Key Biscayne, which consider this information in setting their borrowing limits.

By way of example, North Bay Village's total assessed value for all real property in 2023, as certified by the Miami-Dade County Property Appraiser was $1,450,000,000. 1% of this value would be $14,500,000. 3% of this value would be $43,500,000.

In addition, attached is the text of Section 35.22 of the North Bay Village Code of Ordinances. As you will see, Section 35.22(B) provides that the Village shall maintain within the General Fund of the Village, a reserved fund balance equal to 20% of the current fiscal year general fund.

Attachments:

1. Section 3.02 of the North Bay Village Charter
2. Section 35.22 of the North Bay Village Code of Ordinances
3. Section 4.10 of the Village of Key Biscayne Charter
4. Section 4.11 of the Town of Cutler Bay Charter
5. Miami-Dade County Property Appraiser's 2023 Estimated Taxable Values

§ 3.02 Limitations of powers of the Commission.

All powers of the Village and the determination of all matters of policy shall be vested in the Commission with the following limitations:

A. *Acquisition of real property.* The Commission may acquire property within or without the corporate limits of the Village for any municipal purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, or lease provided such amount of expenditure for real property shall not exceed twenty percent (20%) of the current total operating budget of the Village.

B. *Capital improvement projects.* The Commission may, through proper procedure, propose, undertake and finance capital improvement projects to fulfill the necessary needs of the Village, provided that the amount of total expenditures for all such projects shall not exceed twenty percent (20%) of the current total operating budget of the Village in any one fiscal year.

C. *Excess of 20 percent of current total operating budget.* In the event that the proposed purchase(s) of property and/or total expenditure(s) do exceed twenty percent (20%) of the current total operating budget of the Village in any fiscal year, then a referendum will be held of the qualified electors of the Village and it shall require a majority of those voting in such election to authorize such projects.

Any funds specifically designated for the particular project, which are received from the Federal Government, State, County or from any source, other than municipal taxation, will not be included in calculating the project cost for the purposes of Section 3.02.

D. *Waiver of referendum.* This referendum requirement may be waived, however, if the Commission by four (4) affirmative votes, finds and declares that an emergency exists, and that there is a threat to the health, welfare and safety of the citizens of the Village.

E. *Sale and lease of real property.* The Commission shall not undertake to sell, mortgage, assign or otherwise dispose of or alienate the title to any real property owned by the Village without first having secured the approval of the qualified electors of the Village, through a majority vote of the qualified electors participating in a regular or special election for such purpose. Such referendum shall state, generally and in substance, the terms and conditions of the proposed sale, mortgage, assignment or other disposition or alienation of title.

Except where referendum is otherwise required by Miami-Dade County law, the Commission may lease any real property owned by the Village to any other individual, group, business, corporation or other entity for a period not to exceed one (1) year and may renew the lease each year thereafter that it so desires. Leases for a period longer than one (1) year require approval in a referendum by the qualified electors of the Village. However, nothing contained herein shall preclude the Village, without referendum, from leasing Village real property to a governmental agency for governmental use for a period not to exceed ten (10) years; and except as prohibited by the Constitution, Miami-Dade County Charter or statutes of this state or restricted in this Charter.

F. *Sale of personal property.* Personal property of the Village may be sold by auction or by sealed bid after it has been properly advertised in a newspaper of general circulation. Such sale must be held no sooner than fifteen (15) days after publication of the notice. The notice shall describe the contents of sale and the location where the merchandise may be inspected prior to sale.

G. *Appointments or removal of Village personnel prohibited.* Neither the Commission nor any of its members shall in any manner dictate the appointment, retention, or removal of any Village employee (other than the Village Manager, the Village Clerk and the Village Attorney, as provided herein), or any

person who is duly appointed by the Village Manager, in accordance with Section 4.01(G)(2) of this Charter; except that the Village Manager shall submit appointments of all department heads to the Commission for approval.

H. *Village Attorney.* The Commission shall appoint or remove the Village Attorney by at least three (3) affirmative votes. The Village Attorney shall have been licensed to and have been a practicing attorney in the State of Florida for not less than five (5) years, with not less than three (3) of those years in the practice of law for municipal, county or state governments. The duties and responsibilities of the Village Attorney shall be those as provided in this Charter.

I. *Auditor.* The Commission shall appoint the outside auditor. The outside auditor shall be a certified public accountant practicing in the State of Florida, for a period of not less than five (5) years.

J. *Other Commissioner remunerative position.* No Commissioner shall be appointed to any other remunerative position with the Village during his term of office and for a term of two (2) years thereafter.

K. *Nepotism.* No person related up to the second degree of consanguinity or affinity to a Commissioner shall be eligible to hold a remunerative position with the Village. Any Commissioner who shall knowingly make such an appointment may be deemed guilty of misfeasance or malfeasance in office and subject to removal. The person so employed may be subject to dismissal.

L. *Conflict of interest.* The Mayor and any Village Commissioner shall comply with applicable conflict of interest laws, including Florida Statutes Chapter 112, Part 3, as well as Miami-Dade County Code Section 2-11.1.

M. *Reimbursement of Commissioner's legal fees.* In the event that a civil action shall be instituted wherein it is sought to impose personal liability upon any Commission member of the Village for any act or acts of such Commissioner, and if such Commissioner seeks legal defense of such action through the use of public funds, it shall first require a majority of all other Commissioners to ascertain that such acts complained of by the plaintiff were indeed connected with the Commissioner's proper conduct of the affairs or business of the Village. If so established, the other Commissioners shall then determine, specify and allocate a reasonable expenditure from Village funds for this legal defense - selection of counsel to be approved by the Village Attorney.

N. *Utility franchises.* The Commission may grant public utility franchises and regulate the exercise thereof; provided, however, that no franchise or extension thereof shall hereafter be granted or extended unless such franchise or extension shall be approved after a public hearing thereon. At least fourteen (14) days preceding the public hearing at which any franchise or extension thereof is to be adopted, notice thereof shall be published in a newspaper of general circulation in the Village. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. A copy of such proposed franchise shall be available for inspection by any interested person at the office of the Village Clerk at least fourteen (14) days preceding such public hearing. The cost of such advertising and of the public hearing shall be borne by the utility involved. For renewing franchises, each public utility shall notify the Village of its intent six (6) months before the expiration of its franchise. The Commission shall be empowered to grant a temporary extension of an existing franchise not to exceed three (3) months without a public hearing.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.02 was titled Qualifications and no history of amendments.)

§ 35.22 Creation of Fund Balance/Retained Earnings Reserves.

A. *Definitions.* The following terms used in this section shall be used in conformance with the definitions contained in GASB Statement #54:

1. Nonspendable fund balance;
2. Restricted fund balance;
3. Committed fund balance;
4. Assigned fund balance;
5. Unassigned fund balance.

B. *General Fund Reserve.* The Village shall maintain within the General Fund of the Village, a reserved fund balance equal to 20 percent of the current fiscal year general fund. For the purposes of this calculation, the current fiscal year budget shall be the budget as originally adopted by September of the applicable fiscal year. This reserved fund balance shall be classified as assigned, for the specific purposes as delineated in subsection D of § 35.22 of the Code.

C. *Enterprise Funds Reserves.* The Village shall maintain within each of the enterprise funds now, or hereafter created by the Commission, a restricted net assets equal to 20 percent of the current water, sewer, sanitation and storm water fiscal year budget for that fund. For the purposes of this calculation, the fiscal year budget shall be the total water, sewer, sanitation and storm water budget for these four utilities or segments as originally adopted by September of the current fiscal year. These restricted net assets shall be in addition to all other designations including but not limited to amounts reserved in current liabilities. Any utilization of the restricted net assets shall be pursuant to subsection D of § 35.22.

D. *Use of fund balance/net assets.* The assigned fund balance in the General Fund and the restricted net assets in any enterprise fund may be utilized, and therefore the fund balance of 20 percent of the annual budget may be decreased, for the following purposes:

(1) Non-emergency uses limited to unanticipated capital improvements and infrastructure needs and unforeseen contingent liabilities.

(2) Emergency uses including unscheduled natural disasters/emergencies, acts of God or war, and for the emergency health, safety and welfare needs of the Village.

E. *Utilization of assigned fund balance and restricted net assets.* Funds and assets reserved pursuant to this section may be used only in accordance with the following requirements:

(1) Expenditures for non-emergency uses shall not exceed 50 percent of the balance.

(2) Any expenditure from the assigned fund balance or restricted net assets shall require approval by the Village Commission by a super-majority vote of those present prior to expenditure of the funds.

F. *Replenishment of balances.* In any fiscal year when the Village is unable to maintain the 20 percent balances required by this section, the Village in the subsequent fiscal years shall not be entitled to appropriate any portion of the remaining assigned fund balance or restricted net assets until the denoted reserves again reach 20 percent.

If, at the end of any fiscal year, the actual amounts required by this section fall below the required levels as established in this section, the Village Manager shall prepare and submit a plan for expenditure or expense reductions and/or revenue increases to the Village Commission in order to replenish the required 20 percent

balance. As a part of the annual budget review, the Village Commission shall review and amend the plan submitted by the Village Manager for restoring the balance(s) to the required levels. Any deficit in the required amount must be restored no later than the end of the second fiscal year following its occurrence.

(Ord. No. 02-25, § 1, 10-8-02; Ord. No. 2012-05, § 2, 7-25-12)

Section 4.10. Borrowing.

(a) *Debt Approval.* The Village shall incur no Debt unless the incurrence of such Debt is approved by at least five (5) Council Members.

(b) *Limits.* The total Debt of the Village, including amounts authorized but still not drawn down under existing loan agreements and other contractual arrangements with banks and other financial institutions, underwriters, brokers and/or intermediaries, shall not exceed the greater of:

i. one percent (1%) of the total assessed value of all property within the Village, as certified by the Miami-Dade County Property Appraiser for the current fiscal year; or

ii. that amount which would cause annual Debt Service to equal fifteen percent (15%) of General Fund expenditures for the previous fiscal year.

(c) *Definitions.* As used in this Section 4.10 the following terms shall have the meanings ascribed to them in this subsection.

i. "Debt" means any obligation of the Village to repay borrowed money however evidenced since the date of its incorporation regardless of tenor or term for which it was originally contracted or subsequently converted through refinancing or novation, except (A) any obligation required to be repaid in less than a year and which was incurred solely for emergency relief of natural disasters, or (B) that portion of any obligation for operations which are financed and operated in an independent, self-liquidating manner and recovered entirely through currently collected user fees and charges.

ii. "Debt Service" shall include, without limitation thereto, scheduled interest payments, repayments of principal and all financial fees arising from Debt or from the underlying contractual obligations, whether as originally incurred or subsequently deferred or otherwise renegotiated.

iii. "General Fund" shall mean any and all revenues of the Village, from whatever source derived, except those revenues derived from special assessments, user fees and charges and designated as a separate fund to finance goods and services to the public.

(Ord. No. 92-18, § 1, 8-11-92/11-3-92; Res. No. 97-15, 4-1-97/6-10-97; Res. No. 2001-8, 9-19-01/12-4-01)

Section 4.11. Borrowing.

(A) *Debt Approval.* The town shall incur no debt unless the incurrence of such debt is approved by a majority of the council.

(B) *Limits.* The total debt of the town, including amounts authorized but still not drawn down under existing loan agreements and other contractual arrangements with banks and other financial institutions, underwriters, brokers and/or intermediaries, shall not exceed the greater of:

i. Three percent (3%) of the total assessed value of all property within the town, as certified by the Miami-Dade County Property Appraiser for the current fiscal year; or

ii. That amount which would cause annual debt service to equal fifteen percent (15%) of general fund expenditures for the previous fiscal year.

(C) *Definitions.* As used in this section 4.11 the following terms shall have the meanings ascribed to them in this subsection.

i. "Debt" means any obligation of the town to repay borrowed money however evidenced since the date of its incorporation regardless of tenor or term for which it was originally contracted or subsequently converted through refinancing or novation, except (a) any obligation required to be repaid in less than a year and which was incurred solely for emergency relief of natural disasters, or (b) that portion of any obligation for operations which are financed and operated in an independent, self-liquidating manner and recovered entirely through currently collected user fees and charges.

ii. "Debt Service" shall include, without limitation thereto, scheduled interest payments, repayments of principal and all financial fees arising from debt or from the underlying contractual obligations, whether as originally incurred or subsequently deferred or otherwise renegotiated.

iii. "General Fund" shall mean any and all revenues of the town, from whatever source derived, except those revenues derived from special assessments, user fees and charges and designated as a separate fund to finance goods and services to the public.

MIAMI-DADE COUNTY

PROPERTY APPRAISER

2023 Estimated Taxable Values by Taxing Authority

JUNE 1, 2023

TAXING AUTHORITY	2022 PRELIMINARY TAXABLE VALUE	2023 ESTIMATED TAXABLE VALUE BEFORE NEW CONSTRUCTION	PERCENT CHANGE	NEW CONSTRUCTION	2023 JUNE 1ST ESTIMATE	PERCENT CHANGE FROM 2022	NET VALUE CHANGE
01 MIAMI	73,749,481,211	82,824,000,000	12.3%	1,376,000,000	84,200,000,000	14.2%	10,450,000,000
0101 MIAMI (DDA)	24,602,533,803	27,434,000,000	11.5%	166,000,000	27,600,000,000	12.2%	2,997,000,000
02 MIAMI BEACH	46,544,694,070	51,180,000,000	10.0%	220,000,000	51,400,000,000	10.4%	4,855,000,000
0201 MB NORMANDY SHORES	305,472,912	388,000,000	27.0%	1,000,000	389,000,000	27.3%	83,000,000
03 CORAL GABLES	20,101,009,587	22,077,000,000	9.8%	423,000,000	22,500,000,000	11.9%	2,398,000,000
04 HIALEAH	15,369,871,099	17,216,000,000	12.0%	284,000,000	17,500,000,000	13.9%	2,130,000,000
05 MIAMI SPRINGS	1,449,806,131	1,593,000,000	9.9%	4,000,000	1,597,000,000	10.2%	147,000,000
06 NORTH MIAMI	4,605,444,600	5,140,000,000	11.6%	60,000,000	5,200,000,000	12.9%	594,000,000
07 NORTH MIAMI BEACH	4,113,425,952	4,740,000,000	15.2%	0	4,740,000,000	15.2%	626,000,000
08 OPA-LOCKA	1,551,388,190	1,689,000,000	8.9%	11,000,000	1,700,000,000	9.6%	148,000,000
09 SOUTH MIAMI	2,362,980,956	2,579,000,000	9.1%	21,000,000	2,600,000,000	10.0%	237,000,000
10 HOMESTEAD	4,360,611,776	4,831,000,000	10.8%	189,000,000	5,020,000,000	15.1%	659,000,000
11 MIAMI SHORES	1,535,464,298	1,746,000,000	13.7%	4,000,000	1,750,000,000	14.0%	214,000,000
12 BAL HARBOUR	5,774,201,876	6,193,000,000	7.3%	7,000,000	6,200,000,000	7.4%	425,000,000
13 BAY HARBOR ISLANDS	1,632,803,218	1,894,000,000	16.0%	6,000,000	1,900,000,000	16.4%	267,000,000
14 SURFSIDE	3,651,048,630	3,997,000,000	9.5%	3,000,000	4,000,000,000	9.6%	348,000,000
15 WEST MIAMI	828,793,856	875,000,000	5.6%	1,000,000	876,000,000	5.7%	47,000,000
16 FLORIDA CITY	925,481,705	1,009,000,000	9.0%	101,000,000	1,110,000,000	19.9%	184,000,000
17 BISCAYNE PARK	309,707,689	367,000,000	18.5%	1,000,000	368,000,000	18.8%	58,000,000
18 EL PORTAL	226,240,502	266,300,000	17.7%	700,000	267,000,000	18.0%	40,000,000
19 GOLDEN BEACH	1,438,422,337	1,615,000,000	12.3%	25,000,000	1,640,000,000	14.0%	201,000,000
20 PINECREST	6,066,710,208	6,673,000,000	10.0%	127,000,000	6,800,000,000	12.1%	733,000,000
21 INDIAN CREEK	831,971,445	884,700,000	6.3%	-700,000	884,000,000	6.3%	52,000,000
22 MEDLEY	3,205,242,164	4,810,000,000	50.1%	390,000,000	5,200,000,000	62.2%	1,994,000,000
23 N. BAY VILLAGE	1,311,100,447	1,449,800,000	10.6%	200,000	1,450,000,000	10.6%	138,000,000
24 KEY BISCAYNE	9,096,495,184	9,891,000,000	8.7%	9,000,000	9,900,000,000	8.8%	803,000,000
25 SWEETWATER	3,307,159,031	3,681,000,000	11.3%	19,000,000	3,700,000,000	11.9%	392,000,000
26 VIRGINIA GARDENS	372,489,301	366,917,000	-1.5%	83,000	367,000,000	-1.5%	-5,489,300
27 HIALEAH GARDENS	1,768,783,577	1,987,000,000	12.3%	53,000,000	2,040,000,000	15.3%	271,000,000
28 AVENTURA	11,368,391,539	12,387,000,000	9.0%	13,000,000	12,400,000,000	9.1%	1,031,000,000
30 UNINCORPORATED	101,823,792,808	110,311,000,000	8.3%	1,689,000,000	112,000,000,000	10.0%	10,176,000,000
31 SUNNY ISLES BEACH	13,781,795,040	15,244,000,000	10.6%	656,000,000	15,900,000,000	15.4%	2,118,000,000
32 MIAMI LAKES	4,131,041,213	4,489,000,000	8.7%	11,000,000	4,500,000,000	8.9%	368,000,000
33 PALMETTO BAY	3,714,374,050	4,064,000,000	9.4%	56,000,000	4,120,000,000	10.9%	405,000,000
34 MIAMI GARDENS	6,868,956,173	7,652,000,000	11.4%	148,000,000	7,800,000,000	13.6%	931,000,000
35 DORAL	16,609,380,949	18,048,000,000	8.7%	252,000,000	18,300,000,000	10.2%	1,690,000,000
36 CUTLER BAY	3,261,804,057	3,573,000,000	9.5%	27,000,000	3,600,000,000	10.4%	338,000,000
COUNTY-WIDE	**377,897,396,044**	**418,311,000,000**	**10.7%**	**5,889,000,000**	**424,200,000,000**	**12.3%**	**46,302,000,000**
FIRE AND RESCUE	213,164,959,610	235,124,000,000	10.3%	3,576,000,000	238,700,000,000	12.0%	25,535,000,000
LIBRARY	338,627,116,797	374,257,000,000	10.5%	5,343,000,000	379,600,000,000	12.1%	40,972,000,000
SCHOOL BOARD	428,837,004,339	498,207,000,000	16.2%	5,893,000,000	504,100,000,000	17.6%	75,262,000,000
S FL WATER MNGT DIST	379,933,131,965	420,307,000,000	10.6%	5,893,000,000	426,200,000,000	12.2%	46,266,000,000
FL INLAND NAV DIST	379,933,131,965	420,307,000,000	10.6%	5,893,000,000	426,200,000,000	12.2%	46,266,000,000
THE CHILDREN'S TRUST	379,933,131,965	420,307,000,000	10.6%	5,893,000,000	426,200,000,000	12.2%	46,266,000,000

ITEM NO. 4.A

North Bay Village
Recommendation Memorandum

DATE: March 4, 2024

TO: Honorable Mayor, Vice Mayor and Members of the Village Commission

FROM: Alba L. Chang, Village Clerk

SPONSORED BY:

SUBJECT: Discussion and Review of Final Report and Recommendations on the Proposed Charter Amendments

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RECOMMENDATION

BACKGROUND AND ANALYSIS

The Office of the Village Attorney prepared a comprehensive report following the in-depth discussions held during the recent Charter Review Board meetings as it relates to the proposed Charter amendments.

The Board will assess and review of the Final Report on the Proposed Charter Amendments to be submitted for consideration by the Village Commission.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

None

PERSONNEL IMPACT

None

ATTACHMENTS

DRAFT 2024 Charter Report - 022824.pdf

2024 Charter Review Board

Final Report and Recommendations

Introduction

Section 10.01(A) of the Charter of North Bay Village (the "Village") mandates that the Charter be reviewed six years from November 8, 2000 and each sixth year thereafter by an advisory Charter Review Board (the "Board") appointed by the Village Commission with a minimum of five members with at least one representative from each island.

Section 10.01(A) of the Village Charter further provides that any proposed revisions to the Charter must meet the approval of the qualified electors of the Village at an election to be held at the same time as the regularly scheduled municipal Commission election immediately following each sixth year Charter review.

On November 9, 2023, the Village Commission adopted Resolution No. 2023-145, appointing seven voting and one nonvoting Commission Liaison to the Board to review the Village's Charter in preparation for the regularly scheduled municipal election occurring on Tuesday, November 5, 2024.

The Board

The following residents were appointed to the Board:

Member	Seat Represented
Paul C. Jacob	Harbor Island
Kip Dugal	North Bay Island
Helena Gil	Treasure Island
Indira Shakti	At-Large
Eddie Lim	At-Large
Alisha Graham	At-Large
Sherry Abramson	At-Large
Dr. Richard Chervony	Commission Liaison (Non-Voting Member)

Mr. Dugal served as Chair and Ms.Shakti served as Vice Chair.

The Board's work was assisted by the Village Attorney's Office led by Haydee S. Sera, Esq. of Weiss Serota Helfman Cole & Bierman, P.L., Village Clerk Alba L. Chang, CMC, and Village Manager Dr. Ralph Rosado, AICP.

Meetings

The Board met on the following dates in the Village Commission Chambers:

- Monday, December 4, 2023
- Monday, January 8, 2024
- Monday, February 5, 2024
- Thursday, February 15, 2024

- Monday, March 4, 2024

The Board meetings were held in the Village Commission Chambers at Village Hall at 1666 Kennedy Causeway and were properly noticed, open to the public, and streamed live.

Minutes of the meetings are attached hereto as ***Exhibit A.***

PROPOSED AMENDMENTS

The Board proposed various amendments to the Village Charter. The proposed amendments are set forth in a ~~strikethrough~~ and underline format of the Village Charter attached hereto as **Exhibit B**.

The Board proposes that the below questions be submitted to the Village's qualified electors at the November 5, 2024 election. The Board recognizes that the proposed amendments and questions will be considered by the Village Commission and may be subject to further revision.

1. **CONSUMER PRICE INDEX COMPENSATION ADJUSTMENT**

   The Village Charter provides that the Mayor be compensated $7,800 per year and that each Commissioner be compensated $6,300 per year. It is proposed that the Charter be amended to provide that this compensation shall be increased, but not decreased, by the Consumer Price Index (CPI) annually.

   Shall the above-described amendment be adopted?

   [ ] Yes

   [ ] No

2. **PUBLIC NOTICE REQUIREMENTS**

   The Village Charter provides that certain public notices be published in a newspaper of general circulation. It is proposed that the Charter be amended to provide that notice may alternatively be provided as otherwise permitted by Florida law, including on a publicly accessible website, provided that the cost of web advertising is less than newspaper advertising and the web publication conforms in other respects to State and Village law.

   Shall the above-described amendment be adopted?

   [ ] Yes

   [ ] No

3. **NOTICE PRIOR TO REMOVAL OF THE VILLAGE MANAGER**

   The Village Charter provides that the Village Commission may remove the Village Manager by a minimum of three votes in favor of removal. It is proposed that before the Village Manager may be removed without cause, at least two public meetings at least 48 hours apart must be held where the

Village Manager's removal is approved by a majority of the Village Commission at each meeting.

Shall the above-described amendment be adopted?

[ ] Yes

[ ] No

4. EMPLOYEES OF THE VILLAGE CLERK'S OFFICE

The Village Charter provides for the Village Clerk to report directly to the Village Commission. The Charter is silent as to who has responsibility for other personnel in the Clerk's office. It is proposed that the Charter be clarified to give the Clerk responsibility for all personnel within the Clerk's office.

Shall the above-described amendment be adopted?

[ ] Yes

[ ] No

5. CONTINUOUS RESIDENCY REQUIREMENT

Shall the Charter be amended to provide that candidates for Mayor and Commission must reside in the Village or the respective island for a continuous period of not less than one year immediately prior to the date of the subject candidate's initial filing of qualifying papers?

[ ] Yes

[ ] No

6. QUALIFYING PERIOD

The Village Charter provides that the qualifying period for elections be set by the Village Commission. It is proposed that the Charter be amended to set forth within its text that there be a 10-business day qualifying period beginning no earlier than noon on the third Monday of July and ending no later than noon on the second Friday thereafter.

Shall the above-described amendment be adopted?

[ ] Yes

[ ] No

7. FORM OF NOMINATING PETITION

The Village Charter provides the form of the nominating petition for candidates for Mayor and Commission. It is proposed that the Charter be amended to require that the form of nominating petition include the signer's date of birth or voter registration number.

Shall the above-described amendment be adopted?

[ ] Yes

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[ ] No

8. TREASURE ISLAND ZONING

It is proposed that the Village Charter be amended to provide that the zoning of properties on Treasure Island that are currently zoned as RS-2 shall remain as single-family and be prohibited from being rezoned to other than single-family zoning.

Shall the above-described amendment be adopted?

[ ] Yes

[ ] No

9. LIMIT ON VILLAGE DEBT

The Charter provides that expenditures for real property acquisition and capital projects shall not exceed 20% of the Village's total operating budget, unless approved by referendum. Shall the Charter be amended to instead provide for a debt limit of the greater of 3% of the total assessed value of all property within the Village or the amount which would cause annual debt service to equal 15% of general fund expenditures for the previous fiscal year?

[ ] Yes

[ ] No

10. CHARTER NON-SUBSTANTIVE AND TECHNICAL UPDATES

It is recommended that the Village Charter be amended to strike provisions that are obsolete or are in conflict with state law and to reflect non-substantive stylistic and technical changes, along with any amendments needed for conformity, implementation and consistency of Charter amendments.

Shall the above-described amendment be adopted?

[ ] Yes

[ ] No

DRAFT

North Bay Village
Charter Review Board Certification

The members of the North Bay Village Charter Review Board, duly appointed by the Village Commission on November 9, 2023, hereby deliver to the Honorable Mayor and Members of the Village Commission of North Bay Village, Florida, the Charter Review Board's Final Report and Recommendations prepared pursuant to Section 10 of the Village Charter.

Respectfully submitted March 4, 2024.

/s/ Kip Dugal
Kip Dugal, Chair
Indira Shakti, Vice Chair
Sherry Abramson
Helena Gil
Alisha Graham
Paul C. Jacob
Eddie Lim

Attest:

/s/ Alba L. Chang
Alba L. Chang, CMC, Village Clerk

DRAFT

CHARTER OF NORTH BAY VILLAGE[1]

LEGISLATIVE HISTORY

Chapter 23427, Laws of Florida, 1945, originally created the Village of North Bay Island as a municipal corporation in Miami Dade County, Florida. The 1947 session of the Legislature adopted Chapters 24735 and 24736, Laws of Florida, 1947, which appear to be two identical bills amending the original Charter (Chapter 23427, Laws of Florida, 1945) by changing the name of the municipality from "Village of North Bay Island" to "North Bay Village" and otherwise amending the Charter of the municipality. Chapter 26053, Laws of Florida, 1949, provided an amendment, which excluded certain territory, land and water from the corporate limits and jurisdiction of the Municipality of North Bay Village. Chapter 27773, Laws of Florida, 1951, abolished the municipal government of North Bay Village and established, organized and incorporated a new municipal government as the successor to the original municipality. Chapter 29314, Laws of Florida, 1953, provided an amendment to the new Charter, which was established in Chapter 27773, Laws of Florida, 1951. In addition, the 1953 session of Legislature enacted Chapter 29315, Laws of Florida, 1953, providing that the City of North Bay Village should be abolished and the assets and liabilities of the municipality turned over to the Board of County Commissioners of Dade Miami, Florida, subject to a referendum.

This referendum was subsequently held and turned down by the electorate. The 1955 session of the Legislature enacted Chapters 31035 and 31036, Laws of Florida, 1955, which constituted the authority for the city to enact a pension plan and civil service system. At a referendum election on September 15, 1970, held pursuant to Resolution Nos. 2235 and 2236, the name of North Bay Village was changed to "City of North Bay Village." Election results were certified by Resolution No. 2237, copies of which have been filed with the Clerk of the Circuit Court of Dade County, Florida and the Department of State, State of Florida. In 1976, the City Council appointed a charter

[1]Res. No. 2018-75 , § 2, adopted July 30, 2018, election of Nov. 6, 2018, in effect repealed and replaced the former Charter (preamble, definitions, bill of rights, and §§ 1.01, 1.02, 2.01, 3.01—3.09, 4.01—4.04, 5.01—5.15, 6.01—6.03, 7.01—7.07, 8.01, 9.01—9.11, 10.01—10.14) and enacted a new Charter as set out herein. The former Charter derived from Res. No. R91-25, adopted Sept. 16, 1991; Res. No. R91-28, adopted Sept. 16, 1991; Res. No. 92-23, adopted Sept. 15, 1992; Res. No. 92-24, adopted Sept. 15, 1992; Res. No. 98-05, adopted March 10, 1998; Res. No. 2000-41, adopted Nov. 8, 2000; Res. No. 2004-20, adopted April 14, 2004; Res. No. 2004-33, adopted July 13, 2004; Res. No. 2004-34, adopted July 13, 2004; Res. No. 2004-35, adopted July 13, 2004; Res. No. 2004-36, adopted July 13, 2004; Res. No. 2004-38, adopted July 27, 2004; Res. No. 2006-45, adopted Aug. 28, 2006; Res. No. 2008-26, adopted July 30, 2008; Res. No. 2008-27, adopted July 30, 2008; Res. No. 2012-25, adopted July 10, 2012; Res. No. 2012-56, adopted Nov. 16, 2012; Res. No. 2018-59 , adopted July 30, 2018; Res. No. 2018-60 , adopted July 30, 2018; Res. No. 2018-62 , adopted July 30, 2018; Res. No. 2018-64 , adopted July 30, 2018; Res. No. 2018-65 , adopted July 30, 2018; Res. No. 2018-66 , adopted July 30, 2018; Res. No. 2018-67 , adopted July 30, 2018; Res. No. 2018-68 , adopted July 30, 2018; Res. No. 2018-69 , adopted July 30, 2018; Res. No. 2018-70 , adopted July 30, 2018; Res. No. 2018-71 , adopted July 30, 2018; Res. No. 2018-72 , adopted July 30, 2018; and Res. No. 2018-74 , adopted July 30, 2018.

review board to revise the Charter of the city over a one-year period. The board's proposal was returned to the City Council at the end of 1977 and was reviewed by the Council in a series of workshops. After a number of public hearings, which resulted in some changes, the proposed revised Charter was submitted to the electors at a special municipal election in conjunction with the state primary election on October 5, 1978, and was adopted at this referendum election. In 1991, the proposed revised Charter was submitted to the electors at a special municipal election on November 12, 1991, and was adopted at this referendum election. In 1992, the proposed revised Charter was submitted to the electors at a special municipal election on November 3, 1992 and was adopted at this referendum election. In 1998, the proposed revised Charter was submitted to the electors at a special municipal election on May 12, 1998 and was adopted at this referendum election. In 2000, the proposed revised Charter was submitted to the electors at special municipal elections on November 7, 2000, and was adopted at this referendum election. In 2004, after a public hearing, which resulted in some changes, the proposed Charter was submitted to the electors at a general municipal election on November 2, 2004, and was adopted at this referendum election.

(Res. No. 2006-45, Pt. A, 8-28-06, Election of 11-7-06)

PREAMBLE

We the citizens of ~~the~~ North Bay Village, Florida, in order to perfect our municipal government; update, modernize and revise our Charter to make it consistent with the Constitution and Statutes of the United States and the State of Florida; encourage and revitalize citizens' interest and participation in their Village Government; and strengthen and clarify the rights of its citizens, and enable the Village to function smoothly under the proper controls of the ensuing decade, do ordain and establish this Charter.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

DEFINITIONS

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

City or Village shall mean North Bay Village, Florida.

Code shall mean the Code of North Bay Village, Florida.

Commission, Commissioner or Commission member shall refer to the five (5) Commission members consisting of a mayor, vice-mayor and three (3) Commissioners.

Gender shall refer to a word importing the masculine or feminine gender and shall extend to and be applied to males and females, equally.

Manager shall refer to the Village Manager of North Bay Village.

Mayor shall refer to the Mayor of North Bay Village.

Ordinance shall mean an official legislative action of the Village Commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

Resolution shall mean an expression of the Village Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Village Commission.

Village Commission or *Commission* shall mean the Commission of North Bay Village.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

CITIZENS' BILL OF RIGHTS

This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to ensure all persons fair and equitable treatment, the following rights are guaranteed:

Convenient access. Every person has the right to transact business with the Village with a minimum of personal inconvenience. It shall be the duty of the Village Manager and the Village Commission to provide, within the Village's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the Village.

Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

Public records. All audits, reports, minutes, documents and other public records of the Village and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public, provid~~in~~ged no legal exemptions exist.

Minutes and ordinance register. The Village Clerk shall maintain and make available for public inspection minutes showing the votes of each member on all ordinances and resolutions. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.

Right to be heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the Village Commission or any Village agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the Village. Nothing shall prohibit the Village or any agency from imposing reasonable time limits for the presentation of a matter.

Right to notice. Persons entitled to notice of a Village hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall

not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any Village agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Office of the Village Attorney of the Village nor to anybody whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present a case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

Managers' and Attorneys' reports. The Village Manager and Village Attorney shall periodically make a public status report on all major matters pending or concluded within their respective offices, except as to any matters which may be privileged, pursuant to law.

Budgeting. In addition to any budget required by state statute, the Village Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the Village Commission's first public hearing on the proposed budget required by state law, the Village Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each, the purposes and the estimated cost of each department.

Adequate audits. An annual audit of the Village shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent Village auditor shall be appointed by the Village Commission; both appointment and removal of the independent Village auditor shall be made by the Village Commission. A summary of the results of the independent Village auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy.

Representation of public. The Village Commission shall endeavor to provide representation at all proceedings significantly affecting the Village and its residents before state, federal or county regulatory bodies.

The foregoing enumeration of Citizens' rights vests large and pervasive powers in the citizenry of the North Bay Village. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the Village. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit such office or employment.

Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

ARTICLE I. CREATION AND POWERS

§ 1.01 Creation.

The Village is hereby created which shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by the state constitution, general law and specific limitations contained herein.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 1.01 was titled Creation and powers of North Bay Village, amended by Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 1.02 Powers.

As granted by the Municipal Home Rule Powers Act (§ 166.021, Fla. Stat.), the Village is granted the broad exercise of home rule powers as provided by the Constitution of the State of Florida and the Charter of Miami-Dade County.

The powers of the Village shall be construed liberally in favor of the Village, limited only by the state constitution, general law and specific limitations contained herein. Future special acts pertaining to the jurisdiction and exercise of powers by this Village shall be considered amendments to this Charter and pursuant to the provisions adopted

for incorporation of other charter amendments, shall be incorporated as official amendments to the Charter.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 1.02 was titled Construction, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 1.03 Title of Charter.

This Charter adopted by the people of North Bay Village shall be known as and may be cited as the Charter of North Bay Village. The results of the vote on this Charter shall be announced and recorded at that Commission meeting which immediately follows the day of voting.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(There was no prior Charter Section 1.03.)

§ 1.04 Effective date.

If approved by the Village's electorate, this Charter shall take effect upon the Commission's acceptance of certification of election results of the General Election held on ~~November 6, 2018~~ November 4, 2024.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(There was no prior Charter Section 1.04.)

ARTICLE II. CORPORATE LIMITS

§ 2.01 In general.

The municipal corporation of the Village shall comprise and have full municipal jurisdiction, powers, rights and privileges over the territory and persons now and in the future within the following boundaries in Miami-Dade County, Florida, to wit:

Begin in Miami-Dade County, Florida, at a point on the north boundary line of the northeast 79th Street Causeway, as shown by Plat Book 25 at Page 70 of the Public Records of Miami-Dade County, Florida, which point is 250 feet west of the line of Section 9, Township 53 South, Range 42 East, and which point is also on the east boundary line of the City of Miami, Florida; thence in a southerly direction and parallel to the west line of said Section 9, and along the said east line of the City of Miami, Florida, a distance of 1985 feet; thence run in an easterly direction and parallel to said north line of said northeast 79th Street Causeway to the west line of Section 10, Township 53 South, Range 42 East, as said section is shown on the plat of North Isle of Normandy, recorded in Plat Book 40 at Page 36 of the Public Records of Miami-Dade County, Florida; thence run northerly along the aforesaid west line of Section 10, to a point on a line running through the center point of the east drawbridge of the northeast 79th Street Causeway and perpendicular to the center line of the east Bridge of the said causeway; thence run northwesterly along the last described line to its intersection with the north

line of said Section 10, produced westerly; thence westerly along the prolongation westerly of said north line of said Section 10 to a point 250 feet west of the northwest corner of Section 9, Township 53 South, Range 42 East; thence in a southerly direction to the point of beginning.

And shall include:

A parcel of submerged land (now filled) in Biscayne Bay situated in Section 9, Township 53 South, Range 42 East, Miami-Dade County, Florida, Commencing at the half-mile post of the west line of Section 9, Township 53 South, Range 42 East, Miami-Dade County, Florida, run north 88°41'24" east along the center line of the 79th Street Causeway highway right-of-way (100 feet wide) a distance of 1,560 feet to a point; thence north 1°37'08" west 55.0 feet to a point of beginning of the parcel of land herein described; thence north 1°37'08" west 600.00 feet; thence north 88°41'24" east 400.0 feet; thence south 1°37'08" east 600.00 feet; thence south 88°44'24" west 400.0 feet to the point of beginning; containing 5.5 acres more or less; plus a five-foot strip bordering the south boundaries of the above described 5.5-acre tract which is described as follows: Commence at the intersection of the west line of Section 9, Township 53 South, Range 42 East, Miami-Dade County, Florida with the center line of the Northeast 79th Street Causeway as shown on a plat recorded in Plat Book 25, at Page 70 of the Public Records of Miami-Dade County, Florida; thence North 88°41'25" east along the center line of the aforesaid northeast 79th Street Causeway for a distance of 1,560 feet to a point; thence north 1°37'8" west for a distance of 50.0 feet to a point on the north right-of-way line of the said northeast 79th Street Causeway and the point of beginning of the parcel of land herein described; thence north 88°41'24" east along the north right-of-way line of the said northeast 79th Street Causeway for a distance of 400.0 feet to a point; thence north 1°37'8" west for a distance of 5.0 feet to a point; thence south 88°41'24" west along a line 5.0 feet north of and parallel with the north right-of-way line of said northeast 79th Street Causeway for a distance of 4,000 feet to a point; thence south 1°37'8" east for a distance of 5.0 feet to the point of beginning of the parcel of land herein described.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 2.01 was titled Corporate limits, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

ARTICLE III. LEGISLATIVE

§ 3.01 Village Commission.

A. *Composition and powers.* There shall be a Village Commission with all legislative powers of the Village vested therein, consisting of five (5) members: a mayor, a vice-mayor and three (3) Commissioners. Each Commission member must be a qualified elector of the Village.

B. *Appointments by Commission.* The Commission shall appoint the Village Manager, Village Clerk, Village Attorney, and all consultants.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.01 Village Commission amended by Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 3.02 Limitations of powers of the Commission.

All powers of the Village and the determination of all matters of policy shall be vested in the Commission with the following limitations:

A. ~~*Acquisition of real property.* The Commission may acquire property within or without the corporate limits of the Village for any municipal purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, or lease provided such amount of expenditure for real property shall not exceed twenty percent (20%) of the current total operating budget of the Village.~~ *Borrowing*.

1. *Debt Approval*. The Village shall incur no debt unless the incurrence of such debt is approved by a majority of the Commission.

2. *Limits*. The total debt of the Village, including amounts authorized but still not drawn down under existing loan agreements and other contractual arrangements with banks and other financial institutions, underwriters, brokers and/or intermediaries, shall not exceed the greater of:

a. Three percent (3%) of the total assessed value of all property within the Village, as certified by the Miami-Dade County Property Appraiser for the current fiscal year; or

b. That amount which would cause annual debt service to equal fifteen percent (15%) of general fund expenditures for the previous fiscal year.

3. *Definitions*. As used in this section 3.02(A) the following terms shall have the meanings ascribed to them in this subsection:

a. "Debt" means any obligation of the Village to repay borrowed money however evidenced since the date of its incorporation regardless of tenor or term for which it was originally contracted or subsequently converted through refinancing or novation, except (a) any obligation required to be repaid in less than a year, (b) that portion of any obligation for operations which are financed and operated in an independent, self-liquidating manner and recovered entirely through currently collected user fees and charges, or (c) any obligation approved by referendum.

b. "Debt Service" shall include, without limitation thereto, scheduled interest payments, repayments of principal and all financial fees arising from debt or from the underlying contractual obligations, whether as originally incurred or subsequently deferred or otherwise renegotiated.

c. "General Fund" shall mean any and all revenues of the Village, from whatever source derived, except those revenues derived from

special assessments, user fees and charges and designated as a separate fund to finance goods and services to the public.

B. [Reserved] ~~*Capital improvement projects.* The Commission may, through proper procedure, propose, undertake and finance capital improvement projects to fulfill the necessary needs of the Village, provided that the amount of total expenditures for all such projects shall not exceed twenty percent (20%) of the current total operating budget of the Village in any one fiscal year.~~

C. [Reserved] ~~*Excess of 20 percent of current total operating budget.* In the event that the proposed purchase(s) of property and/or total expenditure(s) do exceed twenty percent (20%) of the current total operating budget of the Village in any fiscal year, then a referendum will be held of the qualified electors of the Village and it shall require a majority of those voting in such election to authorize such projects.~~

~~Any funds specifically designated for the particular project, which are received from the Federal Government, State, County or from any source, other than municipal taxation, will not be included in calculating the project cost for the purposes of Section 3.02.~~

D. [Reserved] ~~*Waiver of referendum.* This referendum requirement may be waived, however, if the Commission by four (4) affirmative votes, finds and declares that an emergency exists, and that there is a threat to the health, welfare and safety of the citizens of the Village.~~

E. *Sale and lease of real property.* The Commission shall not undertake to sell, mortgage, assign or otherwise dispose of or alienate the title to any real property owned by the Village without first having secured the approval of the qualified electors of the Village, through a majority vote of the qualified electors participating in a regular or special election for such purpose. Such referendum shall state, generally and in substance, the terms and conditions of the proposed sale, mortgage, assignment or other disposition or alienation of title.

Except where referendum is otherwise required by Miami-Dade County law, the Commission may lease any real property owned by the Village to any other individual, group, business, corporation or other entity for a period not to exceed one (1) year and may renew the lease each year thereafter that it so desires. Leases for a period longer than one (1) year require approval in a referendum by the qualified electors of the Village. However, nothing contained herein shall preclude the Village, without referendum, from leasing Village real property to a governmental agency for governmental use for a period not to exceed ten (10) years; and except as prohibited by the Constitution, Miami-Dade County Charter or statutes of this state or restricted in this Charter.

F. *Sale of personal property.* Personal property of the Village may be sold by auction or by sealed bid after it has been properly advertised in a newspaper of general circulation. Such sale must be held no sooner than fifteen (15) days

after publication of the notice. The notice shall describe the contents of sale and the location where the merchandise may be inspected prior to sale.

G. *Appointments or removal of Village personnel prohibited.* Neither the Commission nor any of its members shall in any manner dictate the appointment, retention, or removal of any Village employee (other than the Village Manager, the Village Clerk and the Village Attorney, as provided herein), or any person who is duly appointed by the Village Manager, in accordance with Section 4.01(G)(2) of this Charter; except that the Village Manager shall submit appointments of all department heads to the Commission for approval.

H. *Village Attorney.* The Commission shall appoint or remove the Village Attorney by at least three (3) affirmative votes. The Village Attorney shall have been licensed to and have been a practicing attorney in the State of Florida for not less than five (5) years, with not less than three (3) of those years in the practice of law for municipal, county or state governments. The duties and responsibilities of the Village Attorney shall be those as provided in this Charter.

I. *Auditor.* The Commission shall appoint the outside auditor. The outside auditor shall be a certified public accountant practicing in the State of Florida, for a period of not less than five (5) years.

J. *Other Commissioner remunerative position.* No Commissioner shall be appointed to any other remunerative position with the Village during his term of office and for a term of two (2) years thereafter.

K. *Nepotism.* No person related up to the second degree of consanguinity or affinity to a Commissioner shall be eligible to hold a remunerative position with the Village. Any Commissioner who shall knowingly make such an appointment may be deemed guilty of misfeasance or malfeasance in office and subject to removal. The person so employed may be subject to dismissal.

L. *Conflict of interest.* The Mayor and any Village Commissioner shall comply with applicable conflict of interest laws, including Florida Statutes Chapter 112, Part 3, as well as Miami-Dade County Code Section 2-11.1.

M. *Reimbursement of Commissioner's legal fees.* In the event that a civil action shall be instituted wherein it is sought to impose personal liability upon any Commission member of the Village for any act or acts of such Commissioner, and if such Commissioner seeks legal defense of such action through the use of public funds, it shall first require a majority of all other Commissioners to ascertain that such acts complained of by the plaintiff were indeed connected with the Commissioner's proper conduct of the affairs or business of the Village. If so established, the other Commissioners shall then determine, specify and allocate a reasonable expenditure from Village funds for this legal defense - selection of counsel to be approved by the Village Attorney.

N. *Utility franchises.* The Commission may grant public utility franchises and regulate the exercise thereof; provided, however, that no franchise or extension thereof shall hereafter be granted or extended unless such franchise or extension shall be approved after a public hearing thereon. At least fourteen (14) days preceding the public hearing at which any franchise or extension thereof is to be adopted, notice thereof shall be published in a newspaper of general circulation in the Village. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. A copy of such proposed franchise shall be available for inspection by any interested person at the office of the Village Clerk at least fourteen (14) days preceding such public hearing. The cost of such advertising and of the public hearing shall be borne by the utility involved. For renewing franchises, each public utility shall notify the Village of its intent six (6) months before the expiration of its franchise. The Commission shall be empowered to grant a temporary extension of an existing franchise not to exceed three (3) months without a public hearing.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.02 was titled Qualifications and no history of amendments.)

§ 3.03 Mayor; Vice-Mayor.

A. The Mayor shall preside at meetings of the Commission, shall be recognized as head of Village government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds and other documents, and as the Village official designated to represent the Village in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein.

B. The Commission, at the first regularly scheduled Commission meeting after all runoff elections have taken place and a full Commission body is sworn into office, shall elect a vice mayor by at least three (3) affirmative votes. The Vice-Mayor shall act as Mayor during the absence, disability or death of the Mayor.

C. Each of the five (5) Commission members shall have an equal vote.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.03 was titled Election and terms, amended by Res. No. R91-25, § 2, 9-16-91, Election of 11-12-91)

(Prior Charter Section 3.031 titled Limitation of terms, amended by Res. No. R92-24, § 2, 9-15-92, Election of 11-3-92; Res. No. R98-05, § 2, 3-10-98, Election of 5-12-98; Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 3.04 Compensation.

Each Commission member will be compensated six thousand three hundred dollars ($6,300.00), per year payable at five hundred twenty-five dollars ($525.00) per month. The Mayor will be compensated seven thousand eight hundred dollars ($7,800.00) per year payable at six hundred fifty dollars ($650.00) per month. This compensation shall be increased, but not decreased, by the Consumer Price Index (CPI), Miami-Fort Lauderdale-West Palm Beach, annually.

(Res. No. 2006-45, Pt. B, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 3.05 Term Limits.

Commencing with the election of November 2002, the following term limits shall apply to the Mayor and members of the Commission:

(a) For the office of Mayor—Three (3) consecutive terms.

(b) For the office of Village Commissioner—Two (2) consecutive terms.

The term limits set forth in (a) and (b) above shall not be extended by running for different positions on the Village Commission.

(c) Where an individual has not served the term limit set forth in (a) or (b) above, said individual may serve any combination of three ~~(2)~~ (3) consecutive terms (said terms not to exceed a total of eight (8) consecutive years ending coincident with the conclusion of the third term) in the offices of Mayor and of Commissioner.

"Term" shall be defined as provided in Section 5.04 of the Charter. The term limits set forth herein shall be measured retroactively from the elected official's first election as an officer of the ~~North Bay~~ Village. Terms shall not include time served as a member of the North Bay Village Commission as a result of having filled a vacancy in the Commission pursuant to Section 3.06 of the Charter.

An individual who has served a term limit specified above must wait at least the number of years equal to the term of office for which said individual seeks election to, prior to becoming eligible to again serve as an elected official.

For purposes of this section, an individual who has served more than fifty percent (50%) of a term shall be considered to have served a full term of office.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.05 was titled Mayor; Vice Mayor, amended by Res. No. 2004-35, 7-13-04, Election of 11-2-04)

§ 3.06 Vacancies; forfeiture of office; filling of vacancies on the Commission.

A. *Vacancies.* The office of a Commission member shall become vacant upon his death, resignation, or removal from office in any manner authorized by law or forfeiture of his office.

B. *Forfeiture of office.* A Commission member, Commissioner or Mayor shall forfeit his office if any time during his term of office said person, (a) lacks any qualifications for the office prescribed by this Charter or other applicable law including § 100.361 Florida Statutes or (b) is convicted of a felony while in office, or (c) fails to attend four consecutive regular meetings of the Commission, unless such absences are each excused by motion setting forth the reason for the absence duly entered upon the minutes or (d) having been elected or appointed from an election district fails to reside within the election district from which he was elected or appointed for any reason other than redistricting. Forfeiture shall be determined by the remaining members of the Commission.

C. *Forfeiture hearing.* A member charged with conduct constituting grounds for forfeiture of his office shall be entitled to a Public Hearing of the Commission at a regular or special meeting of the Commission, on demand and notice of such hearing shall be published in one or more newspapers of general circulation in the Village at least ten (10) calendar days in advance of the hearing.

D. *Filling of vacancies on Village Commission.* Any vacancy occurring for a Village Commissioner shall be filled by the vote of the majority of the remaining members of said Village Commission with the appointee serving until the remainder of the unexpired term until the next succeeding general Village election and with any further remainder of said unexpired term to be filled by a Commissioner elected at said general election. If the remaining members of the Village Commission shall fail or refuse to fill such vacancy within thirty (30) days after it occurs, and if no general Village election will be held within ninety (90) days after the expiration of said thirty (30) days, then a special election shall be called and held to elect a Commissioner to fill such vacancy for the remainder of the unexpired term. In the event that the position is that of Mayor, it must be filled from among the remaining Commissioners in accordance with the Village Charter.

E. In the event of the death, resignation, or removal of the Mayor, the Vice Mayor shall forthwith commence to serve as interim Mayor until the Mayor's position is filled by election or appointment.

(1) When the Vice Mayor becomes interim Mayor, the Commission, by majority vote shall appoint an interim Commissioner from the Vice Mayor's vacant district to fill the Vice Mayor's vacant seat until the required election or appointment of the Mayor and then the Commission shall, by majority vote, appoint one (1) of the Commissioners to serve as interim Vice Mayor.

(2) The Commissioner serving as interim Mayor or interim Vice Mayor shall serve as Mayor or Vice Mayor until the newly elected or appointed Mayor and/or Vice Mayor is sworn in as Mayor or Vice Mayor. The interim Mayor and/or interim Vice Mayor shall return to the position of Commissioner previously held to serve the remainder of his or her unexpired term.

F. In the event of the death, resignation, or removal of the Vice Mayor, the Commission shall, by majority vote, elect one (1) of the Commissioners to serve as Vice Mayor.

G. *Extraordinary vacancies.* In the event that a majority of the members of the Commission are removed by death, disability, law or forfeiture of office, the governor shall make interim Commission appointments and the Commission shall call a special election as provided in Section 3.06(D) of this Charter.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.06 was titled Limitations of powers of the Commission, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. C, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 3.07 Removals and suspensions from office of Village Commission.

The Mayor and any Village Commissioner may be removed from office by the electors of the North Bay Village pursuant to the provisions of § 100.361 Florida Statutes, and are further subject to removal and/or suspension from office pursuant to the provisions of § 112.51 Florida Statutes.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.07 was titled Vacancies; forfeiture of office; filling of vacancies of the Commission, as amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-38, § 1, 7-27-04, Election of 11-2-04; Res. No. 2006-45, Pt. D, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 3.08 Ordinances and resolutions.

A. *Action requiring an ordinance.* In addition to other acts required by law or by specific provision of this Charter to be done by ordinance, those acts of the Commission shall be by ordinance which:

1. Adopt or amend an administrative code or establish, alter or abolish any Village department or agency;
2. Establish a rule or regulation the violation of which carries a penalty;
3. Set service or user charges for municipal services or granting administrative authority for such charges;
4. Authorize the borrowing of money not inconsistent with the limitations established in this Charter, the state constitution and general law of the State of Florida;
5. Convey or lease or authorize by administrative action the conveyance or lease of any lands of the Village;

6. Amend or repeal any ordinance previously adopted except as otherwise provided herein.

B. *Emergency ordinances.* To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt one or more emergency ordinances, but the ordinances may not levy taxes; set service or user charges for any municipal services; amend or repeal any ordinance adopted by the people at the polls or by the Commission in compliance with an initiative petition; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter, if applicable.

1. *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

2. *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but at least four (4) affirmative votes shall be required for adoption. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.

3. *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

4. *Repeal.* Every emergency ordinance except emergency appropriations shall automatically stand repealed sixty (60) days following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

5. *Emergency appropriations.* The Commission may make emergency appropriations in the manner provided in this section and under Section 3.02 of this Charter. To the extent that there are no available un-appropriated revenues to meet such appropriations, the Commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

C. *Procedures for adoption of ordinances and resolutions.*

1. As used in this section, the following words and terms shall have the following meanings unless some other meaning is plainly indicated.

a. "Ordinance" means an official legislative action of the Village Commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

b. "Resolution" means an expression of the Village Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Village Commission.

2. Each ordinance or resolution shall be introduced by a member of the Commission or the Village Manager, the Village Attorney or the Village Clerk, so long as the information is provided within three (3) business days prior to the scheduled meeting, in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. The enacting clause of every ordinance shall be as follows: "Be it enacted, by the Commission of the North Bay Village..."

3. A proposed ordinance must be presented on at least two (2) separate Commission meetings. It may be read by title only. At least ten (10) days prior to the final adoption of the said ordinance the Village shall publish once in a newspaper of general circulation in the Village a notice of the proposed ordinance. The giving of said notice shall not apply to a proposed emergency ordinance. Said notice shall state the title or brief description of the proposed ordinance or ordinances; the date, time and place of the Commission meeting for enacting said ordinance; and the place or places within the Village where said proposed ordinance may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

4. A majority of the members of the Village Commission shall constitute a quorum. An affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance or adopt any resolution; except that four (4) affirmative votes of the membership of the Commission is required to enact an emergency ordinance. On final passage, the vote of each member of the Village Commission voting shall be entered on the official record of the meeting. All ordinances or resolutions passed by the Village Commission shall become effective after passage or as otherwise provided therein.

5. Every ordinance or resolution shall, upon its final passage, be recorded in a book kept for that purpose and shall be signed by the mayor and the Village Clerk.

6. The procedure as set forth herein shall constitute a uniform method for the adoption and enactment of the Village ordinances and resolutions and shall be taken as cumulative to other methods now provided by law for adoption and

enactment of Village ordinances and resolutions. By future ordinance or charter amendment, the Village may specify additional requirements for the adoption or enactment of ordinances or resolutions or prescribe procedures in greater detail than contained herein, provided such modifications are not in conflict with general law.

D. *Penalty for violation of ordinances.* Provisions governing the imposition of fines for violations of the Code shall be as prescribed within Village Code Chapter 153, and, where applicable, Chapter 162, Florida Statutes.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.08 was titled Ordinances and resolutions, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. E, 8-28-06, Election of 11-7-06; Res. No. 2008-27, § 1, 7-30-08, Election of 11-4-08; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 3.09 Meeting procedures.

A. *Meetings.* The Commission shall meet regularly at least once in every month at such times and places as the Commission may prescribe by rule; however, the Commission, by majority vote, may elect not to have a Regular Meeting in either the month of July or the month of August for the purposes of allowing summer vacations.

B. *Rules and record.* The Commission shall determine its own rules of procedure and order of business and shall keep a record of such proceedings open for public inspection.

C. *Quorum.* A majority of the Commission shall constitute a quorum. Commissioners constituting less than a quorum shall have power to set and adjourn meeting dates and times.

D. *Voting.* Voting, on ordinances and resolutions, shall be by roll call on final action and shall be recorded in the record of such proceedings. No action of the Commission except as otherwise provided in the preceding section shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

E. *Meeting time limits.* No meeting of the Commission shall extend later than midnight except upon a majority vote of all members of the Commission present at the meeting. All remaining agenda items shall be continued to the next Commission meeting.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 3.09 Meeting Procedures, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. E, 8-28-06, Election of 11-7-06)

ARTICLE IV. ADMINISTRATIVE

§ 4.01 Village Manager.

There shall be a Village Manager, who shall be the chief administrative officer of the Village. The Manager shall be responsible to the Village Commission for the administration of all Village affairs placed in the Manager's charge by this Charter.

A. *Appointment.* The Commission shall appoint a Village Manager for an indefinite term by a minimum of three (3) affirmative votes of the Commission members. The Village Manager shall serve at the will of the Commission.

B. *Qualifications.* The Manager shall be a graduate of either an accredited school of public administration or its related equivalent in engineering, fiscal management or business administration with no less than three (3) years' experience in the administration of local government or in lieu of the foregoing, he must have not less than five (5) years' experience in the administration of local government.

C. *Compensation.* The compensation of the Village Manager shall be fixed by the Village Commission in the annual budget and may not be reduced without his consent during the fiscal year for which the budget is prepared.

D. *Temporary Village Manager.* By written memorandum filed with the Commission, the Village Manager may designate an acting appointee to perform the duties of the Village Manager, during a brief absence or incapacity for thirty (30) days or less. During any absence or disability, the Village Commission may revoke an acting appointment at any time and appoint another person to serve until the return of the Village Manager.

E. *Vacancy.* In the event of a vacancy due to resignation or removal from office of the Village Manager, the Village Commission shall appoint an acting or interim Village Manager until such time as a qualified manager may be selected.

F. *Removal.* The Village Commission may remove the Village Manager by a minimum of three (3) votes in favor of removal. Before the Village Manager may be removed without cause, at least two public meetings must be held at least 48 hours apart where the Village Manager’s removal is approved by a majority of the Village Commission at each meeting.

G. *Powers and duties of the Village Manager.* The Village Manager shall be responsible for the proper administration of all the affairs of the Village, except as otherwise provided herein. His powers and duties shall be to:

1. See that all laws, provisions of this Charter and acts of the Commission, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed;

2. Appoint, and when he deems it necessary for the good of the Village, suspend or remove all Village employees (except the Village Attorney, the Village Clerk and all personnel in the Legal Department, including outside counsel representing the Village) and appoint administrative officers provided for by or under this Charter, except as otherwise provided by law, this Charter or personnel rules adopted pursuant to this Charter.

He may authorize any administrative officer who is subject to his direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency, with the approval of the Commission. He will submit appointments of new department directors to the Commission for confirmation;

3. Direct and supervise the administration of all departments, offices and agencies of the Village, except as otherwise provided by this Charter or by law; provided, however, the authority herein granted shall not extend to the office of the independent auditor employed or retained by the Commission, or to the Village Attorney or any outside counsel employed or retained by the Commission;
4. Attend all Commission meetings. He shall have the right to take part in discussion, but may not vote;
5. Recommend to the Commission, for adoption, such measures as he may deem necessary or expedient in the best interest of the Village;
6. Prepare and submit the annual budget, budget message and capital program to the Commission in a form provided by ordinance;
7. Supervise and be responsible for the disbursement of all monies and have control over all expenditures to ensure that budget appropriations are not exceeded;
8. Maintain a general accounting system for the Village government and each of its offices, departments and agencies and exercise financial budgetary control over same;
9. Submit to the Commission and make available to the public, a complete report on the finances and administrative activities of the Village as of the end of each fiscal year;
10. Make such other reports as the Commission may require concerning the operations of Village departments, offices and agencies, subject to his direction and supervision;
11. Keep the Commission fully advised as to the financial condition and future needs of the Village and make such recommendations to the Commission concerning the affairs of the Village;
12. Sign contracts on behalf of the Village, when such contracts have been approved pursuant to law and this Charter.
13. Ensure that all terms and conditions of any public utility franchise are faithfully kept and performed and to report any violations of the terms and conditions of any utility franchise to the Village Commission and to the Village Attorney;
14. Obtain competitive bids as prescribed by this Charter;

15. Advertise and conduct the sale of any property no longer needed for municipal purposes as prescribed by this Charter;
16. Act as purchasing agent for the Village and have exclusive control over the purchase of all supplies and approve all vouchers for the payment for supplies;
17. Supervise the issuance of Village licenses and collect all special assessments, license fees and other revenues of the Village and receive all monies due the Village from county, state and federal governments. Also, to pursue and obtain those monies made available to the Village from state and federal grants and similar sources;
18. Shall be held accountable to enforce the Village code and provide necessary support and resources to uphold the code through the code enforcement department;
19. Perform such other duties as may be prescribed by this Charter or as required of him by the Commission, not inconsistent with this Charter.

H. Outside employment by the Village Manager shall be approved by the Village Commission prior to commencement.

(Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-20, § 1, 4-14-04, Election of 11-2-04; Res. No. 2006-45, Pt. F, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 4.02 Village Clerk.

A. *Appointment and Duties.* The Village Clerk shall be appointed by a majority vote of the Village Commission. The Village Clerk shall give notice of all meetings of the Commission, Village boards or committees, to its members and to the public ~~by posting a notice on the designated official bulletin board of the Village~~. The Village Clerk shall keep the journal of these proceedings, which shall be made a part of the public record. The Village Clerk shall also be the registration official of the Village and supervisor of Village elections and shall have power and is hereby authorized to administer oaths. The Village Clerk shall be the custodian of the Village seal, the records custodian, and the agent of record.

The Village Clerk shall record and keep current all ordinances and resolutions of the Village and keep current a cross-index of all ordinances, resolutions and official records of the Village. The Village Clerk shall also perform such other duties that are required by the Charter, by ordinance or that do not conflict with the administrative duties of the Village Manager, and as the Commission may prescribe from time to time. The Village Clerk will work with the Village Manager and other department heads to ensure the effective management of the Village. <u>The Village Clerk shall be responsible for the appointing, hiring, promoting, supervising and removing of all employees of the office of the Village Clerk as authorized by the</u>

Village Commission in the annual budget or as otherwise provided by resolution or ordinance.

B. *Removal and Compensation.* The Village Clerk shall report to the Commission and may be removed by the Commission utilizing the same procedure as set forth for removal of the Village Manager in Section 4.01(f). The Village Commission shall set the compensation and benefits provided to the Village Clerk.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 4.02 Village Clerk, amended by Res. No. 2006-45, Pt. G, 8-28-06, Election of 11-7-06; Res. No. 2008-26, § 1, 7-30-08, Election of 11-4-08)

(Prior Charter Section 4.03 titled Nepotism, amended by (Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

(Prior Charter Section 4.04 titled Conflict of interest, amended by (Res. No. 2000-41, 11-8-00, Election of 11-7-00)

ARTICLE V. ELECTIONS

§ 5.01 Election dates.

The general election of members of the Commission shall be held on the first Tuesday after the first Monday in November of each even-numbered calendar year. All other elections shall be known as special municipal elections. In any special election not otherwise provided for there shall be at least (thirty) 30 days' notice of the election by publication in a newspaper of general circulation in North Bay Village.

No general or special election of the Village shall be held on a national or state legal holiday. Should the first Tuesday after the first Monday in November in any even-numbered calendar year be declared such a legal holiday, then the regular election scheduled for that day shall be postponed to the first day thereafter that is not a legal holiday.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.01 was titled Time of holding elections, amended by Res. No. R91-25, § 2, 9-16-91, Election of 11-12-91; Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 5.02 Qualifications.

A. *Qualifications of Electors.* Any qualified elector in Miami-Dade County who is a bona fide resident of the Village is eligible to vote in Village elections.

B. *Qualifications for Village Commission.* Any elector of the Village who meets the requirements as set forth in Article V of this Charter shall be eligible to hold the office of Village Commissioner or Mayor. The Commission shall be the judge of the election and qualifications of its members.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.02 was titled Qualifications of electors, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 5.03 Rules and regulations, supervision, etc. of elections.

All municipal elections in the Village shall be conducted by general ballot as prescribed by this Charter and consistent with the applicable law of the State of Florida and County of Miami-Dade. Municipal elections shall be supervised by the Village Clerk with the Village Commission canvassing returns from each general election.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.03 Rules and regulations, supervision, etc. of elections, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 5.04 Commission Members—Residency requirements and terms of office.

The Village shall be governed by a Commission of five (5) members, all of whom shall be qualified electors of the Village. There shall be a Harbor Island Commissioner, a North Bay Island Commissioner, and a Treasure Island Commissioner, each of whom shall be a resident of their respective islands for a continuous period of not less than one (1) year immediately prior to the date of the subject candidate's initial filing of qualifying papers for the Commission and shall also be and remain during their respective terms of office, permanent residents of their respective islands; however, this shall not apply to any mere temporary relocation within the Village. The Mayor and Commissioner-at-large, the two (2) remaining positions, shall reside on any of the said islands of the Village for a continuous period of not less than one (1) year immediately prior to the date of the subject candidate's initial filing of qualifying papers for the Commission and shall also be and remain during their respective terms of office, permanent residents of the Village. The term of the Mayor will be for two (2) years~~,~~ and ~~commencing with the November 2002 general election,~~ the term of each Village Commissioner will be for four years~~,~~ on a staggered basis ~~to be established as follows:~~

~~Notwithstanding any other provisions of this Charter, no later than December 15, 2000, the Village Clerk shall publicly draw lots to determine which Village Commissioners' term of office (specifically, the seat they each represent) will expire in November 2004 and which remaining two Village Commissioners' terms of office (specifically, the seat they each represent) will expire in November 2006. All subsequent Village Commissioner seats shall be elected for four (4) year terms~~.

All of the Commissioners and the Mayor shall be elected by the voters at large of the Village.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.04 titled Commission Members - Residency requirements and terms of office, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-34, 7-13-04, Election of 11-2-04; Res. No. 2006-45, Pt. H, 8-28-06, Election of 11-

7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 5.05 Nomination of Commission Members and Mayor; Qualifying Period.

A. Any citizen who can qualify for the office of Commissioner or Mayor of the Village as provided herein may be nominated for Commissioner or Mayor by a petition provided by the Village Clerk for this purpose signed by not less than fifty (50) electors and filed with the Village Clerk ~~in accordance with dates set by the Village Commission~~. Candidates shall qualify with the Village Clerk no earlier than noon on the third Monday of July and no later than noon on the second Friday thereafter. This period shall constitute a 10-business day qualifying period. Notwithstanding, in the event that the Monday upon which a qualifying period would otherwise commence is a holiday, the qualifying period shall commence on Tuesday immediately following such holiday and shall conclude the second Monday thereafter.

B. No elector shall sign more than one nominating petition for each seat. Should an elector sign more than one petition for each seat, his signature shall be void except as to the petition first filed for each seat.

C. The signatures on the nominating petition need not all be subscribed on one paper, but to each separate paper there shall be attached a signed statement of the circulator thereof, stating the number of signers of such paper and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature, including the signature of the circulator, shall be stated the place of residence of the signer, giving the street and number or other description sufficient to identify it. The form of nominating petition provided by the Village Clerk shall be substantially as follows:

NOMINATING PETITION

We, the undersigned electors of North Bay Village, hereby nominate (name of candidate), who resides at (address), for the office of (Commissioner island, at-large, or mayor)

(signatures) _____

(address of signer) _____

(date of signing) _____

The undersigned is the circulator of the foregoing petition containing (number) signatures. Each signature appended thereto was made in my presence and is the person whose name it purports to be. Under penalty of perjury, I declare that I have read the foregoing and the facts alleged are true, to the best of my knowledge and belief.

(signature of circulator) _____

(street address of residence) _____

(date of birth or voter registration number) _____

(date) _____

D. Within five (5) days after the filing of a nominating petition, the Village Clerk shall through certified United States mail, return receipt requested, notify the candidate and the person who filed the petition whether or not the petition is found to be signed by the required number of qualified electors. Notification is complete upon mailing. If a petition is found insufficient, the Village Clerk shall return it to the person who filed it with a statement certifying wherein the petition is found insufficient. Such a petition may be amended and filed again as a new petition, or a different petition may be filed for the same candidate, prior to the qualifying deadline. Such petitions shall be preserved by the Village Clerk in accordance with applicable record retention requirements.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.05 Nomination of Commission members and Mayor, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 5.06 Candidacy.

A. No individual may qualify as a candidate for public office in the Village whose name appears on the same or another ballot for another office, whether federal, state, county or municipal, the term of which or part thereof runs concurrently with the office for which he seeks to qualify.

B. No individual may qualify as a candidate for public office who holds another elective office, whether state, county or municipal, the term of which or any part thereof runs concurrently with the term of office for which he seeks to qualify without resigning from such office not less than ten (10) days prior to filing for the office he intends to seek.

C. Any individuals holding elective or appointive positions including members of any and all boards, within the Village, shall be required to resign to run for any elective office within the Village. Current elected or sitting officials must submit a notice of resignation to the Village Clerk at least ten (10) calendar days before the beginning of the qualification period. Said resignation shall be effective no later than the day upon which he would assume office.

D. Upon submission of a notice of resignation, an elected or appointed sitting commissioner who fails to be elected as mayor, shall not be appointed by the Commission until at least two (2) years after the resignation.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.06 Candidacy did not have any history of amendments.)

§ 5.07 Filing fee.

A. A nonrefundable filing fee of Two Hundred and Fifty dollars ($250) must be deposited with the Village Clerk at the time each petition is presented, and upon so submitting, concurrently therewith, the sworn statement of his or her name, address, occupation and willingness to serve shall also be filed. The name of each nominee for Commissioner or Mayor, who has complied with all requirements hereinbefore prescribed, shall be printed on the ballot as a candidate for the office of Commissioner or Mayor of the Village.

B. If after filing for a particular Commission seat, an individual changes his mind and desires to run for a different Commission seat, he must first deliver written notice of his decision not to run for the original seat to the Village Clerk. He may then run for the other Commission seat after he again fully complies with the requirements hereinbefore described, as if filing for the first time, including, but not limited to, fully complying with the requirements of a new petition, and payment of a new nonrefundable filing fee.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.07 Filing fee, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 5.08 Ballots.

All ballots used in any general or special election of the Commission held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon and shall be substantially in the same form as the election ballot used in all general state elections. The following additional provisions with respect to ballots used in any general or special election of the Commission shall also apply:

A. The full names of all candidates nominated for the Commission as hereinbefore provided, except those that may have withdrawn, died or become ineligible, shall be printed on the official ballots. If two (2) candidates with the same surname or with names so similar as to be likely to cause confusion are nominated, the addresses of their places of residence may be placed with their names on the ballot.

B. The names of the candidates shall be arranged in the alphabetical order of their surnames in the groups for which they qualify.

C. The order of presentation of groups shall be as follows:

Mayor

Harbor Island Commissioner

North Bay Island Commissioner

Treasure Island Commissioner

At-Large Commissioner

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.08 titled Ballots did not have history of amendments.)

§ 5.09 Absentee electors.

The Village Clerk shall provide information regarding current state law requirements concerning absentee voting.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.09 Absentee electors, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 5.10 Watchers at election of Commission Members.

At each election of the Commission, any regularly nominated candidate shall be entitled, upon written application to the Village Clerk in accordance with section 101.131, Florida Statutes as may be amended ~~at least ten (10) days before the election~~, to appoint one (1) person and one (1) alternate to represent him or her as watcher and challenger at each polling place. Any person so appointed shall have all the rights and privileges prescribed by law for other watchers and challengers at any election in the same place, but under no circumstances shall a watcher and his or her alternate be allowed to remain within the voting place at the same time.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.10 Watchers at election of Commission Members did not have a history of amendments.)

§ 5.11 Hours of voting.

The polls shall open at seven o'clock a.m., (7 a.m.) and close at seven o'clock p.m. (7 p.m.).

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.11 Hours of voting did not have a history of amendments.)

§ 5.12 Election results.

The candidate receiving a majority of the votes for each Commission seat and/or the Mayor's seat shall be elected for that seat. In the event that a seat has not been won by a majority, then a run-off election of the two (2) highest vote getters shall be held fourteen (14) days after the regular election. A tie vote between the two (2) candidates in the run-off election shall be decided by a toss of a coin between those candidates the following business day after said run-off election.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.12 Election Results, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-33, 7-13-04, Election of 11-2-04; Res. No. 2006-45, Pt. I, 8-28-06, Election of 11-7-06)

§ 5.13 Canvass of returns.

The result of voting shall be certified by the Miami-Dade County Elections Department. The certification of election results shall be transmitted to the Commission at a meeting of the Commission to be held on the business day immediately following the election or, if the results have not yet been certified by Miami-Dade County Elections Department, as soon as possible thereafter. At this meeting, the Commission shall canvass the returns, and shall declare the results of the election. New officers shall be declared elected subsequent to canvass of election returns on the business day immediately following the general election, or, if the results have not yet been certified by Miami-Dade County Elections Department, as soon as possible thereafter. At such time the new officers shall be installed and shall enter upon the discharge of their duties. If a run-off election is necessary. the officers elected in that run-off shall be installed upon their certification, subsequent to canvass of returns on the business day immediately following the run-off election or, if the results have not yet been certified by Miami-Dade County Elections Department, as soon as possible thereafter, and shall thereupon enter upon the discharge of their duties.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.13 Canvass of returns, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. J, 8-28-06, Election of 11-7-06)

§ 5.14 Village employees soliciting votes.

It shall be unlawful for any paid non-elective employees of the Village, while on duty or off duty and wearing any type of uniform or other definitive identification indicating that they are employees of the Village, to solicit votes, coerce directly or indirectly any elector or engage in any political activity in any municipal election or referendum in the Village or use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof. Any employee violating the provisions of this section shall be subject to immediate dismissal.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.14 Village employee soliciting votes, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 5.15 Initiative and referendum procedures.

A. *General.*

1. *Initiative.* The qualified voters of the Village shall have the power to propose ordinances to the Commission. If the Commission fails to adopt such an

ordinance so proposed without any change in substance, then the qualified voters shall have the power to adopt or reject it at a Village election.

2. *Referendum.* The qualified voters of North Bay Village shall have power to require reconsideration by the Commission of any adopted ordinance. If the Commission fails to repeal an ordinance so reconsidered, then the qualified voters shall have the power to approve or reject it at a Village election.

B. *Commencement of proceedings.* Any five (5) qualified electors may commence initiative or referendum proceedings by filing with the Village Clerk an affidavit stating they will constitute the petitioners' committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered.

Promptly after the affidavit of the petitioners' committee is filed, the Village Clerk shall, at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense.

C. *Petitions.*

1. *Number of signatures.* Initiative and referendum petitions must be signed by qualified electors of the Village equal in number to at least ten percent (10%) of the total number of qualified electors registered to vote at the last regular Village election.

2. *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered, as well as language reflecting the ability of the Petitioners' committee to withdraw the subject petition, pursuant to § 5.15 (F)(3) of this Charter.

3. *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.

4. *Time for filing referendum petitions.* Referendum petitions must be filed within sixty (60) days after adoption by the Commission of the ordinance sought to be reconsidered.

D. *Procedure for filing.* Certificate of Clerk; amendment. Within twenty (20) days after the initiative petition or referendum petition is filed, the Village Clerk shall determine whether each petition paper is in proper form according to subsections C(2) and (3)

hereinabove. Within ten (10) days from determining that the petition is in proper form, the Village Clerk shall transmit the petition papers to the Miami-Dade County Department of Elections for purposes of determining whether the petition as a whole has been signed by a sufficient percentage of the Village electors. The Miami-Dade County Elections Department shall complete a certificate as to the petition's sufficiency. Such certificate shall specify if it is insufficient, and the Village Clerk shall promptly send a copy of the certificate to the petitioners' committee by registered mail, return receipt requested. A petition certified insufficient for lack of the required number of valid signatures may be amended one (1) time within ten (10) business days after receipt of notification; such supplementary petition shall comply with all prior requirements and within five (5) business days after it is refiled, the Village Clerk shall transmit same to the Miami-Dade County Department of Elections for purposes of issuing a certificate as to the sufficiency of the petition as amended, whereupon the Village Clerk shall send a copy of such certificate to the petitioners' committee by registered mail, return receipt requested, as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, the Village Clerk shall promptly present the certificate to the Commission, and the certificate shall then be a final determination as to the sufficiency of the petition.

E. *Conclusion of Referendum Process.* The referendum process shall be concluded:

(1) When the petitioners' committee withdraws the petition; or

(2) When the Commission repeals the ordinance; or

(3) After a vote of the electorate on repeal of the ordinance has been certified, and such certification has been accepted by the Commission.

F. *Action by Commission.*

1. *Action by Commission.* When an initiative or referendum petition has been finally determined sufficient by the Miami-Dade County Elections Department, the Commission shall promptly consider the proposed initiative ordinance in the manner provided in Article III or reconsider the referred ordinance by voting its repeal. If within thirty (30) days of the issuance of a certificate of a petition's sufficiency by the Miami-Dade County Elections Department, the Commission fails to either (as the case may be) adopt a proposed initiative ordinance without any change in substance or fails to repeal the referred ordinance, it shall submit the proposed or referred ordinance to the voters of the Village.

2. *Submission to voters.* The vote of the Village on a proposed or referred ordinance shall be held not less than thirty (30) days and not later than sixty (60) days from issuance of the Miami-Dade County Elections Department's certificate as to petition's sufficiency. If no regular Village election is to be held within the period described in this subsection, the Commission shall provide for a special election. Copies of the proposed or referred ordinance shall be made available at the Village Clerk's office.

3. *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn at any time prior to the tenth day preceding the day scheduled for a vote of the Village by filing with the Village Clerk a request for withdrawal signed by at least four (4) members of the petitioners' committee. Upon the filing of such request the petition shall have no further force or effect and all proceedings shall be terminated.

G. *Results of election.*

1. *Initiative.* If a majority of the qualified electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon acceptance by the Commission of the certification of the election results and shall be treated in all respects in the same manner as ordinances of the same kind adopted by the Commission. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict. If an initiative ordinance is voted upon by the Village electors and is defeated, it may not be brought forth for consideration as an initiative within one year from date of this election.

2. *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote for its repeal, it shall be considered repealed upon the Commission's acceptance of the certification of the election results. Should a majority defeat the referendum for repeal of the ordinance, such referendum action cannot be brought up again for a period of one (1) year from the date of the election.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 5.15 Initiative and referendum procedures, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. K, 8-28-06, Election of 11-7-06)

ARTICLE VI. BOARDS

§ 6.01 Advisory boards.

The Commission may by ordinance establish advisory boards to assist the Commission or the Village. Advisory board members must be either residents of the Village, or owners of businesses located within the confines of the Village, or designees of such business owners. Advisory Board members shall serve a two (2) year term concurrent with the regular scheduled election of the Commission. A majority of the members of each advisory board must be residents of the Village. The Commission may appoint ex officio non-voting members to the board who do not meet the requirements set forth above. The members of advisory boards shall serve without compensation and may be removed at any time by a majority vote of the entire Commission. The Commission may also terminate any advisory board at any time that it deems that such board has fulfilled its purpose. Any vacancy occurring on an advisory board shall be filled within 30 days of the occurrence of the vacancy, in the same manner as the original appointment.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 6.01 Advisory boards, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 6.02 Civil service.

A. *Civil Service Board.* The Commission may by ordinance establish a civil service system and appoint the members, other than employee members, to the Civil Service Board, who are registered voters. Such ordinance shall provide the duties, responsibilities, terms of membership and conditions for removal of members from the Civil Service Board as well as all other terms and provisions of the civil service system.

B. *Employees covered by collective bargaining agreement.* Any civil service system established by ordinance and the civil service rules and regulations adopted pursuant thereto shall not apply to nor be maintained for regular employees in the classified service who are covered by a collective bargaining agreement, unless otherwise provided in such agreement.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 6.02 Civil service did not have a history of amendments.)

§ 6.03 Planning and Zoning Board.

A. The Commission shall establish by ordinance a Planning and Zoning Board. Such ordinance shall provide the powers, duties, responsibilities, terms of membership, length of terms, and conditions for removal of members of the Planning and Zoning Board.

B. Where the Planning and Zoning Board by unanimous vote of its full membership has presented a negative recommendation to the Village Commission relating to a request for a variance or special use exception, it shall require the Village Commission to act by at least four (4) affirmative votes in order to grant such request for variance or special use exception.

C. It shall be the duty of the Planning and Zoning Board, in cooperation with the Village Attorney, to continuously review the provisions of the zoning regulations, the Comprehensive Master Plan and the Zoning District Map and offer recommendations for the improvement thereof to the Village Commission at maximum intervals of five years commencing in 2013.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 6.03 Planning and Zoning Board, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

ARTICLE VII. FINANCE AND TAXATION

§ 7.01 State Law applicable.

Matters pertaining to finance and taxation shall be governed by State law.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.01 State Law applicable, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 7.02 Independent audits.

At the beginning of each calendar year, or as soon thereafter as practical, the Commission shall designate one or more qualified certified public accountants, who may be the regular auditors of the Village and who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transaction of the Village government. They shall submit their report to the Commission no later than at a regularly scheduled April Commission meeting. A copy of the audit shall be made available for inspection in the office of the Village Manager. The accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the Village. Within specifications approved by the Commission the accountants shall post-audit the books and documents kept by or under the direction of the Village Manager and any and all separate or subordinate accounts kept by any other office, department or agency of the Village government. The Commission may also designate one or more qualified certified public accountants to conduct special audits at other times, or monthly or continuing audits as it may consider in the public interest. A copy of such special audits will also be made available for public inspection.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.02 Independent audits, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 7.03 Preparation and submission of budget.

The Village Manager, at least sixty (60) days prior to the beginning of each fiscal year, shall submit to the Commission a budget and an explanatory budget message in the form and with the contents provided by this Charter. For such purpose, he shall obtain from the head of each office, department or agency of the Village estimates of revenue and expenditure of that office, department or agency detailed by organization units and character and object of expenditure, and such other supporting data as he may request; together with an estimate of all municipal projects pending, or which such department head believes should be undertaken:

A. Within the budget year, and

B. Within the five (5) next succeeding years.

In preparing the budget, the Village Manager shall review and revise the estimates as he may deem advisable.

A. *Budget message.* The budget message submitted by the Village Manager to the Commission shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the Village for the fiscal year and shall

describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in costs and revenue items and shall explain any proposed major changes in financial policy.

B. *Budget for municipal improvements.* As a part of the budget message, with relation to the proposed expenditures for down payments and other proposed expenditures for municipal projects stated in the budget, the Village Manager shall include a statement of pending municipal projects and proposed new municipal projects for the fiscal year and for the five (5) fiscal years succeeding that fiscal year, together with his comments thereon and any estimates of costs prepared by him or by any other office, department or agency of the Village. The budget message shall also detail the prospective amounts for municipal projects proposed to be raised by appropriation in the budget and the respective amounts, if any, proposed to be raised by the issuance of bonds and certificates or notes during the fiscal year or thereafter.

C. *Supporting schedules, etc.* Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and municipal projects as the Village Manager, shall believe to be useful.

D. *Scope of budget; contents.* The budget shall provide a complete financial plan for the fiscal year. It shall contain in tabular form:

1. A general summary;
2. Detailed estimates of all anticipated revenues;
3. Detailed estimates of all proposed expenditures.

E. *Anticipated revenues.* In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each item in the budget of the current fiscal year and amount actually received to the time of preparing the budget, plus receipts for the remainder of the current fiscal year estimated as accurately as possible, plus the amount received for each item in each of the two (2) prior fiscal years.

F. *Proposed expenditures.* In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the current year, and the amount actually expended to the time of preparing the budget, plus the expenditures for the remainder of the current fiscal year estimated as accurately as possible, plus the amounts expended for each item in each of the two (2) prior fiscal years.

G. *Budget and message to be public record.* The budget and budget message and all supporting schedules shall be a public record in the office of the Village Clerk open to public inspection.

H. *Notice of final budget meeting.* At the meeting of the Commission at which the budget and budget message are submitted, the Commission shall determine the place and time of the two public hearings and the final meeting on the budget and shall cause to be posted on the designated official bulletin board of the Village a notice of the places and times not less than ten (10) days prior to the dates on which the Commission will hold the meetings.

If the budget calls for any increase in taxes by the Village, the Village shall endeavor to send a notice of the date of the final budget meeting to each property owner in the Village files and also to those who submit requests to be so notified. With such notice the anticipated increase of taxes shall also be mentioned. The Village Manager shall comply with all provisions of state law relative to procedures in the event of property tax increases.

I. *Vote required to adopt.* The final budget and millage rate shall be adopted by at least three (3) affirmative votes of the Commission.

J. *Effective date; certification.* Upon final adoption, the budget shall be in effect for the fiscal year. A copy of the budget as finally adopted shall be certified by the Village Manager and shall be available for inspection by any and all persons in the office of the Village Clerk.

K. *Effective date.* From the effective date of the budget, the several amounts stated therein as proposed expenditures shall be and become appropriate to the objects and purposes therein named.

L. *Adoption.* The Commission shall by resolution adopt the budget on or before the thirtieth day of September of each year. If it fails to adopt the budget by this date, the Commission, by resolution, may direct that the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of thirty (30) days and renewed by resolution each thirty (30) days with all items in it prorated accordingly, until such time as the Commission adopts a budget for the ensuing fiscal year. A resolution adopting an annual budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

M. *Appropriation amendments during the fiscal year.*

1. *Supplemental appropriations.* If during the fiscal year revenues in excess of those estimated in the budget are available for appropriation, the Commission, by resolution, may make supplemental appropriations for the year for projects, activities or undertakings deemed necessary by the Commission up to the amount of such excess, provided, however, the resolution to expend such funds receives at least three (3) affirmative votes of the Commission.

2. *Reduction of appropriations.* If at any time during the fiscal year it appears probable to the Village Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the

Commission without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Commission shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one (1) or more appropriations.

3. *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon its adoption by resolution.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.03 Preparation and submission of budget, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. L, 8-28-06, Election of 11-7-06)

§ 7.04 Monthly report of expenditures.

At the first Commission meeting of each month, the Village Manager shall present a detailed report of the expenditures for the prior month.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.04 Monthly report of expenditures, amended by Res. No. regarding 92-23, § 2, 9-15-92, Election of 11-3-92; Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 7.05 State and county law to apply to taxation.

The general laws of the State of Florida and the County of Miami-Dade upon the subject of taxation shall apply to and govern in the assessment, levy and collection of taxes of the Village and in return and sale of property delinquent therefor and shall also apply and govern with respect to the powers, duties and liabilities of persons and property touching and concerning such taxes, and shall have full force and effect in said Village as far as same may be applicable.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.05 State and county law to apply to taxation, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 7.06 Correcting assessments.

All provisions in the Charter relating to local assessment for special assessments are directory and any errors, defects or omissions in assessments, levies, sales or proceedings may be corrected at any time.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.06 Correcting assessments, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 7.07 Bank depositories.

A. *Designation.* It shall be the duty of the Commission to designate the bank or banks to be depositories for the funds of the Village. If there be more than one, the distribution of the several funds shall be made as directed by the Commission.

B. *Bond or Security* All Village depositories shall furnish such bond or security as required by State law.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 7.07 Bank depositories, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

ARTICLE VIII. BORROWING FOR MUNICIPAL PROJECTS

§ 8.01 State Law applicable.

Matters pertaining to borrowing for municipal projects shall be governed by State law.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 8.01 State Law applicable had no history of amendments.)

ARTICLE IX. GENERAL PROVISIONS

§ 9.01 Right of eminent domain.

The Village may exercise the right and power of eminent domain; that is, the right to appropriate property, without the owner's consent, for a public purpose.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.01 Right of eminent domain, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.02 Non-discrimination.

No person shall be deprived of any right because of race, religion, sex, sexual orientation, place of origin or physical handicap.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.02 was titled Charter amendments, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.03 Records and accounts to be open to public.

All public records and accounts of every office, department or agency of the Village shall be open to inspection as provided by state law.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.03 was titled Non-discrimination, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. M, 8-28-06, Election of 11-7-06)

§ 9.04 Bonds of officers and employees.

Any officers or employees of the Village who have check signing authority or access to Village accounts shall post bond in such amount and with such surety as may be approved by the Commission. The premiums of such bonds shall be paid by the Village.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.04 was titled Records and accounts to be open to public, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.05 Oath of office/employment.

Every officer and employee of the Village shall, before entering upon the duties of his office, take and subscribe to the following oath or affirmation, to be filed and kept in the office of the Village Clerk:

> I _____, a legal resident of the State of Florida, and being employed by or an officer of North Bay Village, Florida and a recipient of public funds as such employee or officer, do hereby solemnly swear or affirm that I will support and obey the Constitution and the laws of the United States and of the State of Florida, and that I will, in all respects, observe the provisions of the Charter and Ordinances of the Village.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.05 was titled Bonds of officers and employees, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 9.06 Scope of authority.

The Village is hereby authorized and empowered in the manner herein provided to cause any waterway within said Village to be bulkheaded; to cause groins or jetties to be constructed along the shore to protect the land area from the effects of tides and winds; to cause boardwalks or other walls or seawalls to be constructed in its public parks and upon or along any property of said Village, or in which it has a perpetual easement, or which is dedicated to said Village or the public along or near the shore; to cause any and all highways, by whatever designation they may be known, or any part thereof, to be lighted, graded, paved, repaved, macadamized and to cause curbs and gutters to be constructed thereupon, and sanitary sewers, storm sewers and other drains to be laid or constructed in any such highway, or part thereof, and/or in any right-

of-way or easement granted to or acquired by said Village or any dedicated way, and to provide for the payment of the cost thereof through special assessments.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.06 was titled Oath of office/employment, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

§ 9.07 ~~North Bay Island z~~Zoning.

(A) *North Bay Island*. Land use and future development of North Bay Island in the Village is hereby restricted to single family residential usage.

(B) *Treasure Island*. Zoning of properties located within Treasure Island that are designated as RS-2 on the Village's official zoning map as of November 4, 2024 shall not be rezoned to any district other than a single-family residential district.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.07 was titled Scope of authority, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.08 ~~Reserved.~~ Advertisement and notice by publication on publicly accessible website.

Notwithstanding any provision to the contrary, wherever in this Charter an advertisement or notice is required to be published in a newspaper of general circulation or other print publication, such advertisement or notice may alternatively be provided on a publicly accessible website, as permitted by chapter 50, Florida Statutes, as may be amended from time to time, provided that:

(A) The cost of providing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper;

(B) Publication on such website conforms with the requirements of section 50.0311, Florida Statutes, as may be amended from time to time; and

(C) Publication on such website is made within the applicable time frame required by this Charter for the respective advertisement or notice, and includes all information required by the respective Charter provisions.

(Prior Charter Section 9.08 was titled North Bay Island zoning, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.09 Insurance benefits for elected officials and the Village Manager.

North Bay Village shall not pay life, health and/or dental insurance benefits for the elected Village officials and/or their family dependents without prior approval by the electorate at a referendum.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.09 Insurance benefits for elected officials and the Village Manager, amended by Res. No. R91-28, § 2, 9-16-91, Election of 11-12-91; Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.10 Retirement System.

The Commission may establish and create by ordinance a retirement system for any or all groups of officers, agents or employees of the Village.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 9.10 Retirement System, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 9.11 Nepotism.

No person related up to the second degree of consanguinity or affinity to an elected or appointed Village official (department head and above) shall be eligible to hold a remunerative position with the Village. Any appointed Village official who shall knowingly make such an appointment may be deemed guilty of misfeasance or malfeasance in office and subject to removal. The person so employed may be subject to dismissal. This provision may be waived during conditions deemed as emergencies by the Village Commission.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(There was no prior Section 9.11 in previous Charter.)

§ 9.12 Conflict of interest.

Appointed officials and employees shall comply with applicable conflict of interest laws, including Florida Statutes Chapter 112, Part 3, as well as Miami-Dade County Code § 2-11.1.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(There was no prior Section 9.12 in previous Charter.)

§ 9.13 Violation.

Village officials and employees shall follow the provisions of this Charter.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(There was no prior Section 9.13 in previous Charter.)

ARTICLE X. CHARTER AMENDMENTS AND TRANSITION

§ 10.01 Revision provision.

A. This Charter of the Village must be reviewed six (6) years from November 8, 2000 and each sixth year thereafter by an Advisory Charter Review Board Appointed by the Commission with a minimum of five (5) members with at least one (1) representative from each island; any proposed revisions to the Charter must meet

the approval of the qualified electors of the Village at an election to be held at the same time as the regularly scheduled municipal Commission election immediately following each sixth year Charter review.

~~B. It shall be the duty of the Planning and Zoning Board, in cooperation with the Village Attorney, to continuously review the provisions of the zoning regulations, the Comprehensive Master Plan and the Zoning District Map and offer recommendations for the improvement thereof to the Village Commission at maximum intervals of five years commencing in 2013.~~

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(The prior Charter Section 10.01 was titled Title of Charter and there was no history of amendments.)

§ 10.02 Charter amendments.

A. Except with regard to Charter provisions concerning municipal boundaries, North Bay Village may adopt, amend, or revoke its Charter or abolish its existence in the following manner: The Village Commission shall, within one hundred twenty (120) days after adopting a resolution or after the certification of a petition of ten (10%) percent of the qualified electors of the municipality, draft or have drafted by a method determined by a North Bay Village ordinance, a proposed charter amendment, revocation, or abolition which shall be submitted to the electors of North Bay Village. Unless an election occurs not less than sixty (60), nor more than one hundred twenty (120) days after the draft is submitted, the proposal shall be submitted at a special election within that time. No less than thirty (30) days prior to such election the Village Clerk shall make available a copy of the proposed amendment for examination.

B. Upon adoption of an amendment to the Charter of the Village by a majority of the electors voting in a referendum upon such amendment, the Commissioners shall have the amendment incorporated into the Charter and shall file the revised Charter with the Department of State of the State of Florida, at which time the revised Charter shall take effect.

C. The Village may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State of the State of Florida pursuant to the provision of section B.

D. The Village, by unanimous vote of the Commission, may abolish municipal departments provided for in this Charter and amend provisions or language out of the Charter which has been judicially construed to be contrary to either the state or federal constitution.

E. Any provision of the Charter which conflicts with any federal, state or county law shall automatically be changed to conform to such federal, state or county law.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(The prior Charter Section 10.02 was titled Effective date, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. N, 8-28-06, Election of 11-7-06)

§ 10.03 Ordinances and state and county law unimpaired.

Nothing in this Charter shall be so construed as to alter, abolish, affect or amend the following: (1) Any of the laws of this state now in force or which hereafter (shall) be enacted relative to towns and cities of the state, incorporated under the general law; or (2) any of the laws of Miami-Dade County; (3) any of the ordinances of the Village, now in force under the municipal government of the Village, except for those that are in conflict with the provisions of this Charter, and these conflicting ordinances are hereby repealed. All such state and county laws and all nonconflicting ordinances of the Village are hereby declared to be in full force and effect.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.03 Ordinances and state and county law unimpaired, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 10.04 Rights and privileges of officers, etc., not impaired.

Nothing contained in this Charter, except as specifically provided, shall affect or impair the rights or privileges of any officer or employee of the Village or of any office, department or agency existing at the time when this Charter shall take effect, or any provision of law in force at the time when this Charter shall take effect and not inconsistent with the provisions of this Charter, in relation to the duties, responsibilities and emoluments of officers and employees of the Village. This provision shall not be construed to vest in any officer or employee any right or rights not specifically vested herein.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(The prior Charter Section 10.04 Rights and privileges of officers, etc., not impaired, has no history of amendments.)

§ 10.05 Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the Village shall continue in accordance with their terms and, to the extent applicable, the Charter of the Village as in existence at the time of their occurrence or imposition, as applicable.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.05 Pending matters, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 10.06 Contracts and public improvements.

All contracts entered into by the Village, or for its benefit, prior to the taking effect of this Charter, shall continue in full force and effect. Public improvements for which

legislative steps have been taken under laws or Charter provisions existing at the time this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.06 Contracts and public improvements has no history of amendments.)

§ 10.07 Pending suits and proceedings not affected.

No action or proceeding, civil or criminal, pending at the time when this Charter shall take effect, brought by or against the Village or any office, department or agency or officer thereof, shall be affected or abated by the adoption of this Charter or by anything herein contained.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.07 Pending suits and proceedings not affected has no history of amendments.)

§ 10.08 Former acts confirmed.

All acts and proceedings of the various officers and employees of the Village before the approval of this Charter are hereby approved, confirmed and validated as of the dates the same were made or done.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.08 Former acts confirmed, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 10.09 Continuations of existing laws.

Insofar as the provisions of this Charter are the same in terms or in substance and effect as provisions of law in force when this Charter shall take effect, relating to or affecting the Village, the provisions of this Charter are intended to be not a new enactment but a continuation of such provisions of law and this Charter shall be so construed and applied.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.09 Continuations of existing laws, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 10.10 Transition ordinances.

The Commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within sixty (60) days of the first Commission meeting under this Charter for the purpose of facilitating the transition may be passed as emergency ordinances following the procedures in Article III except that transition ordinances shall be effective for up to ninety (90) days after enactment. Thereafter such

ordinances may be readopted, renewed or otherwise continued only in the manner prescribed for normal ordinances in Article III.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.10 Transition ordinances has no history of amendments.)

§ 10.11 Resolving conflicts within charter.

Should there be a conflict or apparent conflict in the provisions of any one section of this Charter or between two (2) or more sections thereof, then the Village Attorney shall resolve such conflict or apparent conflict by a written ruling which shall be legal and binding unless invalidated by a court of competent jurisdiction.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.11 Resolving conflicts within charter, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

§ 10.12 Severability clause.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section so held invalid may appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

(Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

(Prior Charter Section 10.12 Severability clause, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

(Prior Charter Section 10.13 was titled Revision provision, amended by (Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-36, 7-13-04, Election of 11-2-04; Res. No. 2006-45, Pt. O, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

(Prior Charter Section 10.14 was titled Violation, amended by (Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

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