

RESOLUTION NO. 2024-050

A RESOLUTION OF THE MAYOR AND VILLAGE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, CALLING A SPECIAL ELECTION ON TUESDAY, NOVEMBER 5, 2024 FOR THE PURPOSE OF SUBMITTING CHARTER AMENDMENTS TO THE VILLAGE'S ELECTORATE; PROVIDING REQUISITE BALLOT LANGUAGE; PROVIDING FOR BALLOTING AND ELECTION PROCEDURES; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR COPIES; PROVIDING FOR CHARTER AMENDMENT ELECTION PROCEDURES AND RELATED DETAILS; PROVIDING FOR INCLUSION IN THE CHARTER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, 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; and

WHEREAS, the Board met between December 2023 and March 2024 to review each and every section of the Charter; and

WHEREAS, on March 4, 2024, the Board adopted a "Final Report and Recommendations," which included proposed amendments and revisions to the Village Charter (the "Report"); and

WHEREAS, the Village Commission has considered the Report and determined that certain amendments and revisions (the "Charter Amendments") should be submitted to the Village's electorate for approval or rejection at the November 5, 2024 general election; and

WHEREAS, pursuant to Section 10 of the Village Charter and Section 6.03 of the Home Rule Charter of Miami-Dade, as applicable, the Village Commission is required to submit the Charter Amendments to the electors of the Village for approval or rejection.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. Recitals. That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

Section 2. Calling Special Election. That a special election is hereby called to be held on Tuesday, November 5, 2042, to present to the qualified electors of North Bay Village the ballot questions provided in Section 4 of this Resolution. The Village Commission may, by resolution, alter the date of the special election in the event that the Village Commission finds that unforeseen circumstances require it to do so.

Section 3. Charter Amendments. That pursuant to Section 10 of the Village Charter and Section 6.03 of the Home Rule Charter of Miami-Dade County, and subject to the results of the Special Election, the Village Charter will hereby be amended to read as set forth in Exhibit A attached hereto and incorporated herein.

Section 4. Form of Ballot.

a. That the form of ballot for the Charter Amendments provided for in Section 3 of this Resolution shall be substantially as follows:

1. 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 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

2. 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

3. 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

4. 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

5. SINGLE FAMILY PROPERTY

It is proposed that the Village Charter be amended to provide that the land use and future development of single-family properties be restricted to single-family residential usage.

Shall the above-described amendment be adopted?

Yes

No

6. 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

7. 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

- b. That the Village Commission may revise the ballot form which is set forth in this Section 4 by Resolution; provided, however, that the Village Commission hereby authorizes the Village Manager, in consultation with the Village Attorney, to reorder the ballot questions in their discretion without further action of the Village Commission.

Section 5. Balloting. Balloting shall be conducted on Tuesday, November 5, 2024, between the hours of 7:00 A.M. and 7:00 P.M. at the regular polling places provided for Village elections. Absentee balloting shall be available as authorized by law. Early voting pursuant to Section 101.657, Florida Statutes shall be provided. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote. The Village Clerk is authorized to obtain any necessary election administration services from the Miami-Dade County Supervisor of Elections. The County registration books shall remain open at the Office of the Miami-Dade County Supervisor of Elections until the date at which the registration books shall close in accordance with the provision of the general election laws. The Village Clerk, with necessary assistance from the Miami-Dade County Supervisor of Elections, is hereby authorized to take all appropriate actions necessary to carry into effect and accomplish the electoral provisions of this Resolution. This Special Election shall be canvassed by a County Canvassing Board in accordance with any applicable provisions of the general election laws of the State or County. The Village Clerk is hereby authorized to take any action which is necessary or expedient to implement this section or to comply with any applicable law.

Section 6. Notice of Election. That notice of said election shall be published in accordance with Section 100.342, Fla. Stat., in a newspaper of general circulation within the Village at least 30 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, September 29, 2024), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, October 13, 2024), and shall be in substantially the following form:

**"NORTH BAY VILLAGE, FLORIDA
NOTICE OF SPECIAL ELECTION**

NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. 2024-050 A SPECIAL ELECTION HAS BEEN CALLED BY THE VILLAGE COMMISSION OF NORTH BAY VILLAGE, FLORIDA (THE "VILLAGE") TO BE HELD WITHIN THE VILLAGE ON TUESDAY, NOVEMBER 5, 2024 FROM 7:00 AM UNTIL 7:00 P.M. AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE VILLAGE THE FOLLOWING CHARTER AMENDMENTS FOR APPROVAL OR REJECTION:

1. 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 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

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2. EMPLOYEES OF THE VILLAGE CLERK'S OFFICE

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Yes

No

7. 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

The full text of the proposed Village Charter Amendments is available at the office of the Village Clerk located at 1666 Kennedy Causeway, Suite 300, North Bay Village, FL 33141.

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

Section 7. Copies. That copies of this Resolution proposing the Charter Amendments are on file at the offices of the Village Clerk located at 1666 Kennedy Causeway, Suite 300, North Bay Village, FL 33141, and are available for public inspection during regular business hours.

Section 8. Effectiveness of Charter Amendments.

- a. That each of the Charter amendments which are provided for in Sections 3 and 4 above shall become effective only if the majority of the qualified electors voting on the specific Charter amendment vote for their adoption, and shall be considered adopted and effective upon certification of election results.

- b. That the Village Attorney is authorized to revise the Charter to the extent necessary to assure that any amendments adopted conform to one another and are properly included in the publication of the revised Village Charter. Further, that in the event that some, but not all, of the Charter amendments are approved by the electors, conforming amendments shall be deemed to be adopted and the Village Attorney is authorized to reflect and implement such revisions of the Charter, including but not limited to the revision of transitional provisions, to the extent necessary to assure that all amendments adopted conform to one another and to all remaining Charter provisions. If conflicting Charter amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.
- c. That following the adoption of the Charter amendments, the Village Clerk shall file the adopted Charter amendments with the Clerk of the Circuit Court of Miami-Dade County, Florida.

Section 9. Inclusion in the Charter. Subject to the requirements of Section 8 above, it is the intention of the Village Commission and it is hereby provided that the Charter amendments shall become and be made a part of the Charter of North Bay Village and that the Sections of this Resolution and the proposed Charter Amendments may be renumbered or re-lettered to accomplish such intention.

Section 10. Severability. That the provisions of this Resolution are declared to be severable, and if any section, sentence, clause or phrase of this Resolution shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Resolution but they shall remain in effect, it being the legislative intent that this Resolution shall stand notwithstanding the invalidity of any part.

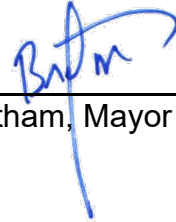
Section 11. Conflicts. That in the event that the provisions of this Resolution conflict with any other Village Resolution, the provisions of this Resolution shall prevail to the extent of any such conflict.

Section 12. Effective Date. That this Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Vice Mayor Chervony who moved its adoption. The motion was seconded by Mayor Latham and upon being put to a vote, the vote was as follows:

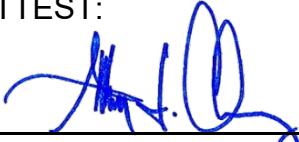
| | |
|--------------------------------|------------|
| Mayor Brent Latham | <u>Yes</u> |
| Vice Mayor Richard Chervony | <u>Yes</u> |
| Commissioner Goran Cuk | <u>Yes</u> |
| Commissioner Andy Rotondaro | <u>Yes</u> |
| Commissioner Rachel Streitfeld | <u>Yes</u> |

PASSED AND ADOPTED on this 11th day of June, 2024.



Brent Latham, Mayor

ATTEST:



Alba L. Chang, CMC
Village Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



Weiss Serota Helfman Cole & Bierman, PL
Village Attorney

EXHIBIT A

PROPOSED REVISIONS AND AMENDMENTS TO VILLAGE CHARTER

The following document contains proposed revisions and amendments to the North Bay Village Charter as proposed by the Charter Review Board and as further updated and approved by the Village Commission.

Additions to the text are shown in highlighted **underline** and deletions are shown in highlighted **strikethrough**.

CHARTER OF NORTH BAY VILLAGE¹
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

¹Res. 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.

28 review board to revise the Charter of the city over a one-year period. The board's
29 proposal was returned to the City Council at the end of 1977 and was reviewed by the
30 Council in a series of workshops. After a number of public hearings, which resulted in
31 some changes, the proposed revised Charter was submitted to the electors at a special
32 municipal election in conjunction with the state primary election on October 5, 1978, and
33 was adopted at this referendum election. In 1991, the proposed revised Charter was
34 submitted to the electors at a special municipal election on November 12, 1991, and
35 was adopted at this referendum election. In 1992, the proposed revised Charter was
36 submitted to the electors at a special municipal election on November 3, 1992 and was
37 adopted at this referendum election. In 1998, the proposed revised Charter was
38 submitted to the electors at a special municipal election on May 12, 1998 and was
39 adopted at this referendum election. In 2000, the proposed revised Charter was
40 submitted to the electors at special municipal elections on November 7, 2000, and was
41 adopted at this referendum election. In 2004, after a public hearing, which resulted in
42 some changes, the proposed Charter was submitted to the electors at a general
43 municipal election on November 2, 2004, and was adopted at this referendum election.
44 (Res. No. 2006-45, Pt. A, 8-28-06, Election of 11-7-06)

45 PREAMBLE

46 We the citizens of the North Bay Village, Florida, in order to perfect our municipal
47 government; update, modernize and revise our Charter to make it consistent with the
48 Constitution and Statutes of the United States and the State of Florida; encourage and
49 revitalize citizens' interest and participation in their Village Government; and strengthen
50 and clarify the rights of its citizens, and enable the Village to function smoothly under
51 the proper controls of the ensuing decade, do ordain and establish this Charter.
52 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

53 DEFINITIONS

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

57 *City or Village* shall mean North Bay Village, Florida.

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

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

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

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

64 *Mayor* shall refer to the Mayor of North Bay Village.

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

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

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

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

73 **CITIZENS' BILL OF RIGHTS**

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

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

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

86 *Public records.* All audits, reports, minutes, documents and other public records of
87 the Village and its boards, agencies, departments and authorities shall be open for
88 inspection at reasonable times and places convenient to the public, provided no legal
89 exemptions exist.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

164 **ARTICLE I. CREATION AND POWERS**

165 **§ 1.01 Creation.**

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

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

172 (Prior Charter Section 1.01 was titled Creation and powers of North Bay Village,
173 amended by Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, §
174 4, 11-16-12)

175 **§ 1.02 Powers.**

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

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

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

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

186 (Prior Charter Section 1.02 was titled Construction, amended by Res. No. 2000-41, 11-
187 8-00, Election of 11-7-00)

188 **§ 1.03 Title of Charter.**

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

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

194 (There was no prior Charter Section 1.03.)

195 **§ 1.04 Effective date.**

196 If approved by the Village's electorate, this Charter shall take effect upon the
197 Commission's acceptance of certification of election results of the General Election held
198 on ~~November 6, 2018~~ November 5, 2024.

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

200 (There was no prior Charter Section 1.04.)

201 **ARTICLE II. CORPORATE LIMITS**

202 **§ 2.01 In general.**

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

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

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

224 And shall include:

225 A parcel of submerged land (now filled) in Biscayne Bay situated in Section 9,
 226 Township 53 South, Range 42 East, Miami-Dade County, Florida, Commencing at the
 227 half-mile post of the west line of Section 9, Township 53 South, Range 42 East, Miami-
 228 Dade County, Florida, run north 88°41'24" east along the center line of the 79th Street
 229 Causeway highway right-of-way (100 feet wide) a distance of 1,560 feet to a point;
 230 thence north 1°37'08" west 55.0 feet to a point of beginning of the parcel of land herein
 231 described; thence north 1°37'08" west 600.00 feet; thence north 88°41'24" east 400.0
 232 feet; thence south 1°37'08" east 600.00 feet; thence south 88°44'24" west 400.0 feet to
 233 the point of beginning; containing 5.5 acres more or less; plus a five-foot strip bordering
 234 the south boundaries of the above described 5.5-acre tract which is described as
 235 follows: Commence at the intersection of the west line of Section 9, Township 53 South,
 236 Range 42 East, Miami-Dade County, Florida with the center line of the Northeast 79th
 237 Street Causeway as shown on a plat recorded in Plat Book 25, at Page 70 of the Public
 238 Records of Miami-Dade County, Florida; thence North 88°41'25" east along the center
 239 line of the aforesaid northeast 79th Street Causeway for a distance of 1,560 feet to a
 240 point; thence north 1°37'8" west for a distance of 50.0 feet to a point on the north right-
 241 of-way line of the said northeast 79th Street Causeway and the point of beginning of the
 242 parcel of land herein described; thence north 88°41'24" east along the north right-of-way
 243 line of the said northeast 79th Street Causeway for a distance of 400.0 feet to a point;
 244 thence north 1°37'8" west for a distance of 5.0 feet to a point; thence south 88°41'24"
 245 west along a line 5.0 feet north of and parallel with the north right-of-way line of said
 246 northeast 79th Street Causeway for a distance of 4,000 feet to a point; thence south
 247 1°37'8" east for a distance of 5.0 feet to the point of beginning of the parcel of land
 248 herein described.

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

250 (Prior Charter Section 2.01 was titled Corporate limits, amended by Res. No. 2000-41,
 251 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res.
 252 No. 2012-56, § 4, 11-16-12)

253 **ARTICLE III. LEGISLATIVE**

254 **§ 3.01 Village Commission.**

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

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

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

262 (Prior Charter Section 3.01 Village Commission amended by Res. No. 2012-25, § 2, 7-
263 10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

264 **§ 3.02 Limitations of powers of the Commission.**

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

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

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

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

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

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

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

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

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

298 c. "General Fund" shall mean any and all revenues of the Village,
299 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

- 341 after publication of the notice. The notice shall describe the contents of sale
342 and the location where the merchandise may be inspected prior to sale.
- 343 G. *Appointments or removal of Village personnel prohibited.* Neither the
344 Commission nor any of its members shall in any manner dictate the
345 appointment, retention, or removal of any Village employee (other than the
346 Village Manager, the Village Clerk and the Village Attorney, as provided
347 herein), or any person who is duly appointed by the Village Manager, in
348 accordance with Section 4.01(G)(2) of this Charter; except that the Village
349 Manager shall submit appointments of all department heads to the
350 Commission for approval.
- 351 H. *Village Attorney.* The Commission shall appoint or remove the Village Attorney
352 by at least three (3) affirmative votes. The Village Attorney shall have been
353 licensed to and have been a practicing attorney in the State of Florida for not
354 less than five (5) years, with not less than three (3) of those years in the
355 practice of law for municipal, county or state governments. The duties and
356 responsibilities of the Village Attorney shall be those as provided in this
357 Charter.
- 358 I. *Auditor.* The Commission shall appoint the outside auditor. The outside auditor
359 shall be a certified public accountant practicing in the State of Florida, for a
360 period of not less than five (5) years.
- 361 J. *Other Commissioner remunerative position.* No Commissioner shall be
362 appointed to any other remunerative position with the Village during his term of
363 office and for a term of two (2) years thereafter.
- 364 K. *Nepotism.* No person related up to the second degree of consanguinity or
365 affinity to a Commissioner shall be eligible to hold a remunerative position with
366 the Village. Any Commissioner who shall knowingly make such an appointment
367 may be deemed guilty of misfeasance or malfeasance in office and subject to
368 removal. The person so employed may be subject to dismissal.
- 369 L. *Conflict of interest.* The Mayor and any Village Commissioner shall comply with
370 applicable conflict of interest laws, including Florida Statutes Chapter 112, Part
371 3, as well as Miami-Dade County Code Section 2-11.1.
- 372 M. *Reimbursement of Commissioner's legal fees.* In the event that a civil action
373 shall be instituted wherein it is sought to impose personal liability upon any
374 Commission member of the Village for any act or acts of such Commissioner,
375 and if such Commissioner seeks legal defense of such action through the use
376 of public funds, it shall first require a majority of all other Commissioners to
377 ascertain that such acts complained of by the plaintiff were indeed connected
378 with the Commissioner's proper conduct of the affairs or business of the
379 Village. If so established, the other Commissioners shall then determine,
380 specify and allocate a reasonable expenditure from Village funds for this legal
381 defense - selection of counsel to be approved by the Village Attorney.

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

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

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

400 **§ 3.03 Mayor; Vice-Mayor.**

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

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

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

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

414 (Prior Charter Section 3.03 was titled Election and terms, amended by Res. No. R91-25,
 415 § 2, 9-16-91, Election of 11-12-91)

416 (Prior Charter Section 3.031 titled Limitation of terms, amended by Res. No. R92-24, §
 417 2, 9-15-92, Election of 11-3-92; Res. No. R98-05, § 2, 3-10-98, Election of 5-12-98;
 418 Res. No. 2000-41, 11-8-00, Election of 11-7-00)

419 **§ 3.04 Compensation.**

420 Each Commission member will be compensated six thousand three hundred dollars
421 (\$6,300.00), per year payable at five hundred twenty-five dollars (\$525.00) per month.
422 The Mayor will be compensated seven thousand eight hundred dollars (\$7,800.00) per
423 year payable at six hundred fifty dollars (\$650.00) per month.

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

426 § 3.05 Term Limits.

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

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

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

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

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

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

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

446 For purposes of this section, an individual who has served more than fifty percent
447 (50%) of a term shall be considered to have served a full term of office.

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

449 (Prior Charter Section 3.05 was titled Mayor; Vice Mayor, amended by Res. No. 2004-
450 35, 7-13-04, Election of 11-2-04)

451 § 3.06 Vacancies; forfeiture of office; filling of vacancies on the Commission.

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

455 B. *Forfeiture of office.* A Commission member, Commissioner or Mayor shall forfeit his
456 office if any time during his term of office said person, (a) lacks any qualifications

457 for the office prescribed by this Charter or other applicable law including § 100.361
 458 Florida Statutes or (b) is convicted of a felony while in office, or (c) fails to attend
 459 four consecutive regular meetings of the Commission, unless such absences are
 460 each excused by motion setting forth the reason for the absence duly entered upon
 461 the minutes or (d) having been elected or appointed from an election district fails to
 462 reside within the election district from which he was elected or appointed for any
 463 reason other than redistricting. Forfeiture shall be determined by the remaining
 464 members of the Commission.

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

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

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

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

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

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

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

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

503 (Prior Charter Section 3.06 was titled Limitations of powers of the Commission,
504 amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. C,
505 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res.
506 No. 2012-56, § 4, 11-16-12)

507 **§ 3.07 Removals and suspensions from office of Village Commission.**

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

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

513 (Prior Charter Section 3.07 was titled Vacancies; forfeiture of office; filling of vacancies
514 of the Commission, as amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00;
515 Res. No. 2004-38, § 1, 7-27-04, Election of 11-2-04; Res. No. 2006-45, Pt. D, 8-28-06,
516 Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-
517 56, § 4, 11-16-12)

518 **§ 3.08 Ordinances and resolutions.**

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

522 1. Adopt or amend an administrative code or establish, alter or abolish any
523 Village department or agency;

524 2. Establish a rule or regulation the violation of which carries a penalty;

525 3. Set service or user charges for municipal services or granting administrative
526 authority for such charges;

527 4. Authorize the borrowing of money not inconsistent with the limitations
528 established in this Charter, the state constitution and general law of the State
529 of Florida;

530 5. Convey or lease or authorize by administrative action the conveyance or lease
531 of any lands of the Village;

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

- 534 B. *Emergency ordinances.* To meet a public emergency affecting life, health, property
535 or the public peace, the Commission may adopt one or more emergency
536 ordinances, but the ordinances may not levy taxes; set service or user charges for
537 any municipal services; amend or repeal any ordinance adopted by the people at
538 the polls or by the Commission in compliance with an initiative petition; or authorize
539 the borrowing of money except as provided under the emergency appropriations
540 provisions of this Charter, if applicable.
- 541 1. *Form.* An emergency ordinance shall be introduced in the form and manner
542 prescribed for ordinances generally, except that it shall be plainly designated in
543 a preamble as an emergency ordinance and shall contain, after the enacting
544 clause, a declaration stating that an emergency exists and describing it in clear
545 and specific terms.
- 546 2. *Procedure.* An emergency ordinance may be adopted with or without
547 amendment or rejected at the meeting at which it is introduced, but at least four
548 (4) affirmative votes shall be required for adoption. After its adoption, the
549 ordinance shall be published and printed as prescribed for other adopted
550 ordinances.
- 551 3. *Effective date.* Emergency ordinances shall become effective upon adoption or
552 at such other date as may be specified in the ordinance.
- 553 4. *Repeal.* Every emergency ordinance except emergency appropriations shall
554 automatically stand repealed sixty (60) days following the date on which it was
555 adopted, but this shall not prevent reenactment of the ordinance under regular
556 procedures, or if the emergency still exists, in the manner specified in this
557 section. An emergency ordinance may also be repealed by adoption of a
558 repealing ordinance in the same manner specified in this section for adoption
559 of emergency ordinances.
- 560 5. *Emergency appropriations.* The Commission may make emergency
561 appropriations in the manner provided in this section and under Section 3.02 of
562 this Charter. To the extent that there are no available un-appropriated
563 revenues to meet such appropriations, the Commission may by such
564 emergency ordinance authorize the issuance of emergency notes, which may
565 be renewed from time to time but the emergency notes and renewals of any
566 fiscal year shall be paid not later than the last day of the fiscal year next
567 succeeding that in which the emergency appropriation was made.
- 568 C. *Procedures for adoption of ordinances and resolutions.*
- 569 1. As used in this section, the following words and terms shall have the following
570 meanings unless some other meaning is plainly indicated.
- 571 a. "Ordinance" means an official legislative action of the Village Commission,
572 which action is a regulation of a general and permanent nature and
573 enforceable as a local law.

- 574 b. "Resolution" means an expression of the Village Commission concerning
575 matters of administration, an expression of a temporary character, or a
576 provision for the disposition of a particular item of the administrative
577 business of the Village Commission.
- 578 2. Each ordinance or resolution shall be introduced by a member of the
579 Commission or the Village Manager, the Village Attorney or the Village Clerk,
580 so long as the information is provided within three (3) business days prior to
581 the scheduled meeting, in writing and shall embrace but one subject and
582 matters properly connected therewith. The subject shall be clearly stated in the
583 title. No ordinance shall be revised or amended by reference to its title only.
584 Ordinances to revise or amend shall set out in full the revised or amended act
585 or section or subsection or paragraph of a section or subsection. The enacting
586 clause of every ordinance shall be as follows: "Be it enacted, by the
587 Commission of the North Bay Village..."
- 588 3. A proposed ordinance must be presented on at least two (2) separate
589 Commission meetings. It may be read by title only. At least ten (10) days prior
590 to the final adoption of the said ordinance the Village shall publish once in a
591 newspaper of general circulation in the Village a notice of the proposed
592 ordinance. The giving of said notice shall not apply to a proposed emergency
593 ordinance. Said notice shall state the title or brief description of the proposed
594 ordinance or ordinances; the date, time and place of the Commission meeting
595 for enacting said ordinance; and the place or places within the Village where
596 said proposed ordinance may be inspected by the public. Said notice shall also
597 advise that interested parties may appear at the meeting and be heard with
598 respect to the proposed ordinance.
- 599 4. A majority of the members of the Village Commission shall constitute a
600 quorum. An affirmative vote of a majority of a quorum present shall be
601 necessary to enact any ordinance or adopt any resolution; except that four (4)
602 affirmative votes of the membership of the Commission is required to enact an
603 emergency ordinance. On final passage, the vote of each member of the
604 Village Commission voting shall be entered on the official record of the
605 meeting. All ordinances or resolutions passed by the Village Commission shall
606 become effective after passage or as otherwise provided therein.
- 607 5. Every ordinance or resolution shall, upon its final passage, be recorded in a
608 book kept for that purpose and shall be signed by the mayor and the Village
609 Clerk.
- 610 6. The procedure as set forth herein shall constitute a uniform method for the
611 adoption and enactment of the Village ordinances and resolutions and shall be
612 taken as cumulative to other methods now provided by law for adoption and
613 enactment of Village ordinances and resolutions. By future ordinance or
614 charter amendment, the Village may specify additional requirements for the
615 adoption or enactment of ordinances or resolutions or prescribe procedures in

616 greater detail than contained herein, provided such modifications are not in
617 conflict with general law.

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

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

622 (Prior Charter Section 3.08 was titled Ordinances and resolutions, amended by Res.
623 No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. E, 8-28-06, Election of
624 11-7-06; Res. No. 2008-27, § 1, 7-30-08, Election of 11-4-08; Res. No. 2012-25, § 2, 7-
625 10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

626 **§ 3.09 Meeting procedures.**

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

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

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

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

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

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

647 (Prior Charter Section 3.09 Meeting Procedures, amended by Res. No. 2000-41, 11-8-
648 00, Election of 11-7-00; Res. No. 2006-45, Pt. E, 8-28-06, Election of 11-7-06)

649 **ARTICLE IV. ADMINISTRATIVE**

650 **§ 4.01 Village Manager.**

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

- 654 A. *Appointment.* The Commission shall appoint a Village Manager for an indefinite
655 term by a minimum of three (3) affirmative votes of the Commission members.
656 The Village Manager shall serve at the will of the Commission.
- 657 B. *Qualifications.* The Manager shall be a graduate of either an accredited school
658 of public administration or its related equivalent in engineering, fiscal
659 management or business administration with no less than three (3) years'
660 experience in the administration of local government or in lieu of the foregoing,
661 he must have not less than five (5) years' experience in the administration of
662 local government.
- 663 C. *Compensation.* The compensation of the Village Manager shall be fixed by the
664 Village Commission in the annual budget and may not be reduced without his
665 consent during the fiscal year for which the budget is prepared.
- 666 D. *Temporary Village Manager.* By written memorandum filed with the
667 Commission, the Village Manager may designate an acting appointee to
668 perform the duties of the Village Manager, during a brief absence or incapacity
669 for thirty (30) days or less. During any absence or disability, the Village
670 Commission may revoke an acting appointment at any time and appoint
671 another person to serve until the return of the Village Manager.
- 672 E. *Vacancy.* In the event of a vacancy due to resignation or removal from office of
673 the Village Manager, the Village Commission shall appoint an acting or interim
674 Village Manager until such time as a qualified manager may be selected.
- 675 F. *Removal.* The Village Commission may remove the Village Manager by a
676 minimum of three (3) votes in favor of removal.
- 677 G. *Powers and duties of the Village Manager.* The Village Manager shall be
678 responsible for the proper administration of all the affairs of the Village, except
679 as otherwise provided herein. His powers and duties shall be to:
- 680 1. See that all laws, provisions of this Charter and acts of the Commission,
681 subject to enforcement by him or by officers subject to his direction and
682 supervision, are faithfully executed;
 - 683 2. Appoint, and when he deems it necessary for the good of the Village,
684 suspend or remove all Village employees (except the Village Attorney, the
685 Village Clerk and all personnel in the Legal Department, including outside
686 counsel representing the Village) and appoint administrative officers
687 provided for by or under this Charter, except as otherwise provided by law,
688 this Charter or personnel rules adopted pursuant to this Charter.
- 689 He may authorize any administrative officer who is subject to his direction
690 and supervision to exercise these powers with respect to subordinates in
691 that officer's department, office or agency, with the approval of the
692 Commission. He will submit appointments of new department directors to
693 the Commission for confirmation;

- 694 3. Direct and supervise the administration of all departments, offices and
695 agencies of the Village, except as otherwise provided by this Charter or by
696 law; provided, however, the authority herein granted shall not extend to
697 the office of the independent auditor employed or retained by the
698 Commission, or to the Village Attorney or any outside counsel employed
699 or retained by the Commission;
- 700 4. Attend all Commission meetings. He shall have the right to take part in
701 discussion, but may not vote;
- 702 5. Recommend to the Commission, for adoption, such measures as he may
703 deem necessary or expedient in the best interest of the Village;
- 704 6. Prepare and submit the annual budget, budget message and capital
705 program to the Commission in a form provided by ordinance;
- 706 7. Supervise and be responsible for the disbursement of all monies and have
707 control over all expenditures to ensure that budget appropriations are not
708 exceeded;
- 709 8. Maintain a general accounting system for the Village government and
710 each of its offices, departments and agencies and exercise financial
711 budgetary control over same;
- 712 9. Submit to the Commission and make available to the public, a complete
713 report on the finances and administrative activities of the Village as of the
714 end of each fiscal year;
- 715 10. Make such other reports as the Commission may require concerning the
716 operations of Village departments, offices and agencies, subject to his
717 direction and supervision;
- 718 11. Keep the Commission fully advised as to the financial condition and future
719 needs of the Village and make such recommendations to the Commission
720 concerning the affairs of the Village;
- 721 12. Sign contracts on behalf of the Village, when such contracts have been
722 approved pursuant to law and this Charter.
- 723 13. Ensure that all terms and conditions of any public utility franchise are
724 faithfully kept and performed and to report any violations of the terms and
725 conditions of any utility franchise to the Village Commission and to the
726 Village Attorney;
- 727 14. Obtain competitive bids as prescribed by this Charter;
- 728 15. Advertise and conduct the sale of any property no longer needed for
729 municipal purposes as prescribed by this Charter;
- 730 16. Act as purchasing agent for the Village and have exclusive control over
731 the purchase of all supplies and approve all vouchers for the payment for
732 supplies;

733 17. Supervise the issuance of Village licenses and collect all special
734 assessments, license fees and other revenues of the Village and receive
735 all monies due the Village from county, state and federal governments.
736 Also, to pursue and obtain those monies made available to the Village
737 from state and federal grants and similar sources;

738 18. Shall be held accountable to enforce the Village code and provide
739 necessary support and resources to uphold the code through the code
740 enforcement department;

741 19. Perform such other duties as may be prescribed by this Charter or as
742 required of him by the Commission, not inconsistent with this Charter.

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

745 (Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2004-20, § 1, 4-14-04,
746 Election of 11-2-04; Res. No. 2006-45, Pt. F, 8-28-06, Election of 11-7-06; Res. No.
747 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

748 **§ 4.02 Village Clerk.**

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

758 The Village Clerk shall record and keep current all ordinances and resolutions of
759 the Village and keep current a cross-index of all ordinances, resolutions and official
760 records of the Village. The Village Clerk shall also perform such other duties that
761 are required by the Charter, by ordinance or that do not conflict with the
762 administrative duties of the Village Manager, and as the Commission may prescribe
763 from time to time. The Village Clerk will work with the Village Manager and other
764 department heads to ensure the effective management of the Village. The Village
765 Clerk shall be responsible for the appointing, hiring, promoting, supervising and
766 removing of all employees of the office of the Village Clerk as authorized by the
767 Village Commission in the annual budget or as otherwise provided by resolution or
768 ordinance.

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

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

774 (Prior Charter Section 4.02 Village Clerk, amended by Res. No. 2006-45, Pt. G, 8-28-
775 06, Election of 11-7-06; Res. No. 2008-26, § 1, 7-30-08, Election of 11-4-08)

776 (Prior Charter Section 4.03 titled Nepotism, amended by (Res. No. 2012-25, § 2, 7-10-
777 12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

778 (Prior Charter Section 4.04 titled Conflict of interest, amended by (Res. No. 2000-41,
779 11-8-00, Election of 11-7-00)

780 **ARTICLE V. ELECTIONS**

781 **§ 5.01 Election dates.**

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

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

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

793 (Prior Charter Section 5.01 was titled Time of holding elections, amended by Res. No.
794 R91-25, § 2, 9-16-91, Election of 11-12-91; Res. No. 2000-41, 11-8-00, Election of 11-7-
795 00)

796 **§ 5.02 Qualifications.**

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

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

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

804 (Prior Charter Section 5.02 was titled Qualifications of electors, amended by Res. No.
805 2000-41, 11-8-00, Election of 11-7-00)

806 **§ 5.03 Rules and regulations, supervision, etc. of elections.**

807 All municipal elections in the Village shall be conducted by general ballot as
808 prescribed by this Charter and consistent with the applicable law of the State of Florida

809 and County of Miami-Dade. Municipal elections shall be supervised by the Village Clerk
810 with the Village Commission canvassing returns from each general election.

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

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

814 **§ 5.04 Commission Members—Residency requirements and terms of office.**

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

830 ~~Notwithstanding any other provisions of this Charter, no later than December 15,~~
831 ~~2000, the Village Clerk shall publicly draw lots to determine which Village~~
832 ~~Commissioners' term of office (specifically, the seat they each represent) will expire in~~
833 ~~November 2004 and which remaining two Village Commissioners' terms of office~~
834 ~~(specifically, the seat they each represent) will expire in November 2006. All subsequent~~
835 ~~Village Commissioner seats shall be elected for four (4) year terms.~~

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

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

839 (Prior Charter Section 5.04 titled Commission Members - Residency requirements and
840 terms of office, amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No.
841 2004-34, 7-13-04, Election of 11-2-04; Res. No. 2006-45, Pt. H, 8-28-06, Election of 11-
842 7-06; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-
843 16-12)

844 **§ 5.05 Nomination of Commission Members and Mayor; Qualifying Period.**

845 A. Any citizen who can qualify for the office of Commissioner or Mayor of the Village
846 as provided herein may be nominated for Commissioner or Mayor by a petition
847 provided by the Village Clerk for this purpose signed by not less than fifty (50)

848 electors and filed with the Village Clerk ~~in accordance with dates set by the Village~~
849 ~~Commission.~~ Candidates shall qualify with the Village Clerk no earlier than noon on
850 the third Monday of July and no later than noon on the second Friday thereafter.
851 This period shall constitute a 10-business day qualifying period. Notwithstanding,
852 in the event that the Monday upon which a qualifying period would otherwise
853 commence is a holiday, the qualifying period shall commence on Tuesday
854 immediately following such holiday and shall conclude the second Monday
855 thereafter.

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

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

867 **NOMINATING PETITION**

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

871 (signatures) _____

872 (address of signer) _____

873 (date of signing) _____

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

879 (signature of circulator) _____

880 (street address of residence) _____

881 (date) _____

882 D. Within five (5) days after the filing of a nominating petition, the Village Clerk shall
883 through certified United States mail, return receipt requested, notify the candidate
884 and the person who filed the petition whether or not the petition is found to be
885 signed by the required number of qualified electors. Notification is complete upon
886 mailing. If a petition is found insufficient, the Village Clerk shall return it to the

887 person who filed it with a statement certifying wherein the petition is found
888 insufficient. Such a petition may be amended and filed again as a new petition, or a
889 different petition may be filed for the same candidate, prior to the qualifying
890 deadline. Such petitions shall be preserved by the Village Clerk in accordance with
891 applicable record retention requirements.

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

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

896 **§ 5.06 Candidacy.**

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

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

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

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

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

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

917 **§ 5.07 Filing fee.**

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

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

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

933 (Prior Charter Section 5.07 Filing fee, amended by Res. No. 2000-41, 11-8-00, Election
934 of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-12; Res. No. 2012-56, § 4,
935 11-16-12)

936 **§ 5.08 Ballots.**

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

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

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

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

952 Mayor

953 Harbor Island Commissioner

954 North Bay Island Commissioner

955 Treasure Island Commissioner

956 At-Large Commissioner

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

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

959 **§ 5.09 Absentee electors.**

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

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

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

965 **§ 5.10 Watchers at election of Commission Members.**

966 At each election of the Commission, any regularly nominated candidate shall be
967 entitled, upon written application to the Village Clerk in accordance with section
968 101.131, Florida Statutes as may be amended at least ten (10) days before the election,
969 to appoint one (1) person and one (1) alternate to represent him or her as watcher and
970 challenger at each polling place. Any person so appointed shall have all the rights and
971 privileges prescribed by law for other watchers and challengers at any election in the
972 same place, but under no circumstances shall a watcher and his or her alternate be
973 allowed to remain within the voting place at the same time.

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

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

977 **§ 5.11 Hours of voting.**

978 The polls shall open at seven o'clock a.m., (7 a.m.) and close at seven o'clock p.m.
979 (7 p.m.).

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

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

982 **§ 5.12 Election results.**

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

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

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

993 **§ 5.13 Canvass of returns.**

994 The result of voting shall be certified by the Miami-Dade County Elections
995 Department. The certification of election results shall be transmitted to the Commission
996 at a meeting of the Commission to be held on the business day immediately following
997 the election or, if the results have not yet been certified by Miami-Dade County

998 Elections Department, as soon as possible thereafter. At this meeting, the Commission
 999 shall canvass the returns, and shall declare the results of the election. New officers shall
 1000 be declared elected subsequent to canvass of election returns on the business day
 1001 immediately following the general election, or, if the results have not yet been certified
 1002 by Miami-Dade County Elections Department, as soon as possible thereafter. At such
 1003 time the new officers shall be installed and shall enter upon the discharge of their
 1004 duties. If a run-off election is necessary, the officers elected in that run-off shall be
 1005 installed upon their certification, subsequent to canvass of returns on the business day
 1006 immediately following the run-off election or, if the results have not yet been certified by
 1007 Miami-Dade County Elections Department, as soon as possible thereafter, and shall
 1008 thereupon enter upon the discharge of their duties.

1009 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1010 (Prior Charter Section 5.13 Canvass of returns, amended by Res. No. 2000-41, 11-8-
 1011 00, Election of 11-7-00; Res. No. 2006-45, Pt. J, 8-28-06, Election of 11-7-06)

1012 **§ 5.14 Village employees soliciting votes.**

1013 It shall be unlawful for any paid non-elective employees of the Village, while on duty
 1014 or off duty and wearing any type of uniform or other definitive identification indicating
 1015 that they are employees of the Village, to solicit votes, coerce directly or indirectly any
 1016 elector or engage in any political activity in any municipal election or referendum in the
 1017 Village or use his or her official authority or influence for the purpose of interfering with
 1018 an election or a nomination of office or coercing or influencing another person's vote or
 1019 affecting the result thereof. Any employee violating the provisions of this section shall be
 1020 subject to immediate dismissal.

1021 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1022 (Prior Charter Section 5.14 Village employee soliciting votes, amended by Res. No.
 1023 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-
 1024 12; Res. No. 2012-56, § 4, 11-16-12)

1025 **§ 5.15 Initiative and referendum procedures.**

1026 **A. General.**

- 1027 1. *Initiative.* The qualified voters of the Village shall have the power to propose
 1028 ordinances to the Commission. If the Commission fails to adopt such an
 1029 ordinance so proposed without any change in substance, then the qualified
 1030 voters shall have the power to adopt or reject it at a Village election.
- 1031 2. *Referendum.* The qualified voters of North Bay Village shall have power to
 1032 require reconsideration by the Commission of any adopted ordinance. If the
 1033 Commission fails to repeal an ordinance so reconsidered, then the qualified
 1034 voters shall have the power to approve or reject it at a Village election.

1035 **B. Commencement of proceedings.** Any five (5) qualified electors may commence
 1036 initiative or referendum proceedings by filing with the Village Clerk an affidavit

1037 stating they will constitute the petitioners' committee and be responsible for
1038 circulating the petition and filing it in proper form, stating their names and
1039 addresses and specifying the address to which all notices to the committee are to
1040 be sent and setting out in full the proposed initiative ordinance or citing the
1041 ordinance sought to be reconsidered.

1042 Promptly after the affidavit of the petitioners' committee is filed, the Village Clerk
1043 shall, at the committee's request, issue the appropriate petition blanks to the petitioners'
1044 committee at the committee's expense.

1045 C. *Petitions.*

1046 1. *Number of signatures.* Initiative and referendum petitions must be signed by
1047 qualified electors of the Village equal in number to at least ten percent (10%) of
1048 the total number of qualified electors registered to vote at the last regular
1049 Village election.

1050 2. *Form and content.* All papers of a petition shall be uniform in size and style and
1051 shall be assembled as one instrument for filing. Each signature shall be
1052 executed in ink and shall be followed by the address of the person signing.
1053 Petitions shall contain or have attached thereto throughout their circulation the
1054 full text of the ordinance proposed or sought to be reconsidered, as well as
1055 language reflecting the ability of the Petitioners' committee to withdraw the
1056 subject petition, pursuant to § 5.15 (F)(3) of this Charter.

1057 3. *Affidavit of circulator.* Each paper of a petition shall have attached to it when
1058 filed an affidavit executed by the circulator thereof stating that he personally
1059 circulated the paper, the number of signatures thereon, that all the signatures
1060 were affixed in his presence, that he believes them to be the genuine
1061 signatures of the persons whose names they purport to be and that each
1062 signer had an opportunity before signing to read the full text of the ordinance
1063 proposed or sought to be reconsidered.

1064 4. *Time for filing referendum petitions.* Referendum petitions must be filed within
1065 sixty (60) days after adoption by the Commission of the ordinance sought to be
1066 reconsidered.

1067 D. *Procedure for filing.* Certificate of Clerk; amendment. Within twenty (20) days after
1068 the initiative petition or referendum petition is filed, the Village Clerk shall determine
1069 whether each petition paper is in proper form according to subsections C(2) and (3)
1070 hereinabove. Within ten (10) days from determining that the petition is in proper
1071 form, the Village Clerk shall transmit the petition papers to the Miami-Dade County
1072 Department of Elections for purposes of determining whether the petition as a
1073 whole has been signed by a sufficient percentage of the Village electors. The
1074 Miami-Dade County Elections Department shall complete a certificate as to the
1075 petition's sufficiency. Such certificate shall specify if it is insufficient, and the Village
1076 Clerk shall promptly send a copy of the certificate to the petitioners' committee by
1077 registered mail, return receipt requested. A petition certified insufficient for lack of
1078 the required number of valid signatures may be amended one (1) time within ten

1079 (10) business days after receipt of notification; such supplementary petition shall
1080 comply with all prior requirements and within five (5) business days after it is refiled,
1081 the Village Clerk shall transmit same to the Miami-Dade County Department of
1082 Elections for purposes of issuing a certificate as to the sufficiency of the petition as
1083 amended, whereupon the Village Clerk shall send a copy of such certificate to the
1084 petitioners' committee by registered mail, return receipt requested, as in the case of
1085 an original petition. If a petition or amended petition is certified sufficient, or if a
1086 petition or amended petition is certified insufficient, the Village Clerk shall promptly
1087 present the certificate to the Commission, and the certificate shall then be a final
1088 determination as to the sufficiency of the petition.

1089 E. *Conclusion of Referendum Process.* The referendum process shall be concluded:

- 1090 (1) When the petitioners' committee withdraws the petition; or
1091 (2) When the Commission repeals the ordinance; or
1092 (3) After a vote of the electorate on repeal of the ordinance has been certified, and
1093 such certification has been accepted by the Commission.

1094 F. *Action by Commission.*

1095 1. *Action by Commission.* When an initiative or referendum petition has been
1096 finally determined sufficient by the Miami-Dade County Elections Department,
1097 the Commission shall promptly consider the proposed initiative ordinance in
1098 the manner provided in Article III or reconsider the referred ordinance by voting
1099 its repeal. If within thirty (30) days of the issuance of a certificate of a petition's
1100 sufficiency by the Miami-Dade County Elections Department, the Commission
1101 fails to either (as the case may be) adopt a proposed initiative ordinance
1102 without any change in substance or fails to repeal the referred ordinance, it
1103 shall submit the proposed or referred ordinance to the voters of the Village.

1104 2. *Submission to voters.* The vote of the Village on a proposed or referred
1105 ordinance shall be held not less than thirty (30) days and not later than sixty
1106 (60) days from issuance of the Miami-Dade County Elections Department's
1107 certificate as to petition's sufficiency. If no regular Village election is to be held
1108 within the period described in this subsection, the Commission shall provide for
1109 a special election. Copies of the proposed or referred ordinance shall be made
1110 available at the Village Clerk's office.

1111 3. *Withdrawal of petitions.* An initiative or referendum petition may be withdrawn
1112 at any time prior to the tenth day preceding the day scheduled for a vote of the
1113 Village by filing with the Village Clerk a request for withdrawal signed by at
1114 least four (4) members of the petitioners' committee. Upon the filing of such
1115 request the petition shall have no further force or effect and all proceedings
1116 shall be terminated.

1117 G. *Results of election.*

1118 1. *Initiative*. If a majority of the qualified electors voting on a proposed initiative
1119 ordinance vote in its favor, it shall be considered adopted upon acceptance by
1120 the Commission of the certification of the election results and shall be treated
1121 in all respects in the same manner as ordinances of the same kind adopted by
1122 the Commission. If conflicting ordinances are approved at the same election,
1123 the one receiving the greatest number of affirmative votes shall prevail to the
1124 extent of such conflict. If an initiative ordinance is voted upon by the Village
1125 electors and is defeated, it may not be brought forth for consideration as an
1126 initiative within one year from date of this election.

1127 2. *Referendum*. If a majority of the qualified electors voting on a referred
1128 ordinance vote for its repeal, it shall be considered repealed upon the
1129 Commission's acceptance of the certification of the election results. Should a
1130 majority defeat the referendum for repeal of the ordinance, such referendum
1131 action cannot be brought up again for a period of one (1) year from the date of
1132 the election.

1133 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1134 (Prior Charter Section 5.15 Initiative and referendum procedures, amended by Res. No.
1135 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. K, 8-28-06, Election of 11-
1136 7-06)

ARTICLE VI. BOARDS

§ 6.01 Advisory boards.

1139 The Commission may by ordinance establish advisory boards to assist the
1140 Commission or the Village. Advisory board members must be either residents of the
1141 Village, or owners of businesses located within the confines of the Village, or designees
1142 of such business owners. Advisory Board members shall serve a two (2) year term
1143 concurrent with the regular scheduled election of the Commission. A majority of the
1144 members of each advisory board must be residents of the Village. The Commission
1145 may appoint ex officio non-voting members to the board who do not meet the
1146 requirements set forth above. The members of advisory boards shall serve without
1147 compensation and may be removed at any time by a majority vote of the entire
1148 Commission. The Commission may also terminate any advisory board at any time that it
1149 deems that such board has fulfilled its purpose. Any vacancy occurring on an advisory
1150 board shall be filled within 30 days of the occurrence of the vacancy, in the same
1151 manner as the original appointment.

1152 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1153 (Prior Charter Section 6.01 Advisory boards, amended by Res. No. 2000-41, 11-8-00,
1154 Election of 11-7-00)

§ 6.02 Civil service.

1156 A. *Civil Service Board*. The Commission may by ordinance establish a civil service
1157 system and appoint the members, other than employee members, to the Civil
1158 Service Board, who are registered voters. Such ordinance shall provide the duties,
1159 responsibilities, terms of membership and conditions for removal of members from
1160 the Civil Service Board as well as all other terms and provisions of the civil service
1161 system.

1162 B. *Employees covered by collective bargaining agreement*. Any civil service system
1163 established by ordinance and the civil service rules and regulations adopted
1164 pursuant thereto shall not apply to nor be maintained for regular employees in the
1165 classified service who are covered by a collective bargaining agreement, unless
1166 otherwise provided in such agreement.

1167 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1168 (Prior Charter Section 6.02 Civil service did not have a history of amendments.)

1169 **§ 6.03 Planning and Zoning Board.**

1170 A. The Commission shall establish by ordinance a Planning and Zoning Board. Such
1171 ordinance shall provide the powers, duties, responsibilities, terms of membership,
1172 length of terms, and conditions for removal of members of the Planning and Zoning
1173 Board.

1174 B. Where the Planning and Zoning Board by unanimous vote of its full membership
1175 has presented a negative recommendation to the Village Commission relating to a
1176 request for a variance or special use exception, it shall require the Village
1177 Commission to act by at least four (4) affirmative votes in order to grant such
1178 request for variance or special use exception.

1179 C. It shall be the duty of the Planning and Zoning Board, in cooperation with the
1180 Village Attorney, to continuously review the provisions of the zoning regulations, the
1181 Comprehensive Master Plan and the Zoning District Map and offer
1182 recommendations for the improvement thereof to the Village Commission at
1183 maximum intervals of five years commencing in 2013.

1184 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1185 (Prior Charter Section 6.03 Planning and Zoning Board, amended by Res. No. 2000-41,
1186 11-8-00, Election of 11-7-00)

1187 **ARTICLE VII. FINANCE AND TAXATION**

1188 **§ 7.01 State Law applicable.**

1189 Matters pertaining to finance and taxation shall be governed by State law.

1190 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1191 (Prior Charter Section 7.01 State Law applicable, amended by Res. No. 2000-41, 11-8-
1192 00, Election of 11-7-00)

1193 **§ 7.02 Independent audits.**

1194 At the beginning of each calendar year, or as soon thereafter as practical, the
1195 Commission shall designate one or more qualified certified public accountants, who
1196 may be the regular auditors of the Village and who, as of the end of the fiscal year, shall
1197 make an independent audit of accounts and other evidences of financial transaction of
1198 the Village government. They shall submit their report to the Commission no later than
1199 at a regularly scheduled April Commission meeting. A copy of the audit shall be made
1200 available for inspection in the office of the Village Manager. The accountants shall have
1201 no personal interest, direct or indirect, in the fiscal affairs of the Village. Within
1202 specifications approved by the Commission the accountants shall post-audit the books
1203 and documents kept by or under the direction of the Village Manager and any and all
1204 separate or subordinate accounts kept by any other office, department or agency of the
1205 Village government. The Commission may also designate one or more qualified certified
1206 public accountants to conduct special audits at other times, or monthly or continuing
1207 audits as it may consider in the public interest. A copy of such special audits will also be
1208 made available for public inspection.

1209 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1210 (Prior Charter Section 7.02 Independent audits, amended by Res. No. 2000-41, 11-8-
1211 00, Election of 11-7-00)

1212 **§ 7.03 Preparation and submission of budget.**

1213 The Village Manager, at least sixty (60) days prior to the beginning of each fiscal
1214 year, shall submit to the Commission a budget and an explanatory budget message in
1215 the form and with the contents provided by this Charter. For such purpose, he shall
1216 obtain from the head of each office, department or agency of the Village estimates of
1217 revenue and expenditure of that office, department or agency detailed by organization
1218 units and character and object of expenditure, and such other supporting data as he
1219 may request; together with an estimate of all municipal projects pending, or which such
1220 department head believes should be undertaken:

- 1221 A. Within the budget year, and
1222 B. Within the five (5) next succeeding years.

1223 In preparing the budget, the Village Manager shall review and revise the estimates
1224 as he may deem advisable.

- 1225 A. *Budget message.* The budget message submitted by the Village Manager to
1226 the Commission shall be explanatory of the budget, shall contain an outline of
1227 the proposed financial policies of the Village for the fiscal year and shall
1228 describe in connection therewith the important features of the budget plan. It
1229 shall set forth the reasons for salient changes from the previous year in costs
1230 and revenue items and shall explain any proposed major changes in financial
1231 policy.

- 1232 B. *Budget for municipal improvements.* As a part of the budget message, with
 1233 relation to the proposed expenditures for down payments and other proposed
 1234 expenditures for municipal projects stated in the budget, the Village Manager
 1235 shall include a statement of pending municipal projects and proposed new
 1236 municipal projects for the fiscal year and for the five (5) fiscal years succeeding
 1237 that fiscal year, together with his comments thereon and any estimates of costs
 1238 prepared by him or by any other office, department or agency of the Village.
 1239 The budget message shall also detail the prospective amounts for municipal
 1240 projects proposed to be raised by appropriation in the budget and the
 1241 respective amounts, if any, proposed to be raised by the issuance of bonds
 1242 and certificates or notes during the fiscal year or thereafter.
- 1243 C. *Supporting schedules, etc.* Attached to the budget message shall be such
 1244 supporting schedules, exhibits and other explanatory material, in respect to
 1245 both current operations and municipal projects as the Village Manager, shall
 1246 believe to be useful.
- 1247 D. *Scope of budget; contents.* The budget shall provide a complete financial plan
 1248 for the fiscal year. It shall contain in tabular form:
- 1249 1. A general summary;
 - 1250 2. Detailed estimates of all anticipated revenues;
 - 1251 3. Detailed estimates of all proposed expenditures.
- 1252 E. *Anticipated revenues.* In parallel columns opposite the several items of
 1253 anticipated revenues there shall be placed the amount of each item in the
 1254 budget of the current fiscal year and amount actually received to the time of
 1255 preparing the budget, plus receipts for the remainder of the current fiscal year
 1256 estimated as accurately as possible, plus the amount received for each item in
 1257 each of the two (2) prior fiscal years.
- 1258 F. *Proposed expenditures.* In parallel columns opposite the several items of
 1259 proposed expenditures, there shall be placed the amount of each such item in
 1260 the budget of the current year, and the amount actually expended to the time of
 1261 preparing the budget, plus the expenditures for the remainder of the current
 1262 fiscal year estimated as accurately as possible, plus the amounts expended for
 1263 each item in each of the two (2) prior fiscal years.
- 1264 G. *Budget and message to be public record.* The budget and budget message
 1265 and all supporting schedules shall be a public record in the office of the Village
 1266 Clerk open to public inspection.
- 1267 H. *Notice of final budget meeting.* At the meeting of the Commission at which the
 1268 budget and budget message are submitted, the Commission shall determine
 1269 the place and time of the two public hearings and the final meeting on the
 1270 budget and shall cause to be posted on the designated official bulletin board of
 1271 the Village a notice of the places and times not less than ten (10) days prior to
 1272 the dates on which the Commission will hold the meetings.

- 1273 If the budget calls for any increase in taxes by the Village, the Village shall
1274 endeavor to send a notice of the date of the final budget meeting to each
1275 property owner in the Village files and also to those who submit requests to be
1276 so notified. With such notice the anticipated increase of taxes shall also be
1277 mentioned. The Village Manager shall comply with all provisions of state law
1278 relative to procedures in the event of property tax increases.
- 1279 I. *Vote required to adopt.* The final budget and millage rate shall be adopted by
1280 at least three (3) affirmative votes of the Commission.
- 1281 J. *Effective date; certification.* Upon final adoption, the budget shall be in effect
1282 for the fiscal year. A copy of the budget as finally adopted shall be certified by
1283 the Village Manager and shall be available for inspection by any and all
1284 persons in the office of the Village Clerk.
- 1285 K. *Effective date.* From the effective date of the budget, the several amounts
1286 stated therein as proposed expenditures shall be and become appropriate to
1287 the objects and purposes therein named.
- 1288 L. *Adoption.* The Commission shall by resolution adopt the budget on or before
1289 the thirtieth day of September of each year. If it fails to adopt the budget by this
1290 date, the Commission, by resolution, may direct that the amounts appropriated
1291 for current operation for the current fiscal year shall be deemed adopted for the
1292 ensuing fiscal year for a period of thirty (30) days and renewed by resolution
1293 each thirty (30) days with all items in it prorated accordingly, until such time as
1294 the Commission adopts a budget for the ensuing fiscal year. A resolution
1295 adopting an annual budget shall constitute appropriations of the amounts
1296 specified therein as expenditures from the funds indicated.
- 1297 M. *Appropriation amendments during the fiscal year.*
- 1298 1. *Supplemental appropriations.* If during the fiscal year revenues in excess
1299 of those estimated in the budget are available for appropriation, the
1300 Commission, by resolution, may make supplemental appropriations for the
1301 year for projects, activities or undertakings deemed necessary by the
1302 Commission up to the amount of such excess, provided, however, the
1303 resolution to expend such funds receives at least three (3) affirmative
1304 votes of the Commission.
- 1305 2. *Reduction of appropriations.* If at any time during the fiscal year it appears
1306 probable to the Village Manager that the revenues available will be
1307 insufficient to meet the amount appropriated, he shall report to the
1308 Commission without delay, indicating the estimated amount of the deficit,
1309 any remedial action taken by him and his recommendations as to any
1310 other steps to be taken. The Commission shall then take such further
1311 action as it deems necessary to prevent or minimize any deficit and for
1312 that purpose it may by resolution reduce one (1) or more appropriations.

1313 3. *Limitations; effective date.* No appropriation for debt service may be
1314 reduced or transferred, and no appropriation may be reduced below any
1315 amount required by law to be appropriated or by more than the amount of
1316 the unencumbered balance thereof.

1317 The supplemental and emergency appropriations and reduction or transfer of
1318 appropriations authorized by this section may be made effective immediately
1319 upon its adoption by resolution.

1320 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1321 (Prior Charter Section 7.03 Preparation and submission of budget, amended by Res.
1322 No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. L, 8-28-06, Election of
1323 11-7-06)

1324 **§ 7.04 Monthly report of expenditures.**

1325 At the first Commission meeting of each month, the Village Manager shall present a
1326 detailed report of the expenditures for the prior month.

1327 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1328 (Prior Charter Section 7.04 Monthly report of expenditures, amended by Res. No.
1329 regarding 92-23, § 2, 9-15-92, Election of 11-3-92; Res. No. 2000-41, 11-8-00, Election
1330 of 11-7-00)

1331 **§ 7.05 State and county law to apply to taxation.**

1332 The general laws of the State of Florida and the County of Miami-Dade upon the
1333 subject of taxation shall apply to and govern in the assessment, levy and collection of
1334 taxes of the Village and in return and sale of property delinquent therefor and shall also
1335 apply and govern with respect to the powers, duties and liabilities of persons and
1336 property touching and concerning such taxes, and shall have full force and effect in said
1337 Village as far as same may be applicable.

1338 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1339 (Prior Charter Section 7.05 State and county law to apply to taxation, amended by Res.
1340 No. 2000-41, 11-8-00, Election of 11-7-00)

1341 **§ 7.06 Correcting assessments.**

1342 All provisions in the Charter relating to local assessment for special assessments
1343 are directory and any errors, defects or omissions in assessments, levies, sales or
1344 proceedings may be corrected at any time.

1345 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1346 (Prior Charter Section 7.06 Correcting assessments, amended by Res. No. 2000-41,
1347 11-8-00, Election of 11-7-00)

1348 **§ 7.07 Bank depositories.**

1349 A. *Designation.* It shall be the duty of the Commission to designate the bank or banks
1350 to be depositories for the funds of the Village. If there be more than one, the
1351 distribution of the several funds shall be made as directed by the Commission.

1352 B. *Bond or Security* All Village depositories shall furnish such bond or security as
1353 required by State law.

1354 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1355 (Prior Charter Section 7.07 Bank depositories, amended by Res. No. 2000-41, 11-8-00,
1356 Election of 11-7-00)

1357 **ARTICLE VIII. BORROWING FOR MUNICIPAL PROJECTS**

1358 **§ 8.01 State Law applicable.**

1359 Matters pertaining to borrowing for municipal projects shall be governed by State
1360 law.

1361 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1362 (Prior Charter Section 8.01 State Law applicable had no history of amendments.)

1363 **ARTICLE IX. GENERAL PROVISIONS**

1364 **§ 9.01 Right of eminent domain.**

1365 The Village may exercise the right and power of eminent domain; that is, the right to
1366 appropriate property, without the owner's consent, for a public purpose.

1367 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1368 (Prior Charter Section 9.01 Right of eminent domain, amended by Res. No. 2000-41,
1369 11-8-00, Election of 11-7-00)

1370 **§ 9.02 Non-discrimination.**

1371 No person shall be deprived of any right because of race, religion, sex, sexual
1372 orientation, place of origin or physical handicap.

1373 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1374 (Prior Charter Section 9.02 was titled Charter amendments, amended by Res. No.
1375 2000-41, 11-8-00, Election of 11-7-00)

1376 **§ 9.03 Records and accounts to be open to public.**

1377 All public records and accounts of every office, department or agency of the Village
1378 shall be open to inspection as provided by state law.

1379 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1380 (Prior Charter Section 9.03 was titled Non-discrimination, amended by Res. No. 2000-
1381 41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. M, 8-28-06, Election of 11-7-06)

1382 **§ 9.04 Bonds of officers and employees.**

1383 Any officers or employees of the Village who have check signing authority or
1384 access to Village accounts shall post bond in such amount and with such surety as may
1385 be approved by the Commission. The premiums of such bonds shall be paid by the
1386 Village.

1387 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1388 (Prior Charter Section 9.04 was titled Records and accounts to be open to public,
1389 amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

1390 **§ 9.05 Oath of office/employment.**

1391 Every officer and employee of the Village shall, before entering upon the duties of
1392 his office, take and subscribe to the following oath or affirmation, to be filed and kept in
1393 the office of the Village Clerk:

1394 I _____, a legal resident of the State of Florida, and being employed by or an
1395 officer of North Bay Village, Florida and a recipient of public funds as such
1396 employee or officer, do hereby solemnly swear or affirm that I will support and obey
1397 the Constitution and the laws of the United States and of the State of Florida, and
1398 that I will, in all respects, observe the provisions of the Charter and Ordinances of
1399 the Village.

1400 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1401 (Prior Charter Section 9.05 was titled Bonds of officers and employees, amended by
1402 Res. No. 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12,
1403 Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

1404 **§ 9.06 Scope of authority.**

1405 The Village is hereby authorized and empowered in the manner herein provided to
1406 cause any waterway within said Village to be bulkheaded; to cause groins or jetties to
1407 be constructed along the shore to protect the land area from the effects of tides and
1408 winds; to cause boardwalks or other walls or seawalls to be constructed in its public
1409 parks and upon or along any property of said Village, or in which it has a perpetual
1410 easement, or which is dedicated to said Village or the public along or near the shore; to
1411 cause any and all highways, by whatever designation they may be known, or any part
1412 thereof, to be lighted, graded, paved, repaved, macadamized and to cause curbs and
1413 gutters to be constructed thereupon, and sanitary sewers, storm sewers and other
1414 drains to be laid or constructed in any such highway, or part thereof, and/or in any right-
1415 of-way or easement granted to or acquired by said Village or any dedicated way, and to
1416 provide for the payment of the cost thereof through special assessments.

1417 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1418 (Prior Charter Section 9.06 was titled Oath of office/employment, amended by Res. No.
1419 2000-41, 11-8-00, Election of 11-7-00; Res. No. 2012-25, § 2, 7-10-12, Election of 11-6-
1420 12; Res. No. 2012-56, § 4, 11-16-12)

1421 **§ 9.07 North Bay Island zoning- Single Family Property**

1422 Land use and future development of single family properties North Bay Island in the
1423 Village is hereby restricted to single family residential usage.

1424 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1425 (Prior Charter Section 9.07 was titled Scope of authority, amended by Res. No. 2000-
1426 41, 11-8-00, Election of 11-7-00)

1427 **§ 9.08 Reserved. Advertisement and notice by publication on publicly accessible**
1428 **website.**

1429 Notwithstanding any provision to the contrary, wherever in this Charter an
1430 advertisement or notice is required to be published in a newspaper of general circulation
1431 or other print publication, such advertisement or notice may alternatively be provided on
1432 a publicly accessible website, as permitted by chapter 50, Florida Statutes, as may be
1433 amended from time to time, provided that:

1434 (A) The cost of providing advertisements and public notices on such website is less than
1435 the cost of publishing advertisements and public notices in a newspaper;

1436 (B) Publication on such website conforms with the requirements of section 50.0311,
1437 Florida Statutes, as may be amended from time to time; and

1438 (C) Publication on such website is made within the applicable time frame required by
1439 this Charter for the respective advertisement or notice, and includes all information
1440 required by the respective Charter provisions.

1441 (Prior Charter Section 9.08 was titled North Bay Island zoning, amended by Res. No.
1442 2000-41, 11-8-00, Election of 11-7-00)

1443 **§ 9.09 Insurance benefits for elected officials and the Village Manager.**

1444 North Bay Village shall not pay life, health and/or dental insurance benefits for the
1445 elected Village officials and/or their family dependents without prior approval by the
1446 electorate at a referendum.

1447 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1448 (Prior Charter Section 9.09 Insurance benefits for elected officials and the Village
1449 Manager, amended by Res. No. R91-28, § 2, 9-16-91, Election of 11-12-91; Res. No.
1450 2000-41, 11-8-00, Election of 11-7-00)

1451 **§ 9.10 Retirement System.**

1452 The Commission may establish and create by ordinance a retirement system for
1453 any or all groups of officers, agents or employees of the Village.

1454 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1455 (Prior Charter Section 9.10 Retirement System, amended by Res. No. 2000-41, 11-8-
1456 00, Election of 11-7-00)

1457 **§ 9.11 Nepotism.**

1458 No person related up to the second degree of consanguinity or affinity to an elected
1459 or appointed Village official (department head and above) shall be eligible to hold a
1460 remunerative position with the Village. Any appointed Village official who shall
1461 knowingly make such an appointment may be deemed guilty of misfeasance or
1462 malfeasance in office and subject to removal. The person so employed may be subject
1463 to dismissal. This provision may be waived during conditions deemed as emergencies
1464 by the Village Commission.

1465 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1466 (There was no prior Section 9.11 in previous Charter.)

1467 **§ 9.12 Conflict of interest.**

1468 Appointed officials and employees shall comply with applicable conflict of interest
1469 laws, including Florida Statutes Chapter 112, Part 3, as well as Miami-Dade County
1470 Code § 2-11.1.

1471 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1472 (There was no prior Section 9.12 in previous Charter.)

1473 **§ 9.13 Violation.**

1474 Village officials and employees shall follow the provisions of this Charter.

1475 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1476 (There was no prior Section 9.13 in previous Charter.)

1477 **ARTICLE X. CHARTER AMENDMENTS AND TRANSITION**

1478 **§ 10.01 Revision provision.**

1479 A. This Charter of the Village must be reviewed six (6) years from November 8, 2000
1480 and each sixth year thereafter by an Advisory Charter Review Board Appointed by
1481 the Commission with a minimum of five (5) members with at least one (1)
1482 representative from each island; any proposed revisions to the Charter must meet
1483 the approval of the qualified electors of the Village at an election to be held at the
1484 same time as the regularly scheduled municipal Commission election immediately
1485 following each sixth year Charter review.

1486 ~~B. It shall be the duty of the Planning and Zoning Board, in cooperation with the~~
1487 ~~Village Attorney, to continuously review the provisions of the zoning regulations, the~~
1488 ~~Comprehensive Master Plan and the Zoning District Map and offer~~

1489 ~~recommendations for the improvement thereof to the Village Commission at~~
1490 ~~maximum intervals of five years commencing in 2013.~~

1491 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1492 (The prior Charter Section 10.01 was titled Title of Charter and there was no history of
1493 amendments.)

1494 **§ 10.02 Charter amendments.**

1495 A. Except with regard to Charter provisions concerning municipal boundaries, North
1496 Bay Village may adopt, amend, or revoke its Charter or abolish its existence in the
1497 following manner: The Village Commission shall, within one hundred twenty (120)
1498 days after adopting a resolution or after the certification of a petition of ten (10%)
1499 percent of the qualified electors of the municipality, draft or have drafted by a
1500 method determined by a North Bay Village ordinance, a proposed charter
1501 amendment, revocation, or abolition which shall be submitted to the electors of
1502 North Bay Village. Unless an election occurs not less than sixty (60), nor more than
1503 one hundred twenty (120) days after the draft is submitted, the proposal shall be
1504 submitted at a special election within that time. No less than thirty (30) days prior to
1505 such election the Village Clerk shall make available a copy of the proposed
1506 amendment for examination.

1507 B. Upon adoption of an amendment to the Charter of the Village by a majority of the
1508 electors voting in a referendum upon such amendment, the Commissioners shall
1509 have the amendment incorporated into the Charter and shall file the revised
1510 Charter with the Department of State of the State of Florida, at which time the
1511 revised Charter shall take effect.

1512 C. The Village may, by ordinance and without referendum, redefine its boundaries to
1513 include only those lands previously annexed and shall file said redefinition with the
1514 Department of State of the State of Florida pursuant to the provision of section B.

1515 D. The Village, by unanimous vote of the Commission, may abolish municipal
1516 departments provided for in this Charter and amend provisions or language out of
1517 the Charter which has been judicially construed to be contrary to either the state or
1518 federal constitution.

1519 E. Any provision of the Charter which conflicts with any federal, state or county law
1520 shall automatically be changed to conform to such federal, state or county law.

1521 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1522 (The prior Charter Section 10.02 was titled Effective date, amended by Res. No. 2000-
1523 41, 11-8-00, Election of 11-7-00; Res. No. 2006-45, Pt. N, 8-28-06, Election of 11-7-06)

1524 **§ 10.03 Ordinances and state and county law unimpaired.**

1525 Nothing in this Charter shall be so construed as to alter, abolish, affect or amend
1526 the following: (1) Any of the laws of this state now in force or which hereafter (shall) be
1527 enacted relative to towns and cities of the state, incorporated under the general law; or

1528 (2) any of the laws of Miami-Dade County; (3) any of the ordinances of the Village, now
1529 in force under the municipal government of the Village, except for those that are in
1530 conflict with the provisions of this Charter, and these conflicting ordinances are hereby
1531 repealed. All such state and county laws and all nonconflicting ordinances of the Village
1532 are hereby declared to be in full force and effect.

1533 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1534 (Prior Charter Section 10.03 Ordinances and state and county law unimpaired,
1535 amended by Res. No. 2000-41, 11-8-00, Election of 11-7-00)

1536 **§ 10.04 Rights and privileges of officers, etc., not impaired.**

1537 Nothing contained in this Charter, except as specifically provided, shall affect or
1538 impair the rights or privileges of any officer or employee of the Village or of any office,
1539 department or agency existing at the time when this Charter shall take effect, or any
1540 provision of law in force at the time when this Charter shall take effect and not
1541 inconsistent with the provisions of this Charter, in relation to the duties, responsibilities
1542 and emoluments of officers and employees of the Village. This provision shall not be
1543 construed to vest in any officer or employee any right or rights not specifically vested
1544 herein.

1545 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1546 (The prior Charter Section 10.04 Rights and privileges of officers, etc., not impaired, has
1547 no history of amendments.)

1548 **§ 10.05 Pending matters.**

1549 All rights, claims, actions, orders, contracts and legal or administrative proceedings
1550 involving the Village shall continue in accordance with their terms and, to the extent
1551 applicable, the Charter of the Village as in existence at the time of their occurrence or
1552 imposition, as applicable.

1553 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1554 (Prior Charter Section 10.05 Pending matters, amended by Res. No. 2000-41, 11-8-00,
1555 Election of 11-7-00)

1556 **§ 10.06 Contracts and public improvements.**

1557 All contracts entered into by the Village, or for its benefit, prior to the taking effect of
1558 this Charter, shall continue in full force and effect. Public improvements for which
1559 legislative steps have been taken under laws or Charter provisions existing at the time
1560 this Charter takes effect may be carried to completion as nearly as practicable in
1561 accordance with the provisions of such existing laws and Charter provisions.

1562 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1563 (Prior Charter Section 10.06 Contracts and public improvements has no history of
1564 amendments.)

1565 **§ 10.07 Pending suits and proceedings not affected.**

1566 No action or proceeding, civil or criminal, pending at the time when this Charter
1567 shall take effect, brought by or against the Village or any office, department or agency
1568 or officer thereof, shall be affected or abated by the adoption of this Charter or by
1569 anything herein contained.

1570 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1571 (Prior Charter Section 10.07 Pending suits and proceedings not affected has no history
1572 of amendments.)

1573 **§ 10.08 Former acts confirmed.**

1574 All acts and proceedings of the various officers and employees of the Village before
1575 the approval of this Charter are hereby approved, confirmed and validated as of the
1576 dates the same were made or done.

1577 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1578 (Prior Charter Section 10.08 Former acts confirmed, amended by Res. No. 2000-41, 11-
1579 8-00, Election of 11-7-00)

1580 **§ 10.09 Continuations of existing laws.**

1581 Insofar as the provisions of this Charter are the same in terms or in substance and
1582 effect as provisions of law in force when this Charter shall take effect, relating to or
1583 affecting the Village, the provisions of this Charter are intended to be not a new
1584 enactment but a continuation of such provisions of law and this Charter shall be so
1585 construed and applied.

1586 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1587 (Prior Charter Section 10.09 Continuations of existing laws, amended by Res. No. 2000-
1588 41, 11-8-00, Election of 11-7-00)

1589 **§ 10.10 Transition ordinances.**

1590 The Commission shall adopt ordinances and resolutions required to effect the
1591 transition. Ordinances adopted within sixty (60) days of the first Commission meeting
1592 under this Charter for the purpose of facilitating the transition may be passed as
1593 emergency ordinances following the procedures in Article III except that transition
1594 ordinances shall be effective for up to ninety (90) days after enactment. Thereafter such
1595 ordinances may be readopted, renewed or otherwise continued only in the manner
1596 prescribed for normal ordinances in Article III.

1597 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1598 (Prior Charter Section 10.10 Transition ordinances has no history of amendments.)

1599 **§ 10.11 Resolving conflicts within charter.**

1600 Should there be a conflict or apparent conflict in the provisions of any one section
1601 of this Charter or between two (2) or more sections thereof, then the Village Attorney
1602 shall resolve such conflict or apparent conflict by a written ruling which shall be legal
1603 and binding unless invalidated by a court of competent jurisdiction.

1604 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1605 (Prior Charter Section 10.11 Resolving conflicts within charter, amended by Res. No.
1606 2000-41, 11-8-00, Election of 11-7-00)

1607 **§ 10.12 Severability clause.**

1608 If any section or part of section of this Charter shall be held invalid by a court of
1609 competent jurisdiction, such holding shall not affect the remainder of this Charter nor the
1610 context in which such section or part of section so held invalid may appear, except to
1611 the extent that an entire section or part of section may be inseparably connected in
1612 meaning and effect with the section or part of section to which such holding shall
1613 directly apply.

1614 (Res. No. 2018-75 , § 2, 7-30-18, election of 11-6-18)

1615 (Prior Charter Section 10.12 Severability clause, amended by Res. No. 2000-41, 11-8-
1616 00, Election of 11-7-00)

1617 (Prior Charter Section 10.13 was titled Revision provision, amended by (Res. No. 2000-
1618 41, 11-8-00, Election of 11-7-00; Res. No. 2004-36, 7-13-04, Election of 11-2-04; Res.
1619 No. 2006-45, Pt. O, 8-28-06, Election of 11-7-06; Res. No. 2012-25, § 2, 7-10-12,
1620 Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)

1621 (Prior Charter Section 10.14 was titled Violation, amended by (Res. No. 2012-25, § 2, 7-
1622 10-12, Election of 11-6-12; Res. No. 2012-56, § 4, 11-16-12)