



# North Bay Village

**OFFICIAL AGENDA**  
**ADDENDUM NO. 1**  
**REGULAR VILLAGE COMMISSION MEETING**  
**VILLAGE HALL**  
**TUESDAY, JULY 9, 2019**  
**6:30 P.M.**

*Disruptive behavior. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. No signs or placards shall be allowed in the Commission chamber. Persons exiting the Commission chamber shall do so quietly. No person other than the person having the floor shall be permitted to enter into any discussion, either directly or through a member of the Commission, without permission of the presiding officer. No questions shall be asked of a commission member, except through the presiding officer. The presiding officer or the parliamentarian may order the removal of any person interfering with the commission meeting; providing such officer has first issued a warning that continued interference of the orderly process of the meeting will result in removal.*

*Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Village Clerk prior to engaging in lobbying activities per Village Code Sec. 38.17 - "Lobbying" means all employees, persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) any ordinance, resolution, action or decision of the Village Commission; (2) any action, decision, recommendation of any Village board or committee; or (3) any action, decision or recommendation of Village personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed by the Village Commission, or a Village board or committee. "Lobbyist" specifically includes the principal, as well as any agent, officer or employee of a principal, regardless of whether the lobbying activities fall within the normal scope of employment of the agent, officer or employee. The term "lobbyist" specifically excludes the following persons: lobbyists hired by the Village who are communication with Village personnel in the course of performing under their contracts; attorneys or other representatives retained to represent individuals and corporate entities in quasi-judicial proceedings where the law prohibits ex-parte communications; expert witnesses who only provide scientific, technical or other specialized information or testimony at public meetings; employees of the principal who do not engage in lobbying activities and representatives of non-profit organizations who only appear at publicly noticed meetings, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support or opposition to any item.*

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## **1. Opening Items**

### **A. Call to Order**

### **B. Roll Call**

### **C. Pledge of Allegiance**

### **D. Invocation**

## **2. Order of Business**

## **3. Presentations**

### **A. Proclamations and Awards**

1. **National Caribbean-American Heritage Month Proclamation to Vice Mayor Wilmoth** – *Sponsored by Mayor Latham*
2. **Award for Outstanding Services to Detective Manuel Casais and Detective Steve Brent** – *Sponsored by Chief of Police Carlos Noriega*
- B. Special Presentations to Commission**
  1. **Safe Haven for Newborns Presentation by Nick E. Silverio, Founder** – *Sponsored by Commissioner Strout*
4. **Open Forum**
5. **Approval of Commission Minutes**
  - A. **January 8, 2019 Regular Village Commission Meeting**
  - B. **April 29, 2019 Executive Session – Forfeiture Matter**
  - C. **April 29, 2019 Executive Session - Noriega v. NBV**
6. **Grant Writer’s Written Report**
7. **Advisory Board Minutes/Written Reports**
  - A. **Animal Control Advisory Board**
    - i. Chair Cecilia Veloz
  - B. **Business Development Advisory Board**
    - i. Chair Timothy Dennis
  - C. **Citizens Budget & Oversight Board**
    - i. Vice Chair James Rosenberg
  - D. **Community Enhancement Board**
    - i. Vice Chair Ana Rivera
  - E. **Planning & Zoning Board**
    - i. Chair Bud Farrey
  - F. **Resident Services Board**
    - i. Chair Indira Dejtiar
  - G. **Sustainability and Resiliency Task Force**
    - i. Chair Denise O’Brien
8. **Village Commission’s Report**
9. **Village Attorney’s Report**

## 10. Village Manager's Report

### A. 2019 Projects Progress Report

## 11. Consent Agenda

*Matters on the Consent Agenda are self-explanatory and are not expected to require discussion or review. Items will be adopted by one motion. If discussion is desired by any member of the Commission, that item must be removed from the Consent Agenda and will be considered separately.*

### A. Staff/Commission Items

#### 1. Nurse Enhancement Initiative – *Sponsored by Dr. Ralph Rosado, Village Manager*

**A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING ITS PROPORTIONATE SHARE OF FUNDING FOR A SCHOOL REGISTERED NURSE FOR TREASURE ISLAND ELEMENTARY SCHOOL; BUDGETING AND APPROPRIATING FUNDS; AUTHORIZING THE EXPENDITURE OF BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER RALPH ROSADO)**

#### 2. Approving the Village's Participation in Monthly Bingo Events – *Sponsored by Commissioner Strout*

**A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE VILLAGE'S PARTICIPATION IN MONTHLY SENIOR CITIZENS BINGO NIGHTS EVENTS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE**

#### 3. Memorandum of Understanding between North Bay Village Police Department and Florida Department of Law Enforcement – *Carlos Noriega, Police Chief*

### B. Proclamation/Award/Village Key Requests

## 12. Discussion/Action Items

### A. Unfinished Business

### B. New Business

#### 1. Dog Park Design/Bid Award Services (Village Hall Vacant Site) - *Dr. Ralph Rosado, Village Manager*

#### 2. Treasure Island Community Park - *Sponsored by Mayor Latham*

#### 3. Resolution on Immigrant Child Detention Center in Homestead - *Sponsored by Mayor Latham*

#### 4. Discussion Regarding Interactions with Advisory Boards - *Sponsored by Mayor Latham*

5. **Award of Contract for RFP No. 2019-003 Auditing Services - Bert Wrains, Finance Director**
6. **FPL Vault Removal at Sakura Property - Jose Olivo, Public Works Director**
7. **Parking Study for Harbor Island and East Treasure Drive - Jose Olivo, Public Works Director**
8. **Short-Term Vacation Rental Application Appeal of Denial - 7700 Miami View Drive - Dr. Ralph Rosado, Interim Village Manager**
9. **Animal Control Advisory Board - Feeding Registry – Dr. Ralph Rosado, Village Manager**

**A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, MODIFYING THE COMMUNITY CAT-FEEDING PROGRAM; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE**

- 10. RFP No. 2019-004 – Electric Scooter Share Pilot Program – Dr. Ralph Rosado, Village Manger**

**13. First Reading of Ordinances**

*Please be advised that if you wish to comment upon any of these quasi-judicial items, please inform the Mayor when public comment is open. An opportunity for persons to speak on each item will be made available after the applicant and staffs have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse to be cross-examined or sworn-in, your testimony will be given its due weight. The general public will not be permitted to cross-examine witnesses, but the public may request the Commission ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. Further, details of the quasi-judicial procedures may be obtained from the Village Clerk.*

**A. ULDC Revision to Fence Standards – LaRue Planning**

**AN ORDINANCE OF NORTH BAY VILLAGE FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE; AMENDING SECTION 8.16(F); CLARIFYING THAT FENCES ON CORNER LOTS SHALL NOT EXCEED 5 FEET IN HEIGHT IN BOTH YARDS WITH STREET FRONTAGE, SETTING A MINIMUM WIDTH FOR REQUIRED LANDSCAPING; ALLOWING FOR GOVERNMENT USES TO CONSTRUCT SAFE AND COMPATIBLE FENCES, WALLS AND HEDGES; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**B. ULDC Revision to Coastal Construction Standards – LaRue Planning**

**AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING SECTION 9.12 OF THE UNIFIED LAND DEVELOPMENT CODE, ENTITLED, “COASTAL CONSTRUCTION WITHIN BISCAYNE BAY (NORTH BAY VILLAGE APPROVAL),” BY EXPANDING CRITERIA FOR ADMINISTRATIVE APPROVAL FOR THE CONSTRUCTION OF CERTAIN DOCKS, PIERS, AND/OR SIMILAR STRUCTURES; BY**

**CREATING A VARIANCE PROCESS TO PROVIDE RELEIF FROM THE STRICT ENFORCEMENT OF SECTION 9.12; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**C. Amending the Unified Land Development Code – *LaRue Planning***

**AN ORDINANCE OF NORTH BAY VILLAGE FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE; MODIFYING SECTION 8.12 BY CLARIFYING THE BONUS HEIGHT REVIEW CRITERIA, CHANGING WHEN BONUS FEES ARE REQUIRED TO BE PAID, AND PROVIDING FOR THE REFUND OF BONUS HEIGHT FEES UPON SITE PLAN EXPIRATION; CREATING A NEW SECTION 8.15 REQUIRING DEVELOPMENT AGREEMENTS FOR PROJECTS SEEKING BONUS DENSITY, BONUS HEIGHT, AND/OR TRANSFER OF DEVELOPMENT RIGHTS APPROVAL(S); AMENDING SECTION 9.3 BY ALLOWING PARKING SPACES CREATED BY MECHANICAL PARKING LIFTS TO COUNT TOWARDS THE TOTAL NUMBER OF REQUIRED PARKING SPACES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**D. Single-Use Plastic Prohibition – *Sponsored by Vice Mayor Wilmoth***

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING TITLE IX “GENERAL REGULATIONS,” BY CREATING CHAPTER 102, “PROHIBITION ON USE, DISTRIBUTION OR SALE OF SINGLE-USE PLASTICS”; AMENDING CHAPTER 153, “CODE ENFORCEMENT,” BY REVISING SECTION 153.04, “SCHEDULE OF CIVIL PENALTIES” TO CREATE RELATED PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**E. Florida Friendly Fertilizer – *Sponsored by Vice Mayor Wilmoth***

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, MODIFYING THE VILLAGE CODE OF ORDINANCES BY CREATING CHAPTER 102, “USE OF FLORIDA-FRIENDLY FERTILIZERS,” PERMITTING FOR CERTAIN TYPES OF, AND THE MANNERS BY WHICH, FERTILIZERS CAN BE USED IN THE COMMUNITY; PROVIDING FOR LICENSING, TRAINING, ENFORCEMENT, AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**F. Animal Control Advisory Board – Household Cat Limit**

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING SECTION 91.12 OF THE VILLAGE CODE OF ORDINANCES TO RESTRICT THE MAXIMUM NUMBER OF CATS PERMITTED AND PROHIBITING THE FEEDING OF FERAL ANIMALS EXCEPT THROUGH A VILLAGE FEEDER PROGRAM; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**G. Creation of Code for Motorized Scooters**

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCE BY CREATING CHAPTER 74, “SHARED MOBILITY DEVICES”; AUTHORIZING OPERATION OF SHARED MOBILITY DEVICES ON CERTAIN VILLAGE RIGHTS-OF-WAY; PROVIDING FOR REGULATIONS FOR SAME; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**14. Public Hearings**

*Please be advised that if you wish to comment upon any of these quasi-judicial items, please inform the Mayor during public comments. An opportunity for persons to speak on each item will be made available after the applicant and staff have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse to be cross-examined or sworn-in, your testimony will be given its due weight. The general public will not be permitted to cross-examine witnesses, but the public may request the Commission ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. Further, details of the quasi-judicial procedures may be obtained from the Village Clerk.*

**A. Short-Term Vacation Rentals – Sponsored by Mayor Brent Latham and Co-Sponsored by Commissioner Jose Alvarez**

**AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE VILLAGE UNIFIED LAND DEVELOPMENT BY MODIFYING CHAPTER 13, “VACATION RENTAL LICENSE PROGRAM,” INTENSIFYING NOTICE, APPLICATION REQUIREMENTS AND CODE VIOLATION PENALTIES FOR VACATION RENTALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**B. Schonberger Tot Lot Park Age Restrictions – Sponsored by Mayor Latham and Co-Sponsored by Commissioner Jackson**

**AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES BY REVISING SECTION 97.11, “TODDLER PARK,” TO CHANGE THE MAXIMUM AGE OF CHILDREN ABLE TO UTILIZE THE PARK; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR**

**INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**C. Dock Waiver at 7937 West Drive - *LaRue Planning***

**AN APPLICATION BY NAFDOF NBVMF LLC, CONCERNING PROPERTY AT 7937 WEST DRIVE, HARBOR ISLAND, NORTH BAY VILLAGE, FLORIDA, FOR A WAIVER, PURSUANT TO SECTION 9.12(B) OF THE VILLAGE UNIFIED LAND DEVELOPMENT CODE, FOR THE CONSTRUCTION OF A DOCK WHICH WILL EXTEND BEYOND THE D-5 TRIANGLE AND BEYOND 25 FEET FROM THE SEAWALL; PROVIDING FINDINGS, PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**15. Adjournment**

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

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

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

TWO OR MORE MEMBERS OF OTHER VILLAGE BOARDS/COMMITTEES MAY ATTEND THIS MEETING.



## North Bay Village Recommendation Memorandum

**DATE:** July 09, 2019

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

**FROM:** Village Manager Dr. Ralph Rosado

**SUBJECT:** RFP #2019-004 - Electric Scooter Share Pilot Program

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### **RECOMMENDATION**

To advertise the solicitation of an Electric Scooter Share Pilot Program and enter into an exclusive Memorandum of Understanding (MOU) for a six (6) month period with the option of two additional six (6) month extensions.

### **BACKGROUND AND ANALYSIS**

North Bay Village has had discussions with operators of motorized scooters. Staff has researched several competitive solicitations for various municipalities providing an Shared Electric Scooter program and is presenting what is believed to fit the Village's needs best.

### **FINANCIAL/BUDGETARY IMPACT (Finance Dept.)**

Budgetary impacts are difficult to determine at this time. It will need to be determined whether existing public works staff, vehicles and facilities can presently accommodate the enforcement of this program. The solicitation also calls for the proposers to detail what revenue sharing opportunities with the Village are possible to offset those costs.

### **PERSONNEL IMPACT**

Staff time could be incurred in the administration and enforcement of a motorized scooter program.

- The Village Attorney must ensure that the operator memorandum of understanding agreement is satisfactory.
- Code enforcement must monitor the program and issue citations, as appropriate.
- Maintenance staff must ensure that scooters are not left in improper areas and, if need be, transport the scooters to an impoundment area. This could create personnel costs for the village if the operator is not timely in maintaining their scooters in proper places.





## North Bay Village Recommendation Memorandum

**DATE:** July 09, 2019

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

**FROM:** Village Manager Dr. Ralph Rosado

**SUBJECT:** Creation of Code for Motorized Scooters

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### **RECOMMENDATION**

Staff is recommending consideration of the following revision to the Village Code, which provides for regulation of and licensing of motorized scooter operations within Village boundaries.

### **BACKGROUND AND ANALYSIS**

North Bay Village has had discussions with operators of motorized scooters. The Village will benefit from providing increased mobility options for residents and visitors. Staff has researched codes from other nearby jurisdictions and is presenting what is believed to best fit the Village's needs.

### **FINANCIAL/ BUDGETARY IMPACT (Finance Dept.)**

Budgetary impacts are difficult to determine at this time. It will need to be determined whether existing public works staff, vehicles and facilities can presently accommodate the enforcement of this program.

### **PERSONNEL IMPACT**

Staff time could be incurred in the administration and enforcement of a motorized scooter program.

- The Village Attorney must ensure that the operator memorandum of understanding agreement is satisfactory.
- Code enforcement must monitor the program and issue citations, as appropriate.
- Maintenance staff must ensure that scooters are not left in improper areas and, if need be, transport the scooters to an impoundment area. This could create personnel costs for the village if the operator is not timely in maintaining their scooters in proper places.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCE BY CREATING CHAPTER 74, "SHARED MOBILITY DEVICES"; AUTHORIZING OPERATION OF SHARED MOBILITY DEVICES ON CERTAIN VILLAGE RIGHTS-OF-WAY; PROVIDING FOR REGULATIONS FOR SAME; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the Commission of North Bay Village (the "Village") wishes to allow the use of motorized scooters, on certain Village rights-of-way within the Village; and

**WHEREAS**, Florida Statutes §§ 316.008(7)(a) and 316.2128 allows a municipality to permit, control, and regulate the operation of motorized scooters on certain rights-of-way within the municipality; and

**WHEREAS**, the Mayor and Commission believe that adopting reasonable regulations for the safe use of share mobility devices is the best interest of the Village.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

**Section 2. Village Code Amended.** The Code of Ordinance of North Bay Village is hereby amended as follows:

Chapter 74 - Shared Mobility Devises

§ 74.01- Definitions

For purposes of this article, the following definitions apply:

Deploy means the initial daily staging of a shared mobility device by an operator on designated areas of Village right-of-way.

Motorized scooter means as defined in F.S. § 316.003, and includes gas and motorized scooters or any combination of the two such as a hybrid scooter. Motorized scooter(s) is further defined as a device, with an electric motor, designed to transport only one person, exclusively or in combination with the application of human power, which cannot attain a speed of more than 15 miles per hour on a level surface.

Operator means a company deploying shared mobility devices within the Village.

Rebalance means moving shared mobility devices from an area of low demand to an area of high demand, or to return to designated areas of deployment.

Shared mobility device means an individual device including, but not limited to, motorized or electronic scooters, bicycles, and other similar devices, but does not include motor vehicles used in conjunction with ride sharing companies.

Shared mobility device program means a program generally, in which mobility devices, including, but not limited to, bicycles and motorized scooters, are made available for shared use to individuals on a short-term basis at no cost or for a fee.

#### § 74.02 - Operation of a shared mobility device program—Penalties and impoundment.

(A) No operator shall display, offer, or make available for rent any shared mobility device within the Village, unless the person has a valid fully executed memorandum of understanding with the Village or has obtained approval from the Village through an established process.

(B) If two or more shared mobility devices from an operator without a valid memorandum of understanding with the Village are found at a particular location within the Village it will be presumed that they have deployed by that operator, and it will be presumed that the operator is in violation of this section.

(C) A violation of this section shall be considered a code enforcement violation and is punishable by a fine of \$500.00 per instance. Each day an operator has shared mobility devices in the Village in violation of this section shall be considered a separate instance and a separate violation of this section.

(D) Impoundment. A shared mobility device that is displayed, offered, made available for rent by an operator operating without a valid memorandum of understanding with the Village, or a device abandoned on the Village rights-of-way or private property without permission by a user of the device shall be subject to

immediate impoundment by the Village. In order to retrieve any impounded shared mobility device an individual or entity shall demonstrate proper proof of ownership and pay a \$50.00 impoundment fee per device reflecting the Village's enforcement, investigation, storage, and impound costs.

(E) The Village manager, or his or her designee, reserves the right to eliminate any and all shared mobility device programs, at any time, for any reason. The Village manager may also terminate any memorandum of understanding or operating agreement in accordance with the terms of those agreements if there is a violation of this chapter, the terms of the memorandum of understanding, any applicable law, for public health, safety, or general welfare concerns, or for convenience.

(F) The Village is under no obligation to allow any operators to operate shared mobility device programs in the Village.

#### § 74.02 - Motorized scooters on sidewalks.

The riding of motorized scooters, as defined in this article, is not permissible upon sidewalks located within the Village. Motorized scooters shall be restricted to a maximum speed of 15 miles per hour in such areas where riding is permitted.

#### § 74.03 - Operation of a shared mobility device program—Motorized scooter authorized program requirements.

##### (A) *Program requirements.*

(1) A maximum of 50 motorized scooters, deployed among one or more operators, shall be allowed in the Village at one time. The Village manager, at his or her discretion, reserves the right to modify the total number of motorized scooters permitted to operate within Village limits at any time and for any reason.

(2) The Village may allow operators to increase their fleet size only if operator's usage data demonstrates the need to increase the fleet size.

(3) Notwithstanding subsections (1) and (2), the Village retains the right to require operators to reduce their fleet size or cease operations in the event that operators repeatedly fail to timely rebalance or remove vehicles blocking the right-of-way or to timely respond to complaints received by the Village.

(4) The Village shall approve all deployment locations.

(5) Operators shall designate two local operations staff persons who will be responsible for fielding complaints, addressing technical difficulties, coordinating the rebalancing and removal of motorized scooters parked illegally, and providing public education.

(6) Each motorized scooter shall prominently display the name of the operator and contact information for a 24-hour customer service number for customers and citizens to report safety concerns, make complaints, ask questions, or request that a motorized scooter(s) be relocated.

(7) Operators shall rebalance, remove, and/or relocate motorized scooters within three hours of receiving notification from the Village.

(8) Any motorized scooter staged in the same location, without being operated, for more than 12 hours shall be relocated by the operator.

(9) Motorized scooters shall be well maintained and in good operating condition, with operating front and rear lights, as well as an operating audible signal, and any motorized scooter that is removed due to maintenance or safety issues shall be repaired before being returned to service.

(10) Motorized scooters shall be rebalanced on a daily basis.

(11) Motorized scooters shall not display any third-party advertising.

(12) Operators shall have the sole responsibility to educate persons riding motorized scooters regarding the rules, regulations, and laws applicable to riding, operating, and parking a motorized scooter. An operator's mobile application shall provide information notifying users:

a. Where motorized scooters may be legally ridden;

b. That motorized scooters are to be operated at a person's own risk, and that no representation has been made by the Village as to the condition of any Village rights-of-way;

c. That motorized scooter users shall at all times yield to pedestrians and shall give an audible signal before overtaking and passing such pedestrian; and

d. That the use of helmets while operating a motorized scooter is strongly encouraged.

(13) Operators shall not place or attach any fixtures, structures, or personal property, other than a motorized scooter, in the public right-of-way without the written permission of the Village manager or his or her designee.

(14) In the event a hurricane watch for the North Bay Village area, or Miami-Dade County, is issued, or upon request of the Village manager or the manager's designee, operator shall remove all vehicles from Village rights-of-way within the Village within 12 hours of the issuance of the watch or notification by the Village.

(15) No one under the age of 18 shall operate a motorized scooter.

(16) The Village may, at any time, require the operator to require confirmation of a user's valid driver's license prior to operation of a motorized scooter.

(17) If the Village incurs a cost in addressing or abating any violation of this section or article, or incurs any cost of repair or maintenance of any public property resulting from the use of the motorized scooters, the operator shall reimburse the Village for the full cost within 30 days of receiving written notification from the Village.

(B) *Insurance requirements.*

(1) An operator shall procure and keep in full force and effect no less than the insurance coverage required by this section through a policy or policies written by an insurance company or companies authorized to do business in Florida, who are rated A-(V) or better per A.M. Best's Key Rating Guide.

(2) The insured provisions of the policy or policies shall list the Village indemnitees as additional insureds on a primary and non-contributory basis and the coverage provisions shall provide coverage for any loss or damage that may arise to any person or property by reason of the operation of a motorized scooter.

(3) An operator shall maintain the following insurance coverages:

(a) Workers Compensation subject to the statutory limits of the State of Florida, with a waiver of subrogation in favor of North Bay Village.

(b) Commercial general liability and right-of-way damage insurance in an amount not less than \$1,000,000.00 combined single limit per occurrence, \$2,000,000.00 annual aggregate, for bodily injury, property damage, products, completed operations, and contractual liability coverage, with North Bay Village being added as an additional insured on a primary and non-contributory basis, with a waiver of subrogation in favor of North Bay Village.

(c) Comprehensive automobile insurance in an amount not less than \$1,000,000.00 per occurrence for bodily injury (including death) and property damage including coverage for owned and non-owned vehicles, including motorized scooters, with North Bay Village being added as an additional insured on a primary and non-contributory basis, with a waiver of subrogation in favor of North Bay Village.

(C) *Indemnification.* Operators shall indemnify, defend, and hold harmless the Village, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including, but not limited to, fees and charges of attorneys and other professionals and court and arbitration costs) that the Village may incur as a result of claims, demands, suits, causes of actions, or proceeding of any kind or nature including, but not limited to, personal injury or wrongful death, property loss or damage, the conditions and features on all Village rights-of-way, to the extent arising out of or in any way connected with the operation of the motorized scooter program or use of a motorized scooter. Operators shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the Village, where applicable, including administrative, trial, and appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Operators shall expressly understand and agree that any insurance protection required by this chapter or otherwise provided or secured by an operator, shall in no way limit the responsibility to indemnify, defend, and hold harmless the Village, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees as required by this section. This obligation shall survive the revocation, cancellation, or expiration of any memorandum of understanding or operating agreement. The operator will acknowledge in any memorandum of understanding that the granting of a right to operate in the Village is, in part, conditioned on the granting of this indemnification which is knowingly and voluntarily given by the operator.

(D) *Performance bond.*

(1) An operator shall submit to the risk management division a performance bond, in a format as prescribed in F.S. § 255.05, and in a form acceptable to the Village manager, or his or her designee, prior to the execution of a memorandum of understanding or operating agreement with the Village.

(2) Alternatively, an operator may post an irrevocable letter of credit issued by a bank authorized to transact business in Florida.

(3) The payment and performance bond or irrevocable letter of credit shall be in the sum of \$50,000.00 and shall list the operator as a principal and

shall be payable to the Village, and shall remain in effect for the duration of the memorandum of understanding or operating agreement.

(4) Cancellation of the payment and performance bond or irrevocable letter of credit does not release the operator from the obligation to meet all requirements of this article or its MOU. If the payment and performance bond or the irrevocable letter of credits is cancelled, the MOU shall be terminated on the date of cancelation and the operators shall immediately cease operations until the operator provides the Village manager with a payment and performance bond or irrevocable letter of credit that meets the requirements of this section.

(E) *Data sharing.*

(1) Operators shall cooperate with the Village in the collection and analysis of aggregated data concerning its operations. All data furnished under this section will be in a form reasonably acceptable to the Village manager. Operators shall provide the Village with real-time information on all motorized scooters operating within its boundaries through a documented application programming interface key. Operators shall provide the Village manager, and any designees of the manager with the procedure and credential to authenticate the application programming interface key.

(2) Operators shall also provide biweekly reports of anonymized data indicating, at a minimum, the number of trips in a given time period, trip duration, trip distance, start and end locations of each trip, the actual cost in cents paid by the user for the trip, as well as the number and nature of complaints and incidents reported to the operator.

(F) *Fees.* The Village may require that shared mobility device operators remit to the Village a public right-of-way fee per device per day, to be set and periodically adjusted by the Village manager.

(G) *Equitable access.*

(1) Operators shall provide details on how users can utilize the service without a smartphone.

(2) Operators are encouraged to:

(a) Provide pricing options that address the needs of low-income residents;

(b) Provide discount programs to low income individuals;

(c) Provide cash payment options; and



(d) Provide adaptive motorized scooters or shared mobility devices that enable operation by individuals with disabilities.

§ 74.03 - Operation of shared mobility devices.

(A) Motorized scooters shall be parked and deployed on a sidewalk or other hard surface, beside a bicycle rack, or at a Village-owned and Village-approved location. Motorized scooters shall only be parked or deployed on private property with the permission of the property owner.

(B) Motorized scooters shall be upright while parked or deployed.

(C) Village may request removal of motorized scooters in certain areas and request that operator cease deployment of motorized scooters in certain areas upon request of the Village.

(D) Motorized scooters shall not be parked in a manner that would impede normal and reasonable pedestrian access on a sidewalk or in any manner that would reduce the minimum clear width of a sidewalk to less than three feet.

(E) Motorized scooters shall not be parked in a manner that would impede vehicular traffic.

(F) Motorized scooters shall not be parked in a manner that would impose a threat to public safety or security.

(G) Motorized scooters shall not be parked on a block where the sidewalk is at any point less than six feet in width, or on a block that does not have sidewalks.

(H) Motorized scooters shall be parked or deployed in a manner that is compliant with the applicable provisions of the Americans with Disabilities Act of 1990.

(I) Motorized scooters shall not be parked in a way that blocks:

(1) Fire hydrants call boxes or other emergency facilities;

(2) Transit facilities;

(3) Loading spaces or zones;

(4) Passenger loading spaces or zones, or valet parking services areas;

(5) Disabled or prohibited parking zones;

(6) Street furniture that requires pedestrian access (for example, benches, parking pay stations, or bicycle/news racks);

(7) Window displays;

(8) Building entryways;

(9) Vehicular driveways.

(J) Motorized scooters that are parked in violation of this section or an executed memorandum of understanding shall be re-parked, removed, relocated and/or redeployed by an operator within two hours of receiving notification from the Village or are subject to impoundment under the same terms of section titled Operation of a shared mobility device program—Penalties and impoundment.

\* \* \*

**Section 3. Conflict.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 4. Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in Code.** The provisions of this Ordinance shall become and be made a part of the City Code, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word

**Section 6. Implementation.** The Village Manager, Village Attorney, and Village Clerk are hereby authorized to take such further action as may be needed to implement the purpose and provisions of this Ordinance

**Section 7. Effective Date.** That this Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by Commissioner \_\_\_\_\_, who moved its adoption on first reading. This motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Mayor Brent Latham	_____
Vice Mayor Marvin Wilmoth	_____
Commissioner Jose R. Alvarez	_____
Commissioner Andreana Jackson	_____
Commissioner Julianna Strout	_____

**PASSED** on first reading on this \_ of \_\_\_\_\_, 2019.

**PASSED AND ENACTED** on second reading on this \_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Brent Latham, Mayor

ATTEST:

\_\_\_\_\_  
Elora Riera, CMC  
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, PL  
Village Attorney