



North Bay Village

OFFICIAL AGENDA

ADDENDUM NO. 1

2nd REGULAR VILLAGE COMMISSION MEETING

VILLAGE HALL

MONDAY, JULY 22, 2019

5:30 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.

1. Opening Items

A. Call to Order

B. Roll Call

C. Pledge of Allegiance

D. Invocation

2. 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 Items

1. Approving Amended 2019 Neat Streets Grant

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING AN AMENDED NEAT STREETS MIAMI MATCHING GRANT AWARD FROM MIAMI DADE COUNTY PARKS, RECREATION, AND OPEN SPACES DEPARTMENT IN THE AMOUNT OF \$11,948.00; AUTHORIZING THE VILLAGE MANAGER OR HIS DESIGNEE TO EXECUTE THE TREE PLANTING AGREEMENT; AUTHORIZING THE PURCHASE OF STREET TREES PURSUANT TO SECTION 36.25(L) OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION: AND PROVIDING AN EFFECTIVE DATE (INTRODUCED BY VILLAGE MANAGER RALPH ROSADO)

2. Adoption of the 3 Year Contract for the International Baccalaureate Program at Treasure Island Elementary School (TIES)

3. Ratification of Human Resources Director

B. Proclamation/Award/Village Key Requests

3. Discussion/Action Items

A. Unfinished Business

B. New Business

1. Master Plan RFQ No. 2019-002 Land Development Regulations

2. Discussion Regarding Halloween Event

3. Cancellation of August Commission Meeting for Summer Vacation [VERBAL]

4. Swearing in of Village Manager, Dr. Ralph Rosado

4. 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.

None.

5. 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. 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 RELIEF 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

6. 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.

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



North Bay Village Recommendation Memorandum

DATE: JULY 22, 2019

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

FROM: Village Manager Ralph Rosado, PhD, AICP

THROUGH: Vice Mayor Marvin Wilmoth

SUBJECT: Approving Amended 2019 Neat Streets Grant

RECOMMENDATION

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING AN AMENDED NEAT STREETS MIAMI MATCHING GRANT AWARD FROM MIAMI DADE COUNTY PARKS, RECREATION, AND OPEN SPACES DEPARTMENT IN THE AMOUNT OF \$11,948.00; AUTHORIZING THE VILLAGE MANAGER OR HIS DESIGNEE TO EXECUTE THE TREE PLANTING AGREEMENT; AUTHORIZING THE PURCHASE OF STREET TREES; AND PROVIDING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER RALPH ROSADO)

BACKGROUND AND ANALYSIS

On April 24, 2019, North Bay Village (the Village) entered into a tree planting agreement with Miami Dade County Parks, Recreation, and Open Spaces Department (the "County") accepting a \$5,007.00 grant pursuant to Village Resolution #2019-025. Funding from the County supplements the purchase and installation of 13 street trees throughout the Village. Subsequent to accepting the grant award, the Village was able to identify more locations where trees are needed. Vice Mayor Wilmoth advocated on behalf of the Village which led to an increase in the grant award from \$5,007.00 to \$11,948.00 to plant 30 street trees.

The new grant award requires the Village to enter into a new Tree Planting Agreement with the County; voiding the original agreement. This is a reimbursement grant, therefore the Village is required to purchase the trees upfront, and seek reimbursement of the \$11,948.00 once the project is complete.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

This grant requires a \$1:\$1 match. The Village desires to allocate funds from the tree replacement trust fund in the amount of \$11,948.00 or 50% of the total cost of the

purchase and installation of the trees. The Village will purchase the trees and be reimbursed.

PERSONNEL IMPACT

This project is implemented by the Public Works Department. Personnel impact includes the staff time for procurement of trees, and inspection and oversight of planting by the Village Arborist. The Village is responsible for the maintenance of the trees.

RESOLUTION NO. 2019-_____

A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING AN AMENDED NEAT STREETS MIAMI MATCHING GRANT AWARD FROM MIAMI DADE COUNTY PARKS, RECREATION, AND OPEN SPACES DEPARTMENT IN THE AMOUNT OF \$11,948.00; AUTHORIZING THE VILLAGE MANAGER OR HIS DESIGNEE TO EXECUTE THE TREE PLANTING AGREEMENT; AUTHORIZING THE PURCHASE OF STREET TREES PURSUANT TO SECTION 36.25(L) OF THE VILLAGE CODE OF ORDINANCES; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE (INTRODUCED BY VILLAGE MANAGER RALPH ROSADO)

WHEREAS, On April 24, 2019, North Bay Village (the “Village”) entered into a tree planting agreement with Miami Dade County Parks, Recreation, and Open Spaces Department (the “County”) accepting a \$5,007.00 grant pursuant to Village Resolution #2019-025; and

WHEREAS, funding from the County supplements the purchase and installation of street trees throughout the Village and requires a \$1:1 match; and

WHEREAS, the Village desires to increase the number of trees planted from 13 to 30 for an estimated project cost of \$23,896; and

WHEREAS, the County awarded additional funds to the Village totaling \$11,948.00; and

WHEREAS, the Village desires to allocate funds from the tree replacement trust fund in the amount of \$23,896.00 for the purchase of the trees; and

WHEREAS, the Village understands that \$11,948.00 or 50% of the tree purchase will be reimbursed by the County upon completion of the project;

WHEREAS, in order to avoid losing the grant funds, the Village must make the requisite tree purchases and have under contract the necessary tree installer before the September Commission meeting; and

WHEREAS, Section 36.25(L) provides that the Village may award a contract without sealed bidding upon a finding that the process of competitive bidding is not in the best interest of the Village; and

WHEREAS, the Village will request quotes for the purchase of trees and the installation thereof, with time being of the essence, it is in the Village's best interest to approve the procurement contemplated herein in order to take advantage of the grant funds; and

WHEREAS, the Village finds that this resolution will promote the health, safety and welfare of the Village's residents.

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

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

Section 2. Approval. The acceptance of a 2019 Neat Streets Miami Matching Grant in the amount of \$11,948.00, pursuant to the agreement in substantially the form as attached in Exhibit "A", is hereby approved. The use of funds from the tree replacement trust fund as match in furtherance herein is also approved. It is recognized

that \$11,948.00 will be reimbursed by Miami-Dade County upon completion of the Tree Planting Project

Section 3. Authorization. Pursuant to Section 36.25(L) of the Village Code of Ordinance, the Village Manager is authorized to purchase street trees in the amount of \$23,896.00, pursuant to the request of (3) quotes. The Village Manager or his designee is further authorized to execute the Tree Planting Agreement and any subsequent agreements or documents with Miami-Dade County or the selected tree vendor on behalf of the Village, subject to the Village Attorney's approval as to form, content and legal sufficiency.

Section 4. Implementation. The Village Manager, Clerk, and Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by _____ who moved its adoption. The motion was seconded by _____ 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 AND ADOPTED 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

CARLA MAGLIO GOMEZ

Telephone: [REDACTED]

Email: carlamagliogomez@gmail.com

HUMAN RESOURCE EXECUTIVE:

- ▶ 10 years of rapid promotions within the human resource discipline
- ▶ Analytic, strategic, and hard-working agent for change with a financial services background
- ▶ Known for collective bargaining expertise resulting in over \$10 million in savings over course of career
- ▶ SPHR: (Exam scheduled for Fall 2019); Active SHRM member

Skills:

- | | | |
|--------------------------|---------------------------|-------------------------------|
| ▪ Labor & Employment Law | ▪ Recruitment & Retention | ▪ Training & Development |
| ▪ Employee Relations | ▪ Performance Management | ▪ Labor Contract Negotiations |
| ▪ Budget Management | ▪ Employee Engagement | ▪ HRIS/ERP/ATS Implementation |
| ▪ Policy Development | ▪ Payroll/Compensation | ▪ Benefits |

PROFESSIONAL EXPERIENCE:

▶ Human Resources Director

City of Sunrise, FL | 2015 – 2019

Managed \$1.1M budget for department serving 1300 employees. Hired to be change agent and to implement two major HR/Payroll automation projects. Oversee all daily HR operations with 11 direct reports.

Automation of HRIS & ERP HR/Payroll

- Led 16-month transition from manual processes affecting five unions with 16 pay plans
- Concurrently implemented a new, integrated ERP for human resource and payroll management
- Resulted in reduced payroll processing by two days per week, resulting in the elimination of one full-time position; reduced processing errors and misuse of overtime by 25 percent.

Department Reorganization

- Directed, trained and improved HR service delivery for management over 3 years in: compensation, recruitment, benefits, organizational development, and employee/labor relations.
- Recruited outside candidates to enhance knowledge and experience base for the team, while developing skill sets of existing staff.
- Implemented pre-employment assessments, new interview / selection criteria, job fairs, fresh branding and marketing efforts. Initiated first employee satisfaction survey.
- Resulted in transition from transactional personnel department to a full-scale human resource department
- Resulted in a streamlined recruitment operation by an average of five days, and improved staff use of NeoGov (recruitment software) by the training staff on additional functionalities.
- Resulted in improved participation rate survey goals by 14 percent (74% vs. 60%)

▶ **Assistant Director of Parks and Recreation**

City of Miami Beach, FL | 2014 – 2015

Responsible for the planning and direction of all administrative functions for the department with an operating budget of \$30 million and 300 employees. These duties included all matters relating to recruitment, labor relations, compensation, discipline, and employee development and training.

▶ **Assistant Director of Human Resources**

City of Miami Beach, FL | 2012 – 2014

Managed annual budget of \$3 million and oversaw human resource benefits, compensation, recruitment and risk management; 2000 total employees. Direct reports: 22. Promoted three times in 5 years.

Collective bargaining agreements

- Successfully negotiated terms with five unions for employee concessions during economic downturn.
- Served on the human resource team for six years to formulate contract proposals with anticipated cost impacts, and developed a methodology used to realize financial targets.
- Resulted in a reduction in City's costs by \$10 million over three years.
- Implemented FLSA overtime and pension form which resulted in an estimated \$130 million in savings over 30 years.

Compensation and classification project

- Successfully negotiated terms with five unions for employee concessions during economic downturn.
- Served on the human resource team for six years to formulate contract proposals with anticipated cost impacts, and developed a methodology used to realize financial targets.
- Resulted in a reduction in City's costs by \$10 million over three years.
- Implemented FLSA overtime and pension form which resulted in an estimated \$130 million in savings over 30 years.

Process improvement

- Continually assessed and streamlined procedures for increased efficiency
- Resulted in a 40 percent decrease in overtime costs over previous year
- Resulted in the elimination of important document backlog by simplifying coding, setting schedules, and enforcing deadlines

▶ **Special Projects Administrator to the City Manager**

City of Miami Beach, FL | 2012 – 2013

Served as the liaison between City Manager and Department Directors and Senior Consultant on labor relations and conflict resolution issues. Served as lead negotiator on collective bargaining team with City's five unions and as Emergency Operations Center Supervisor on Emergency Management Plan Team.

▶ **Labor Relations Specialist, HR**

City of Miami Beach, FL | 2008– 2012

Served as the senior consultant with respect to day-to-day labor relations issues and labor conflict resolution Citywide; Provided contract interpretation and guidance to management and employees and counseled managerial personnel on disciplinary actions in an effort to avoid grievance complaints.

- Presented management's position as the City's representative in contract negotiations, grievances and unfair labor practice hearings.
- Served as the lead on the management labor team tasked with negotiating collective bargaining agreements with the City's five (5) labor unions.

- Conducted in-depth analysis of economic proposals in order to determine financial impacts for both labor and management.
- Participated in labor/management committee meetings to discuss and attempt to resolve issues of mutual concern.
- Drafted grievance resolutions, settlements and memorandums of understanding.
- Managed and processed labor/management issues associated with the Public Employment Relations Commission (PERC).
- Participated in the preparation of the Human Resources Department budget.
- Authored City policies and procedures in compliance with Federal and State laws.
- Conducted investigations pertaining to employee misconduct, harassment and formal complaints.
- Served as an Emergency Operations Center Supervisor as part of the City's Comprehensive Emergency Management Plan Team.

► **Executive Office Associate**

Office of the City Manager | 2007 – 2008

Acted as direct support to an Assistant City Manager with oversight of the Building Department, Capital Improvement Projects Department, Economic Development and Asset Management Division and the Planning Department; duties included the scheduling of meetings, tracking and preparing correspondence and assignments, and other support activities.

All Clear to Close, Inc.

► **Owner/Operator**

Sunrise, FL | 2003 – 2007

- Provided a cost-savings alternative to mortgage companies by offering outsourced loan processing services.
- Submitted and processed all residential and commercial loan applications.
- Managed budgeting and accounting activities.
- Supervised, coordinated and trained support staff and junior mortgage processors
- Developed a comprehensive processing system resulting in a more effective and efficient loan submission process.
- Analyzed initial loan applications to ensure enough and proper credit documentation, validated income and assets and verified adequate property values prior to loan application submittal.
- Verified all residential and commercial loan applications to ensure compliance with all Federal and State regulations, procedures and practices.

EDUCATION & CERTIFICATIONS:

- **Florida Atlantic University** | Master's in Public Administration, 2001
- **Florida Atlantic University** | Bachelor of Arts in Political Science, 1998
- **Certified Public Pension Trustee** | Florida Public Pension Trustees Association
- **Certified Public Employer Labor Relations Professional**
- **National Incident Command Systems Certification** | Federal Emergency Management Agency
- **Academy for Strategic Management Certification** | Florida International University
- **Negotiation for Business Professional Certification** | Nova Southeastern University
- **Leadership Culture Certification** | City of Miami Beach

TECHNOLOGY:

- Microsoft® Word™
- Microsoft® Excel™
- Microsoft® PowerPoint™
- Microsoft® OneNote™
- Eden®
- Tyler-Munis®
- Kronos/Telestaff®
- Sunguard Naviline®



North Bay Village Recommendation Memorandum

DATE: July 22, 2019

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

FROM: Dr. Ralph Rosado, Village Manager

SUBJECT: Master Plan and LDR Update

RECOMMENDATION

Select a firm to enter into negotiations with the staff for planning services to create a visionary master plan and an updated Land Development Regulations (LDR).

BACKGROUND AND ANALYSIS

With the potential of new development taking place in the Village, it is necessary to assure that this development/redevelopment will be consistent with our community vision. Currently, there is no consensus master vision of how this future development will take place. With a consultant familiar with the planning charrette process and visioning, there will be an opportunity to build consensus and firmly establish the community vision. From that process, a master plan will be created that will account for input from all stakeholders, including Village residents and the Village business community. The Village land development regulations will then be updated to implement the community vision and regulate future development in the Village.

BUDGETARY/FINANCIAL IMPACT (Finance Dept.)

The budgetary impact for this RFQ and related planning services is limited to \$200,000, which was approved at the May 14, 2019, Commission Meeting.

Precise financial impact derived from securing these specialized planning services is difficult to quantify. However, if future developers have a master plan to guide them, and there is a vision as to what is expected from them, they will be likely to build in North Bay Village. The tax rolls will be greatly increased with the advent of new construction booming in North Bay Village, resulting in a positive financial impact.

PERSONNEL IMPACT

There is minor personnel impact anticipated for this request being approved because the contracted consultant will use their personnel to produce the visioning master plan and code changes. There will be a modest need for planning and administrative staff to provide good community data to the consultants and overall good staff coordination to help facilitate workshops and meetings.



North Bay Village Memorandum

DATE: June 18, 2019

TO: Mario Diaz, Chief of Staff, Office of the Village Mgr., North Bay Village

FROM: Jose Olivo, Chairperson, Evaluation Committee

SUBJECT: Committee Evaluation of RFQ No. 2019-002
Consulting Services for Land Development Regulations Update

A Request for Qualifications (RFQ) titled "Consulting Services for Land Development Regulations Update" was issued on April 30, 2019 for the purpose of developing a Village-wide Master Plan on Land Development Regulations. As a result of the RFQ advertisement, six (6) firms submitted proposals which were opened on June 11, 2019. Following the bid opening, an Evaluation Committee composed of five (5) voting members was tasked with evaluating and scoring submitted proposals at a publicly noticed meeting held on Monday, June 17, 2019 at Village Hall. All written proposals submitted by the six (6) firms were reviewed and evaluated by the Evaluation Committee following the evaluation guidelines in the solicitation. During the evaluation meeting, the Committee conducted a discussion and review of each proposal submitted. At the end of the discussion and review period, each committee member finalized their evaluations and submitted their scoresheets to the meeting Chairperson, a non-voting member to determine the final tally of scores and ranking of firms, with the first being the firm with the highest number of points out of a maximum of 500 points. Firms were ranked as follows:

- | | |
|----------------------------------|------------|
| 1. Bermello, Ajamil & Partners | 457 points |
| 2. KCI Technologies, Inc. | 450 points |
| 3. DPZ CoDesign | 444 points |
| 4. The Corradino Group | 416 points |
| 5. Dover, Kohl & Partners | 409 points |
| 6. Calvin, Giordano & Associates | 345 points |

The Evaluation Committee was composed of the following members:

- Mr. Javier Betancourt, AICP, Exec. Director, Citizens' Independent Transportation Trust (CITT),
- Luciana L. Gonzalez, Principal, Land Use / Government Consulting & Commercial Real Estate Transactions.
- Amanda Sanfilippo, Curator and Artist Manager for Miami Dade County's Art in Public Places Program
- Neal Schafers, ASLA, Miami Downtown Development Authority
- Rachel Streitfeld, Esq., Bright Side Legal (North Bay Village resident)

Attached please find committee member score sheets, composite score sheet and signed Conflict of Interest Disclosure Form.

END



North Bay Village Recommendation Memorandum

DATE: July 22, 2019

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

FROM: James G. LaRue, AICP

THROUGH: Village Manager Ralph Rosado, PhD, AICP

SUBJECT: Fence Construction Land Development Code Revisions

REQUEST

Adoption of an Ordinance to revise the Village Land Development Code which provides standards for fence construction within the Village.

BACKGROUND AND ANALYSIS

The Village is considering constructing a temporary dog park at either the recently purchased Sakura property or at the former city hall site. Regardless of which site is selected, fencing will be needed to surround the dog park. This ordinance revises the land development code to provide flexibility in design and construction of this dog park fencing. The proposed language is broad and allows flexibility to any governmental entity constructing fences, privacy walls and hedges in conjunction with a governmental use or facility. Additionally, two other revisions are proposed which provide clarity to existing fence standards.

- Current code limits fence heights in front yards to 5 feet. Staff is proposing a revision clarifying that, on corner lots, fence heights shall be limited to 5 feet in both yards with street frontages.
- Current code requires landscaping on the street side of any wall or fence within a front yard setback area but does not provide a standard for the minimum width of the landscaping strip. Staff is proposing a minimum width of 18 inches for the entire length of the fencing. The Board had significant discussion and heard from the public regarding plant species requirements for that required landscape buffer. The vote to approve was made with the condition that the Commission be presented with a recommendation on a list of plant species that the owner would be required to select from and maintain in that buffer.

FINANCIAL IMPACT

There should be minimal financial impacts associated with these proposed LDC revisions.

BUGETARY IMPACT (Finance Dept.)

No direct budgetary impact

PERSONNEL IMPACT

There should be minimal personnel impacts associated with these proposed LDC revisions.

RECOMMENDATION

The P&Z Board voted 4-0 to recommend approval of this ordinance at their June 17, 2019 meeting.

The Village Commission at their July 9, 2019 meeting voted 5-0 to approve the first reading of the ordinance.

Staff recommends approval of this ordinance at the adoption (2nd reading) hearing.

ORDINANCE NO. _____

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.

WHEREAS, Florida Statute 166.01 authorizes cities to establish, coordinate and enforce zoning and development laws that are necessary for the protection of the public; and

WHEREAS, North Bay Village desires to update its Unified Land Development Code; and

WHEREAS, the North Bay Village Unified Land Development Code is intentionally modified to be relevant and to encourage development and redevelopment; and

WHEREAS, the North Bay Village Unified Land Development Code is wholly consistent with the Village’s Comprehensive Plan and the Florida Community Planning Act; and

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

Section 1. Recitals Adopted. Each of the above stated recitals is true and correct and incorporated herein by this reference.

Section 2. Village Code Amended. North Bay Village Code of Ordinances is hereby revised as follows:

§ 8.16 – Supplemental Development Standards

* * * *

F. Fences, walls and hedges.

1. When required

a. An eight-foot high wall, hedge, or fence shall be required along all side and rear commercial property lines which are contiguous to a residential zoned property, subject to vision clearance requirements established elsewhere in this section.

- b. All permitted outdoor storage areas in multifamily residential and commercial zones shall be visually screened from public view by an eight-foot high solid wood or masonry fence or wall.
- c. Fences or walls to be built in connection with other permitted recreational uses such as baseball backstops, tennis courts, handball courts, and the like shall be permitted at the height necessary for the particular use.
- d. All vacant lots adjacent to Kennedy Causeway shall be hedged along that portion of the lot which is adjacent to Kennedy Causeway.
 - (1) The hedge shall not exceed four feet in height and not be lower than two feet in height and shall be of sufficient thickness and density so as to provide a physical barrier similar in effect to a fence.
 - (2) The hedges shall be continuously and regularly trimmed, and any dead plants, or plants which fail to bear leaves, shall be regularly and timely replaced.
 - (3) The remainder of the lots shall be fenced or hedged so as to prevent the unauthorized entry of motor vehicles thereon.
- e. Concrete Block Walls. No fence, solid contiguous wall or ledge consisting of blocks or concrete shall be erected, constructed, installed or maintained in any manner parallel to the 79th Street Causeway.

2. Prohibitions

- a. No fence, wall, or hedge may be constructed, installed, or maintained within six feet of any fire hydrant or other emergency apparatus.
- b. No fence, wall, or hedge may be constructed, installed, or maintained which in any manner creates a visual obstruction to vehicular traffic. In no event shall any fence which obstructs or obscures vision, or any wall or hedge exceed four feet in height within 30 feet of the intersection of official right-of-way lines.
- c. No wall or fence shall exceed five feet in height within any required front yard setback, provided such fence or wall does not create a visual obstruction to pedestrian or vehicular traffic. For fences on corner lots, both street frontages shall be considered front yards. Additionally:
 - (1) Landscaping shall be required on the street side of any such wall or fence and the width of the landscape bed shall be at least 18 inches for the entire length of the fence or wall, excluding gated sections.

- (2) Any concrete wall or concrete block wall shall be sustained in a finished condition.
- d. Hedge heights shall not exceed twelve (12) feet in height in the front, rear and side setbacks in the RS-1 and RS-2 Districts, provided that:
 - (1) Such hedges do not interfere with vehicular traffic or visibility on public rights-of-way;
 - (2) Such hedges are neatly trimmed;
 - (3) The property owner responsible for planting the hedge shall maintain the entire hedge, including the sides facing the neighboring properties in order avoid any hindrance to said neighboring property.
 - (4) Hedge planting is strictly prohibited within the Village right-of-way or easement area.
- e. Walls and fences in the rear and side setbacks shall not exceed a height of six feet.
- f. No chain link, wire or cable fencing or fences similar in appearance to any of the foregoing, will be permitted within front setbacks. (This includes all areas past the front edge of the house running towards the street.)
- g. Ornamental entrances, fountains, plant containers, and similar architectural features exceeding the wall height restriction will be permitted, provided that:
 - (1) No such feature shall exceed in height the wall height restriction for that district plus three feet; and
 - (2) There shall be only one such feature in any front, side or rear yard, except that there may be two entrance gates.
- h. Planting of vegetation in easement areas shall conform to the following:
 - (1) No trees may be planted within any easement or public right-of-way area as shown on the recorded plats of the various subdivisions of the Village ("easement areas").
 - (a) Nothing in this section shall be construed to prohibit the planting of low growth landscaping in the easement or right-of-way areas ("easement landscaping").
 - (b) Easement or right-of-way landscaping is subject to removal by the Village without notice in the event that this landscaping impedes access to these areas. The

Village shall not be responsible for damage to the removed landscaping;

- (c) Prior to planting such easement landscaping in easement areas, the property owner shall execute a permission for removal, release and indemnification agreement, in a form acceptable to the Village, pertaining to such easement.
 - i. For single family properties on North Bay Island. The linear footage of any property's street front Village easement or right-of-way area must maintain a greenspace (pervious) area whereby the permissible paved area is to be limited to only 40 percent of that total linear footage.
 - (1) The protected greenspace shall be restricted from any paving materials including but not limited to asphalt, concrete, brick, pavers, gravel or solid cover of mulch.
 - (2) The depth of that protected pervious area must be maintained at full easement depth from the street to the property boundaries.
 - (3) Any paving of the property frontage beyond the easement area (within front yard), and greater than 40 percent of the permitted linear footage must create a green landscape facade to decrease the sight line of that paved surface from the street view.
 - j. For single family properties on all islands.
 - (1) Front yard area may be paved up to 40 percent of the total linear footage.
 - (2) The balance of footage may only be paved if a greenspace is created between the Village's sidewalk and the paved area, for a depth of no less than 48 inches, and heavily landscaped to create green landscape facade to decrease the sight line of that paved surface from the street.
 - k. Nonconforming uses of land. The lawful use of land existing at the time of the passage of this ordinance or an amendment thereto, although such uses do not conform to the provisions of this ordinance, may be continued subject to the following provisions:
 - (1) Front yard areas may not be increased in paved areas.
 - (2) All rights and obligations subject to the nonconforming use of the land run with the land and are not personal to the present owner or tenant of the nonconforming use of land and are not affected by a change in ownership or tenancy.
3. General requirements

- a. Construction and materials.
 - (1) No fence or wall may be constructed of materials which will be hazardous to the health, safety, or welfare of persons or animals.
 - (2) Fences which are erected with sheathing, pickets or slats on one side only shall have such materials placed on the side of the fence facing the adjacent property in such a manner as to conceal the structural elements of the fence from off premises view.
 - (3) Walls or fences constructed of concrete block shall be constructed so that the side facing away from the property on which the wall or fence is located shall be finished with stucco or some other approved material.
 - b. Maintenance. All fences, walls, and hedges shall be maintained in a safe, attractive, and non-hazardous condition.
 - (1) Hedges shall not extend over or into the public right-of-way for the full height of the hedge.
 - (2) Maximum height.
 - (a) No fence or wall shall exceed six feet in height and no hedge shall exceed six feet except as may be permitted or further restricted elsewhere in this section.
 - (b) The height of a wall, fence, or hedge shall be the vertical distance measured from the average elevation of the finished building site to the top of the wall, fence, or hedge.
 - (c) The average elevation shall be measured along the wall, fence, or hedge line that the same is to be placed.
 - (d) The land within the area which the wall, fence, or hedge is to be placed may not be increased or decreased to effect the permitted height unless the entire building site is to be graded to level off this area.
4. Temporary fence around construction site. Nothing in this section shall be deemed to prohibit the erection and maintenance of a temporary fence around construction sites on which actual construction activity is taking place pursuant to a valid active building permit.
- a. The fence may exceed the height limitations in this zoning code if the fence is constructed of solid wood (or plywood) and is decorated in an attractive and artful design as shall be determined by the Village Commission or appropriately designated board.
 - b. In no event shall the fence exceed eight feet in height.

- c. Chain link fences shall not be permitted around construction sites unless screening is used with the chain link to conceal construction materials from outside view.
5. Existing nonconforming fences and/or walls; removal.
- a. Intent. It is the intent of this division to recognize that the eventual elimination of existing fences, that do not conform with the provisions of this chapter, in as expeditious a manner as is reasonable, is as much a subject of the health, safety, and welfare of the citizens of the Village as is the prohibition of new fences that would violate the provisions of these regulations. It is also the intent of this division that there shall not be any unreasonable burden upon established private property rights.
 - b. Continuance. Subject to the amortization schedule below, a nonconforming fence may be continued and shall be maintained in good condition, but shall not be:
 - (1) Enlarged or changed to another nonconforming fence.
 - (2) Reestablished after its removal.
 - (3) Reestablished after being damaged or deteriorated whereby the estimated expense of reconstruction exceeds 50 percent of the appraised replacement cost.
 - c. It shall be the responsibility of the Code Enforcement Officer to make an inventory and a record of all nonconforming fences and to serve notice on the owners or users of such fences within 30 days after the adoption of these regulations. The period of nonconformity shall nonetheless begin as of the date of the passing of this division. The inventory shall include the following:
 - (1) Owner.
 - (2) Type of fence
 - (3) Location.
 - (4) Reason for classification as nonconforming.
 - (5) Date fence was erected.

6. Fences, privacy walls, and hedges for government uses and facilities.

- a. Applicability. This section applies to fences, privacy walls and hedges erected by a governmental entity for a governmental use including, but not limited to, parks, recreation areas, government offices, utility facilities, parking, or storage sites.
- b. Approval. Governmental entities other than North Bay Village may only be approved for fences, privacy walls and hedges according to this Section by the Village Commission at public hearing, following a recommendation by the Village Planning Zoning Board.

- c. Location. Fences, privacy walls, and hedges installed in any location on the subject property as necessary to ensure safety and compatibility.
- d. Height. Fences, privacy walls, and hedges may be installed at heights necessary to ensure safety and compatibility.
- e. Materials. Fences and privacy walls may be constructed with materials which are necessary to ensure safety and compatibility, including but not limited to, chain link, wood, masonry and vinyl.

Section 3. Repeal. All ordinances or parts of ordinances, resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be non-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 render this Ordinance void in its entirety.

Section 5. Inclusion in the Code. It is the intention of the Village Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of North Bay Village; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

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

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

PASSED on first reading on this 9th of July, 2019.

PASSED AND ENACTED on second reading on this 22nd day of July, 2019.

Brent Latham, Mayor

ATTEST:

Elora Riera, CMC
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, PL
Village Attorney



North Bay Village Recommendation Memorandum

DATE: July 22, 2019
TO: Honorable Mayor, Vice Mayor and Members of the Village Commission
FROM: James G. LaRue, AICP
THROUGH: Village Manager Ralph Rosado, PhD, AICP
SUBJECT: Marine Construction Land Development Code Revisions

REQUEST

Adoption of an Ordinance to revise the Village Land Development Code which provides standards and procedures for approval of marine construction within the Village.

BACKGROUND AND ANALYSIS

Current Village Code allows for administrative approval of docks and other marine structures which are both within the D-5 triangle and extend no more than 25 feet from the seawall. Marine structures which exceed these requirements require approval of a waiver by the Village Commission at a public hearing. However, even with a waiver, no new dock may exceed 75 feet from the seawall or encroach upon the required 7.5 foot side setbacks.

This proposed ordinance revises the code to:

- Remove current system of Commission public hearings to approve waivers for docks that are longer than 25 feet and/or exceed the boundary of the D-5 triangle.
- Allow administrative approval of docks and other marine structures with lengths of 50 feet or less and which are at least 7.5 feet from the side property lines.
- Allow administrative approval of boat lifts and mooring piles at existing docks which are not proposed to extend farther from the seawall than existing dock structures and will not allow a lifted or moored boat to extend farther from the seawall than is possible using the existing dock structures.
- Create a variance procedure to allow relief from the strict enforcement of the minimum standards.

From the records available, the longest dock length that has been approved within the Village in the past 7 years is 57 feet. However, there are existing multifamily, mixed use, and commercial developments with dock lengths at approximately 400 feet, 230 feet, 185 feet, 100 feet, and 85 feet.

These proposed revisions will allow administrative approval of most proposed docks and marine structures, while still relying on the Miami-Dade DERM dock approval process to ensure that these structures do not unnecessarily impact marine resources or boat navigation.

FINANCIAL IMPACT

There should be minimal financial impacts associated with these proposed LDC revisions.

BUGETARY IMPACT (Finance Dept.)

No direct budgetary impact

PERSONNEL IMPACT

These code changes will eliminate the staff time that is currently spent on preparing staff reports for the Commission for projects that are requesting a waiver through the public hearing process. There may still be an occasional request for a variance that will necessitate staff time to prepare a staff report. However, this proposed code revision would allow most dock requests to be administratively approved with minimal staff time.

RECOMMENDATION

The P&Z Board voted 3-1 to recommend approval of this ordinance at their June 17, 2019 meeting.

The Village Commission at their July 9, 2019 meeting voted 5-0 to approve the first reading of the ordinance with one change; that docks are to be limited to 50 feet in length without a variance, instead of 75 feet in length.

Staff recommends approval of this ordinance at the adoption (2nd reading) hearing.

ORDINANCE NO. _____

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 RELIEF 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

WHEREAS, North Bay Village's (the "Village") Unified Land Development Code (the "Code") currently regulates the construction and maintenance of docks, piers, and similar coastal structures; and

WHEREAS, the Village Commission desires to expand the types of approvals that can be administratively granted for certain docks, piers, and/or similar structures, in an effort to make the process for such approvals more timely and efficient; and

WHEREAS, the Commission believes that this Ordinance is in the best interest of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE 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 North Bay Village Code of Ordinances is hereby revised as follows:

Chapter 9 – GENERAL DESIGN STANDARDS

* * *

DIVISION 5. - DESIGN STANDARDS FOR COASTAL SITES

* * *

§ 9.12 – Coastal Construction within Biscayne Bay (North Bay Village Approval)

* * *

B. Construction and Structural Alteration

1. No person, firm, or corporation shall construct any docks, piers, dolphins, wharfs, pilings, boat lifts, or similar structures of any kind more than ~~25~~ 50 feet perpendicular from the seawall or shoreline (not including rip-rap) into any waterway within the corporate limits of the Village ~~without first obtaining a waiver from the Village Commission after a public hearing. However, the furthest distance seaward from the seawall or shoreline shall not exceed 75 feet including all dolphins or pilings installed beyond the seaward most line of the dock or pier but not including required rip-rap., except as provided in subsection 9.12(B)(5) below.~~
2. No dock, pier, wharf, dolphin, piling, boat lift, or similar structure shall be erected in the Village unless the structure is set back at least 7½ feet from the lot line on each side.
3. No person, firm, or corporation shall build, repair, reconstruct, extend, or make any structural alteration on any building, dock, pier, dolphin, wharf, piling, boat lift, bulkhead, seawall, or similar structure within the corporate limits of the Village, or do any filling, excavating, or dredging in the waters without first obtaining a building permit to do so from the Village Building Department.
4. Application for any permit or the transfer of any permit required by this section shall be made to the Village Building Department in writing on forms provided therefore. The permit shall constitute an agreement by the applicant to comply with all conditions imposed upon granting of the permit. The application shall be accompanied by plans and specifications setting forth in detail the work to be done.
5. ~~Permits for seawalls and dock structures can be approved administratively and do not require a hearing or approval of the Village Commission if:~~ Boat lifts and mooring piles may be constructed at existing docks beyond 50 feet from the seawall or shoreline provided:
 - a. ~~All proposed dock structures, including but not limited to boat lifts and mooring piles, are not placed more than 25 feet measured perpendicular from the seawall.~~ are limited to boat lifts and/or mooring piles which are not proposed to extend farther from the seawall than existing dock structures.
 - b. ~~All proposed dock structures, including but not limited to boat lifts and mooring piles, are entirely within the D-5 triangle as described in Section D5 of the Miami Dade Public Works Manual.~~ will not allow a lifted or moored boat to extend farther from the seawall than is possible using the existing dock structures.
6. A safety light shall be placed on the part of the structure (either dock, mooring pile, or boat lift) which is furthest from the seawall. The light shall be illuminated from

~~one half hour prior to sunset to one half hour after sunrise. Applications for docks, boat lift, mooring piles or other similar structures that do not meet the administrative approval criteria of Section 5 above shall be heard by the Village Commission at a public hearing. If an applicant seeks a dock or pier length greater than 25 feet measured perpendicular from the seawall (including boat lifts, mooring piles or other structures), the Village Commission shall consider the following criteria to determine if a distance waiver shall be granted:~~

- ~~a. If the applicant has provided to the Village notarized letter(s) of consent from adjoining riparian property owners, and~~
 - ~~b. If the Village has received any letter(s) of objection from adjoining riparian property owners; and~~
 - ~~c. Any other factors relevant to the specific site.~~
7. Any existing docks, piers, dolphins, wharfs, pilings, boat lifts, or similar structures may be repaired or reconstructed in their same footprint, regardless of the dimensional restrictions of this chapter. The Village Commission may deny, approve, or modify the request and/or impose conditions in the permit, or granting of a distance waiver, which it deems necessary to protect the waterways of the Village in accordance with the public safety and the general welfare. The requirement of approval by the Village Commission shall not include applications for repair of existing structures.
8. ~~A public hearing held pursuant to this Section shall be quasi-judicial.~~
9. ~~Repair or reconstruction of existing structures shall not require approval of the Village Commission but may be approved administratively. However, the provisions of subsections 4 and 5 above shall be complied with.~~
10. ~~A safety light shall be placed on the part of the structure (either dock, mooring pile, or boat lift) which is furthest from the seawall. The light shall be illuminated from one half hour prior to sunset to one half hour after sunrise.~~

* * *

G. Coastal Construction Variances

1. Purpose and intent. The purpose and intent of this section is to provide relief and flexibility from the strict enforcement of the provisions of Section 9.12.
2. Procedure for consideration of a coastal construction variance.
 - a. The Planning and Zoning Board shall hold a public hearing to consider a request for a coastal construction variance and shall recommend to the Village Commission, approval, approval with conditions, or denial of the variance. The Board shall consider the criteria of Section 9.12(G)(3) in their decision making.
 - b. Following a recommendation from the Planning and Zoning Board, the Village Commission shall have the power, after a public hearing, to vary or adopt the strict application of the requirements of Section 9.12, and to prescribe appropriate conditions and safeguards associated with the granting of a coastal construction variance. The Commission shall consider the criteria of Section 9.12(G)(3) in their decision making.
3. Coastal construction variance review criteria. Coastal variances shall be reviewed based on the following criteria:

- a. Whether or not the variance will be in harmony with the general appearance and character of the community
 - b. Whether or not the variance will be injurious to the area involved or otherwise detrimental to the public welfare
 - c. Whether or not the improvement is designed and arranged on the site in a manner that minimizes aerial and visual impact on the adjacent residences
 - d. Whether or not the Applicant has provided to the Village letter(s) of consent from adjoining riparian property owners
 - e. Whether or not the Village has received any letter(s) of objection from adjoining riparian property owners
 - f. Any other factors relevant to the specific site
4. Expiration of coastal construction variance. After the Village Commission has granted a variance, the variance so approved or granted shall expire after two years, measured from the date of final Commission action, if no substantial construction or change of use has taken place in accordance with the plans for which the variance was granted.
 5. Reapplication for a coastal construction variance. No application for a variance shall be filed less than one year after the date of denial by the Village Commission of an application for a variance involving the property, riparian area, or any portion thereof.

* * *

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 second 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 9th of July, 2019.

PASSED AND ENACTED on second reading on this 22nd day of July, 2019.

Brent Latham, Mayor

ATTEST:

Elora Riera, CMC
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, PL
INTERIM VILLAGE ATTORNEY



North Bay Village Recommendation Memorandum

DATE: July 22, 2019

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

FROM: James G. LaRue, AICP

THROUGH: Village Manager Ralph Rosado, PhD, AICP

SUBJECT: Land Development Code Revisions Requested by Jesta Group

REQUEST

Adoption of an Ordinance as modified at the July 9, 2019 Commission meeting, to revise the Village Land Development Code, summarized as follows:

- Allow bonus height fees to be paid concurrently with the issuance of a building permit instead of within 90 days of site plan approval
- Require a non-refundable deposit equal to 10% of the total bonus height fees to be paid within 90 days of site plan approval.
- Provide for development agreements to be executed for any project which incorporates bonus density and/or bonus height.
- For any development in the CG district which executes a covenant guaranteeing that the mechanical parking lifts be operated by a licensed and insured valet company, allow parking spaces created by mechanical parking to be counted toward the required number of parking spaces.

BACKGROUND AND ANALYSIS

Representatives for the Best Western (Jesta Group) requested that the Village make several revisions to the land development code. At the direction of the Village Mayor at the February 28, 2019 Commission meeting, the Jesta group's requested revisions were presented to the P&Z Board along with a staff report which included recommendations to the Board. The current form of this Ordinance, which was presented at the last P&Z meeting, is the result of discussions between staff and the Jesta Group, with modifications made to the original language that was requested by the Jesta Group.

Regarding the timing of bonus height fee payments, it has been asserted that the Village's current requirement to pay fees within 90 days of site plan approval is not reasonable and is out of line with the requirements of nearby jurisdictions. For comparison, several neighboring jurisdictions require the following:

- The City of Miami requires payment of bonus floor area ratio fees prior to issuance of building permit. [§62-325]
- The City of Miami Beach requires payment of new construction fee in lieu of parking prior to issuance of building permit. [§130-133]
- The City of Sunny Isles Beach requires a non-refundable deposit equal to 10% of total density transfer fees or setback reduction fees to be paid within three working days of the date of City Commission approval of a TDR application. Payment extensions may be approved by the Commission if the extension will not negatively impact the financial standing of the City. All bonus fees must be paid prior to issuance of building permit. [§265-11(M), §265-23(E), §265-25, §265-35(D)]

FINANCIAL IMPACT

There should be minimal financial impacts associated with the LDC changes summarized as follows:

- Bonus density fees and bonus height fees collected according to the current code would be held by the Village until such time as construction of a project had commenced. The proposed change to allow bonus height fees to be paid concurrently with the issuance of a building permit instead of within 90 days of site plan approval only changes the amount of time that the Village would be holding those funds.
- Allowing mechanical parking to count towards required parking should not have any financial impacts for the Village unless there are violations to the proposed rules or equipment failures which result in Village code enforcement action or other necessary Village actions.

BUGETARY IMPACT (Finance Dept.)

No direct budgetary impact

PERSONNEL IMPACT

Staff time will be spent creating, reviewing and executing development agreements. Management and review of the annual progress reports will also incur additional staff time. These impacts should be minimal.

RECOMMENDATION

The P&Z Board voted 4-0 to recommend approval of this ordinance at their June 17, 2019 meeting.

The Village Commission at their July 9, 2019 meeting voted 5-0 to approve the first reading with one change; to remove the allowance for bonus height fee refunds and require a non-refundable deposit equal to 10% of the total bonus height fees to be paid within 90 days of site plan approval.

Staff recommends approval of this ordinance at the adoption (2nd reading) hearing.

Staff also recommends revising Section 8.13 to change the deadline for payment of bonus density fees to be concurrent with issuance of building permit. Since this change was not advertised or presented to the P&Z Board, this revision would have to be addressed in a subsequent Ordinance.

ORDINANCE NO. _____

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

WHEREAS, Florida Statute 166.01 authorizes cities to establish, coordinate and enforce zoning and development laws that are necessary for the protection of the public; and

WHEREAS, North Bay Village (the “Village”) desires to update its Unified Land Development Code (“ULDC”); and

WHEREAS, the ULDC is intentionally modified to be relevant and to encourage development and redevelopment; and

WHEREAS, the ULDC and the modifications provided herein are wholly consistent with the Village’s Comprehensive Plan and the Florida Community Planning Act; and

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE 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 North Bay Village Code of Ordinances is hereby revised as follows:

Chapter 8 - ZONING

* * *

DIVISION 2. - APPLICATION OF DISTRICT REGULATIONS

* * *

§ 8.12 – Bonus Height

Properties in the RM-70 and CG districts may request to purchase additional height from North Bay Village as follows:

A. Approval of bonus height

Requests for bonus height shall be made concurrent with site plan review and shall be reviewed pursuant to the same criteria as site plans, provided in Section 5.8 UDLC. The Village Planning and Zoning Board shall review the request and provide a recommendation to the Village Commission. The Village Commission shall have the authority to approve or deny any bonus height request at a site plan review public hearing.

B. Maximum bonus height

1. The maximum building height (with bonus) that may be approved according to this section is 240 feet.
2. Properties located within the Bay View Overlay District may be approved for additional height according to the provisions of Section 8.10(F).

C. Fees

1. Bonus height community contribution fees shall be paid to North Bay Village in the following manner: a ten percent (10%) nonrefundable deposit shall be paid to the Village within 90 days of site plan approval by the Village Commission; and the balance shall be paid concurrently with the issuance of a building permit. No building permit shall be issued by

the Village until the applicant has paid the fees calculated pursuant to this section.

2. The Community contribution fee shall be:
 - (a) For every 10 feet of bonus building height approved by the Village Commission, the community contribution fee shall be \$750 per residential dwelling unit in the building and \$250 per hotel/motel sleeping unit in the building; and
 - (b) \$10 per square foot for any office, retail or restaurant floor area that exceeds maximum base height, excluding uncovered steps and exterior balconies.
3. Community contribution fees collected according to the bonus height program shall be utilized for the purchase of future Village parks, land for additional public open space, other public amenities, or infrastructure projects.

* * *

§ 8.15 – Development agreement for projects with bonus height, bonus density, and/or transferred development rights.

Prior to the approval of a site plan that requests bonus density pursuant to Section 8.10, bonus height pursuant to Section 8.12, and/or the transfer of development rights pursuant to Section 8.13, the Village and the owner of the subject property shall agree on tentative terms for a standard Development Agreement, which shall be presented to the Village Commission as support documentation for the site approval request. The Development Agreement shall reflect any additional terms imposed by the Village Commission as conditions of approval and shall be executable by the Village and the owner of the subject property following Commission approval. The Development Agreement, along with any accompanying development orders, shall vest the project with any density, height, and/or TDR approvals, notwithstanding any future amendments to either the Code or Comprehensive Plan reducing any applicable bonus or modifying the TDR process, provided that the project has not had a failure to commenced as provided herein. The agreement shall contain and address the following information, when applicable:

- (1) Statement of ownership and legal description;
- (2) Permitted uses and special exceptions;
- (3) Minimum dimensional requirements. Such requirement shall include lot area and width, setbacks, building height, minimum floor area, accessory structures and other dimensional information pertinent to the project;

- (4) Landscaping, parking and signage requirements;
- (5) Applicable design guidelines. The applicant shall submit as a requirement of the master development agreement, conceptual rendering, plans, schematics, and/or other design document, as may be necessary to illustrate that the project is meeting the design guidelines for the district in which the project is located;
- (6) Project phasing.
- (7) The method by which common areas facilities and areas visible to the public shall be maintained. This includes whether the project will be owner operated or under the control of condominium association, special taxing district, and/or community development district;
- (8) The maximum number of dwelling unit, maximum square footage of any commercial uses, and/or the maximum number of hotel rooms;
- (9) Improvements to infrastructure that may be required by the UDLC and/or Miami-Dade County by or agreed upon by the Village and the owner of the subject property;
- (10) Expiration date; and
- (11) Any other information deemed pertinent by the planning and zoning director or city council. The planning and zoning director may waive any of the master development agreement submittal items or portions of items.

The applicant or its successor in interest shall submit yearly progress reports to the Village beginning within six (6) months of the date of approval and within one (1) year thereafter. Pursuant to Section 5.10 of the UDLC, all site plan approvals for which construction has not initiated shall expire two (2) years from the date of final approval, unless otherwise extended by Commission at initial site plan approval or upon request for extension. Development agreements entered into pursuant to this section shall follow the time frame of the corresponding site plan approval and shall also expire concurrently with the expiration of the site plan approval. An extension of the project site plan pursuant to Section 5.10 of the UDLC shall also extend the development agreement for the corresponding project. Initiating construction shall mean the submission of an application for building permit for the project.

* * *

DIVISION 3. - SUPPLEMENTAL USE REGULATIONS

§ 8.165 – Supplemental Use Regulations

* * *

DIVISION 4. - SUPPLEMENTAL DEVELOPMENT STANDARDS

§ 8.176 - Supplemental Development Standards.

* * *

Chapter 9 - GENERAL SITE DESIGN STANDARDS

* * *

DIVISION 2. - OFF-STREET PARKING AND LOADING

* * *

§ 9.3 – Off-street parking requirements

* * *

H. Mechanical parking lifts in the CG District.

Notwithstanding any provision of this Code to the contrary, mechanical parking lifts are permitted in an enclosed garage structure to serve development in the CG district, subject to the standards in Section 9.3.G.1 through 14. Parking spaces created by a mechanical parking lift may be counted towards the total number of required parking spaces, provided that a restrictive covenant in a form acceptable to the Village Attorney is executed and recorded prior to the issuance of a Certificate of Occupancy requiring that the parking lifts be operated by a licensed and insured valet parking company.

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 second 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 9th of July, 2019.

PASSED AND ENACTED on second reading on this 22nd day of July, 2019.

Brent Latham, Mayor

ATTEST:

Elora Riera, CMC
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, PL
VILLAGE ATTORNEY



North Bay Village Recommendation Memorandum

DATE: July 22, 2019

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

FROM: Vice Mayor Marvin Wilmoth

SUBJECT: Single-Use Plastic Prohibition

REQUEST

To amend the Village code prohibiting the use, distribution or sale of single-use plastics. Revising the code enforcement and the schedule of civil penalties and creation of civil penalties. Upon the passing of the second reading, the Village will begin a three (3) month education campaign with businesses and residents. The Village will extend a two (2) month grace period where the code will enforce the new ordinance and only issue warnings. Full enforcement would begin on January 1, 2020.

BACKGROUND AND ANALYSIS

The Sustainability and Resiliency Task Force voted unanimously to support the proposed ordinance. Discarded Single-use Plastics threatens our three islands surrounded by waterways, including wildlife and marine life, and degrades and litter the beaches and waterways off of Florida's coast. Plastics are neither readily recyclable nor biodegradable.

FINANCIAL IMPACT

Minimal Code Enforcement and/or Police

BUDGETARY IMPACT (Finance Dept.)

N/A

PERSONNEL IMPACT

N/A

RECOMMENDATION

Adoption of the ordinance will be in aligned with the Village's vision to be a sustainable community. Its purpose is to encourage those in the village to use materials that are recyclable and reusable. The ordinance prohibits the use of single-use plastics like single-use plastic bags, Single-use plastic flatware, and dinnerware, and single-use plastic straws. Violation of the code would result in a \$250 fine for commercial properties and \$25 for residents.

ORDINANCE NO. _____

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

WHEREAS, North Bay Village (“Village”) is committed to environmental conscientiousness, and declares that it is in the interest of the public health, safety, and welfare of its residents and visitors to reduce litter and pollutants on the lands and in the waters of the Village, and along its shores and beaches; and

WHEREAS, the Village is comprised of islands surrounded by Biscayne Bay and other waterways, all of which support a wide variety of flora and fauna; and

WHEREAS, discarded Single-Use Plastics (including Single-Use Plastic Straws, Single-Use Plastic Bags, and Single-Use Plastic Flatware and Dinnerware as defined in this Ordinance) threaten wildlife and marine life and degrade and litter the beaches and waters off of Florida’s coast, which include areas within the Village; and

WHEREAS, Single-Use Plastics are neither readily recyclable nor biodegradable, and take hundreds of years to degrade; and

WHEREAS, Single-Use Plastics constitute a portion of the litter in the Village’s streets, parks, public places, and waterfront areas; and

WHEREAS, Single-Use Plastics contribute to overburdened landfills, threaten wildlife and marine life, and degrade and litter drainage and sewage systems, as well as the beaches and waters off the Florida coast, which include areas within the Village; and

WHEREAS, Single-Use Plastic Bags are photo-biodegradable and break down into smaller pieces which can make their way into the food chain via such animals as jellyfish and endangered sea turtles; and

WHEREAS, the sale and distribution of Single-Use Plastics has a detrimental effect on the Village's environment, and that of surrounding jurisdictions; and

WHEREAS, several companies have announced plans to phase out and discontinue the use of plastic straws in their establishments worldwide; various municipalities have adopted their own plastic straw prohibitions; and members of the media and public have expressed their satisfaction and concerns with plastic straw prohibitions; and

WHEREAS, the City of Coral Gables has adopted a plastic bag prohibition, and in *Florida Retail Federation, Inc. and Super Progreso Inc. v. The City of Coral Gables*, Circuit Court of the Eleventh Judicial Circuit for Miami-Dade County, Florida (Case No. 2016-018370-CA-01), the Court held that Sections 403.708(9) and 403.7033 of the Florida Statutes, relating to plastic bags and packaging, are unconstitutionally vague; and

WHEREAS, the appeal from this decision has been argued in the Third District Court of Appeal (Case No. 3D-2017-562), but no opinion has been released and the effectiveness of the Circuit Court decision has not been stayed; and

WHEREAS, the City of Miami Beach has adopted a prohibition on Single-Use Plastic Bags in the City's approved sidewalk cafes and on City property and rights-of-way, and further prohibited use of plastic straws and stirrers by its contractors and special event permittees

and use on City property and beaches, all of which have been enforced since February 1, 2019; and

WHEREAS, the Village Commission finds that there are reasonable, environmentally-friendly alternatives to Single-Use Plastics; and

WHEREAS, the Village Commission via Ordinance No 2015-14 passed and adopted an ordinance banning the use of expanded polystyrene food service articles by food service providers, food stores, and Village contractors; and

WHEREAS, the Village in from 2015 to 2017 passed several resolutions supporting the local control of regulating the use of single use plastic bags; and

WHEREAS, the Village Commission desires to amend the Code of Ordinances as specified herein; and

WHEREAS, the Village Commission finds that this Ordinance is necessary for the preservation and improvement of the environment, public health, safety and welfare of the Village's residents and visitors and future generations.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY MAYOR AND COMMISSION OF NORTH BAYVILLAGE, 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. Title IX of the Code of Ordinances of North Bay Village, entitled "General Regulations," is here by amended as follows:

TITLE IX: - GENERAL REGULATIONS

* * *

Chapter 102 – Prohibition on Single Use Plastic Articles

Sec. 102.01. – Definitions.

For the purposes of this article, the following terms shall have the ascribed meanings unless expressly stated otherwise:

Commercial Establishment means a property used for commercial purposes, such as a hotel, restaurant, café or retail store or vendor, or similar uses located in a multi-family residential building whether or not the use is open to the public, where customers can directly purchase goods and materials.

Compostable Carryout Bag means a bag that:

- (1) Conforms to the current ASTM D6400;
- (2) Is certified and labeled as meeting the ASTM D6400 standard specification by a recognized verification entity; and
- (3) Must be capable of undergoing biological decomposition in a compost site such that the material breaks down into carbon dioxide, water, inorganic compounds and biomass at a rate consistent with known compostable materials.

Recyclable Paper Bag means a bag that contains a minimum average of 40 percent post-consumer recycled materials and displays the minimum percent of post-consumer content on the outside of the bag.

Reusable Bag means a bag with handles that is specifically designed and manufactured for multiple reuse and made of durable material specifically designed for and provided to customers with the intention of multiple, long-term use and does not include any film plastic bags. Includes *Recyclable Paper Bags* and *Compostable Carryout Bags*.

Single-Use Plastics means Single-Use Plastic Bags, Single-Use Plastic Flatware and Dinnerware, and Single-Use Plastic Straws as defined herein.

Single-Use Plastic Bag means a bag provided by a company or individual to a customer of a Commercial Establishment, typically at the point of sale, for the purpose of transporting purchases, which is made predominantly of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene. This definition includes bags provided to a customer to transport items provided free of charge, including but not limited to, samples and informational materials. The following shall not be interpreted to be "Single-Use Plastic Bags":

- (a) A Compostable Carryout Bag;
- (b) Any bag without handles provided to a customer;
- (c) Any bag to protect food or merchandise from being damaged or contaminated by other food or merchandise, when items are placed together in a reusable bag or recyclable bag, including produce bags;
- (d) Any bag to hold prescription medications dispensed from a pharmacy or veterinary office;
- (e) Any bag designed to be placed over articles of clothing on a hanger, including dry cleaning bags;

(f) Door hanger bags;

(g) Newspaper bags;

(h) Garbage bags;

(i) Pet waste bags;

(j) Yard waste bags; and

(k) Bags of any type that a customer previously owned and brings to a Commercial Establishment for his or her own use in carrying away store goods.

Single-Use Plastic Flatware and Dinnerware means eating and serving utensils and plates, bowls, cups, and glasses provided by a company or individual to a customer of a Commercial Establishment, typically at the point of sale, made predominantly of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene. Single-Use Plastic Flatware and Dinnerware does not include flatware and dinnerware made of non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials.

Single-Use Plastic Straw means a straw or stirrer provided, sold, or distributed for the purpose of imbibing liquids or transferring a beverage from its container to the mouth of the drinker by suction or for the purpose of mixing a beverage, provided by a company or individual to a customer of a Commercial Establishment, typically at the point of sale, which is made predominantly of plastic derived from one or more of the following: petroleum, a biologically-based source (such as corn or other plants), or polystyrene, polypropylene, or polyethylene. A Plastic Straw does not include a straw that is made of non-plastic materials, such as paper, sugar cane, bamboo, or other similar materials, and does not apply to pre-packaged drinks.

Public Food Service Establishment means any establishment defined under F. S. § 509.013(5)(a) as amended from time to time, excluding those restaurants in the OF Oceanfront District that are accessory uses to multi-family residential buildings and have not received an exemption under Village Code.

Tip means any gratuity or service charge associated with a bill.

Village Facility includes, but is not limited to, any building, structure, park, beach, road, street, right-of-way, or other facility owned, operated or managed by the Village.

Village Property includes, but is not limited to, any land, water, or air rights owned, operated or managed by the Village.

Sec. 102.02 – Prohibition on use, distribution or sale of Single-Use Plastics

(a) Intent. Single-Use Plastics are neither readily recyclable nor biodegradable, and take hundreds of years to degrade. The intent of this section is to reduce litter impacting the beach and the ocean by reducing the use of Single-Use Plastics and replacing them with reusable materials.

(b) Single-Use Plastics Prohibited; Exceptions

(1) Single-Use Plastics, as defined in Section 102.01, shall not be used, sold, or distributed by any Commercial Establishment or at any Village Facility or Village Property.

(2) Single-Use Plastics, as defined in Section 102.01, shall not be used, sold or distributed as part of a Village-approved activity or event, whether private or public, in any Village Facility or Village Property.

(3) Exceptions.

(i) This prohibition shall not apply to medical or dental facilities.

(ii) This prohibition shall not apply to the school district or county, state, or federal governmental entities.

(iii) This prohibition shall not apply where a reasonable accommodation is needed by an individual due to a medical or physical condition, or a religious belief.

(c) Enforcement; Penalties

(1) Following adoption of this Section, the Village shall engage in public education efforts to inform Commercial Establishments and users of Village facilities and properties of the provisions of this Section and to provide assistance with identifying alternatives to Single-Use Plastics.

(2) Beginning [REDACTED], 2019, the Village's Code Compliance Department shall begin 90-day education period and, thereafter, a 60-day period of providing written warnings for violations of this section. Beginning on [REDACTED] the Department shall enforce all provisions of this Section.

(3) Penalties for violations of the provisions of this Section shall be enforced through Chapter 153 "Code Enforcement" of the Village Code. Fines shall be in the amounts prescribed in the schedule of civil penalties at Section 153.04.

(d) Reusable Bags. Commercial Establishments are strongly encouraged to educate their staff to promote Reusable Bags and to post signs encouraging customers to use Reusable Bags. Should Commercial Establishments provide carryout bags, they shall be Reusable Bags (as defined in Section 9-1), offered free of charge or for a fee as determined by the merchant. Commercial Establishments may keep any fees charged to offset the cost of providing the Reusable Bag.

Section 3. Village Code Amended. Chapter 153 of the Code of Ordinances of

North Bay Village, entitled "Code Enforcement," is hereby amended as follows:

TITLE XV: - LAND USAGE

* * *

Chapter 153 - CODE ENFORCEMENT

Sec. 153.04. - Schedule of civil penalties.

<u>Section</u>	<u>Description of Violation</u>	<u>Penalty</u>
102.02	Distributing or selling or using single-use plastics	<u>250.00 for a commercial establishment</u> <u>25.00 for an individual</u>
* * * * *		

* * *

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 Village 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 second 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 9th of July, 2019.

PASSED AND ENACTED on second reading on this 22nd day of July, 2019.

Brent Latham, Mayor

ATTEST:

Elora Riera, CMC
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, PL
Village Attorney



**MIAMI
WATERKEEPER®**

DEFENDING, PROTECTING, AND PRESERVING
MIAMI AND THE SURROUNDING WATERS
THROUGH CITIZENS INVOLVEMENT AND
COMMUNITY ACTION. MIAMI WATERKEEPER
WORKS TO ENSURE SWIMMABLE, DRINKABLE,
FISHABLE WATER FOR ALL.

June 14, 2019

Re: Implementing and Enforcing a Fertilizer Ordinance

Fertilizer Ordinances: Good for the Environment & Economy

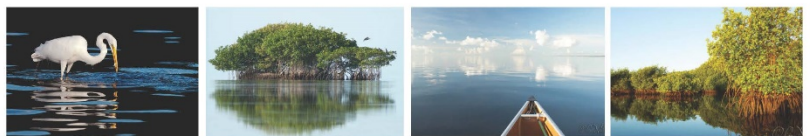
South Florida's waterways are exquisitely sensitive to nutrients, and some have even been designated as "impaired" for nutrient pollution. Fertilizer ordinances that limit the time, extent, and type of fertilizer allowed to be applied within a municipality's borders offer a way to reduce the discharge of nutrients like nitrogen and phosphorus to water bodies where they may significantly degrade the water and lead to, among other things, algae blooms. In addition to their ecological damage, harmful algae blooms can have a devastating effect on Florida's coastal economy, leading to health care costs from hospital and doctor visits, losses in tourism revenue, and clean-up activities. Research compiled by the Florida Department of Health shows harmful algae blooms can cause millions of dollars in economic damages to affected Florida coastal communities. Enforcing fertilizer ordinances may be difficult in certain circumstances, particularly concerning private citizens on private property.

Miami Waterkeeper's model fertilizer ordinance proposes some key measures including, but not limited to:

- 1) A Summer black-out period for fertilizer application;
- 2) Limitations on the amount of fertilizer that can applied outside the black-out period;
- 3) A mandatory set back zone for fertilizer applications on waterfront properties;
- 4) Commercial applicator education and registration provisions; and
- 5) Penalties for non-compliance.

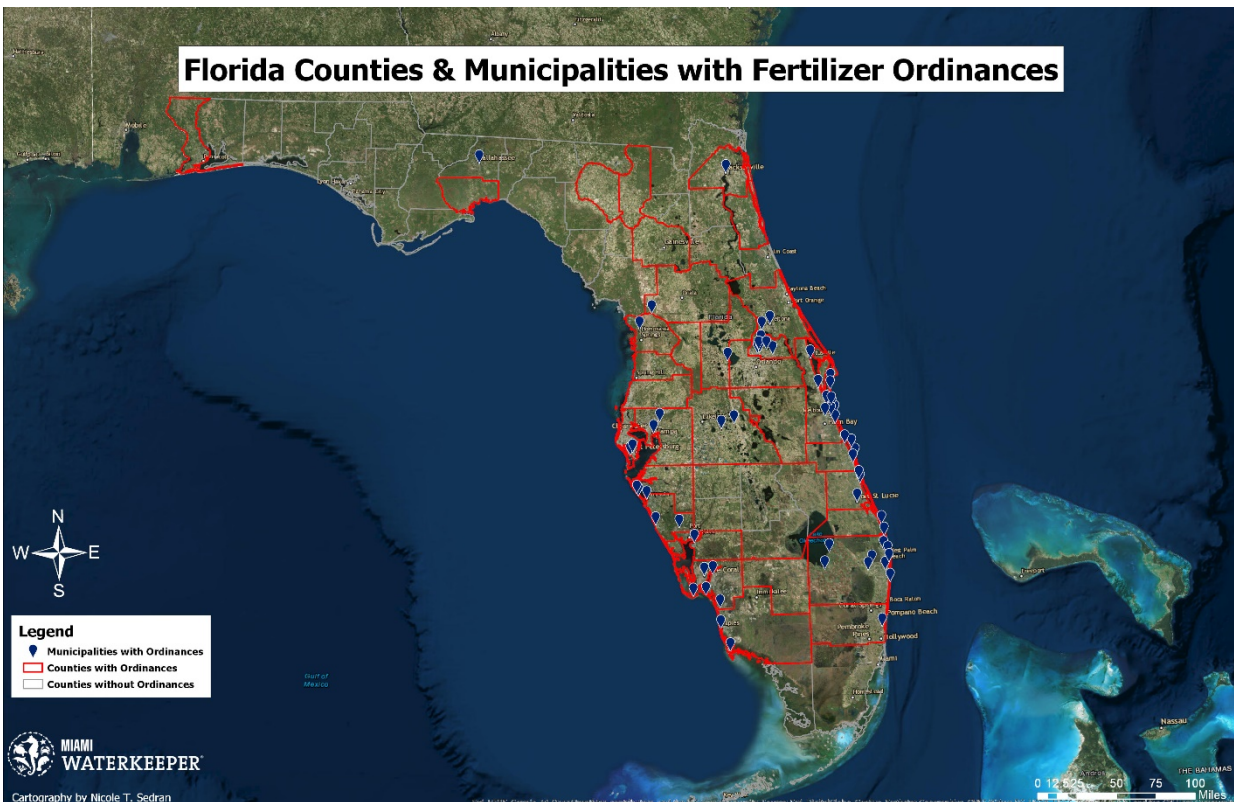
Existing Municipal Fertilizer Ordinances in the State of Florida

Many counties and municipalities throughout the state have passed similar ordinances including: Alachua County, Bonita Springs, unincorporated Brevard County, Cape Canaveral, Cocoa Beach, Indialantic, Indian Harbour Beach, Malabar, Melbourne Beach, Palm Bay, and Satellite Beach. A map of these municipalities is included below.



Miami Waterkeeper
2103 Coral Way, 2nd Floor
Miami, FL 33145

 305.905.0856
miamiwaterkeeper.org



This map illustrates municipalities, including counties and cities, throughout the state with existing ordinances controlling fertilizer application.

Fertilizer Ordinance Enforcement

Fertilizer ordinances are enforced just as other provisions of municipal code would be. The Fourth Amendment to the United States Constitution prohibits the government from engaging in “unreasonable” searches and seizures; in *Michigan v. Tyler*, 536 U.S. 499 (1978) the United States Supreme Court held that a warrant was required (absent limited urgent circumstances) from any governmental official and whatever their motive for entering onto the property. Fla. Stat. §933.21 allows for the application of inspection warrants to identify things like code violations on properties, though it exempts owner-occupied family residences from its provisions; for those properties, a search warrant is required under the more restrictive requirements of Fla. Stat. §933.07.

Therefore, focusing enforcement on commercial fertilizer applicators and properties in many cases would be a more efficient use of municipal resources, especially for those municipalities where most residents use commercial landscaping companies. Based on the actions of other municipalities, particularly Bonita Springs, FL, we can recommend the following enforcement or implementation mechanisms:

- (1) Require landscaping companies that apply fertilizer as part of their services register with the municipality and renew that registration annually. Registration should be contingent on all managers and employees involved with fertilizer application taking the Florida-Friendly Landscaping™ training offered by the University of Florida/Institute of Food and Agricultural Science Sciences (UF/IFAS), or an approved equivalent, as required by the ordinance. The UF/IFAS GI-BMP training is available online for free at: https://ffl.ifas.ufl.edu/professionals/BMP_overview.htm. Registrants would receive a decal with listed expiration date to display on their work vehicle or carry with them on the job.
- (2) Require all merchants within municipal boundaries who sell fertilizer to place placards conspicuously near fertilizer products setting forth the limitations in the ordinance (e.g. no use of fertilizers containing nitrogen or phosphorus from June 1-Sept. 30). The attached placard was developed by Bonita Springs and can be adapted for use by other municipalities based on the ordinance specifics.
- (3) Conduct periodic site audits for commercial applicators to ensure the company and its applicators are licensed and that ordinance requirements are being followed, i.e. at least one applicator on site has gone through UF/IFAS GI-BMP training and they are not violating the ordinance in terms of temporal limitations or fertilizer quantity or type.
- (4) Offer educational opportunities for residents that not only describe the fertilizer ordinance restrictions, but also explain its importance in addressing water quality issues in the municipality and offer a confidential channel for residents to report suspected ordinance violations.
- (5) Ensure that municipal code enforcement officers are trained to recognize possible unlawful fertilizer use, as well as possible environmental indicators of such use (localized algae blooms, fish kills, etc.).

Conclusion

Miami Waterkeeper's model fertilizer ordinance is intended to be a tool for municipalities. Non-point source pollution like fertilizer runoff is difficult to trace and correlate to degraded water quality conditions. This ordinance is proposed as a first step in protecting nearshore water quality degradation, and should be just one tool in your municipality's environmental management toolkit. However, it is an important first step that dozens of other municipalities have implemented in an effort to address some of the lowest hanging fruit regarding nutrient loads to nearshore waters and their negative ecological and economic impacts.

Should you have any questions about this ordinance or Miami Waterkeeper's efforts to address land-based sources of pollution generally, please do not hesitate to contact us.

Thank you for your attention to this matter and for your dedication to swimmable, drinkable, fishable water for all of South Florida.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kelly Cox".

Kelly Cox, Esq.
General Counsel
Miami Waterkeeper
(305) 905-0856
Kelly@miamiwaterkeeper.org
www.miamiwaterkeeper.org

ORDINANCE NO. _____

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

WHEREAS, North Bay Village (the "Village") geographic location places it within an environmentally sensitive area that is susceptible to deterioration based on residential and commercial property maintenance practices; and

WHEREAS, it is recognized that the use of prevalent fertilizers has led and will continue to lead to an impairment to the Village's surface waters caused by excessive nutrients or an increase in the levels of nitrogen in the surface and/or ground water within the aquifers or springs within the boundaries of the Village; and

WHEREAS, the Mayor and Commission have determined that the use of fertilizers on lands within the county creates a risk to contributing to adverse effects on surface and/or ground water; and

WHEREAS, accordingly, the Mayor and Commission finds that additional management measures that are specified in this Ordinance, and are otherwise contained in the most recent edition of the "*Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries, 2015*", are required to protect the waters in, under and around the Village; and

WHEREAS, the Village Commission finds that this Ordinance is necessary for the preservation and improvement of the environment, public health, safety and welfare of the Village's residents and visitors and future generations.

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 102 - Florida-Friendly Use of Fertilizer on Urban Landscapes

§ 102.01 – Purpose and intent.

This Ordinance regulates the proper use of fertilizers by any applicator; requires proper training of Commercial and Institutional Fertilizer Applicators; establishes training and licensing requirements; establishes a Prohibited Application Period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The Ordinance requires the use of Best Management Practices, which provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on North Bay Village's natural and constructed stormwater conveyances, rivers, creeks, canals, springs, lakes, estuaries and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well-being of the Village's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater conveyances. Regulation of nutrients, including both phosphorous and nitrogen contained in fertilizer, will help improve and maintain water and habitat quality.

§ 102.02 – Definitions

For this Article, the following terms shall have the meanings set forth in this section unless the context clearly indicates otherwise.

Administrator means the Village Manager, or an administrative official of the Village designated by the Manager to administer and enforce the provisions of this article.

Application or Apply means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any Person who applies fertilizer on turf and/or landscape plants in the Village.

Best Management Practices means turf and landscape practices, or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

Code Enforcement Officer, Official, or Inspector means any designated employee or agent of the county whose duty it is to enforce codes and ordinances enacted by North Bay Village.

Commercial Fertilizer Applicator, except as provided in 482.1562(9) F.S., means any person who applies fertilizer for payment or other consideration to property not owned by the person or firm applying the fertilizer or the employer of the applicator. County means the unincorporated areas of Miami-Dade County, Florida.

Fertilize, Fertilizing, or Fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Guaranteed Analysis means the percentage of plant nutrients or measures of neutralizing capability claimed to be present in a fertilizer.

Institutional Applicator means any person, other than a private, non-commercial or a Commercial Applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional Applicators shall include, but shall not be limited to, owners, managers, or employees of public lands, schools, parks, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Landscape Plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Low Maintenance Zone means an area a minimum of ten (10) feet wide adjacent to surface waters which is planted and managed in order to minimize the need for fertilization, watering, mowing, etc.

Miami-Dade County Approved Best Management Practices Training Program means a training program approved per 403.9338 F.S., or any more stringent requirements set forth in this Article that includes the most current version of the Florida Department of Environmental Protection's "Florida-friendly Best

Management Practices for Protection of Water Resources by the Green Industries, 2015," as revised, and approved by the county Administrator.

Person means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organizations, and/or any group of people acting as an organized entity.

Prohibited Application Period means the time period during which a Flood Watch or Warning, or a Tropical Storm Watch or Warning, or a Hurricane Watch or Warning is in effect for any portion of the county, issued by the National Weather Service, or if heavy rain is likely.

Restricted Application Period means ~~June 1 to September 30.~~

Saturated Soil means a soil in which the voids are filled with water. Saturation does not require flow. For the purposes of this ordinance, soils shall be considered saturation if standing water is present or the pressure of a person standing on the soil causes the release of free water.

Slow Release, Controlled Release, Timed Release, Slowly Available, or Water Insoluble Nitrogen means nitrogen in a form which delays its availability for plant uptake and use after application, or which extends its availability to the plant longer than a reference rapid or quick release product.

Surface Waters as defined by the Florida Department of Environmental Protection (Fla. Admin. Code 62-340) means waters on the surface of the earth, contained in bunds created naturally or artificially, including the Atlantic Ocean, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, canals, and ditches.

Turf, Sod, or Lawn means a piece of grass-covered soil held together by the roots of the grass.

Urban Landscape means pervious areas on residential, commercial, industrial, institutional, highway rights-of-way, or other nonagricultural lands that are planted with turf or horticultural plants.

§ 102.04 – Applicability

This Ordinance shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the area of North Bay Village, unless such applicator is specifically exempted by the terms of this Ordinance from the regulatory provisions of this Ordinance. This Ordinance shall be prospective only and shall not impair any existing contracts.

§ 102.05 – Timing of Fertilizer Application

(A) No applicator shall apply fertilizers containing nitrogen and/or phosphorous to turf and/or landscape plants during the Prohibited Application Period, or to saturated soils. In addition, fertilizer containing nitrogen or phosphorous shall not be applied to turf or landscape plants during the Restricted Application Period, which is defined as June 1 to September 30.

(B) Fertilizer shall only be applied to actively growing turf.

(C) Fertilizer containing nitrogen or phosphorous shall not be applied before seeding or sodding a site, and shall not be applied for the first 30 days after seeding or sodding, except when hydro-seeding for temporary or permanent erosion control in an emergency situation (wildfire, etc.), or in accordance with the Stormwater Pollution Prevention Plan for that site.

§ 102.06 – Fertilizer Free Zones

Fertilizer shall not be applied within fifteen (15) feet of any pond, stream, watercourse, lake, canal, or wetland as defined by the Florida Department of Environmental Protection (Fla. Admin. Code 62-340) or from the top of a seawall. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. Newly planted turf and/or landscape plants may be fertilized in this Zone only for a sixty (60) day period beginning 30 days after planting if needed to allow the plants to become well established. Caution shall be used to prevent direct deposition of nutrients into the water.

§ 102.07 – Low Maintenance Zones

A voluntary ten (10) foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland, or from the top of a seawall. A swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. No mowed or cut vegetative material may be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone.

§ 102.08 – Fertilizer Content and Application Rates

(A) Fertilizers applied to turf and/or landscape plants within the county shall be applied in accordance with directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements for Urban Turf Fertilizers.

(B) Nitrogen or phosphorous fertilizer shall not be applied to turf or landscape plants except as provided in (a) above for turf, or in UF/IFAS recommendations for landscape plants, vegetable gardens, and fruit trees and shrubs, unless a soil or tissue deficiency has been verified by an approved test.

(C) Fertilizer should be applied to turf and/or landscape at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.7 lbs of readily available nitrogen per one thousand (1,000) square feet at any one time based on the soluble fraction of formulated fertilizer, with no more than one (1) pound total nitrogen per one thousand (1,000) square feet applied at any one time, and not to exceed the nitrogen recommendations set forth below on an annual basis:

<u>Grass species</u>	<u>Maximum N application rate (lbs/1,000 sq ft/Year)</u>
<u>Bahiagrass</u>	<u>4</u>
<u>Bermudagrass</u>	<u>7</u>
<u>Centipedegrass</u>	<u>3</u>
<u>St. Augustinegrass</u>	<u>6</u>
<u>Zoysia</u>	<u>4.5</u>

(D) No phosphorous fertilizer shall be applied to existing turf and/or landscape plants within the county at application rates which exceed 0.25 pounds phosphorous per one thousand (1,000) square feet per application nor exceed 0.50 pounds phosphorous per one thousand (1,000) square feet per year.

(E) The nitrogen content of fertilizer applied to turf or landscape plans within the county shall contain at least 50% slow release, controlled release, timed release, slowly available, or water insoluble nitrogen per guaranteed analysis label. Caution shall be used to prevent direct deposition of nutrients in the water.

(F) Fertilizers labeled for sports turf at golf courses, parks, and athletic fields shall:

(1) Have directions for use not to exceed rates recommended in the document titled SL191 “Recommendations for N, P, K and Mg for Golf Course and Athletic Field Fertilization Based on Mehlich I Extractant”, dated March 2007, which is hereby adopted and incorporated by reference into this rule.

(2) Have directions for use in accordance with the recommendations in “BMP’s for the Enhancement of Environmental Quality on Florida Golf Courses”, published by the Florida Department of Environmental Protection, dated October 2012. Note that this does not exempt applicators at these sites from the required basic Green Industry BMP training.

§ 102.09 – Application Practices

(A) Spreader deflector shields are required when fertilizing via rotary (broadcast) spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

(B) Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces.

(C) Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable.

(D) Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container.

(E) In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances or water bodies.

§ 102.10 – Management of Grass Clippings and Vegetative Matter

In no case shall grass clippings, vegetative material, and/or vegetative debris be washed, swept, or blown off into stormwater drains, ditches, conveyances, water bodies, wetlands, or sidewalks or roadways. Any material that is accidentally so deposited shall be immediately removed to the maximum extent practicable.

§ 102.11 – Exemptions

The provisions set forth above in this Ordinance shall not apply to:

(A) Bona fide farm operations as defined in the Florida Right to Farm Act, Section 823.14 Florida Statutes provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the state Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(B) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures for grazing livestock provided that fertilizers are applied in

accordance with the appropriate Best Management Practices Manual adopted by the state Department of Agriculture and Consumer Services, office of agricultural water policy for the crop in question;

(C) Any lands used for bona fide scientific research including, but not limited to, research on the effect of fertilizer use on urban stormwater, water quality, agronomics, or horticulture.

§ 102.12 – Training

(A) All commercial and institutional applicators of fertilizer within North Bay Village’s jurisdiction, shall abide by and successfully complete the six-hour training program in the “Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries” offered by the Florida Department of Environmental Protection through the university of Florida Extension “Florida-Friendly Landscapes” program, or an approved equivalent.

(B) Private, non-commercial applicators are required to follow the recommendations of the University Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

§ 102.13 – Licensing Of Commercial Applicators

(A) Prior to 1 January 2020, all commercial applicators of fertilizer within North Bay Village’s jurisdiction shall abide by and successfully complete training and continuing education requirements in the “Florida-friendly Best Management Practices for Protection of Water Resources by the Green Industries,” offered by the Florida Department of Environmental Protection through the University of Florida IFAS “Florida-Friendly Landscapes” program, or an approved equivalent program, prior to obtaining a Village Business Tax Certificate or equivalent for any category of occupation which may apply any fertilizer to turf and/or landscape plants. Commercial Fertilizer Applicators shall provide proof of completion of the program to the North Bay Village Hall within 180 days of the effective date of this ordinance.

(B) After 31 December 2020, all commercial applicators of fertilizer within the North Bay Village’s jurisdiction shall have and carry in their possession at all times when applying fertilizer, evidence of certification by the Florida Department of Agriculture and Consumer Services as a Commercial Fertilizer Applicator per 5E-14.117(18) F.A.C.

(C) All businesses applying fertilizer to turf and/or landscape plants (including but not limited to residential lawns, golf courses, commercial properties, and multi-family and condominium properties) must ensure that at least one employee has a “Florida-friendly Best Management Practices for Protection of Water Resources

by the Green Industries” training certificate prior to the business owner obtaining a Local Business Tax Certificate or equivalent. Owners for any category of occupation which may apply any fertilizer to Turf and/or Landscape Plants shall provide proof of completion of the program to the Village

§ 102.14 – Enforcement

Funds generated by penalties imposed under this section shall be used by North Bay Village for the administration and enforcement of section 403.9337, Florida Statutes, and the corresponding sections of this ordinance, and to further water conservation and nonpoint pollution prevention activities.

§ 102.15 – Penalties

Violation of any provision of this article shall be subject to the following penalties:

- (A) First violation. Written notification and education.
- (B) Second violation. Fifty dollars (\$50.00).
- (C) Third violation. One hundred dollars (\$100.00).
- (D) Fourth and subsequent violation(s). Five hundred dollars (\$500.00) increasing 10-fold with each violation.

Each day in violation of this article within a three hundred sixty-five (365) days period, beginning the date of the first violation, shall constitute a separate offense. The Commission may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this article.

* * *

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 second 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 9th of July, 2019.

PASSED AND ENACTED on second reading on this 22nd day of July, 2019.

Brent Latham, Mayor

ATTEST:

Elora Riera, CMC
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

Weiss Serota Helfman Cole & Bierman, PL
Village Attorney