

ORDINANCE NO. 2019-009

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

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DIVISION 2. - APPLICATION OF DISTRICT REGULATIONS

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§ 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.
4. The bonus fees shall be paid in the following manner:
 - a. Applicant will pay to the Village a deposit equal to 10% of the total bonus height or density fee (the "Bonus Fee") within ninety (90) days of the date the site plan approval becomes final and non-appealable. The deposit will be applied to the total Bonus Fee due.
 - b. The deposit payment shall be non-refundable.
 - c. The deposit will be a credit against the Bonus Fee and such credit will run with the land. Without limiting the foregoing, the deposit will run in favor of all owners and successor owners of the subject property and to all site plan approvals regarding the property, even if one or more site plan approvals expire.
 - d. The development agreement to be executed and recorded in connection with the site plan approval for the corresponding project shall contain appropriate language providing that the Bonus Fee deposit running with the land as provided in item 3 above.

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§ 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;
- (11) The amount of any deposit fee paid pursuant to Section 8.12; and

- (12) 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.

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DIVISION 3. - SUPPLEMENTAL USE REGULATIONS

§ 8.165 – Supplemental Use Regulations

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DIVISION 4. - SUPPLEMENTAL DEVELOPMENT STANDARDS

§ 8.176 - Supplemental Development Standards.

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Chapter 9 - GENERAL SITE DESIGN STANDARDS

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DIVISION 2. - OFF-STREET PARKING AND LOADING

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§ 9.3 – Off-street parking requirements

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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

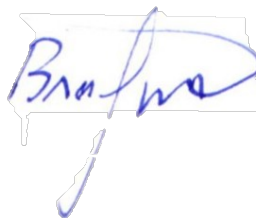
Section 7. Effective Date. That this Ordinance shall become effective immediately upon adoption on second reading.

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

Mayor Brent Latham	<u>YES</u>
Vice Mayor Marvin Wilmoth	<u>YES</u>
Commissioner Jose R. Alvarez	<u>ABSENT</u>
Commissioner Andreana Jackson	<u>ABSENT</u>
Commissioner Julianna Strout	<u>YES</u>

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,
Village Clerk

APPROVED AS TO LEGAL SUFFICIENCY:



Weiss Serota Helfman Cole & Bierman, PL
Village Attorney