

ORDINANCE NO. 2012-05

AN ORDINANCE OF THE CITY OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 35 "TAXATION AND FINANCE," OF THE CITY CODE OF ORDINANCES TO REVISE THE REQUIREMENTS AND PROCEDURES RELATED TO GENERAL AND ENTERPRISE FUND RESERVES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY CITY COMMISSIONER RICHARD CHERVONY)

WHEREAS, the City Commission of the City of North Bay Village (the "City") recognizes that changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the City's regulations are current and consistent with the requirements of Florida Law; and

WHEREAS, the City Commission desires to strengthen its emergency reserve funding program to address such emergencies as Hurricanes and other natural disasters; and

WHEREAS, the City desires to update current finance provisions to conform to new regulatory guidelines including GASB 54; and

WHEREAS, the City Commission has reviewed this Ordinance at a duly noticed hearing and determined that it is consistent with State Law; and

WHEREAS, the City Commission hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY 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. City Code Amended. That Chapter 35 "Taxation and Finance" of the City of North Bay Village Code of Ordinances is hereby amended to read as follows:¹

§ 35.20 - Expenditures to be made in accordance with budget.

Except where formal contracting, bidding, or other procedures are required by law as a condition precedent to the expenditures of funds, the City Manager is authorized to expend city funds in accordance with the city's annual adopted budget as it may exist from time to time, including all mid-year adjustments, without further action of the City Commission.

§ 35.21 - Amendments to budget.

The city's annual budget may be amended from time to time in the following manner:

- (A) Minor amendments. Transfers between line items within a departmental budget, or decreases in line items, not amounting to more than 5% of the total budget of each department, may be made by the City Manager by written statement describing the transfers and the reasons therefore. A copy of such statement shall be filed with the City Clerk and delivered to the Mayor and each of the City Commissioners. A copy shall also be posted at a conspicuous place in City Hall. The transfers shall become effective 14 days after posting, unless within that time, the Mayor or any City Commissioner shall notify the City Clerk that they wish the transfer placed upon the City Commission agenda for consideration by the City Commission. Any transfer considered by the Commission must be approved by majority vote of the Commission.
- (B) Other amendments. All other budgetary transfers shall be approved by resolution of the City Commission.
- (C) Nothing in this section shall authorize the City Manager to expend unanticipated revenues which may accrue to the city during the course of the fiscal year, unless and until the unanticipated revenues have been budgeted by the City Commission.

¹ Additions to existing city code text are shown by underline; deletions from existing city code text are shown by ~~strikethrough~~.

§ 35.22 - Creation of Fund Balance/Retained Earnings Reserves.

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

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

B. General Fund Reserve. The City shall maintain within the General governmental fund and enterprise fund of the City, a reservation of fund balance/retained earnings balance equal to the following: equal to

1. ~~General Fund. The city shall maintain 20% of the current fiscal year general fund, as a reserved fund balance/retained earnings balance. For the purposes of this calculation, the current fiscal year budget shall be the budget as originally adopted by ordinance in September of the applicable fiscal year. This reserved fund balance shall be classified as Assigned, for the specific purposes as delineated in Section D of Section 35.22 of the Code, in addition to all other reserves or designations of fund balance, including, but not limited to, reservations of uncollected receivables and reservations of funds which have expenditure authority limited to specific purposes (i.e. proceeds from the sale or conversion of judicially forfeited properties).~~

C 2. Enterprise Funds Reserves. The city shall maintain within each of the enterprise funds now, or hereafter created by the Commission, a Restricted Net Assets reservation of fund balance/retained earnings/balance equal to 20% of the current water, sewer, sanitation and storm water fiscal year budget for that fund. For the purposes of this calculation, the fiscal year budget shall be the total water, sewer, sanitation and storm water budget for these four utilities or segments as originally adopted by ordinance in September of the current fiscal year. These is Restricted Net Assets reserve shall be in addition to all other designations reservations of retained earnings, including but not limited to amounts reserved in current liabilities for debt service and/or amounts reserved for renewal and replacement of long-lived assets. Any utilization of the Restricted Net Assets shall be pursuant to Section D of Section 35.22.

~~Purposes for which Fund Balance/Retained Earnings may be used.~~

DB. Use of Fund Balance/Net Assets. The Assigned Ffund Bbalance in the General Fund and the Restricted Net Assets in any Enterprise Fund ~~/retained earnings~~ may be utilized, and therefore the fund balance/~~retained earnings balance~~ of 20% of the annual budget may be decreased, for the following purposes:

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

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

~~(1) Unscheduled natural disasters/emergencies~~

~~(2) Unanticipated capital improvements and infrastructure needs.~~

~~(3) Unforeseen contingent liabilities.~~

~~(4) Acts of God or war.~~

~~(5) For the emergency health, safety and welfare needs of the city.~~

EC. Utilization of Assigned Fund Balance and Restricted Net Assets. Funds and assets reserved pursuant to this Section may be used only in accordance with the following requirements:

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

(2) Any expenditure from the Assigned Fund Balance or Restricted Net Assets shall require approval by the City Commission by a super-majority vote of those present prior to expenditure of the funds.

FC. Replenishment of Fund Balances/Retained Earnings Reserve Deficits. In any fiscal year when the city is unable to maintain the 20% balances reservation of fund balance required by this section, the city in the subsequent fiscal years shall not be entitled to appropriate any portion of the remaining Assigned Ffund Balance or Restricted Net Assets until the denoted reserves again reach 20%.

If, at the end of any fiscal year, the actual amounts required by this Section ~~of unreserved, undesignated fund balance or unrecovered retained earnings~~ falls below the required levels as established in this Section, the City Manager shall prepare and submit a plan for expenditure or expense reductions and/or revenue increases to the City Commission in order to replenish the required 20% fund balance/retained earnings reserve. As a part of the annual budget review, the City Commission shall review and amend the plan submitted by the City Manager for restoring the balance(s) ~~amount of unreserved, undesignated fund balance, or unreserved retained earnings~~ to the required levels. Any deficit in the required amount must be restored no later than the end of the second fiscal year following its occurrence.

~~D Utilization of Surplus Reserves. In the event that the unreserved undesignated fund balance or unreserved, retained earnings balance exceeds the minimum reservation of retained earnings established under this section, the excess may be utilized for any lawful purpose. The excess reserves shall first be utilized within the fund in which it was generated in order to address and fund and be used for: (1) one time expenditures or expenses which do not result in recurring operating costs; and (2) capital improvements and maintenance.~~

Section 3. Repeal. That 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. 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, and 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 the Code. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City 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. That this Ordinance shall be effective immediately upon adoption on second reading.

The motion to approve the foregoing Ordinance on first reading was made by Mayor Connie Leon-Kreps, seconded by Commissioner Richard Chervony.

THE VOTES WERE AS FOLLOW:

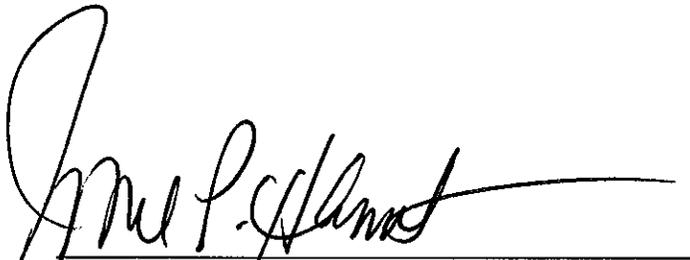
Mayor Connie Leon-Kreps	<u>Yes</u>
Vice Mayor Eddie Lim	<u>Yes</u>
Commissioner Stuart Blumberg	<u>Yes</u>
Commissioner Richard Chervony	<u>Yes</u>

APPROVED ON FIRST READING during a regular session of the City Commission of North Bay Village this 10th day of July 2012.

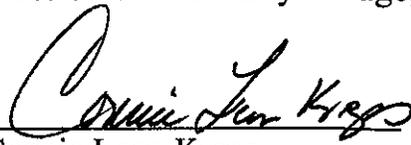
FINAL VOTE ON ADOPTION:

Mayor Connie Leon-Kreps	<u>Yes</u>
Vice Mayor Eddie Lim	<u>Yes</u>
Commissioner Stuart Blumberg	<u>Yes</u>
Commissioner Richard Chervony	<u>Yes</u>

PASSED AND ENACTED by the City Commission of North Bay Village, Florida, this 25th day of July 2012.

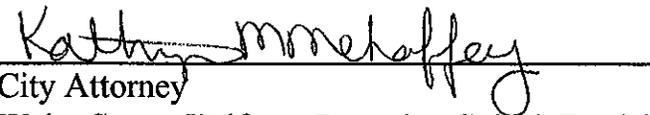


Yvonne Hamilton, City Clerk, CMC



Connie Leon-Kreps
Mayor

**APPROVED AS TO FORM FOR THE USE OF
THE CITY OF NORTH BAY VILLAGE ONLY:**



City Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.

City of North Bay Village Resolution: Amending Reserve Fund Requirements.