

CITIZENS' BILL OF RIGHTS

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administration management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

(1) *Convenient Access.* Every person has the right to transact Village business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the Commission and the Manager to provide, within budgetary limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the Village.

(2) *Truth in Government.* No Village official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.

(3) *Public Records.* Records of the Village, its agencies, boards, committees, authorities and departments shall be open for inspection at reasonable times and places convenient to the public, to the extent required by law.

(4) *Minutes and Ordinance Register.* The Clerk shall maintain and make available for public inspection a register separate from the minutes showing the votes of each Commission member on all ordinances and resolutions listed by descriptive title. The register shall be available for public inspection not later than 60 days after the conclusion of the meeting at which action was taken.

(5) *Right to be Heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the Commission or agency, board, committee, authority or department for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the Village. Matters shall be scheduled for the convenience of the public. The Commission shall adopt agenda procedures and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

(6) *Right to Notice.* Persons entitled to notice of a Village hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

(7) *No Unreasonable Postponements.* No matter, once having been placed on a formal agenda by the Village, shall be postponed to another date except for good cause shown.

(8) *Right to Public Hearing.* Upon a timely written request from any interested party and after presentation of the facts to and approval by the Commission, a public hearing shall be held upon any significant policy decision which is not subject to subsequent administrative or legislative review and hearing.

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

(9) *Notice of Action and Reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any Village administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.

(10) *Managers' Report.* The Manager shall periodically make a public status report on all major matters pending or concluded within his/her areas of concern.

(11) *Budgeting.* In addition to any budget required by state law, the Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the Commission's first public hearing on the proposed budget required by state law, the Manager shall issue a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefore, and the amount of any contingency and carryover funds.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the Village. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the Village. The orderly, efficient and fair operation of government requires the participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida and the Home Rule Charter of Miami-Dade County, Florida.

**ARTICLE I. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY
AND POWERS**

Section 1.01. Corporate existence.

The municipal corporation now existing and known as the Village of Biscayne Park (the "Village") shall continue to exist and be known as the Village of Biscayne Park pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Miami-Dade County (the "County"), Florida.

Section 1.02. Form of government.

The Village shall have a "Commission-Manager" form of government.

Section 1.03. Corporate boundary.

The corporate boundary of the Village shall be as follows:

Beginning at the Northeast corner of Lot 4, Block 9, Bellevue Biscayne Subdivision as recorded in the Public Records of Dade County, Florida, in Plat Book 17, page 29; said beginning point being further described as the intersection of the Southeasterly right of way line of the Dixie Highway and the Southwesterly right of way line of Biscayne Canal, as now laid out and platted; thence Easterly on a straight line to the intersection of the center line of Griffing Boulevard and Eighth Street (NE 121st Street) as shown on a plat of Biscayne Park Estates, recorded in Plat Book 5, page 107, Public Records of Dade County, Florida, thence east along the center line of Eighth Street (NE 121st Street) as shown on the following recorded plats: Biscayne Park Estates, Plat Book 8, page 18, Biscayne Park Estates, Plat Book 15, page 53, Biscayne Park Estates, Plat Book 8, page 21; Biscayne Park Estates, Plat Book 7, page 129, Biscayne Park Estates, Plat Book 35, page 44, Palomar, Plat Book 7, page 158, and Palomar, Plat Book 35, page 43, thence continuing east along NE 121st Street, produced in a straight line, to its intersection with the Westerly right of way line of the Florida East Coast Railroad; thence Southwesterly along the Westerly right of way line of the Florida East Coast Railroad to its intersection with the center line, produced east in a straight line, of First Street (NE 107th Street) as shown on a plat of Biscayne Park Estates, recorded in Plat Book 14, page 1; thence west along aforesaid produced center line of NE 107TH Street, Davis Addition to Biscayne Park Estates, Plat Book 45, Page 59 and as shown on aforesaid plat of Biscayne Park Estates, Plat Book 14, page 1, to its

intersection with the Westerly right of way line of Biscayne Canal; thence Northwesterly along the Westerly right of way line of the Biscayne Canal to its intersection with a line thirty-five (35) feet east of and parallel to the west line of the NE 1/4 of Sec. 31-Twp. 52 South-Rgs. 42 East; thence North across Biscayne Canal along aforesaid line thirty-five (35) feet east of and parallel to the west line of the NE1/4 of Sec. 31-52-42 to its intersection with the Easterly right of way line of Biscayne Canal; thence Northwesterly along the Easterly right of way line of Biscayne Canal 500 feet; thence Southwesterly across Biscayne Canal and at right angles thereto to the Westerly right of way line of Biscayne Canal; thence Northwesterly along the Westerly right of way line of Biscayne Canal to the Point of Beginning.

Section 1.04. Powers.

The Village shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the Village that the municipal government established herein shall have the broadest exercise of home rule powers permitted under the Constitution and laws of the State.

ARTICLE II. VILLAGE COMMISSION; MAYOR

Section 2.01. Village Commission.

There shall be a Village Commission (the "Commission") vested with all legislative powers of the Village, consisting of five members (hereinafter referred to as "Commissioners"). The Commission shall elect one of its members to the position of Mayor at the first meeting of each newly elected Commission.

Section 2.02. Mayor and Vice Mayor.

(A) **Mayor.** The Mayor shall preside at meetings of the Commission and be a voting member of the Commission. The Mayor shall be recognized as the head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the Village official designated to represent the Village in all dealings with other governmental entities.

(B) **Vice-Mayor.** During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. Semi-annually at such times as established by ordinance of the Village, each member of the Commission shall serve for a period of six months as Vice-Mayor.

Section 2.03. Election and term of office.

Election and term of office. Each Commissioner shall be elected at-large in the manner provided in Article V of this Charter.

Section 2.04. Candidates.

To qualify for election, candidates for the Commission shall: (a) file a written notice of candidacy with the Clerk consistent with Article V of this Charter at such time and in such manner as prescribed by ordinance; and (b) make payment to the Clerk of any required election assessment fee. Only electors of the Village who have resided continuously in the Village for at least one year preceding the date of such filing shall be eligible to hold the office of Commissioner. Qualifying period shall begin on October 15th or the first business day immediately thereafter and shall end on the last business day of October.

Section 2.05. Vacancies; forfeiture of office; filling of vacancies.

(A) **Vacancies.** The office of a Commissioner shall become vacant upon his/her death, resignation, removal from office in any manner authorized by law, or by forfeiture of his/her office.

(B) **Forfeiture of office.**

(1) **Forfeiture by disqualification.** A Commissioner shall forfeit his/her office if at any time during his/her term s/he: (a) ceases to maintain his/her permanent residence in the Village; or (b) otherwise ceases to be a qualified elector of the Village.

(2) **Forfeiture by absence.** A Commissioner shall be subject to forfeiture of his/her office, in the discretion of the remaining Commissioners, if s/he is absent without good cause from any three (3) regular meetings of the Commission during any twelve (12) month period.

(3) **Procedures.**

(a) The Commission shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Commissioner's office, including whether or not good cause for any absence has been or may be established. The Commissioner in question shall have the burden of establishing good cause for any such absence. Any Commissioner may at any time during any duly held meeting move to establish good cause for the absence of himself/herself or any other Commissioner from any past, present or future meeting(s). If the Commission finds that good cause has been established, the matter shall be considered concluded. A Commissioner whose

qualifications are in question or who is otherwise subject to forfeiture of his/her office shall not vote on matters of qualification, forfeiture or good cause.

(b) The Commissioner in question may request a public hearing regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Village at least two weeks in advance of the hearing. Any final determination by the Commission that a Commissioner has forfeited his/her office shall be made by resolution. All votes and other actions taken by the Commissioner in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

(C) Filling of vacancies.

(1) Vacancy of Commission Office. Commission vacancy shall be filled as follows:

(a) If less than six (6) months remain in the unexpired term, the vacancy shall be filled by appointment of the Commission made within thirty (30) calendar days following the occurrence of the vacancy.

(b) If six (6) months or more remain in the unexpired term, the vacancy shall be filled pursuant to a Special Election which shall occur within forty five (45) days from the date of said vacancy or as soon as allowed by the Supervisor of Elections, in no case to exceed ninety (90) days.

(c) Notwithstanding any quorum requirements established herein, if at any time the full membership of the Commission is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members until a quorum is achieved to the extent otherwise permitted or required under this subsection (C).

(d) In the event that all the offices of the Commission are vacated, the Governor shall appoint interim Commissioners who shall meet the qualifications under Article II and Article V of this Charter. The interim Commission shall call a special election within not less than thirty (30) days but no more than sixty (60) days after such appointment. However, if there are less than six (6) months remaining in any unexpired term(s), the interim Commission shall appoint an interim Commissioner(s) to serve out the unexpired term(s). If a special election is held, the candidate(s) who receive(s) the most votes will serve out the longer remaining term(s).

(2) **Vacancy of Mayoral Position.** If the position of Mayor becomes vacant, the Commission will elect a sitting Commissioner as Mayor who shall complete the term of the Mayor. The Commission vacancy shall then be filled in the manner described in this subsection (C).

(3) **Vacancy in Candidacy.** In the event of a vacancy in candidacy caused by death, withdrawal, or removal from the ballot of a qualified candidate(s) following the end

of the qualifying period which leaves fewer candidates for the Commission than Commission vacancies, the remaining candidates shall be elected to office and the remaining vacant position(s) shall be filled by special election within forty-five (45) days of the vacancy or as soon as allowed by the Supervisor of Elections, but in no case to exceed ninety (90) days.

(a) Any candidates filling a vacancy shall meet the qualifications specified in this Article II and Article V of this Charter.

(b) If no candidate for a vacancy meets the qualifications under Article II and Article V of this Charter, the Commission shall appoint a person qualified under Article II and Article V to fill the vacancy.

Section 2.06. Compensation; reimbursement for expenses.

Members of the Commission shall receive annual compensation as set by ordinance by a four-fifths (4/5) majority vote. Members of the Commission shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

ARTICLE III. ADMINISTRATIVE

Section 3.01.

(A) Village Manager.

There shall be a Village Manager (the "Manager") who shall be the chief administrative officer of the Village. The Manager shall be responsible to the Commission for the administration of all Village affairs and for carrying out the policies of the Commission.

(B) Appointment; removal; compensation of the Manager.

The Commission shall appoint the Manager for an indefinite term. The appointment shall be by a majority vote of the Commission's total membership. The Commission may remove the Manager at any time, as provided for in Section 3.03. The Commission shall fix the compensation and benefits for the Manager.

(C) Duties of the Manager.

The Manager shall:

(1) Be responsible for the hiring, supervision and removal of all Village employees;

(2) Direct and supervise the administration of all departments and offices but not Village boards, agencies, committees or authorities, unless so directed by the Commission from time to time;

(3) Attend all Commission meetings and have the right to take part in discussion but not the right to vote;

(4) Ensure that all laws, provisions of this Charter and acts of the Commission, subject to enforcement and/or administration by him/her or by officers subject to his/her direction and supervision, are faithfully executed;

(5) Prepare and submit to the Commission a proposed annual budget and capital program;

(6) Submit to the Commission and make available to the public an annual report on the finances and administrative activities of the Village as of the end of each fiscal year;

(7) Prepare such other reports as the Commission may require concerning the operations of Village agencies, boards, committees, authorities or departments;

(8) Keep the Commission fully advised as to the financial condition and future needs of the Village and make such recommendations to the Commission concerning the affairs of the Village as s/he deems to be in the best interests of the Village;

(9) Execute contracts, deeds and other documents on behalf of the Village as authorized by the Commission;

(10) Appoint a Clerk. The Manager cannot appoint himself/herself as Clerk. The Clerk shall give notice of Commission meetings to its members and the public, shall keep minutes of its proceedings and shall perform such other duties as the Manager may prescribe from time to time. The Clerk shall report to the Manager.

(11) Perform such other duties as are specified in this Charter or as may be required by the Commission.

(D) Absence or disability of the Manager.

By letter filed with the Clerk, the Manager may designate a qualified Village officer to perform the Manager's duties during a temporary absence or disability. In the event of the Manager fails to make such designation, or the person so designated is unsatisfactory to the Commission, the Commission may by resolution appoint an individual, corporation or other entity to perform the duties of the Manager during the temporary absence or disability.

(E) Bond of the Manager.

The Commission shall provide by ordinance for the Manager to furnish a fidelity bond to be approved by the Commission, and in such amount as the Commission may fix. The Village shall pay the premium of the bond.

Section 3.02 Village Attorney.

(A) The Commission shall appoint an attorney who is licensed to practice law in the State of Florida to serve as Village Attorney (the "Attorney") and who shall serve at the pleasure of the Commission. The Attorney shall act as the legal advisor to, and attorney and counselor for, the Village and all of its officers in matters relating to their official duties under such terms, conditions and compensation as are consistent with this Charter and as may be established. The Commission at any time may remove the Attorney as provided in Section 3.03 below.

(B) When requested by the Commission or Manager, the Attorney shall: (1) prepare all contracts, bonds and other instruments in writing or shall endorse on each his/her approval of the form, language and execution thereof; (2) prosecute and defend, for and on behalf of the Village, all complaints, suits and controversies in which the Village is a party; (3) furnish his/her opinion on any question of law relating to their respective powers and duties; and (4) perform such other professional duties as may be required by ordinance, by resolution of the Commission, by this Charter, or such as are prescribed for village attorneys under the general laws of the State, not inconsistent with this Charter.

(C) No contract with the Village shall be binding upon the Village until the Attorney has approved such contract for form, language and execution.

Section 3.03 Removal procedure.

The Manager and the Attorney (each to be referred to as "Charter Officer") may be suspended with pay pending removal by a resolution approved by the majority of the total membership of the Commission, which shall set forth the reasons for suspension and proposed removal. A copy of such resolution shall be served immediately upon the affected Charter Officer. The affected Charter Officer shall have fifteen (15) days in which to respond in writing; and upon request, shall be afforded a public hearing, which shall occur not earlier than ten (10) days nor later than fifteen (15) days after such hearing is requested. After the public hearing, if one is requested, and after full consideration, the Commission by a majority vote of its total membership may adopt a final resolution of removal. The affected Charter Officer shall continue to receive full compensation until the effective date of a final resolution of removal.

Section 3.04 Expenditure of Village funds.

No funds of the Village shall be expended except pursuant to duly approved appropriations.

Section 3.05 Competitive bid requirement.

Competitive bid procedures shall be established by Ordinance.

Section 3.06 Village boards, agencies, committees and authorities.

Except as otherwise provided by law, the Commission shall establish or terminate such boards, agencies, committees and authorities ("Boards") as it may deem advisable from time to time. The Commission shall appoint members of the Boards and shall regulate such Boards through the enactment of an Ordinance.

ARTICLE IV. LEGISLATIVE

Section 4.01. Commission meeting procedure.

(A) Meetings. The Commission shall hold at least eleven (11) regular monthly meetings in each calendar year, at such times and places as the Commission may prescribe by rule. Special meetings may be held on the call of the Mayor or upon the call of four members of the Commission and upon no less than twenty four (24) hours' notice to each member and the public, or such shorter time as a majority of the Commission shall deem necessary in case of an emergency affecting life, health, property or the public peace.

(B) Rules and journal. The Commission shall determine its own rules of procedure and order of business and shall keep minutes open for public inspection.

(C) Quorum and voting.

(1) Any three (3) members of the Commission shall constitute a quorum but a smaller number may recess or adjourn a meeting from time to time and may compel the attendance of absent members in a manner and subject to the penalties prescribed by the rules of the Commission prior to voting on matters of great importance.

(2) Ordinances shall be voted upon by roll call.

Section 4.02. Prohibitions.

(A) Appointments and removals. Neither the Commission nor any of its members shall interfere with the Manager's decision to appoint or remove any Village administrative officer or employee. However, the Commission may express its views and fully and freely discuss the appointment or removal of such officer or employee with the Manager.

(B) Interference with administration.

(1) It is the express intent of this Charter that individual Commissioners make any recommendations for improvement in Village operations to the Manager only. Individual Commissioners may discuss any matter of Village business with the Manager but are strictly prohibited from directing or otherwise ordering the Manager to take any particular action.

(2) Except for the purpose of inquiries and investigations made in good faith, the Commission and its members shall deal with Village officers and employees who are subordinate to the Manager solely through the Manager. Neither the Commission nor its members shall give orders directly to any such officer or employee, either publicly or privately.

(3) Any willful violation of this Section by any member of the Commission shall be grounds for removal from office by an action brought by the State Attorney of Miami-Dade County.

(C) Holding other office. A Commissioner shall not be an employee or appointed official of the Village while serving his/her term of office. A former Commissioner shall not become an employee or compensated appointed official of the Village until one (1) year after leaving office.

Section 4.03. Action requiring an ordinance.

(A) In addition to other acts required by law or this Charter to be taken or effectuated by ordinance, the Commission shall act by ordinance in order to:

(1) Adopt or amend an administrative regulation or establish, alter or abolish any Village office, department, board, agency, committee or authority;

(2) Establish a rule or regulation the violation of which carries a penalty;

(3) Levy taxes or appropriate funds;

(4) Grant, renew or extend a franchise;

(5) Set service or user charges for municipal services or grant administrative authority to set such charges;

(6) Authorize the borrowing of money;

(7) Convey, lease or authorize by administrative action the conveyance or lease of any lands owned by the Village;

(8) Regulate land use through zoning and other means;

(9) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

Section 4.04. Emergency ordinances.

(A) Authorization; form.

(1) To meet a public emergency affecting life, health, property or the public peace, the Commission may adopt, in the manner provided in this Section, one or more emergency ordinances, but such ordinances may not: (a) enact or amend a land use plan or rezone private property; (b) levy taxes; (c) grant, renew or extend any municipal franchise; (d) set service or user charges for any municipal services; or (e) authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter.

(2) An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall: (a) be plainly designated as an emergency ordinance in its title; (b) contain a declaration stating that an emergency exists; and (c) describe the emergency in clear and specific terms.

(B) Procedure. Upon the affirmative vote of four (4) Commissioners at a scheduled meeting, an emergency ordinance may be adopted. After its adoption, the ordinance shall be advertised and printed as prescribed for other ordinances.

(C) Effective date. Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

(D) Repeal. Every emergency ordinance except emergency appropriation ordinances shall automatically be repealed as of the sixty first (61st) day following its effective date, but this shall not prevent re-enactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this Section. An emergency ordinance may also be repealed by adoption of an ordinance in the manner specified in this Section for adoption of emergency ordinances.

(E) Emergency appropriations. The Commission may make emergency appropriations in the manner provided in this Section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Commission may, by affirmative vote of four members, enact an emergency ordinance authorizing the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable not later than the last day of the fiscal year next succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Section 4.05. Annual budget adoption.

- (A) Balanced budget.** Each annual budget adopted by the Commission shall be a balanced budget.
- (B) Budget adoption.** The Commission shall by ordinance adopt the annual budget on or before the last day of September. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein.
- (C) Specific appropriation.** The budget shall be specific as to the nature of each of the department's appropriations. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Section 4.06. Fiscal year.

The fiscal year of the Village government shall begin on the first day of October and shall end on the last day of September of the following calendar year. Such fiscal year shall also constitute the annual budget and accounting year.

Section 4.07. Appropriation amendments during the fiscal year.

- (A) Supplemental appropriations.** If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Commission may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.
- (B) Reduction of appropriations.** If, at any time during the fiscal year, it appears probable to the Manager that the revenues available will be insufficient to meet the amounts appropriated, s/he shall report to the Commission in writing without delay, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Commission shall then take such action, as it deems appropriate, to prevent any deficit spending not covered by adequate unappropriated financial resources including reserves.

Section 4.08. Authentication, recording and disposition of ordinances, resolutions and Charter amendments.

- (A) Authentication.** The Mayor and the Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Commission. In addition, when the electors have approved Charter amendments, the Mayor and the Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.
- (B) Recording.** The Clerk shall record all ordinances and resolutions enacted or passed by the Commission in a properly indexed book. Ordinances shall, at the direction of the

Commission, be periodically codified. The Clerk shall also maintain the Charter in current form as to all amendments.

(C) **Printing.** The Commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter available for public inspection and available for purchase at a reasonable price.

Section 4.09. Tax levy and assessments.

The Village shall have the right to levy, assess and collect all such taxes and assessments as are permitted by law, including but not limited to ad valorem, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.10. Borrowing.

The Commission shall not borrow funds unless:

- (A) approved by four Commissioners; and
- (B) provided the Commission has first received and approved a feasibility study from the Manager concluding that sufficient revenues are available to repay the indebtedness; and
- (C) the funds are borrowed for a valid public purpose.

Section 4.11. Independent audit.

The Commission shall provide for an independent annual audit of all Village accounts and may provide for more frequent audits, as it deems necessary. Such audits shall be made by a certified public accountant or firm of such accountants who have no personal or financial interest or conflict, direct or indirect, in the fiscal affairs of the Village or any of its officers. Residency, per se, shall not constitute a direct or indirect interest. A summary of the results, including any deficiencies found, shall be made public. A written response to any noted deficiencies shall be the responsibility of the Manager.

ARTICLE V. ELECTIONS

Section 5.01. Term of Office.

At each regularly scheduled election of the Village, the two candidates receiving the highest number of votes shall each receive a four year term and the candidate receiving the third highest number of votes shall receive a two year term.

Section 5.02. Elections.

(A) Electors. Any person who is a resident of the Village, has qualified as an elector of the State and registers to vote in the manner prescribed by law shall be an elector of the Village.

(B) Nonpartisan elections. All elections for the offices of Commissioner shall be conducted on a nonpartisan basis.

(C) Election dates. A general election shall be held in each odd-numbered year, on the first Tuesday in December. In the event of a deadlocked vote for the third position, there shall be a run-off election on the third (3rd) Tuesday of December. In the event that there is a deadlock for the second position and the affected individuals are unable to amicably resolve such deadlock at the first (1st) Commission meeting following the general election, the Clerk shall flip a coin to determine who is to receive the two (2) year term and who is to receive the four (4) year term. The coin toss shall occur after the affected individuals have been duly sworn in to the Commission.

(D) General election. The ballot for the general election shall contain the names of all qualified candidates for Commission vacancy and shall instruct electors that they may cast one vote for each vacancy being filled in said election with a maximum of one vote per candidate. The candidate for each Commission vacancy receiving the most votes shall be duly elected to that Commission vacancy.

(E) Run-off election. The ballot for the run-off election shall contain the names of the candidates eligible for the run-off election. The ballot shall instruct electors that they may cast one vote for each Commission vacancy. The candidate receiving the most votes shall be duly elected to that Commission vacancy.

(F) Special elections. Special elections, when required, shall be scheduled by the Commission at such times and in such manner as shall be consistent with this Charter.

(G) Single candidates. No election for any Commission vacancy shall be required in any election if there is only one duly qualified candidate for any Commission vacancy.

(H) Absence of Candidates. In the absence of candidate(s) for the Commission, the Commission shall appoint a person qualified under Section 2.05 of this Charter.

(I) Absentee votes. Absentee voting will be permitted as provided by the laws of the State and under such conditions as may be prescribed by ordinance from time to time; provided, however, that no ordinance shall limit the right to vote by absentee ballot available under State law.

(J) Commencement of terms. The term of office of any elected official will commence within ten (10) days from date of election. The date and time shall be selected by the City Manager based on availability of the new Commission.

Section 5.03. Initiative, referendum and recall.

(A) Power to initiate and reconsider ordinances.

(1) Initiative. The electors of the Village shall have power to propose ordinances to the Commission. If the Commission fails to adopt a proposed ordinance the electors shall have the right to consider adoption of such ordinance at a Village election.

(2) Referendum. The electors of the Village shall have power to require the Commission to reconsider any adopted ordinance. If the Commission fails to repeal the ordinance after reconsideration the electors shall have the right to consider the repeal of such ordinance at a Village election.

(B) Commencement of proceedings.

(1) A minimum of ten (10) electors may commence initiative or referendum proceedings by filing an affidavit with the Clerk which states the following: (a) name and address of each elector; (b) the willingness of the ten (10) electors to constitute the petitioners' committee, circulate the petition and file it in the proper form; (c) the address to which all notices to the committee shall be sent; and (d) the identification of the ordinance to be proposed or reconsidered.

(2) Promptly upon the filing of the petitioners' committee affidavit the Clerk shall validate the electors listed in the affidavit and the Attorney shall review the Petitioners' proposed ordinance for legal sufficiency. Once the electors are validated and the proposed ordinance is found to be legally sufficient, the Clerk shall prepare and issue the appropriate petition blanks to the petitioners' committee at the committees' expense.

(C) Petitions.

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

(2) Form and content. All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink and shall be followed by the printed name and address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the ordinance proposed or sought to be reconsidered.

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

(4) Filing deadline. All initiative and referendum petitions must be filed within sixty (60) days of the date the proceedings for such initiative or referendum are commenced.

(D) Procedure for filing.

(1) Certificate of Clerk; amendment.

(a) Within twenty (20) calendar days after an initiative petition is filed or within five (5) business days after a referendum petition is filed, the Clerk shall complete a certificate as to its sufficiency (the "Certificate"). A copy of the Certificate shall be sent promptly to the petitioners' committee by registered mail.

(b) If the petition is insufficient, the Clerk shall list the deficiencies in the Certificate. A petition shall be considered insufficient if it fails to meet the requirements established in section 5.03(C) of this Charter.

(c) A petition that is certified as insufficient for lack of the required number of valid signatures may be amended one time if: (i) the petitioners' committee files a notice of intent to amend with the Clerk within two (2) business days of receiving a copy of the Certificate; and (ii) the petitioners' committee files the necessary required additional valid signatures ("Supplementary Petition") within ten (10) days of receipt of a copy of the Certificate. The Supplementary Petition must meet the requirements established in section 5.03(C) of this Charter.

(d) Within five (5) business days after a Supplementary Petition is filed, the Clerk shall complete a Certificate as to the sufficiency of the petition as amended. A copy of the Certificate shall be sent promptly to the petitioners' committee by registered mail.

(e) If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Commission review under subsection (2) of this section (D) within the time specified, the Clerk or other official designated by the Commission shall promptly present the Certificate to the Commission and such Certificate shall be the final determination as to the sufficiency of the petition.

(2) **Commission review.** If a petition has been certified insufficient and the petitioners' committee does not file notice of intention to amend it or if an amended petition has been certified insufficient, the committee may, within two (2) business days after receiving the copy of such Certificate, file a request that it be reviewed by the Commission. The Commission shall review the Certificate at its next meeting following the filing of such request and approve or disapprove it. The Commission's determination shall then be a final determination as to the sufficiency of the petition.

(E) Action on petitions.

(1) **Action by Commission.** When an initiative or referendum petition has been determined sufficient, the Commission shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance. If the Commission fails to adopt a proposed initiative ordinance without any change in substance within forty five (45) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the electors of the Village.

(2) **Submission to electors.** The vote of the electors on a proposed or referred ordinance shall be held not less than thirty (30) or more than sixty (60) days from the date the Commission acted or was deemed to have acted pursuant to this Section. If no regular election is to be held within the period described in this paragraph, the Commission shall provide for a special election. Copies of the proposed or referred ordinance shall be made available at the polls.

(3) **Withdrawal of petitions.** An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote of the electorate by filing with the Clerk or other official designated by the Commission a request for withdrawal signed by at least four-fifths (4/5ths) of the members of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(F) Recall. The electors shall have the power to recall and to remove from office any elected official of the Village to the extent permitted by the Constitution and laws of the State of Florida.

(G) Results of election.

(1) **Initiative.** If a majority of the electors voting on a proposed initiative ordinance vote in its favor, it shall be considered adopted upon certification of the election results. If conflicting ordinances are approved at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

(2) **Referendum.** If a majority of the electors voting on a referred ordinance vote for repeal, it shall be considered repealed upon certification of the election results.

(3) Recall. If a majority of the electors voting on a recall vote for recall, the subject elected official shall be removed from office.

ARTICLE VI. CHARTER AMENDMENTS

Section 6.01. Charter amendments.

This Charter may be amended in accordance with the provisions of this Article and all applicable laws.

Section 6.02. Procedure to amend.

(A) This Charter may be amended by:

(1) Ordinance. The Commission may propose amendments to this Charter by ordinance and shall submit the proposed amendment to a vote of the electors at the next general election held within the Village or at a special election called for such purpose.

(2) Petition. The electors of the Village may propose amendments to this Charter by petition. The electors proposing such amendment to the Charter shall follow the same procedures for proposing an ordinance by initiative as described in this Charter. Upon certification of the sufficiency of a petition, the Commission shall submit the proposed amendment to a vote of the electors at a general election or special election to be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified.

(B) Results of election. If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted upon certification of the election results. If conflicting amendments are adopted at the same election, the one receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

ARTICLE VII. GENERAL PROVISIONS

Section 7.01. Severability.

If any article, section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the context in which such article, section or part of section so held invalid may appear, except to the extent that an entire article, section or part of section may be inseparably connected in meaning and effect with the article, section or part of section to which such holding shall directly apply.

Section 7.02. Conflicts of interest; ethical standards.

All Commissioners, officials and employees of the Village shall be subject to the standards of conduct for public officers, employees, and appointees set by Federal, State, County or other applicable law. The Commission may adopt additional standards of conduct and code of ethics requirements that are not inconsistent with Federal, State, County or other applicable law.

Section 7.03. Village personnel system.

All new employments, appointments and promotions of Village officers and employees shall be made pursuant to written personnel procedures to be established by the Manager from time to time.

Section 7.04. Charitable contributions.

The Village shall not make any charitable contribution to any person or entity, except such contributions as have been approved by four Commissioners.

Section 7.05. Variation of pronouns.

All pronouns and any variation thereof used in this Charter shall be deemed to refer to masculine, feminine, neutral, singular or plural as the identity of the person or persons shall require and are not intended to describe, interpret, define or limit the scope, extent or intent of this Charter.

Section 7.06. Style and capitalization.

When a defined word is enclosed in quotes and in parentheses after the definition, that word shall be treated as a defined term in the remainder of this Charter, when capitalized.

Section 7.07. No discrimination.

The Village shall not adopt any measure or policy or otherwise discriminate against any person due to race, religion, color, national origin, physical or mental disability, creed, sexual orientation, gender, marital or familial status.

Section 7.08. Calendar day.

For the purposes of this Charter, unless otherwise specified, a day shall mean a calendar day.

Section 7.09. Effective Date.

The effective date of this Charter shall be ninety (90) days after certification of the election results.