

## Committee Substitute for House Bill No. 565

An act relating to Monroe County; creating the “Village of the Lower Keys”; providing legislative intent; providing for its charter; providing municipal boundaries and municipal powers; providing a mayor-commission-manager form of government; providing for election of a mayor and Village commission; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing compensation and for payment of expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of commissioners; providing that certain interference with Village employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter offices, including a Village manager and Village attorney; providing for removal, compensation, and filling of vacancies; providing for bond for Village manager and Village clerk; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referenda; providing a transitional schedule and procedures for first election; providing for first year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for a transitional agreement between Monroe County and the Village of the Lower Keys; providing for accelerated entitlement to state-shared revenues; providing for gas tax revenue; providing for future amendments of the charter; providing for standards of conduct in office; providing severability; providing a referendum; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. LEGISLATIVE INTENT.—The Legislature hereby finds that the Village of the Lower Keys area in Monroe County includes a compact and contiguous community in excess of 5,000 residents susceptible to urban services, and constitutes a community amenable to separate municipal government. It is in the best interests of the public health, safety, and welfare of the residents of the Village of the Lower Keys area to form a separate municipality for the area with all the powers and authority necessary to provide adequate and efficient municipal services to its residents. It is intended that this charter and the incorporation of the Village of the Lower Keys area will serve to preserve and protect the distinctive characteristics of the individual communities within the boundaries of the Village of the Lower Keys.

Section 2. INCORPORATION OF MUNICIPALITY; CORPORATE LIMITS.—There is hereby created, effective November 15, 2000, in Monroe County, a new municipality to be known as the Village of the Lower Keys, which shall have a mayor-commission-manager form of government. The corporate boundaries of the Village of the Lower Keys, hereinafter referred to as “Village,” shall be as described in section 2 of the charter.

Section 3. SHORT TITLE.—This act, together with any future amendments thereto, shall be known and may be cited as the “Village of the Lower Keys,” hereinafter referred to as “the charter.” The charter of the Village of the Lower Keys is created to read:

Section 1. MUNICIPAL POWERS.—The Village shall be a body corporate and politic and shall have all the powers of a municipality under the State Constitution and laws of this state, as fully and completely as though such powers were specifically enumerated in this charter, unless otherwise prohibited by or contrary to the provisions of this charter. The Village shall have all governmental, corporate, and proprietary powers necessary to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise and be liberally construed in favor of the Village.

Section 2. VILLAGE BOUNDARIES—The corporate boundaries of the Village shall be as follows: All the Florida Keys north, south and east of a line projected north and south at the east end of Bow Channel Bridge up to a line projected north and south at the east end of the South Pine Channel Bridge, including Summerland Key, Ramrod Key, The Torch Keys, and Cudjoe Key, and all land filled in between the islands, all connected by U.S. 1, Overseas Highway, all above within Monroe County. These corporate boundaries are distinct in the Monroe County Comprehensive Plan and described as Planning Area Enumeration District 4.

Section 3. VILLAGE COMMISSION.—

(1) VILLAGE COMMISSION; COMPENSATION; QUALIFICATIONS OF COMMISSIONERS.—

(a) There shall be a five-member Village commission, consisting of four commissioners and a mayor. Two commissioners shall be elected from precinct 14 and two commissioners shall be elected from precinct 15, as defined by resolution No. 044-1996 by the Board of County Commissioners of Monroe County, as modified by section 9 of this charter, or as defined in the future by a Resolution by the Village Commission. The mayor shall be elected at large by all Village electors.

(b) To qualify for office:

1. Each candidate for the office of Village commission shall be a registered voter in the state and a resident of the precinct for which they are qualifying for at least 1 year prior to the last date the candidate is allowed to register. Each commissioner must reside in the precinct during his or her tenure in office or forfeit his or her commission seat.

2. At the time of qualification, each candidate for a commission seat shall reside within the boundaries of his or her respective precinct and, if elected, shall maintain such residency throughout his or her term of office. For the initial election following the referendum approving the creation of the Village, candidates for office shall qualify as provided in section 7(2) of this charter. Thereafter, candidates shall qualify as provided in section 6(3) of this charter or section 9 of this charter, if applicable.

(2) TERMS OF OFFICE.—The term of office for commissioners and the mayor shall be 2 years, except that the first term for all elected offices shall be from the date of initial election, as provided in section 7(2) of this charter, until the first general election in November 2002. Each commission member shall remain in office until a successor is elected and assumes the duties of the position, except as otherwise provided herein. No commission member shall serve more than three consecutive terms of office. A term of office of less than 365 days shall not be applied to the maximum tenure of three consecutive terms of office.

(3) THE MAYOR; POWERS AND DUTIES.—

(a) The mayor shall have been an elector of the Village and shall have resided in the Village for at least 1 year prior to the last date the candidate is allowed to qualify to run for the office of mayor and shall maintain residency in the Village throughout his or her term of office. Failure to possess any such qualification during a term of office shall be cause for forfeiture of the office, and the commission shall remove the mayor from office at the next commission meeting.

(b) The mayor shall have the same legislative powers and duties as any other commission member.

(c) The mayor shall preside at the meetings of the commission and shall be recognized as the head of the Village government for service of process, ceremonial matters, and the signature or execution of ordinances, contracts, deeds, bonds, and other instruments and documents. The mayor shall have no administrative duties other than those necessary to accomplish these actions, or such actions as may be authorized by the Village commission, consistent with general or special act.

(4) THE VICE MAYOR.—The Village commission, at its first regular meeting in December of each year, shall elect from its membership a vice mayor, who shall serve at the pleasure of the Village commission, unless modified by section 9 of this charter. The vice mayor shall serve as acting mayor during the absence or disability of the mayor. In the absence of the mayor and the vice mayor, the commissioners shall select a commission member to serve as acting mayor.

(5) COMPENSATION AND EXPENSES.—Village commissioners and the mayor shall be compensated at \$3,500 per year initially. They shall also be entitled to receive reimbursement in accordance with Florida Statutes for authorized travel and per diem expenses incurred in the performance of their official duties. The commission, by not less than a majority plus one affirmative vote of all commission members in office, may elect to establish,

increase, or decrease compensation by ordinance. However, no such ordinance establishing or increasing or decreasing compensation shall take effect until the date of commencement of the terms of commission members or mayor selected at the next regular meeting election which follows the adoption of said ordinance.

(6) GENERAL POWERS AND DUTIES OF COMMISSION.—

(a) Except as otherwise prescribed herein or provided by law, legislative and police powers of the Village shall be vested in the commission. The commission shall provide for the exercise of its powers and for the performance of all duties and obligations imposed on the Village by law.

(b) Neither the commission nor any of its members shall in any manner dictate the appointment or removal of any Village employees whom the manager or any of his or her subordinates are empowered to appoint, except as provided in this charter, but the commission may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such employees.

(c) Except for the purpose of inquiries and investigations, the commission or its members shall deal with Village employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members shall give orders to any such employee, either publicly or privately.

(d) Nothing in the foregoing is to be construed to prohibit individual members of the commission from closely scrutinizing, by questions and personal observation, all aspects of Village government operations so as to obtain independent information to assist the members in the formulation of sound policies to be considered by the commission, or policies created by the manager. It is the express intent of this charter, however, that recommendations for improvement in Village government operations by individual commissioners be made to and through the Village manager, so that the manager may coordinate efforts of all Village departments to achieve the greatest possible savings through the most efficient and sound means available.

(7) VACANCIES; FORFEITURE OF OFFICE; SUSPENSION; FILLING OF VACANCIES.—

(a) A vacancy in the office of a commission member shall occur upon the death of the incumbent, removal from office as authorized by law, resignation, appointment to other public office which creates dual office holding within the Village, judicially determined incompetence, or forfeiture of office as described in paragraph (b).

(b) A commission member shall forfeit his or her office upon determination by the commission, acting as a body, at a duly noticed public meeting that he or she:

1. Lacks at any time, or fails to maintain during his or her term of office, any qualification for the office prescribed by this charter or otherwise required by law;

2. Is, while holding office, convicted of a felony, or enters a plea of guilty or nolo contendere to a crime punishable as a felony, even if adjudication is withheld;

3. Is convicted of a first degree misdemeanor arising directly out of his or her official conduct or duties as a member of the Village commission, or enters a plea of guilty or nolo contendere thereto, even if adjudication of guilt has been withheld;

4. Is found to have violated any standard of conduct or code of ethics established by the State of Florida or local law for public officials and/or has been suspended from office by the Governor, unless subsequently reinstated as provided by law; or

5. Is absent from 3 consecutive regular commission meetings without justifiable reason as determined by a majority plus one vote of the other members of the commission, or for any other reason established by this charter.

(c) A commission member shall be automatically suspended from office upon return of an indictment or issuance of any information charging the commission member with any crime which is punishable as a felony or with any crime arising out of his or her official commission duties which is punishable as a first degree misdemeanor. Pursuant thereto:

1. During the period of suspension, the commission member shall not perform any official act, duty, or function or receive any pay, allowance, emolument, or privilege of office.

2. If the commission member is subsequently found not guilty of the charge, or if the charge is otherwise dismissed, reduced, or altered in such a manner that suspension would no longer be required as provided herein, the suspension shall be lifted and the commission member shall be entitled to receive full back pay and such other emoluments or allowances as he or she would have been entitled to had the suspension not occurred.

(d) Vacancies shall be filled as follows:

1. If a vacancy occurs in the office of mayor, the vice mayor shall serve as mayor until a new mayor is elected as provided in section 6(5)(a) of this charter and assumes the duties of his or her office.

2. If any vacancy occurs in the office of any commission member, the remaining commissioners shall, within 30 days following the occurrence of such vacancy, by a majority plus one vote, appoint a person to fill the vacancy for the remainder of the unexpired term.

3. Any person appointed to fill a vacant seat on the commission shall be required to meet the qualifications of the seat to which he or she is appointed.

(8) VILLAGE COMMISSION MEETINGS.—The commission shall conduct regular semi-monthly meetings which shall not begin before 6 p.m. at

such times and places as the commission shall prescribe by resolution. Such meetings shall be public meetings within the meaning of section 286.011, Florida Statutes, and shall be subject to notice and other requirements of law applicable to public meetings. The commission shall adopt the current version of Robert's Rules of Order, determine other rules of business, and keep a journal of its proceedings. Pursuant thereto:

(a) Special meetings may be held at the call of the mayor or, in his or her absence, at the call of the vice mayor. Special meetings may also be called at the request of a majority of the commissioners, consistent with section 119.07, Florida Statutes. Unless of an emergency nature, the person or persons calling such a meeting shall provide not less than 72 hours' prior notice of the meeting to the public. In an emergency situation, a special meeting may be called with at least 4 hours' notice to each member of the commission and the mayor, served personally, or left at his or her usual place of residence, with every effort made to contact the member by the Village clerk, if available, or the mayor, if available, or any other commissioner if the Village clerk and mayor are not available. The person contacting the commissioners concerning the emergency meeting shall also make every effort to notify the general public of the meeting.

(b) Elected or reelected commissioners shall be inducted into office at the first regularly scheduled meeting following certification of their election.

(c) A majority of the commission shall constitute a quorum. No action of the commission shall be valid unless adopted by an affirmative vote of the majority of the commissioners in attendance, unless otherwise provided by law. All actions of the Village commission shall be by ordinance, resolution, or motion. All ordinances shall be advertised at least 10 days prior to the first reading of that ordinance.

(9) VILLAGE RECORDS.—The commission shall, in a properly indexed book and/or electronically kept for that purpose, provide for the authentication and recording in full of all minutes of the meetings, and all ordinances and resolutions adopted by the commission, and the same shall, at all times, be a public record. The commission shall further maintain a current codification of all ordinances. Such codification shall be printed and shall be made available for distribution to the public on a continuing basis. All ordinances or resolutions of the commission shall be signed by the mayor, or by the acting mayor in the absence or disability of both the mayor and vice mayor, and attested to by the Village clerk. All meetings of the Village commission and of the committees thereof shall be public meetings within the meaning of section 286.011, Florida Statutes, and any citizens shall have access to the minutes and records thereof at all reasonable times.

(10) ADOPTION OF CODES.—The commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance and may amend the code in the adopting ordinance or later amendatory ordinance. The procedures and requirements governing such an adoption ordinance shall be prescribed for ordinances generally, except as provided in paragraph (b).

(a) Requirements regarding distribution and filing of copies of the ordinance shall not be construed to require distribution and filing of copies of the adopted code of technical regulations, except as provided in paragraph (b).

(b) A copy of each adopted code of technical regulations, as well as of the adoptive ordinance, shall be authenticated and recorded in the Village records by the Village clerk.

(11) LIMITATION OF EMPLOYMENT OF COMMISSIONERS AND MAYOR.—Neither commissioners nor the mayor shall be in employment of the Village while in office, nor shall any former commission member or mayor be employed by the Village until after the expiration of 1 year from the time of leaving office.

(12) REFERENDUM REQUIRED FOR CONVEYANCE OF VILLAGE-OWNED REAL PROPERTY; EXCEPTIONS.—The Village shall not sell, convey, or otherwise transfer any real property, or any interest therein, to any person without the transfer being approved by referendum. However, the abandonment of any real property shall be at the discretion of the commission; providing that the total real value meets the criteria in paragraph (a) and there are no opposing neighbors that adjoin the property after written notification. The lease of Village-owned real property in areas of the Village for a term greater than 10 years shall be considered a conveyance requiring a referendum. This provision shall not be applicable to the following:

(a) Any property valued under \$50,000 as determined by the average of three appraisals performed by Village-approved appraisers, with the appraisals to be paid for by the recipient of the property.

(b) The release of a claim or interest in land to settle, or aid the settlement record title to real property.

(13) RIGHT OF INDIVIDUAL TO BE HEARD.—All residents or agents for citizens shall have the right to be heard at all Village commission meetings within the meaning of section 286.011, Florida Statutes, subject to rules established by the Village commission.

#### Section 4. BUDGET AND APPROPRIATIONS.—

(1) FISCAL YEAR.—The Village shall have a fiscal year which shall begin on October 1 of each year and end on September 30 of the succeeding year.

(2) BUDGET ADOPTION.—The commission shall, by resolution, adopt for the succeeding fiscal year a budget on or before the 1st day of September of each year, following a minimum of two public hearings on the proposed budget. A resolution adopting the annual budget shall constitute appropriation of the amounts specified therein as expenditures from funds indicated. The budget will consist of an operating expense budget and a capital budget for the next fiscal year and will include estimated expense and capital budgets for the succeeding 3 years. Accounting procedures used shall be in

accordance with generally accepted government accounting principles and within the requirements of state law.

(3) APPROPRIATION AMENDMENTS DURING THE FISCAL YEAR.—

(a) If, during the fiscal year, revenues in excess of those estimated in the budget are available for appropriation, the commission, by resolution, may make supplemental appropriations for the year in an amount not to exceed such excess.

(b) If, at any time during the fiscal year, it appears probable to the Village manager that the revenues available will be insufficient to meet the amount appropriated, the Village manager shall report same to the commission without delay, indicating the estimated amount of the deficit, any remedial action taken, and recommendations as to any other steps that should be taken. The commission shall then take such further action as it deems necessary to prevent or minimize any deficit and, for that purpose, the commission may by resolution reduce one or more appropriations accordingly. Issuance of bonds shall occur in accordance with state law. Short-term debt may be authorized by the commission.

(c) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated, or by more than the unencumbered balance thereof. Other provisions of law to the contrary notwithstanding, the supplemental and emergency appropriations and reduction or transfer of appropriation authorized by this section may be effective immediately upon adoption, providing that such revenues are expended in accordance with state law.

Section 5. CHARTER OFFICERS.—

(1) DESIGNATION.—The Village manager and the Village attorney are designated as charter officers, except that the office of Village attorney may be contracted to an attorney or law firm.

(2) APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF VACANCIES.—

(a) The charter officers shall be appointed by a majority vote of the full commission and shall serve at the pleasure of the commission.

(b) The charter officers shall be removed from office only by a majority vote of the full commission. Upon demand by a charter officer, a public hearing shall be held prior to such removal.

(c) The compensation of the charter officers shall be fixed by the commission.

(d) The commission shall begin the process to fill a vacancy in the charter office within 90 days of a vacancy. An acting city manager or an acting city attorney may be appointed by the commission during a vacancy in such charter office.

(e) The charter officers shall not be candidates for the commission while holding their charter officer positions.

(3) BOND OF THE VILLAGE MANAGER/VILLAGE CLERK.—The Village commission may provide by ordinance for the Village manager and Village clerk to furnish a fidelity bond to be approved by the commission and in such amount as the commission may fix. The premium of the bond shall be paid by the Village.

(4) VILLAGE MANAGER; QUALIFICATIONS; POWERS AND DUTIES.—The Village manager shall be the chief administrative officer of the Village.

(a) The Village manager shall be selected from, but not limited to, the following criteria: experience, expertise, management ability, and education. The foregoing criteria shall be used in determining the ability as it pertains to running municipal government.

(b) The Village manager shall:

1. As the chief administrative officer of the Village, direct and supervise the administration of all departments, offices, and agencies of the Village, except the office of Village attorney, and except as may otherwise be provided by this charter or by law.

2. Appoint, suspend, or remove any employee of the Village or appointive administrative employee provided for, by, or under this charter, except the office of Village attorney, and except as may otherwise be provided by law, this charter, or personnel rules adopted pursuant to the charter. The Village manager may authorize any administrative employee who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office, or agency.

3. Provide an administrative package to each commissioner prior to each commission meeting. This package of information shall contain the following:

a. The activity that the commission will take action on.

b. The administrative review (comprehensive).

c. An executive summary, comprised of and solely for the purposes of discussion within the commission with respect to the electorate of the Village, and pertinent to the issue at hand.

d. A list of agenda items that will come before the commissioners no later than 5 working days prior to a commission meeting, which shall have been properly advertised, and shall have documentation attached thereto from the manager and shall be inclusive of the following: economic impacts of such resolution, ordinance, or any other action brought forth to the commission, recommendations to the commission and reasons therefor, recommendations from all charter officers and reasons therefor, and an executive summary from both the Village manager and Village attorney.

- e. Establish performance review processes for all departments.
4. Ensure all laws, provisions of this charter, and acts of the commission are faithfully executed.
5. Prepare and submit the annual budget, recommendations, and a review that shall include the following:
  - a. Identification of areas of fiscal growth.
  - b. Reasons for fiscal growth.
  - c. A full accounting review of all departmental spending and sources of revenue.
6. Attend commission meetings.
7. Draw and sign vouchers not in excess of \$10,000 upon depositories as provided by ordinance, and keep, or cause to be kept, a true and accurate account of same.
8. Sign all licenses issued by the Village, and issue receipts for all moneys paid to the Village, and deposit said moneys in the proper depositories on the first banking day after receipt. The Village manager may delegate the responsibilities of this subparagraph to an appropriate Village employee who shall be bonded.
9. Provide administrative services in support of the official duties of the mayor and commission.
10. Keep the commission advised as to the financial condition and future needs of the Village and make recommendations to the commission concerning the affairs of the Village on a quarterly basis, or as prescribed by the commission.
11. Submit to the commission, and make available to the public, a complete report on finances and administrative activities of the Village as of the end of each fiscal year.
12. Sign contracts on behalf of the Village to the extent authorized by ordinance.
13. Perform such other duties as are specified in this charter or as may be required by the commission.
14. By letter filed with the clerk, the manager shall designate, subject to approval of the commission, a qualified Village administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another officer of the Village to serve until the manager returns or his or her disability ceases.
15. The Village manager shall at all times provide support, analysis, and recommendations to the commissioners, including pros and cons regarding codes, ordinances, resolutions, and commitments of the Village.

16. The Village manager shall, at an annual date set forth by the commission, be reviewed for sufficiency and shall address the commission with respect to any delinquencies within 30 days of the annual review.

17. The Village manager shall create, format, and implement an ongoing process to review, revise, and suggest changes to Village ordinances and codes, and prepare a summary and suggestions for the commission.

(c) The Village manager shall appoint a Village clerk, referred to as the "clerk." The clerk shall be the liaison between the public and Village departments, shall inquire into records and transactions of all Village departments, offices, or officers, and, for these purposes, submit reports to the Village manager or commission. The clerk shall be the official keeper of all records, and shall be the keeper of all ledgers, financial records, transactions, and budgets. 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 commission or manager may prescribe from time to time. The clerk shall report to the Village manager.

(d) By letter filed with the clerk, the manager shall designate, subject to approval of the commission, a qualified Village employee to exercise the powers and perform the duties of manager during his or her temporary absence or disability. During such absence or disability, the commission may revoke such designation at any time and appoint another employee of the Village to serve until the manager shall return or his or her disability shall cease.

(5) VILLAGE ATTORNEY; QUALIFICATIONS; POWERS AND DUTIES.—The Village attorney shall be the chief legal officer of the Village.

(a) The Village attorney shall be a member in good standing with The Florida Bar.

(b) The Village attorney:

1. Shall serve as chief legal officer to the Village commission, the charter officers, and all Village departments, offices, and agencies.

2. May hire such assistants as may be required, when approved by the commission.

3. Shall attend Village commission meetings unless excused by the commission, and shall perform such professional duties as may be required by law or by the commission in furtherance of the law.

4. Shall prepare an annual budget, providing for the fiscal year beginning October 1 through September 30 for each year for the operation of the office of the Village attorney and shall submit this budget to the Village manager for inclusion in the annual Village budget, in accordance with uniform Village procedures.

5. Shall review all proposed ordinances prior to a commission meeting, provide an executive summary, make recommendations, and provide the commissioners with data showing legal sufficiency.

6. Shall work with the Village manager to review existing codes and ordinances on an ongoing basis for revision with the commission.

Section 6. ELECTIONS.—

(1) ELECTORS.—Any person who is a resident of the Village, who has qualified as an elector of this state, and who registers in the manner prescribed by law shall be an elector of the Village.

(2) NONPARTISAN ELECTIONS.—All elections for the Village commission members and the mayor shall be conducted on a nonpartisan basis without any designation of political party affiliation.

(3) QUALIFYING FOR OFFICE.—Any resident of the Village who wishes to become a candidate for a Village elective office shall qualify with the Monroe County Supervisor of Elections no sooner than noon on the second Tuesday in September or later than noon on the second Tuesday in October of the year in which the election is to be held. The initial election after the referendum vote to incorporate will be held the first Tuesday in December 2000. The qualifying period for the December 2000 election shall be 21 days prior to that election.

(4) SCHEDULE FOR GENERAL ELECTIONS.—The regular Village elections shall be biannually on the first Tuesday after the first Monday in November of each election year. The two commission candidates receiving the highest number of votes in each district shall be the elected Village commission members, the districts shall be Monroe County precincts 14 and 15 as drawn as of the time of the passage of this charter. The mayoral candidate receiving the highest total number of votes from all Village electors shall be elected mayor. All ties in any election shall be decided by lot in the presence of the candidates concerned, under the direction of the Village commission other than any Village commissioner involved in the tie. However, should a tie vote occur in the initial election of the Village commission or the mayor, the tie vote shall be decided by lot supervised by the Monroe County Supervisor of Elections.

(5) SCHEDULE FOR OTHER ELECTIONS.—

(a) An election to fill the remainder of an unexpired term of the mayor shall be held as provided in subsection (4).

(b) Special municipal elections shall be held in the same manner as regular elections, except that the Village commission, by ordinance, shall fix the time for holding such elections.

(6) DETERMINATION OF ELECTION TO OFFICE.—If only one candidate qualifies for the office of mayor, or if only two candidates qualify for the office of commissioner in precincts 14 and 15, respectively, said candidate shall be deemed to be elected. If two or more candidates qualify for the office of mayor, or three or more candidates qualify for commissioner seats in precincts 14 and 15, respectively, the names of those candidates shall be placed on the ballot at the general election. In the event not more than one person qualifies as a candidate for the office of mayor, or, if not more than

two persons qualify as candidates for the Village commission seats for precincts 14 and 15, respectively, those seats or that office shall not be listed on the Village election ballot, because each candidate is deemed to have voted for himself or herself and shall be declared the winner.

(7) CERTIFICATION OF ELECTIONS.—The Monroe County Supervisor of Elections shall certify the candidates by a tally of all ballots and certify the prevailing candidates for offices of commissioner and mayor.

(8) RECALL OF VILLAGE COMMISSION MEMBERS.—Any member of the Village commission may be removed from office by the electors of the Village following the procedures for recall established by general law.

(9) INITIATIVE AND REFERENDUM.—

(a) The electors of the Village shall have the power to propose ordinances to the Village commission and, if the Village fails to adopt an ordinance so proposed without any change in substance, to adopt or reject it at a Village election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of Village officers or employees.

(b) The procedure for referendum shall be as follows:

1. The Village commission shall have the power, by resolution, to call for a referendum vote by the electors of the Village at any time, provided that the purpose of such referendum is presented to the Village at a public hearing at least 60 days prior to the adoption of said resolution. Any resolution calling for a referendum vote of the electors of the Village must be passed by the affirmative vote of not less than a majority plus one vote of the commission.

2. The electors of the Village shall have the power to require reconsideration by the Village commission of any adopted ordinance and, if the Village commission fails to repeal an ordinance so reconsidered, to approve or reject it at a Village election, provided that such power shall not extend to the annual budget or capital program or any ordinance appropriating money, levying taxes, or setting salaries of Village officers or employees.

(c) Any 10 electors may commence initiative or referendum proceedings by filing with the Village clerk an affidavit stating that they shall constitute the petitioner's committee and be responsible for circulating the petition and filing it in proper form, stating their names and addresses and specifying the address to which all notices to the committee are to be sent, and setting out in full the proposed initiative ordinance or citing the ordinance sought to be reconsidered. Promptly after the affidavit of the petitioner's committee is filed, the Village clerk shall issue the appropriate petition blanks to the petitioner's committee at the committee's expense.

(d) The requirements for petitions are as follows:

1. Initiative and referendum petitions scheduled for a regular election must be signed by electors of the Village equal in number to at least 10

percent of the total number of electors registered to vote in the last regular city election. Initiative and referendum petitions scheduled for a special election must be signed by qualified voters of the Village equal in number to at least 20 percent of the total number of qualified voters registered to vote in the last regular Village election.

2. 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. Each paper of a petition shall have attached to it, when filed, an affidavit executed by the circulate thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she 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 considered.

4. Except as otherwise provided in subparagraph (b)2., all initiative and referendum petitions must be filed within 60 days of the date on which proceedings with respect to such initiative or referendum are commenced, and all requirements of the process, including, but not limited to, the submission of the signatures required, must be completed no later than 90 days following the date of filing said initiative or referendum petition.

5. Referendum and initiative petitions seeking a special municipal election under subparagraph 1. shall be titled "Proposed Special Municipal Election." Immediately after the title, the petition shall state the following: "By signing this petition, I am requesting that a special election be held for this question, instead of the scheduling of this question for the next general municipal or statewide election. I understand that the additional cost to the Village to hold such a special election is anticipated to be \$...., as determined by the Monroe County Supervisor of Elections.

(e) The procedure for filing shall be as follows:

1. Within 20 days after an initiative petition or referendum petition is filed, the Village clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars whereby it is defective and shall promptly send a copy of the certificate to the petitioner's committee by registered mail. Grounds for insufficiency are only those specified in subparagraph (d)3. that are not met. A petition certified insufficient for the lack of the required number or the required number of valid signatures may be amended once if the petitioner's committee files a notice of intent to amend it with the designated official within 2 business days after receiving the copy of the certificate and files a supplementary petition upon additional papers within 10 days after reviewing the copy of such certificate. Such supplementary petition shall comply with original petition requirements, and within 5 days after it is filed, the Village clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioner's committee by registered mail. If a petition or

an amended petition is certified sufficient, or if a petition or amended petition is certified insufficient, or if a petition or amended petition or a request is submitted to the Village commission for review under subparagraph 2. within the time required, the Village clerk shall promptly present a certificate to the Village commission and such certificate shall then be a final determination as to the sufficiency of the petition.

2. If a petition has been certified insufficient and the petitioner's committee does not file notice of intent to amend it, or if an amended petition has been certified insufficient, the committee may, within 2 business days after reviewing the copy of such certificate, file a request that it be reviewed by the Village commission. The Village commission shall review the certificate at its next meeting following the committee's filing of such request and approve or disapprove it, and determination shall then be final as to the sufficiency of the petition.

(f) The procedure for action on petitions shall be as follows:

1. When a referendum petition is filed with the Village clerk, the ordinance sought to be reconsidered shall be suspended from taking effect. Such suspension shall terminate when there is a final determination of insufficiency of the petition, or the petitioner's committee withdraws the petition, or the commission repeals the ordinance, or after a vote of the Village on the ordinance has been certified.

2. When an initiative or referendum petition has been determined sufficient, the Village commission shall promptly consider the referendum ordinance by voting for its repeal. If the Village commission fails to adopt a proposed initiative ordinance without any change in substance within 45 days or fails to repeal the referendum ordinance within 30 days, within 5 days after the date on which the petition is determined to be sufficient, the Village commission shall submit the proposed initiative or referendum ordinance to the electors of the Village. If the Village commission fails to act on a proposed ordinance or an initiative referendum ordinance to the electors of the Village within the time period specified, the Village commission shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referendum ordinance on the last day that the Village commission was authorized to act on such matter.

3. The vote of the Village on a proposed initiative or referendum ordinance shall be held not less than 30 or more than 60 days from the date the Village commission acted or was deemed to have acted pursuant to subparagraph (e)1. that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the Village commission shall provide for a special election at an earlier date within the described period. Copies of the proposed initiative or referendum ordinance shall be made available at the polls.

4. An initiative referendum petition may be withdrawn at any time prior to the 30th day preceding the day scheduled for a vote of the Village by filing with the Village clerk a request for withdrawal signed by at least eight members of the petitioner's committee. Upon filing of such request, the

petition shall have no further force or effect and all proceedings thereon shall be terminated.

(g) If a majority of the qualified 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. If a majority of the qualified electors voting on a referendum ordinance vote against it, it shall be considered repealed upon certification of the election results.

#### Section 7. TRANSITION SCHEDULE.—

(1) REFERENDUM.—The referendum election called for by this act shall be held on November 7, 2000, at which time the following question shall be placed on the ballot: “SHALL CHAPTER \_\_\_\_\_, LAWS OF FLORIDA, CREATING THE VILLAGE OF THE LOWER KEYS AND PROVIDING ITS CHARTER BE APPROVED? YES NO” In the event this question is answered affirmatively by a majority of voters voting in the referendum, the provisions of this charter will take effect as provided in section 5.

#### (2) INITIAL ELECTION OF MAYOR AND COMMISSIONERS.—

(a) The Monroe County Commission shall call a very special election or include in a general election for the election of four Village commissioners and a mayor to be held on December 19, 2000.

(b) Any individual who wishes to run for one of the four initial seats on the commission or for the office of mayor shall qualify as a candidate with the Monroe County Supervisor of Elections between noon November 13, 2000, and noon November 22, 2000.

(c) Those candidates who are elected December 19, 2000, shall take office at the initial Village commission meeting which shall be held at 7:00 p.m., on December 21, 2000, at the former Barnett Bank Building on Summerland Key.

(3) FIRST YEAR EXPENSES.—The Village commission, in order to provide moneys for the expenses and support of the Village, shall have the power to borrow money necessary for the operation of Village government until such time as a budget is adopted and revenues are raised in accordance with the provisions of this charter.

(4) TRANSITIONAL ORDINANCES AND RESOLUTIONS.—The Village commission shall adopt ordinances and resolutions required to effect the transition. Ordinances adopted within 60 days after the first commission meeting may be passed as emergency ordinances. These transitional ordinances, passed as emergency ordinances, shall be effective for no longer than 90 days after adoption, and thereafter may be readopted, renewed, or otherwise continued only in a manner normally prescribed by law.

(5) TRANSITIONAL COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS.—

(a) Until such time as the Village adopts a comprehensive plan and it has been accepted by the appropriate agency of the state, the applicable provisions of the Comprehensive Plan of Monroe County, as the same exists on the day the Village commences corporate existence, November 15, 2000, shall remain in effect as the Village's transitional comprehensive plan. All planning functions, duties, and authority shall remain the responsibility of Monroe County until the Village Commission of the Village of the Lower Keys shall assume the local planning duties or the commission establishes a separate local planning agency. Upon written notification to the Board of County Commissioners for Monroe County, all planning functions, duties, and authority shall immediately vest in the Village commission. Prior to the adoption of a Village comprehensive master plan, any amendment to any zoning as established in the current county land use plan shall only be by an ordinance adopted by the affirmative vote of not less than three members of the full commission. Any increase in the residential density or intensity, as established in the current county land use plan which is adopted by the Village, shall only be by ordinance adopted by the affirmative vote of not less than three members of the full commission.

(b) All powers and duties of the planning commission, zoning authority, any boards of adjustment, and the County Commission of Monroe County, as set forth in these transitional zoning and land use regulations, shall, as of December 21, 2000, be vested in the Village Commission of the Village of the Lower Keys until such time as the Village commission delegates all or a portion thereof to another entity.

(c) Subsequent to the commencement of the Village's corporate existence, no amendment of the comprehensive plan of land development regulations enacted by the County Commission of Monroe County shall be deemed as an amendment of the Village's transitional comprehensive plan or land development regulations or otherwise take effect within the Village's corporate limits unless approved by the Village commission.

(d) In accordance with section 403.706(1), Florida Statutes, the board of county commissioners shall have the responsibility to transport municipal solid waste to a solid waste disposal facility of the county or operate a solid waste facility. The municipality must, through September 30, 2004, deliver the solid waste collected within the municipality to either a county solid waste transfer station or a county solid waste disposal facility, as determined by the board. For the remainder of the term of the county's solid waste haulout contract, the board and the municipality shall negotiate in good faith and with primary consideration given to the waste generation guarantees set forth in the county's solid waste haulout contract. However, in no event may the board charge the municipality a tipping fee in excess of the tipping fee established annually and charged to other municipalities and persons delivering solid waste to the county transfer stations or county solid waste disposal facility.

## Section 8. REVENUES—

(1) STATE SHARED REVENUES.—The Village of the Lower Keys shall be entitled to participate in all revenue sharing programs of the State of

Florida effective January 1, 2001. The provisions of section 218.23(1), Florida Statutes, shall be waived for the purpose of eligibility to receive revenue sharing funds from January 1, 2001, through the state fiscal year 2002-2003. The provisions of section 218.26(3), Florida Statutes, shall be waived for fiscal year 2000-2001, and the apportionment factors for the municipalities and counties shall be recalculated pursuant to section 218.245, Florida Statutes, as of January 1, 2001.

For the purposes of meeting the provisions of section 218.23(1), Florida Statutes, relating to ad valorem taxation, the millage levied by Monroe County Fire and EMS and the Independent Mosquito Control District districts may be used for an indefinite period of time. Initial revised population estimates for calculating eligibility for shared revenues shall be determined by the University of Florida Bureau of Economic and Business Research. Should the Bureau be unable to provide an appropriate population estimate, the Monroe County Planning Division estimate should be utilized.

(2) GAS TAX REVENUES.—Notwithstanding the requirements of section 336.025, Florida Statutes, to the contrary, the Village of the Lower Keys shall be entitled to receive local option gas tax revenues beginning April 1, 2001, in accord with an interlocal agreement between Monroe County and municipalities representing a majority of the county's municipal population if such an interlocal agreement is in effect on April 1, 2001, or, if there is no interlocal agreement in effect on that date, then distributions shall be in accord with the lane-mile formula contained in section 336.025(4)(b)1., Florida Statutes.

(3) INFRASTRUCTURE SURTAX REVENUES.—The Village shall be entitled to receive surtax revenues beginning January 1, 2001, in accord with an interlocal agreement between Monroe County and municipalities representing a majority of the county's municipal population if such an interlocal agreement is in effect on January 1, 2001, or, if there is no interlocal agreement in effect on that date, according to the formula in section 218.62, Florida Statutes.

(4) CREATION AND ESTABLISHMENT OF THE VILLAGE.—For the purpose of compliance with section 200.066, Florida Statutes, relating to assessment and collection of ad valorem taxes, the Village is hereby created and established effective November 15, 2000, notwithstanding anything to the contrary contained herein, the Village although created and established as of November 15, 2000, shall not be operational until April 1, 2001, or as determined by the Village commission.

Section 9. ADDITIONAL BOUNDARIES AND ANNEXATION.—The initial boundaries as set forth in section 2 of this charter and therefore adopted by the electors are exclusive of other areas wishing to participate within the corporate boundaries. Therefore, within 90 days of adoption of the referendum for incorporation, the Village commission shall, pursuant to chapter 171, Florida Statutes, put forth a resolution to annex Upper and Lower Sugarloaf Keys and Saddlebunch Key which is described as Planning Area Enumeration District 3 in the Monroe County Comprehensive Plan. The commission shall hold a referendum for annexation at the earliest possible date.

In the event that the referendum vote to annex the Sugarloaf Keys area (PAED 3) be affirmative by a majority vote, the following shall apply:

(1) The initial Village commission shall be expanded to a seven-member board until the November 2002 general election. The additional two members shall be elected from Precinct 13. The election of the additional two members shall be held within 30 days from the annexation referendum vote.

(2) After the November 2002 general election, the commission shall thereafter consist of a five-member board and representation shall be as follows:

(a) A mayor elected at large and a vice mayor elected at large, and

(b) A commissioner from Precinct 13, a commissioner from Precinct 14, and a commissioner from Precinct 15, each elected from the precinct in which they reside.

(3) Entitlement of all state-shared revenues shall commence on April 1, 2001, for the proposed annexed area (PAED 3).

#### Section 10. GENERAL PROVISIONS.—

(1) CHARTER AMENDMENTS.—This charter may be amended in accordance with the provisions for charter amendments as specified in the Municipal Home Rule Powers Act, chapter 166, Florida Statutes, as the same may be amended from time to time, or its successor, or as may otherwise be provided by general law. The form, content, and certification of any petition to amend shall be established by ordinance.

(2) STANDARDS OF CONDUCT.—All elected officials and employees of the Village shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the Village commission shall, no later than 6 months from the effective date of incorporation, establish by ordinance a code of ethics for officials and employees of the Village which may be supplemental to general law. The intent of this provision of the charter is to require more stringent standards than those provided under general law.

Section 4. SEVERABILITY.—If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 5. This act shall take effect only upon its approval by a majority vote of those qualified electors residing within the proposed corporate limits of the proposed Village of the Lower Keys as described in section 2 of the charter, voting in a referendum election to be called by the Monroe County Commission and to be held on November 7, 2000, in accordance with the provisions of law relating to elections currently in force, except that:

(1) This section and section 7(1) of the charter shall take effect upon this act becoming a law.

(2) If a majority of the qualified voters voting in the area defined in section 2 of the charter do not approve this act, this act shall not take effect.

(3) If approved by the majority electorate voting in the area defined in section 2 of the charter, section 2, and sections 7(2) and 8(4) of the charter shall take effect upon certification of the election results by the Monroe County Supervisor of Elections, and the remainder of this act shall take effect April 1, 2001, or as decided by the commission.

Approved by the Governor May 22, 2000.

Filed in Office Secretary of State May 22, 2000.