

By Senator Jones

40-974-00

1 A bill to be entitled
2 An act relating to Monroe County; creating the
3 "Village of the Lower Keys"; providing
4 legislative intent; providing for its charter;
5 providing municipal boundaries and municipal
6 powers; providing a mayor-commission-manager
7 form of government; providing for election of a
8 mayor and Village commission; providing for
9 membership, qualifications, terms, powers, and
10 duties of its members, including the mayor;
11 providing for a vice mayor; providing
12 compensation and for payment of expenses;
13 providing general powers and duties; providing
14 circumstances resulting in vacancy in office;
15 providing grounds for forfeiture and
16 suspension; providing for filling of vacancies;
17 providing for meetings; providing for keeping
18 of records; providing for adoption,
19 distribution, and recording of technical codes;
20 providing a limitation upon employment of
21 commissioners; providing that certain
22 interference with Village employees shall
23 constitute malfeasance in office; establishing
24 the fiscal year; providing for adoption of
25 annual budget and appropriation; providing
26 amendments for supplemental, reduction, and
27 transfer of appropriations; providing for
28 limitations; providing for appointment of
29 charter offices, including a Village manager
30 and Village attorney; providing for removal,
31 compensation, and filling of vacancies;

1 providing for bond for Village manager and
2 Village clerk; providing qualifications,
3 powers, and duties; providing for nonpartisan
4 elections and for matters relative thereto;
5 providing for recall; providing for initiative
6 and referenda; providing a transitional
7 schedule and procedures for first election;
8 providing for first year expenses; providing
9 for adoption of transitional ordinances,
10 resolutions, comprehensive plan, and local
11 development regulations; providing for a
12 transitional agreement between Monroe County
13 and the Village of the Lower Keys; providing
14 for accelerated entitlement to state-shared
15 revenues; providing for gas tax revenue;
16 providing for future amendments of the charter;
17 providing for standards of conduct in office;
18 providing for a referendum; providing effective
19 dates.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. LEGISLATIVE INTENT.--The Legislature hereby
24 finds that the Village of the Lower Keys area in Monroe County
25 includes a compact and contiguous community in excess of 5,000
26 residents susceptible to urban services, and constitutes a
27 community amenable to separate municipal government. It is in
28 the best interests of the public health, safety, and welfare
29 of the residents of the Village of the Lower Keys area to form
30 a separate municipality for the area with all the powers and
31 authority necessary to provide adequate and efficient

1 municipal services to its residents. It is intended that this
2 charter and the incorporation of the Village of the Lower Keys
3 area will serve to preserve and protect the distinctive
4 characteristics of the individual communities within the
5 boundaries of the Village of the Lower Keys.

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

14 Section 3. SHORT TITLE.--This act, together with any
15 future amendments thereto, shall be known and may be cited as
16 the "Village of the Lower Keys," hereinafter referred to as
17 "the charter." The charter of the Village of the Lower Keys
18 is created to read:

19 Section 1. MUNICIPAL POWERS.--The Village shall be a
20 body corporate and politic and shall have all the powers of a
21 municipality under the State Constitution and laws of this
22 state, as fully and completely as though such powers were
23 specifically enumerated in this charter, unless otherwise
24 prohibited by or contrary to the provisions of this charter.
25 The Village shall have all governmental, corporate, and
26 proprietary powers necessary to enable it to conduct municipal
27 government, perform municipal functions, and render municipal
28 services, and may exercise any power for municipal services
29 unless expressly prohibited by law. The authority to exercise
30 powers of the Village shall be liberally construed in favor of
31 the Village. The quality of rights under the laws of the

1 Village of the Lower Keys shall not be denied or abridged
2 because of sex, sexual orientation, age, disability, race,
3 creed, color, or national origin.

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

15 Section 3. VILLAGE COMMISSION.--

16 (1) VILLAGE COMMISSION; COMPENSATION; QUALIFICATIONS
17 OF COMMISSIONERS.--

18 (a) There shall be a five-member Village commission,
19 consisting of four commissioners and a mayor. Two
20 commissioners shall be elected from precinct 14 and two
21 commissioners shall be elected from precinct 15, as defined by
22 resolution No. 044-1996 by the Board of County Commissioners
23 of Monroe County, or as defined in the future by a Resolution
24 by the Village Commission, as described in section 2 of this
25 charter. The mayor shall be elected at large.

26 (b) To qualify for office:

27 1. Each candidate for the office of Village commission
28 shall be a registered voter in the state and a resident of the
29 precinct for which he or she is qualifying for at least 6
30 months prior to the last date the candidate is allowed to
31 register. Each commissioner must reside in the precinct during

1 his or her tenure in office or forfeit his or her commission
2 seat.

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

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

23 (3) THE MAYOR; POWERS AND DUTIES.--

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

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1 commission shall remove the mayor from office at the next
2 commission meeting.

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

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

13 (4) THE VICE MAYOR.--The Village commission, at its
14 first regular meeting in December of each year, shall elect
15 from its membership a vice mayor who shall serve at the
16 pleasure of the Village commission and as acting mayor during
17 the absence or disability of the mayor. In the absence of the
18 mayor and the vice mayor, the commissioners shall select a
19 commission member to serve as acting mayor.

20 (5) COMPENSATION AND EXPENSES.--Village commissioners
21 and the mayor shall be compensated at \$3,500 per year
22 initially. They shall also be entitled to receive
23 reimbursement in accordance with Florida Statutes for
24 authorized travel and per diem expenses incurred in the
25 performance of their official duties. The commission, by not
26 less than a majority plus one affirmative vote of all
27 commission members in office, may elect to establish,
28 increase, or decrease compensation by ordinance. However, no
29 such ordinance establishing or increasing or decreasing
30 compensation shall take effect until the date of commencement
31 of the terms of commission members or mayor selected at the

1 next regular election that follows the adoption of the
2 ordinance.

3 (6) GENERAL POWERS AND DUTIES OF COMMISSION.--

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

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

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

22 (d) Nothing in the foregoing is to be construed to
23 prohibit individual members of the commission from closely
24 scrutinizing, by questions and personal observation, all
25 aspects of Village government operations so as to obtain
26 independent information to assist the members in the
27 formulation of sound policies to be considered by the
28 commission, or policies created by the manager. It is the
29 express intent of this charter, however, that recommendations
30 for improvement in Village government operations by individual
31 commissioners be made to and through the Village manager, so

1 that the manager may coordinate efforts of all Village
2 departments to achieve the greatest possible savings through
3 the most efficient and sound means available.

4 (7) VACANCIES; FORFEITURE OF OFFICE; SUSPENSION;
5 FILLING OF VACANCIES.--

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

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

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

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

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

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

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

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

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

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

23 (d) Vacancies shall be filled as follows:

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

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

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

6 (8) VILLAGE COMMISSION MEETINGS.--The commission shall
7 conduct regular semi-monthly meetings, which shall not begin
8 before 6 p.m. at such times and places as the commission shall
9 prescribe by resolution. Such meetings shall be public
10 meetings within the meaning of section 286.011, Florida
11 Statutes, and shall be subject to notice and other
12 requirements of law applicable to public meetings. The
13 commission shall adopt Robert's Rules of Order, determine
14 other rules of business, and keep a journal of its
15 proceedings. Pursuant thereto:

16 (a) Special meetings may be held at the call of the
17 mayor or, in his or her absence, at the call of the vice
18 mayor. Special meetings may also be called at the request of a
19 majority of the commissioners, consistent with section
20 286.011, Florida Statutes. Unless of an emergency nature, the
21 person or persons calling such a meeting shall provide not
22 less than 72 hours' prior notice of the meeting to the public.
23 In an emergency situation, a special meeting may be called if
24 at least 4 hours' notice is given to each member of the
25 commission and the mayor, served personally, or left at his or
26 her usual place of residence, with every effort made to
27 contact the member by the Village clerk, if available, or the
28 mayor, if available, or any other commissioner if the Village
29 clerk and mayor are not available. The person contacting the
30 commissioners concerning the emergency meeting shall also make
31 every effort to notify the general public of the meeting.

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

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

11 (9) VILLAGE RECORDS.--The commission shall, in a
12 properly indexed book kept for that purpose, provide for the
13 authentication and recording in full of all minutes of the
14 meetings, and all ordinances and resolutions adopted by the
15 commission, and the same shall, at all times, be a public
16 record. The commission shall further maintain a current
17 codification of all ordinances. Such codification shall be
18 printed and shall be made available for distribution to the
19 public on a continuing basis. All ordinances or resolutions of
20 the commission shall be signed by the mayor, or by the acting
21 mayor in the absence or disability of both the mayor and vice
22 mayor, and attested to by the Village clerk. All meetings of
23 the Village commission and of the committees thereof shall be
24 public meetings within the meaning of section 286.011, Florida
25 Statutes, and the public shall have access to the minutes and
26 records thereof at all reasonable times.

27 (10) ADOPTION OF CODES.--The commission may adopt any
28 standard code of technical regulations by reference thereto in
29 an adopting ordinance and may amend the code in the adopting
30 ordinance or later amendatory ordinance. The procedures and
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1 requirements governing such an adoption ordinance shall be
2 those prescribed for ordinances generally, except that:

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

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

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

17 (12) REFERENDUM REQUIRED FOR CONVEYANCE OF
18 VILLAGE-OWNED REAL PROPERTY; EXCEPTIONS.--The Village shall
19 not sell, convey, or otherwise transfer any real property, or
20 any interest therein, to any person without the transfer being
21 approved by referendum. However, the abandonment of any real
22 property shall be at the discretion of the commission, but
23 only if the total real value meets the criteria in paragraph

24 (a) and there are no opposing neighbors that adjoin the
25 property. The lease of Village-owned real property in areas of
26 the Village for a term greater than 10 years shall be
27 considered a conveyance requiring a referendum. This
28 subsection does not apply to the following:

29 (a) Any property valued under \$50,000 as determined by
30 the average of three appraisals on the property, with the
31 appraisals to be paid for by the recipient of the property.

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

3 (13) RIGHT OF INDIVIDUAL TO BE HEARD.--All residents
4 or agents for residents shall have the right to be heard at
5 all Village commission meetings within the meaning of Section
6 286.011, Florida Statutes, subject to rules established by the
7 Village commission.

8 SECTION 4.--BUDGET AND APPROPRIATIONS.--

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

12 (2) BUDGET ADOPTION.--The commission shall, by
13 resolution, adopt for the succeeding fiscal year a budget on
14 or before the 1st day of September of each year, following a
15 minimum of two public hearings on the proposed budget. A
16 resolution adopting the annual budget shall constitute
17 appropriation of the amounts specified therein as expenditures
18 from funds indicated.

19 (3) APPROPRIATION AMENDMENTS DURING THE FISCAL YEAR.--

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

25 (b) If, at any time during the fiscal year, it appears
26 probable to the Village manager that the revenues available
27 will be insufficient to meet the amount appropriated, the
28 Village manager shall report same to the commission without
29 delay, indicating the estimated amount of the deficit, any
30 remedial action taken, and recommendations as to any other
31 steps that should be taken. The commission shall then take

1 such further action as it deems necessary to prevent or
2 minimize any deficit and, for that purpose, the commission may
3 by resolution reduce one or more appropriations accordingly.

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

13 Section 5. CHARTER OFFICERS.--

14 (1) DESIGNATION.--The Village manager and the Village
15 attorney are designated as charter officers, except that the
16 duties of the office of Village attorney may be contracted to
17 be performed by an attorney or law firm.

18 (2) APPOINTMENT; REMOVAL; COMPENSATION; FILLING OF
19 VACANCIES.--

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

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

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

29 (d) The commission shall begin the process to fill a
30 vacancy in the charter office within 90 days after the vacancy
31 occurs. An acting city manager or an acting city attorney may

1 be appointed by the commission during a vacancy in such
2 charter office.

3 (e) The charter officers shall not be candidates for
4 the commission while holding their charter offices.

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

11 (4) CITY MANAGER; QUALIFICATIONS; POWERS AND
12 DUTIES.--The city manager shall be the chief administrative
13 officer of the Village.

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

19 (b) The Village manager shall:

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

25 2. Appoint, suspend, or remove any employee of the
26 Village or appointive administrative employee provided for,
27 by, or under this charter, except the office of city attorney
28 and except as otherwise provided by law, this charter, or
29 personnel rules adopted pursuant to the charter. The Village
30 manager may authorize any administrative employee who is
31 subject to his or her direction and supervision to exercise

1 these powers with respect to subordinates in that officer's
2 department, office, or agency.

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

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

8 b. The administrative review (comprehensive).

9 c. An executive summary, consisting of and solely for
10 the purposes of discussion within the commission with respect
11 to the electorate of the Village, and of the issue at hand.

12 d. A list of agenda items that will come before the
13 commissioners, no later than 5 working days prior to a
14 commission meeting that has been properly advertised, together
15 with attached documentation from the manager which includes
16 the following: the economic impacts of any resolution,
17 ordinance, or any other action brought forth to the
18 commission; recommendations to the commission and the reasons
19 for those recommendations; recommendations from all charter
20 officers and the reasons for those recommendations; and an
21 executive summary from both the Village manager and Village
22 attorney.

23 4. Ensure all laws, provisions of this charter, and
24 acts of the commission are faithfully executed.

25 5. Prepare and submit the annual budget,
26 recommendations, and a review that shall include the
27 following:

28 a. Identification of areas of fiscal growth.

29 b. Reasons for fiscal growth.

30 c. A full accounting review of all departmental
31 spending.

- 1 6. Attend commission meetings.
- 2 7. Draw and sign vouchers not in excess of \$10,000
3 upon depositories as provided by ordinance, and keep, or cause
4 to be kept, a true and accurate account of the vouchers.
- 5 8. Sign all licenses issued by the Village, and issue
6 receipts for all moneys paid to the Village, and deposit the
7 moneys in the proper depositories on the first banking day
8 after receipt. The Village manager may delegate the
9 responsibilities of this subparagraph to an appropriate
10 Village employee who is bonded.
- 11 9. Provide administrative services in support of the
12 official duties of the mayor and commission.
- 13 10. Keep the commission advised as to the financial
14 condition and future needs of the Village and make
15 recommendations to the commission concerning the affairs of
16 the Village.
- 17 11. Submit to the commission, and make available to
18 the public, a complete report on finances and administrative
19 activities of the Village as of the end of each fiscal year.
- 20 12. Sign contracts on behalf of the Village to the
21 extent authorized by ordinance.
- 22 13. Perform such other duties as are specified in this
23 charter or as may be required by the commission.
- 24 14. At all times provide support, analysis, and
25 recommendations to the commissioners, including pros and cons
26 regarding codes, ordinances, resolutions, and commitments of
27 the Village.
- 28 15. At an annual date set forth by the commission, be
29 reviewed for sufficiency and shall address the commission with
30 respect to any delinquencies within 30 days after the annual
31 review.

1 16. Create, format, and implement an ongoing process
2 to review, revise, and suggest changes to Village ordinances
3 and codes, and prepare a summary and suggestions for the
4 commission.

5 (c) Village clerk--The Village manager shall appoint a
6 Village clerk, referred to as the "clerk." The clerk shall
7 give notice of commission meetings to its members and the
8 public, shall keep minutes of its proceedings, and shall
9 perform such other duties as the commission or manager may
10 prescribe from time to time. The clerk shall report to the
11 Village manager.

12 (d) By letter filed with the clerk, the manager shall
13 designate, subject to approval of the commission, a qualified
14 Village employee to exercise the powers and perform the duties
15 of manager during his or her temporary absence or disability.
16 During such absence or disability, the commission may revoke
17 such designation at any time and appoint another employee of
18 the Village to serve until the manager returns or his or her
19 disability ceases.

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

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

25 (b) The Village attorney:

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

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

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

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

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

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

18 Section 6. ELECTIONS.--

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

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

27 (3) QUALIFYING FOR OFFICE.--Any resident of the
28 Village who wishes to become a candidate for a Village
29 elective office shall qualify with the Monroe County
30 Supervisor of Elections no sooner than noon on the second
31 Tuesday in September or later than noon on the second Tuesday

1 in October of the year in which the election is to be held.
2 The initial election after the referendum vote to incorporate
3 will be held the first Tuesday in December 2000. The
4 qualifying period for the December 2000 election shall be 21
5 days prior to that election.

6 (4) SCHEDULE FOR GENERAL ELECTIONS.--The regular
7 Village elections shall be held biannually on the first
8 Tuesday after the first Monday in November of each election
9 year. The two commission candidates receiving the highest
10 number of votes in each district shall be the elected Village
11 commission members, the districts shall be Monroe County
12 precincts 14 and 15 as drawn as of the time this charter
13 becomes a law. The mayoral candidate receiving the highest
14 total number of votes from all city electors shall be elected
15 mayor. All ties in any election shall be decided by lot in the
16 presence of the candidates concerned, under the direction of
17 the Village commission other than the Village commissioners
18 involved in the tie. However, if a tie vote occurs in the
19 initial election of the Village commission or the mayor, the
20 tie vote shall be decided by lot supervised by the Monroe
21 County Supervisor of Elections.

22 (5) SCHEDULE FOR OTHER ELECTIONS.--Special municipal
23 elections shall be held in the same manner as regular
24 elections, except that the Village commission, by ordinance,
25 shall fix the time for holding such elections.

26 (6) DETERMINATION OF ELECTION TO OFFICE.--If only one
27 candidate qualifies for the office of mayor, or if only two
28 candidates qualify for the office of commissioner in precinct
29 14 or precinct 15, respectively, three candidates shall be
30 deemed to be elected. If two or more candidates qualify for
31 the office of mayor, or three or more candidates qualify for

1 the commissioner seat in precinct 14 or precinct 15,
2 respectively, the names of those candidates shall be placed on
3 the ballot at the general election. If not more than one
4 person qualifies as a candidate for the office of mayor, or,
5 if not more than two persons qualify as candidates for the
6 Village commission seat for precinct 14 or precinct 15,
7 respectively, those seats or that office shall not be listed
8 on the Village election ballot, because each candidate is
9 deemed to have voted for himself or herself and shall be
10 declared the winner.

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

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

19 (9) INITIATIVE AND REFERENDUM.--

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

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

29 1. The Village commission shall have the power, by
30 resolution, to call for a referendum vote by the electors of
31 the Village at any time, provided that the purpose of such

1 referendum is presented to the Village at a public hearing at
2 least 60 days prior to the adoption of the resolution. Any
3 resolution calling for a referendum vote of the electors of
4 the Village must be passed by the affirmative vote of not
5 fewer than a majority plus one vote of the commission.

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

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

26 (d) The requirements for petitions are as follows:

27 1. Initiative and referendum petitions scheduled for a
28 regular election must be signed by electors of the Village
29 equal in number to at least 10 percent of the total number of
30 electors registered to vote in the last regular Village
31 election. Initiative and referendum petitions scheduled for a

1 special election must be signed by qualified voters of the
2 Village equal in number to at least 20 percent of the total
3 number of qualified voters registered to vote in the last
4 regular Village election.

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

11 3. Each paper of a petition shall have attached to it,
12 when filed, an affidavit executed by the circulator thereof
13 stating that he or she personally circulated the paper and the
14 number of signatures thereon, that all signatures were affixed
15 in his or her presence, that he or she believes them to be the
16 genuine signatures of the persons whose names they purport to
17 be, and that each signer had an opportunity before signing to
18 read the full text of the ordinance proposed or sought to be
19 considered.

20 4. Except as otherwise provided in this charter, all
21 initiative and referendum petitions must be filed within 60
22 days after the date on which proceedings with respect to such
23 initiative or referendum are commenced, and all requirements
24 of the process, including, but not limited to, the submission
25 of the signatures required, must be completed no later than 90
26 days following the date of filing the initiative or referendum
27 petition.

28 5. Referendum and initiative petitions seeking a
29 special municipal election under subparagraph 1. shall be
30 titled "Proposed Special Municipal Election." Immediately
31 after the title, the petition shall state the following: "By

1 signing this petition, I am requesting that this question be
2 submitted at a special election instead of the next general
3 municipal or statewide election. I understand that the
4 additional cost to the Village to hold such a special election
5 is anticipated to be \$_____ , as determined by the Monroe
6 County Supervisor of Elections.

7 (d) The procedure for filing initiative petitions
8 shall be as follows:

9 1. Within 20 days after an initiative petition or
10 referendum petition is filed, the Village clerk shall complete
11 a certificate as to its sufficiency, specifying, if it is
12 insufficient, the particulars wherein it is defective and
13 shall promptly send a copy of the certificate to the
14 petitioner's committee by registered mail. A petition
15 certified insufficient for the lack of the required number of
16 valid signatures may be amended once if the petitioner's
17 committee files a notice of intent to amend it with the
18 designated official within 2 business days after receiving the
19 copy of the certificate and files a supplementary petition
20 upon additional papers within 10 days after reviewing the copy
21 of such certificate. Such supplementary petition shall comply
22 with original petition requirements, and within 5 days after
23 it is filed, the Village clerk shall complete a certificate as
24 to the sufficiency of the petition as amended and promptly
25 send a copy of such certificate to the petitioner's committee
26 by registered mail. If a petition or an amended petition is
27 certified to be sufficient, or if a petition or amended
28 petition is certified to be insufficient, or if a petition or
29 amended petition or a request to the Village commission for
30 review under subparagraph 2. within the time required, the
31 Village clerk shall promptly present a certificate to the

1 Village commission, and such certificate shall then be a final
2 determination as to the sufficiency of the petition.

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

13 (e) The procedure for action on petitions shall be as
14 follows:

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

22 2. When an initiative or referendum petition has been
23 determined to be sufficient, the Village commission shall
24 promptly consider the referendum ordinance by voting on its
25 repeal. If the Village commission fails to adopt a proposed
26 initiative ordinance without any change in substance within 45
27 days or fails to repeal the referendum ordinance within 30
28 days after the date on which the petition is determined to be
29 sufficient, it shall submit the proposed initiative or
30 referendum ordinance to the electors of the Village. If the
31 Village commission fails to act on a proposed ordinance or

1 submit an initiative referendum ordinance to the electors of
2 the Village within the time period specified, the Village
3 commission shall be deemed to have failed to adopt the
4 proposed initiative ordinance or to have failed to repeal the
5 referendum ordinance on the last day that the Village
6 commission was authorized to act on such matter.

7 3. The vote of the Village on a proposed initiative or
8 referendum ordinance shall be held not less than 30 or more
9 than 60 days from the date the Village commission acted or was
10 deemed to have acted pursuant to subparagraph 2. If no regular
11 election is to be held within the period prescribed in this
12 subparagraph, the Village commission shall provide for a
13 special election at an earlier date within the prescribed
14 period. Copies of the proposed initiative or referendum
15 ordinance shall be made available at the polls.

16 4. An initiative referendum petition may be withdrawn
17 at any time prior to the 30th day preceding the day scheduled
18 for a vote of the Village by filing with the Village clerk a
19 request for withdrawal signed by at least eight members of the
20 petitioner's committee. Upon filing of such request, the
21 petition shall have no further force or effect and all
22 proceedings thereon shall be terminated.

23 (f) If a majority of the qualified electors voting on
24 a proposed initiative ordinance vote in its favor, it shall be
25 considered adopted upon certification of the election results.
26 If conflicting ordinances are approved at the same election,
27 the one receiving the greatest number of affirmative votes
28 shall prevail to the extent of any conflict. If a majority of
29 the qualified electors voting on a referendum ordinance vote
30 against it, it shall be considered repealed upon certification
31 of the election results.

1 Section 7. TRANSITION SCHEDULE.--
2 (1) REFERENDUM.--The referendum election called for by
3 this act shall be held on November 7, 2000, at which time the
4 following question shall be placed on the ballot: "SHALL
5 CHAPTER , LAWS OF FLORIDA, CREATING THE VILLAGE OF THE
6 LOWER KEYS AND PROVIDING ITS CHARTER BE APPROVED? YES NO." In
7 the event this question is answered affirmatively by a
8 majority of voters voting in the referendum, the provisions of
9 this charter will take effect as provided in section 5 of this
10 act.
11 (2) INITIAL ELECTION OF MAYOR AND COMMISSIONERS.--
12 (a) The Monroe County Commission shall call a special
13 election or include in a general election for the election of
14 four Village commissioners and a mayor to be held on December
15 19, 2000.
16 (b) Any individual who wishes to run for one of the
17 four initial seats on the commission or for the office of
18 mayor shall qualify as a candidate with the Monroe County
19 Supervisor of Elections between noon November 13, 2000, and
20 noon November 22, 2000.
21 (c) Those candidates who are elected December 19, 2000
22 shall take office at the initial Village commission meeting
23 which shall be held at 7:00 p.m., on December 21, 2000, at the
24 former Barnett Bank Building on Summerland Key.
25 (3) FIRST YEAR EXPENSES.--The Village commission, in
26 order to provide moneys for the expenses and support of the
27 Village, shall have the power to borrow money necessary for
28 the operation of Village government until a budget is adopted
29 and revenues are raised in accordance with the provisions of
30 this charter.
31

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

10 (5) TRANSITIONAL COMPREHENSIVE PLAN AND LAND
11 DEVELOPMENT REGULATIONS.--

12 (a) Until the Village adopts a comprehensive plan and
13 it has been accepted by the appropriate agency of the state,
14 the applicable provisions of the Comprehensive Plan of Monroe
15 County, as the same exists on the day the Village commences
16 corporate existence, November 15, 2000, shall remain in effect
17 as the Village's transitional comprehensive plan. However, all
18 planning functions, duties, and authority shall as of December
19 21, 2000, be vested in the Village Commission of the Village
20 of the Lower Keys, which shall be deemed the local planning
21 agency unless the commission establishes a separate local
22 planning agency. Prior to the adoption of a Village
23 comprehensive master plan, any amendment to any zoning as
24 established in the current county land use plan may be made
25 only by an ordinance adopted by the affirmative vote of not
26 fewer than three members of the full commission. Any increase
27 in the residential density or intensity, as established in the
28 current county land use plan that is adopted by the Village,
29 may be made only by ordinance adopted by the affirmative vote
30 of not fewer than three members of the full commission.

31

1 (b) Every power and duty of the planning commission,
2 zoning authority, any boards of adjustment, and the County
3 Commission of Monroe County, as set forth in these
4 transitional zoning and land use regulations, shall, as of
5 December 21, 2000, be vested in the Village Commission of the
6 Village of the Lower Keys until the Village commission
7 delegates that power to another entity.

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

15 (d) In accordance with section 403.706(1), Florida
16 Statutes, the board of county commissioners shall have the
17 responsibility to transport municipal solid waste to a solid
18 waste disposal facility of the county or operate a solid waste
19 facility. The municipality must, through September 30, 2004,
20 deliver the solid waste collected within the municipality to
21 either a county solid waste transfer station or a county solid
22 waste disposal facility, as determined by the board. For the
23 remainder of the term of the county's solid waste haulout
24 contract, the board and the municipality shall negotiate for
25 the delivery of the solid waste collected within the Village
26 by interlocal agreement. The parties shall negotiate the
27 interlocal agreement in good faith and with primary
28 consideration given to the waste generation guarantees set
29 forth in the county's solid waste haulout contract. However,
30 in no event may the board charge the municipality a tipping
31 fee in excess of the tipping fee established annually and

1 charged to other municipalities and persons delivering solid
2 waste to the county transfer stations or county solid waste
3 disposal facility.

4 Section 8. REVENUES.--

5 (1) STATE SHARED REVENUES.--The Village of the Lower
6 Keys shall be entitled to participate in all revenue sharing
7 programs of the State of Florida effective December 1, 2000.
8 The provisions of section 218.23(1), Florida Statutes, shall
9 be waived for the purpose of eligibility to receive revenue
10 sharing funds from December 1, 2000, through the state fiscal
11 year 2002-2003. The provisions of section 218.26(3), shall be
12 waived for the 2000-2001 fiscal year, and the apportionment
13 factors for the municipalities and counties shall be
14 recalculated pursuant to section 218.245, Florida Statutes,
15 upon the date of incorporation. For the purposes of meeting
16 the provisions of section 218.23(1), Florida Statutes,
17 relating to ad valorem taxation, the millage levied by Monroe
18 County Fire and EMS and the Independent Mosquito Control
19 District districts may be used for an indefinite period of
20 time. Initial revised population estimates for calculating
21 eligibility for shared revenues shall be determined by the
22 University of Florida Bureau of Economic and Business
23 Research. If the Bureau is unable to provide an appropriate
24 population estimate, the Monroe County Planning Division
25 estimate should be used.

26 (2) GAS TAX REVENUES.--Notwithstanding the
27 requirements of section 336.025, Florida Statutes, to the
28 contrary, the Village of the Lower Keys shall be entitled to
29 receive local option gas tax revenues beginning April 1, 2001,
30 in accordance with an interlocal agreement between Monroe
31 County and municipalities representing a majority of the

1 county's municipal population if such an interlocal is in
2 effect on April 1, 2001, or, if there is no interlocal
3 agreement in effect on that date, then distributions shall be
4 in accordance with the lane-mile formula contained in section
5 336.025(4)(b)1., Florida Statutes.

6 (3) INFRASTRUCTURE SURTAX REVENUES.--The Village shall
7 be entitled to receive surtax revenues beginning January 1,
8 2001, in accordance with an interlocal agreement between
9 Monroe County and municipalities representing a majority of
10 the county's municipal population if such an interlocal is in
11 effect on January 1, 2001, or, if there is no interlocal
12 agreement in effect on that date, then in accordance with the
13 formula in section 218.62, Florida Statutes.

14 (4) CREATION AND ESTABLISHMENT OF THE VILLAGE.--For
15 the purpose of compliance with section 200.066, Florida
16 Statutes, relating to assessment and collection of ad valorem
17 taxes, the Village is hereby created and established effective
18 November 15, 2000, notwithstanding anything to the contrary
19 contained herein, the Village although created and established
20 as of November 15, 2000, shall not be operational until April
21 1, 2001, or as determined by the Village commission.

22 Section 9. ADDITIONAL BOUNDARIES AND ANNEXATION.--The
23 initial boundaries as set forth in section 2 of this charter
24 and adopted by the electors are exclusive of other areas
25 wishing to participate within the corporate boundaries.
26 Therefore, within 90 days after approval of the referendum for
27 incorporation, the Village commission shall put forth a
28 resolution to annex Upper and Lower Sugarloaf Keys and
29 Saddlebunch Key which is described as Planning Area
30 Enumeration District 3 in the Monroe County Comprehensive
31 Plan. The commission shall hold a referendum for annexation at

1 the earliest possible date. If the annexation of the
2 Sugarloaf Keys area (PAED 3) is affirmative by a majority
3 vote, the following shall apply:

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

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

12 (a) A Mayor elected at-large and a Vice-Mayor elected
13 at-large; and

14 (b) A commissioner from precinct 13, a commissioner
15 from precinct 14, and a commissioner from precinct 15, each
16 elected from the precinct in which he or she resides.

17 Section 10. GENERAL PROVISIONS.--

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

25 (2) STANDARDS OF CONDUCT.--All elected officials and
26 employees of the Village shall be subject to the standards of
27 conduct for public officers and employees set by general law.
28 In addition, the Village commission shall, no later than 6
29 months from the effective date of incorporation, establish by
30 ordinance a code of ethics for officials and employees of the
31 Village which may be supplemental to general law. The intent

1 of this subsection is to require more stringent standards than
2 those provided under general law.

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

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

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

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

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

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