



VILLAGE CHARTER

ADOPTED BY THE VOTERS ON MARCH 12, 1996
AMENDED BY THE VOTERS ON MAY 1, 2001
AMENDED BY THE VOTERS ON NOVEMBER 8, 2006

***Historical Notes** -- On November 21, 1995, pursuant to Ordinance 95-207, the Board of County Commissioners of Metropolitan Dade County appointed the Pinecrest Charter Commission to draft the Village Charter for the newly incorporated Village of Pinecrest. Roger Carlton, Lynn M. Dannheisser, Sandra Diaz (Vice Chairperson), Gary Matzner (Chairperson), and Merrett R. Stierheim served as the members of the Charter Commission. The Charter Commission delivered a municipal charter to the Mayor and Board of County Commissioners of Metropolitan Dade County on December 13, 1995. The Village Charter was adopted by the electors of the Village of Pinecrest on March 12, 1996.

On December 5, 2000, pursuant to Section 7.4 of the Village Charter, the Village Council of the Village of Pinecrest appointed a Charter Revision Commission to draft such amendments to the Village Charter as it deemed appropriate and to submit such proposed amendments to the Village Council. Cindie Blanck (Non-voting Member), Harry A. Hamburger, M.D (Vice Chairperson), Dennis Jamison, Gary Matzner (Chairperson), Richard Schinoff, and Kenneth H. Thomas, Ph.D. served as the members of the Charter Revision Commission. Village Manager Peter G. Lombardi, Village Clerk Guido H. Inguanzo, Jr., CMC and Village Attorney Cynthia A. Everett provided staff support to the Charter Revision Commission. The Charter Revision Commission delivered its recommendations for amendments to the Village Charter to the Mayor and Village Council of the Village of Pinecrest on March 9, 2001. Six of the eight proposed charter amendments were adopted by the electors of the Village of Pinecrest on May 1, 2001.

On March 14, 2006, pursuant to Section 6.1(c) of the Village Charter, the Village Council of the Village of Pinecrest appointed a Charter Revision Commission to draft such amendments to the Village Charter as it deemed appropriate and to submit such proposed amendments to the Village Council. Cindie Blanck (Non-voting Member), Courtney Cunningham, Ernesto J. de la Fé, Michael R. Jones, Alan Rosenthal (Chairperson), and Joseph A. Ruiz, Jr. (Vice Chairperson) served as the members of the Charter Revision Commission. Village Clerk Guido H. Inguanzo, Jr., CMC and Village Attorney Cynthia A. Everett provided staff support to the Charter Revision Commission. The Charter Revision Commission submitted a final report on June 13, 2006 and recommended no amendments.

On November 8, 2006, the electors of the Village of Pinecrest approved two of three amendments proposed by the Village Council.

Preamble

Citizens' Bill of Rights

Article 1. Corporate Existence, Form of Government, Boundary and Powers

Sec. 1.1 Corporate Existence.

Sec. 1.2 Form of Government.

Sec. 1.3 Corporate Boundary.

Sec. 1.4 Powers.

Sec. 1.5 Construction.

Article 2. Village Council; Mayor

Sec. 2.1 Village Council.

Sec. 2.2 Mayor and Vice-Mayor.

Sec. 2.3 Election and Term of Office.

Sec. 2.4 Qualifications.

Sec. 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

Sec. 2.6 Compensation; Reimbursement for Expenses.

Sec. 2.7 Recall.

Article 3. Administrative

Sec. 3.1 Village Manager.

Sec. 3.2 Powers and Duties of the Village Manager.

Sec. 3.3 Acting Village Manager.

Sec. 3.4 Bond of Village Manager.

Sec. 3.5 Village Clerk.

Sec. 3.6 Village Attorney.

Sec. 3.7 Village Code of Administrative Regulations.

Sec. 3.8 Expenditure of Village Funds.

Sec. 3.9 Village Boards and Agencies.

Sec. 3.10 Competitive Bid Requirement/Purchasing.

Article 4. Legislative

Sec. 4.1 Council Meeting Procedure.

Sec. 4.2 Prohibitions.

Sec. 4.3 Ordinances.

Sec. 4.4 Emergency Ordinances.

Sec. 4.5 Annual Budget Adoption.

Sec. 4.6 Fiscal Year.

Sec. 4.7 Appropriation Amendments During the Fiscal Year.

Sec. 4.8 Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

Sec. 4.9 Annual Tax Levy.

Sec. 4.10 Independent Audit.

Article 5. Elections

Sec. 5.1 Elections.

Sec. 5.2 Initiative and Referendum.

Sec. 5.3 Form of Ballots.

Article 6. Charter Amendments

Sec. 6.1 Procedure to Amend.

Sec. 6.2 Form of Ballot.

Article 7. General Provisions

Sec. 7.1 Severability.

Sec. 7.2 Conflicts of Interest; Ethical Standards.

Sec. 7.3 Village Personnel System.

Sec. 7.4 Variation of Pronouns.

Sec. 7.5 No Discrimination.

Sec. 7.6 Conflicting Provisions.

Sec. 7.7 Effect of Current County and State Laws.

**VILLAGE OF PINECREST
MUNICIPAL CHARTER**

PREAMBLE

We, the people of the Village of Pinecrest, in order to secure for ourselves the benefits and responsibilities of home rule, in order to provide a municipal government to serve our present and future needs, do hereby adopt this Charter.

CITIZENS' BILL OF RIGHTS

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

1. *Convenient Access.* Every person has the right to transact Village business with a minimum of personal inconvenience. It shall be the duty of the Mayor, the Village Council and the Village Manager to provide, within budget limitations, reasonably convenient times and places for registration and voting, for required inspections, and for transacting business with the Village.
2. *Truth in Government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
3. *Public Records.* All audits, reports, minutes, documents and other public records of the Village and its boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.
4. *Minutes and Ordinance Register.* The Village Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than 30 days after the conclusion of the meeting.
5. *Right to be Heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the Village Council or Village agency, board or department for the presentation, adjustment or determination of an issue, request, or controversy within the jurisdiction of the Village. Matters shall be scheduled for the convenience of the public. The Village Council shall adopt agenda procedure and schedule hearings in a manner that will enhance the opportunity for public participation. Nothing herein shall prohibit any governmental entity or agency from imposing reasonable time limits and procedures for the presentation of a matter.

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

7. *No Unreasonable Postponements.* No matter, once having been placed on a formal agenda by the Village, shall be postponed to another day except for good cause shown in the opinion of the Mayor, Village Council, board or agency conducting such meeting, and then only on condition that the affected person shall, upon written request, receive mailed notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

8. *Right to Public Hearing.* Upon a timely written request from any interested party, and after presentation of the facts to and approval by the Council, a public hearing shall be held by any Village agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the Law Department of the Village nor to any body whose duties and responsibilities are solely advisory.

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

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

10. *Managers' and Attorneys' Reports.* The Village Manager and Village Attorney shall periodically make a public status report on all major matters pending or concluded within their respective areas of concern.

11. *Budgeting.* In addition to any budget required by state statute, the Village Manager at the direction of the Mayor shall prepare a budget showing the cost of

each department for each budget year. Prior to the Village Council's first public hearing on the proposed budget required by state law, the Village Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. *Quarterly Budget Comparisons.* The Village Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.

13. *Representation of Public.* The Mayor shall endeavor to designate one or more individuals to represent the Village at all proceedings before County, State and Federal regulatory bodies, significantly affecting the Village and its residents.

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

C. *Remedies for Violations.* In any suit by a citizen alleging a violation of this bill of rights filed in Miami-Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. Any public official or employee who is found by the Court to have willfully violated this Article shall forthwith forfeit his/her office or employment.

D. *Construction.* All provisions of this Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

ARTICLE 1.
CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWERS

Section 1.1 Corporate Existence.

A municipal corporation known as Village of Pinecrest (the "Village") is hereby created pursuant to the Constitution of the State of Florida (the "State") and the Home Rule Charter of Miami-Dade County (the "County"). The corporate existence of the Village shall commence upon the adoption of this Charter.

Section 1.2 Form of Government.

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

Section 1.3 Corporate Boundary.

The corporate boundary of the Village shall be as follows:

BEGIN at the intersection of the North line of Section 6, Township 55 South, Range 41 East (being the centerline of N. Kendal Drive), with the East right-of-way line of S.W. 57 Avenue (Red Road); thence run South, along said East right-of-way line of Red Road, to its intersection with the South line of the NW 1/4 of the SW 1/4 of the NW 1/4 of Section 7, Township 55 South, Range 41 East; thence run East, along said South line to its intersection with the centerline of said Snapper Creek Canal; thence run Southeasterly, along the centerline of Snapper Creek Canal to its intersection with a line lying 35.00 feet Westerly of and parallel with the centerline of Old Cutler Road (Ingram Highway), being also the city limit line of the City of Coral Gables; thence run Southwesterly to Westerly along said line to its intersection with the East line of the SE 1/4 of Section 12, Township 55 South, Range 40 East; thence run North along said East line of the SE 1/4 of Section 12 to its intersection with the Easterly extension of the North line of Block 1 of PINE BAY ESTATES SECTION NO. 1, according to the plat thereof recorded in Plat Book 82 at Page 24 of the Public Records of Miami-Dade County, Florida; thence Westerly, along said North line of said Block 1, and its Easterly and Westerly extensions, to its intersection with the centerline of S.W. 60th Avenue; thence Southerly, along the centerline of said S.W. 60th Avenue, to its intersection with the Westerly extension of the South line of Block 4 of said PINE BAY ESTATES SECTION NO. 1; thence Easterly, along the South line of said Block 4 and its Westerly extension, to the Northwest corner of Lot 3 in Block 4 of PINE BAY ESTATES SECTION NO. 2, according to the plat thereof recorded in Plat Book 87 at Page 83 of the Public Records of Miami-Dade County, Florida; thence South, along the West line of said Lot 3, to the Southwest corner thereof; thence Easterly, along the South line of said Lot 3, to the Northwest corner of Lot 4 in said Block 4; thence Southerly, along the West line of said Lot 4 and its Southerly extension, to its intersection with the South line of the aforementioned Section 12; thence Easterly, along the South line of said Section 12, and along the centerline of S.W. 120th Street, to its intersection with the West line of the East 35.00 feet of said SE 1/4 of Section 12; thence run Southerly, along the West line

of the East 35.00 feet of the NE 1/4 of Section 13, Township 55 South, Range 40 East (being the Westerly city limit of the City of Coral Gables) and along the Westerly right-of-way line of said Old Cutler Road, to its intersection with the centerline of S.W. 128th Street (Lugo Road); thence run Easterly along the centerline of said S.W. 128th Street and along the city limit line of the City of Coral Gables, to the East line of Section 13, Township 55 South, Range 40 East; thence run Southerly, along the East line of the SE 1/4 of said Section 13 and along the city limit line of the City of Coral Gables, (also being the centerline of Red Road) to its intersection with the South line of said Section 13, (also being the centerline of S.W. 136th Street); thence run Westerly, along the South line of said Section 13 and continuing Westerly along the centerline of S.W. 136th Street (Howard Drive) to its intersection with the centerline of State Road No. 5 (U.S. 1); thence run Northeasterly along the centerline of said State Road No. 5 to the point of intersection with the centerline of Snapper Creek Canal (Canal No. C-2); thence run Easterly, along the centerline of said Snapper Creek Canal, to its intersection with the East line of the SW 1/4 of Section 36, Township 54 South, Range 40 East; thence run Southerly, along the East line of the SW 1/4 of said Section 36 to the point of intersection with the North line of Section 1, Township 55 South, Range 40 East; then run Easterly along said North line of Section 1 to the Northeast corner of said Section 1 (said last two (2) courses being along the city limit line of the City of South Miami); thence continue Easterly along the North line of aforesaid Section 6, Township 55 South, Range 41 East to the POINT OF BEGINNING; all lying and being in Miami-Dade County, Florida.

Section 1.4 Powers.

(a) The Village shall have all available governmental, corporate and proprietary powers. Through the adoption of this Charter, it is the intent of the electors of the Village to grant to the municipal government established herein the broadest exercise of home rule powers permitted under the Constitution and laws of the State, as fully and completely as though they were specifically enumerated in this Charter.

(b) The only limitation concerning alienability of Village owned property is that there shall be no sale, exchange or lease in excess of five (5) years of any park or recreational property while it is being used for public purpose unless such sale, exchange or lease is approved by a majority vote of the voters of the Village. This provision shall not apply to any valid written contractual obligations entered into prior to the effective incorporation date of this Village nor shall it apply to any Village owned educational facility, library property or parking facility not located in a park or any utility or access easements or rights-of-way. This provision is intended to restrict sales, exchanges or leases and shall not be not applicable to any operating, management or other agreements.

Section 1.5 Construction.

This Charter and the powers of the Village shall be construed liberally in favor of the Village.

**ARTICLE 2.
VILLAGE COUNCIL; MAYOR**

Section 2.1 Village Council.

There shall be a Village Council (the "Council") vested with all legislative powers of the Village, consisting of four (4) members ("Councilmembers") and the Mayor. Councilmembers shall occupy seats numbered 1 through 4. References in this Charter to the Council and/or Councilmembers shall include the Mayor unless the context dictates otherwise.

Section 2.2 Mayor and Vice-Mayor.

(a) *Powers of the Mayor.* The Mayor shall preside at meetings of the Council, be a voting member of the Council, and may create and appoint subcommittees of the Council. The Mayor shall be recognized as head of Village government for all ceremonial purposes and for purposes of military law, for service of process, execution of duly authorized contracts, deeds and other documents, and as the Village official designated to represent the Village in all dealings with other governmental entities. In addition, the Mayor shall have the following specific responsibilities:

- i) The Mayor shall recommend the appointment of a Village Manager in accordance with the terms of Section 3.1 hereinbelow.
- ii) The Mayor shall appoint the Councilmembers of all standing committees and the chairperson and vice chairperson of each committee. There shall be as many standing and special committees as deemed necessary by the Mayor.
- iii) The Mayor shall prepare and deliver annually between November 1 and January 31 a report on the state of the Village and annually between July 1 and September 30 a budgetary address to the people of the Village.

(b) *Vice-Mayor.* During the absence or incapacity of the Mayor, the Vice-Mayor shall have all the powers, authority, duties and responsibilities of the Mayor. At the first Council meeting after each regular Village election, or in any calendar year in which there is no regular Village election, at the first Council meeting in the month of November of such year, the Council shall select one of its members as Vice-Mayor in accordance with a procedure adopted by ordinance.

Section 2.3 Election and Term of Office.

(a) *Election and Term of Office.* Each Councilmember and the Mayor shall be elected at-large for four year terms by the electors of the Village in the manner provided in Article 5 of this Charter.

(b) *Residential Areas.* The Village shall be divided into three (3) residence areas depicted on Appendix "A" and more particularly described as follows: the northern area consisting of portions of the Village beginning at the intersection of South Dixie Highway (U.S. 1) and the Snapper Creek Canal, thence southeasterly along Snapper Creek Canal to S.W. 62nd Avenue, thence South on S.W. 62nd Avenue to North Kendall Drive (S.W. 88th Street), thence easterly and southeasterly along North Kendall Drive to Red Road (S.W. 57th Avenue), thence north along Red Road to Kendall Drive (S.W. 88th Street), thence east along Kendall Drive to Old Cutler Road, thence southeasterly along Old Cutler Road to Red Road, thence north along Red Road to Killian Drive (S.W. 112th Street), thence westerly, southwesterly and westerly along Killian Drive to Ludlam Road (S.W. 67th Avenue), thence north along Ludlam Road to S.W. 104th Street, thence west along S.W. 104th Street to South Dixie Highway, and thence northeasterly along South Dixie Highway to the point of beginning (hereinafter referred to as the "Northern Area"); the central area consisting of those portions of the Village beginning at the intersection of South Dixie Highway (U.S. 1) and S.W. 104th Street, thence east along S.W. 104th St. to Ludlam Road (S.W. 67th Avenue), thence south along Ludlam Road to Killian Drive (S.W. 112th Street), thence easterly, northeasterly and easterly along Killian Drive to Red Road (S.W. 57th Avenue), thence south along Red Road to Montgomery Drive (S.W. 120th Street), thence east along Montgomery Drive to S.W. 60th Court, thence South along S.W. 60th Court to Moss Ranch Road, thence east along Moss Ranch Road to S.W. 62nd Avenue, thence south along S.W. 62nd Avenue to Chapman Field Drive (a portion of which is known as S.W. 124th Street), thence northeasterly and westerly along Chapman Field Drive to South Dixie Highway, and thence northeasterly along South Dixie Highway to the point of beginning (hereinafter referred to as the "Central Area"); and the southern area consisting of those portions of the Village beginning at the intersection of South Dixie Highway (U.S. 1) and Chapman Field Drive (a portion of which is known as S.W. 124th Street), thence easterly and southeasterly along Chapman Field Drive to S.W. 62nd Avenue; thence north along S.W. 62nd Avenue to Moss Ranch Road, thence east along Moss Ranch Road to S.W. 60th Court, thence north along S.W. 60th Court to S.W. 120nd Street, thence east along S.W. 120th Street to Red Road (S.W. 57th Avenue), thence South along Red Road until it forks at Old Cutler Road, thence southeasterly along Old Cutler Road to S.W. 128th Street, thence east along S.W. 128th St. to Red Road, thence south along Red Road to S.W. 136th Street, thence west along S.W. 136th Street to South Dixie Highway, and thence northeasterly along South Dixie Highway to the point of beginning (hereinafter referred to as the "Southern Area"). Collectively the Northern Area, the Central Area, and the Southern Area are referred to as "Residential Areas"; individually, each as a "Residential Area." One Councilmember shall reside in the Northern Area (Seat 1), one Councilmember shall reside in the Central Area (Seat 2); one Councilmember shall reside in the Southern Area (Seat 3); and one Councilmember shall be elected without

regard to residence in any particular Residential Area (Seat 4). Persons running from a particular Residential Area must be a resident of the Residential Area which s/he proposes to represent on the Council at the time of qualifying, at the time of his/her election and must continue to reside in such Residential Areas during his/her term of office. The Councilmembers from Residential Areas 1, 2, and 3 are referred to collectively as the "Residential Area Councilmembers;" individually, each as a "Residential Area Councilmember." The Councilmember holding Seat 4 and the Mayor as the context dictates are collectively referred to as the "At-Large Councilmembers"; individually, each as an "At-Large Councilmember."

(c) *Limitations on Lengths of Service.* No person shall serve as Mayor for more than two consecutive elected terms. No person may serve on the Council for more than two consecutive terms. No person may serve as a combination of Mayor and Councilmember for more than eight consecutive years. Notwithstanding Section 2.3(c), any Councilmember elected to Seat 2 and Seat 4 in the 1996 election may serve for a maximum of ten (10) consecutive years.

Section 2.4 Qualifications.

(a) Candidates for Councilmember or Mayor shall qualify for election by the filing of a written notice of candidacy with the Clerk of the Village at such time and in such manner as may be prescribed by ordinance and payment to the Village Clerk of the sum of one hundred dollars (\$100.00) as a qualifying fee. A person may not be a candidate for Council and Mayor in the same election. Only electors of the Village who have resided continuously in the Village for at least one year preceding the date of such filing (and in the respective Residential Area from which the candidate may seek to qualify for election) shall be eligible to hold the Office of Councilmember, including Mayor.

(b) A vacancy in a candidacy for the office of Councilmember shall occur upon the death, withdrawal or removal of a candidate. If any qualified candidate dies, withdraws or is removed from the ballot following the end of the qualifying period, and in the event such action leaves fewer than two (2) candidates for that office, then the qualifying period for that particular office shall commence at noon on the day following the day that the vacancy in candidacy occurred, and additional qualification papers shall be available for that particular office in the office of the Village Clerk until noon, fourteen (14) days subsequent to the death, withdrawal or removal from the ballot of the original candidate. A candidate who was a qualifying candidate at the beginning of the supplemental qualified period shall not be required to re-qualify during such period. The Village Council shall hold a special meeting within seven (7) days of such additional qualifying period for the purpose of announcing a vacancy in the candidacy, announcing the additional qualifying period, and taking any action that may be necessary to reschedule the election for that particular office. If the closing date of the additional qualifying period is less than twenty (20) days before the date of the scheduled election, the Village Council shall schedule a special election for that particular office, which election shall be held at least twenty (20) days, but no more than thirty-five (35) days subsequent to the last day of the additional qualifying period. This procedure shall

apply only in the event of the death, withdrawal or removal from the ballot of any candidate who qualified during the original qualifying period for such office and any subsequent deaths, withdrawals or removal from the ballot of a candidate's name, which provides for fewer than two (2) candidates for an office, shall result in the remaining candidate being duly elected pursuant to Section 5.1(h).

Section 2.5 Vacancies; Forfeiture of Office; Filling of Vacancies.

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

(b) *Forfeiture of Office.*

- i) *Forfeiture by disqualification.* A Councilmember shall forfeit his/her office if at any time during his/her term s/he (1) ceases to maintain his/her permanent residence in the Village, (2) in the case of a Residential Area Councilmember, upon his/her ceasing to reside in his/her respective Residential Area, or (3) otherwise ceases, to be a qualified elector of the Village.
- ii) *Forfeiture by absence.* A Councilmember shall be subject to forfeiture of his/her office, in the discretion of the remaining Councilmembers, if s/he is absent with good cause from any six (6) regular meetings of the Council during any calendar year, or if s/he is absent without good cause from any four (4), or three (3) as to the Mayor, consecutive regular meetings of the Council, whether or not during the same calendar year.
- iii) *Procedures.* The Council shall be the sole judge of the qualifications of its members and shall hear all questions relating to forfeiture of a Councilmember's office, including whether or not good cause for absence has been or may be established. The burden of establishing good cause shall be on the Councilmember in question; provided, however, that any Councilmember may at any time during any duly held meeting move to establish good cause for the absence of him/herself or the absence of any other Councilmember, from any past, present or future meeting(s), which motion, if carried, shall be conclusive. A Councilmember whose qualifications are in question, or, who is otherwise subject to forfeiture of his/her office, shall not vote on any such matters. The Councilmember in question shall be entitled to a public hearing(s) on request regarding an alleged forfeiture of office. If a public hearing is requested, notice thereof shall be published in one or more newspapers of general circulation in the Village at least one week in advance of the hearing. Any final determination by the

Council that a Councilmember has forfeited his/her office shall be made by resolution. All votes and other acts of the Councilmember in question prior to the effective date of such resolution shall be valid regardless of the grounds of forfeiture.

- (c) *Filling of vacancies.* A vacancy on the Council shall be filled as follows:
- i) If less than six (6) months remain in the unexpired term, the vacancy shall be filled by a nominee of the Mayor, within thirty (30) days following the occurrence of the vacancy, subject to confirmation by the Council.
 - ii) If six (6) months or more remain in the unexpired term, the vacancy shall be filled by a nominee of the Mayor within thirty (30) days following the occurrence of the vacancy, subject to confirmation by the Council. The nominee shall fill the vacancy until the next regularly scheduled election in Miami-Dade County, unless the Council is unable to confirm a nominee, in which case a special election to fill that vacancy shall be held no later than ninety (90) days following the occurrence of the vacancy.
 - iii) If the Mayor's position becomes vacant, the Vice-Mayor shall complete the term of Mayor if less than six (6) months remain in the unexpired term. The vacancy thus created on the Council shall be filled in the manner that the vacancy of a Councilmember is generally filled under this Charter. The Council shall then appoint a new Vice-Mayor. If the elected Mayor shall be returned to office, s/he shall automatically resume the duties of the office for the balance of the term for which elected and the appointment to the office, filled in accordance with this section shall be rescinded, and the Vice-Mayor shall be returned to complete the balance of his/her term. Nevertheless, if six (6) months or more remain in the unexpired term, a special election shall be held for the election of a new Mayor within ninety (90) days following the occurrence of the vacancy.
 - iv) A vacancy in any Residential Area seat shall be filled by a qualified person residing in the respective Residential Area. A vacancy in an At-Large seat (4) shall be filled by any qualified elector of the Village.
 - v) Persons filling vacancies shall meet the qualifications specified in this Article 2.
 - vi) If no candidate for a vacancy meets the qualifications under this Article for that vacancy, the Council shall appoint a person qualified

under this Article to fill the vacancy, who shall serve until the next regularly scheduled election for the balance of the original term, but only after a public hearing and in addition to regular notice requirements, if such vacancy applies to a specific Residential Area, after five (5) day mailed notice is given to all electors of that particular Residential Area.

- vii) Notwithstanding any quorum requirements established herein, if at any time the full membership of the Council is reduced to less than a quorum, the remaining members may, by majority vote, appoint additional members to the extent otherwise permitted or required under this subsection (c).
- viii) In the event that all members of the Council are removed by death, disability, recall, forfeiture of office and/or resignation, the Governor shall appoint interim Councilmembers who shall call a special election within not less than 30 days or more than 60 days after such appointment. Such election shall be held in the same manner as the first elections under this Charter; provided, however, that if there are less than six months remaining in any of the unexpired terms, such interim Council appointee(s) by the Governor shall serve out the unexpired terms. Appointees must meet all requirements for candidates provided for in Article 2.

Section 2.6 Compensation; Reimbursement for Expenses.

Councilmembers (including the Mayor) shall serve without compensation but shall receive reimbursement in accordance with applicable law, or as may be otherwise provided by ordinance, for authorized expenses incurred in the performance of their official duties.

Section 2.7 Recall.

The electors of the Village shall have the power to recall and to remove from office any elected official of the Village to the extent permitted by the Constitution and the laws of the State of Florida. The minimum number of electors of the Village which shall be required to initiate a recall petition shall be ten percent (10%) of the total number of electors of the Village as of the preceding Village election and shall be accomplished in accordance with the procedures set forth in Section 5.2.

**ARTICLE 3.
ADMINISTRATIVE**

Section 3.1 Village Manager.

There shall be a Village Manager (the "Manager") who shall be nominated by the Mayor and confirmed at the next Council meeting by a majority of the Council, including the Mayor. The Manager shall be the chief administrative officer of the Village and shall be appointed solely on the basis of his/her education, experience, executive and administrative qualifications. The Manager shall be responsible to the Mayor and the Village Council for the administration of all Village affairs. The Manager shall be responsible for the administration of all departments, divisions and agencies of the Village government and for carrying out policies adopted by the Village Council. The salary of the Village Manager shall be set by the Village Council.

(a) No Councilmember shall be eligible for appointment as Village Manager during the term for which s/he has been elected and until two (2) years after its expiration. The Village Administrator need not be a resident of the Village.

(b) Removal. During the first six (6) months of service, the Manager may be removed by the Mayor, as confirmed by a majority of the Council, upon at least thirty (30) days prior written notice. If removed after serving six (6) months, the Manager may demand written charges and the right to be heard thereon at a public meeting of the Council prior to the date on which such removal is to take effect. Pending that hearing, the Council may suspend the Manager but without loss of pay. The action of the Mayor in removing the Manager shall be final, as of the date set forth in the notice of removal, upon the affirmative vote of a majority of the entire Council, including the Mayor. In either event, subject to the timeframes and procedures set forth herein, the Council may elect to remove the Manager without the approval of the Mayor, provided that three (3) out of the four (4) Councilmembers, excluding the Mayor, vote for recommendation of removal and the subsequent removal, if a hearing is necessary.

Section 3.2 Powers and Duties of the Village Manager.

The Manager shall:

- (1) Be responsible for the appointment, supervision and removal of all Village employees;
- (2) Direct and supervise the administration of all departments and offices but not Village boards or agencies, unless so directed by the Council from time to time;
- (3) Attend all Council meetings and have the right to take part in discussion but not the right to vote;

- (4) Insure that all laws, provisions of this Charter and acts of the Council, subject to enforcement and/or administration by him/her or by officers subject to his/her direction and supervision, are faithfully executed;
- (5) Prepare and submit to the Council a proposed annual budget and capital program;
- (6) Submit to the Council and make available to the public an annual report on the finances and administrative activities of the Village as of the end of each fiscal year;
- (7) Prepare such other reports as the Council may require concerning the operations of Village departments, offices, boards and agencies;
- (8) Keep the Council fully advised as to the financial condition and future needs of the Village and make such recommendations to the Council concerning the affairs of the Village as s/he deems to be in the best interests of the Village;
- (9) Perform such other duties as are specified in this Charter or as may be required by the Council.

Section 3.3 Acting Village Manager.

To perform his/her duties during his/her temporary absence or disability, the Manager may designate by letter filed with the Council, a qualified Village administrative officer to exercise the powers and perform the duties of Manager during his/her temporary absence or disability. During such absence or disability, the Mayor, with the approval of the Council, may revoke such designation at any time and appoint another officer of the Village to serve until the Manager shall return or his/her disability shall cease. If the Manager is terminated, the Mayor, with the approval of the Council, shall appoint an acting Manager until a permanent appointment is made pursuant to Section 3.1.

Section 3.4 Bond of Village Manager.

The Village Manager shall furnish a surety bond to be approved by the Council, and in such amount as the Council may fix, said bond to be conditioned on the faithful performance of his/her duties. The premium of the bond shall be paid by the Village.

Section 3.5 Village Clerk.

The Mayor shall nominate, and the Council, including the Mayor, by majority shall confirm, a Village Clerk (the "Clerk"). The Clerk shall give notice of Council meetings to its members and the public, shall keep the journal of its proceedings which shall be a public record and shall perform such other duties, not in conflict with the administrative duties of the Village Manager, and as the Council may prescribe from time to time. The Clerk shall report to the Council and shall be removed by the Council utilizing the same procedure for the Clerk as set forth for the Manager on Section 3.1(b). The compensation and benefits provided to the Clerk shall be set by the Council.

Section 3.6 Village Attorney.

The Mayor may nominate, and the Council, including the Mayor, by majority shall confirm an individual attorney to act as the Village Attorney under such terms and conditions as may be established by the Council, from time to time, consistent with this Charter. The Village attorney shall report to the Council and may be removed by the Council at any time.

Section 3.7 Village Code of Administrative Regulations.

The Manager shall maintain a Village Code of administrative regulations. The Council shall, by ordinance, establish appropriate procedures for reasonable notice and public comment on proposed administrative regulations prior to taking final action on the same.

Section 3.8 Expenditure of Village Funds.

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

Section 3.9 Village Boards and Agencies.

The Council shall establish or terminate such boards and agencies as it may deem advisable from time to time. The boards and agencies shall report to the Council.

Section 3.10 Competitive Bid Requirement/Purchasing.

(a) Except as otherwise provided by law, contracts for public improvements and purchases of supplies, materials or services shall be awarded or made on the basis of clearly drawn specifications and competitive bids, except in cases where the Council, based on the written recommendation of the Village Manager, specifically determines by affirmative vote of four Councilmembers that it is impracticable or not advantageous to the Village to do so. The Village Council shall have the power to reject all bids and advertise again.

(b) The Village Manager, by ordinance, may be granted purchasing power without competitive bidding.

(c) No contract or order shall be issued to any vendor unless or until the director of finance or the Village Manager certifies that there is to the credit of such office, department or agency a sufficient unencumbered budget appropriation to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued.

ARTICLE 4. LEGISLATIVE

Section 4.1 Council Meeting Procedure.

(a) *Meetings.* The Council shall hold at least eleven (11) regular monthly meetings in each calendar year, at such times and places as the Council may prescribe by rule. Special meetings may be held on the call of the Mayor or of a majority of the Councilmembers and upon no less than forty-eight (48) hours' notice to each member and the public, or such shorter time as a majority of the Council shall deem necessary in case of an emergency affecting life, health, property or the public peace.

(b) *Rules and Journal.* The Council shall determine its own rules of procedure and order of business and shall keep a journal open for public inspection.

(c) *Quorum and Voting.* A majority of the Council shall constitute a quorum but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the Council. Voting on ordinances shall be by roll call on final reading and shall be recorded in the journal. All other matters shall be by voice vote unless a Councilmember or the Village Clerk requests otherwise. No action of the Council, except as otherwise provided in the Charter, shall be valid or binding unless adopted by the affirmative votes of at least three (3) Councilmembers.

(d) *Meeting Time Limits.* No meeting of the Council shall extend later than midnight except upon the affirmative vote of a majority of members present at the meeting.

Section 4.2 Prohibitions.

(a) *Appointment and Removals.* Neither the Council nor any of its members shall in any manner dictate the appointment or removal of any Village administrative officers or employees whom the Manager or any of his/her subordinates are empowered to appoint.

(b) *Interference With Administration.*

- i) Except for the purpose of inquiries and investigations made in good faith and in accordance with a resolution adopted by the Council, the Council and any of its individual members shall deal with Village officers and employees who are subject to the direction and supervision of the Manager solely through the Manager, and neither the Council nor its members shall give orders to any such officer or employee, either publicly or privately. It is the express intent of this Charter that recommendations for improvement in Village government operations by individual Councilmembers be made solely to and through the Manager. No individual Councilmembers shall give orders to the Manager.
- ii) Any willful violation of this Section by the Mayor or any Councilmember shall be grounds for his/her removal from office by an action brought in the Circuit Court by the State Attorney of Miami-Dade County.

(c) *Holding Other Office.* No elected Village official shall hold any appointive Village office or Village employment while in office. No former elected Village official shall hold any compensated appointive Village office or Village employment until one (1) year after the expiration of his/her term.

Section 4.3 Ordinances.

(a) *Actions Requiring an Ordinance.* In addition to other acts required by law or by specific provision of this Charter to be effected or authorized by ordinance, those acts of the Village Council shall be by ordinance which:

- (1) Adopt or amend an administrative regulation or establish, alter or abolish any Village office, department, board or agency;
- (2) Establish a rule or regulation the violation of which carries a penalty;
- (3) Levy taxes or appropriate funds;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or grant administrative authority to set such charges;
- (6) Authorize the borrowing of money;

- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the Village; or
- (8) Amend or repeal any ordinance previously adopted, except as otherwise provided in this Charter.

(b) *Procedure.* The Village Council shall adopt procedures with respect to the passage of ordinances in accordance with applicable law.

Section 4.4 Emergency Ordinances.

To meet a public emergency affecting life, health, property or the public peace, the Council may adopt, in the manner provided in this Section, one or more emergency ordinances, but such ordinances may not: levy taxes, grant, renew or extend any municipal franchise; set service or user charges for any municipal services; or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter if applicable.

(a) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

(b) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced and shall be enacted by no less than a 3/5 majority of the membership of the Council. After its adoption, the ordinance shall be published and printed as prescribed for other ordinances.

(c) *Effective Date.* An emergency ordinance shall become effective upon adoption or at such other date as may be specified in the ordinance.

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

(e) *Emergency Appropriations.* The Council may make emergency appropriations in the manner provided in this Section. To the extent that there are no available unappropriated revenues to meet such appropriations, the Council may by such emergency ordinance (subject to Section 4.10) authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes, including renewals thereof, shall be payable not later than the last day of the fiscal year next

succeeding the fiscal year in which the emergency appropriation ordinance was originally adopted.

Section 4.5 Annual Budget Adoption.

(a) *Balanced Budget.* Each annual budget adopted by the Council shall be a balanced budget.

(b) *Budget Adoption.* The Council shall by ordinance adopt the annual budget on or before the thirtieth (30th) day of September of each year. If it fails to adopt the annual budget by this date, the Council may by resolution direct that the amounts appropriated for current operations for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days, with all items in it prorated accordingly, until such time as the Council adopts an annual budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriation of the amounts specified therein.

(c) *Specific Appropriation.* The budget shall be specific as to the nature of each category of appropriations therein. Reasonable appropriations may be made for contingencies, but only within defined spending categories.

Section 4.6 Fiscal Year.

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

Section 4.7 Appropriation Amendments During the Fiscal Year.

(a) *Supplemental Appropriations.* If, during any fiscal year, revenues in excess of those estimated in the annual budget are available for appropriation, the Council may by ordinance make supplemental appropriations for the fiscal year up to the amount of such excess.

(b) *Reduction of Appropriations.* If, at any time during the fiscal year, it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he/she shall report in writing to the Council without delay, indicating the estimated amount of the deficit, and his/her recommendations as to the remedial action to be taken. The Council shall then take such action as it deems appropriate to prevent any deficit spending.

Section 4.8 Authentication, Recording and Disposition of Ordinances; Resolutions and Charter Amendments.

(a) *Authentication.* The Mayor and the Clerk shall authenticate by their signature all ordinances and resolutions adopted by the Council. In addition, when Charter

amendments have been approved by the electors, the Mayor and the Clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.

(b) *Recording.* The Clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the Council. Ordinances shall, at the direction of the Council, be periodically codified. The Clerk shall also maintain the Village Charter in current form and shall enter all Charter amendments.

(c) *Record Availability.* The Council shall, by ordinance, establish procedures for making all resolutions, ordinances, technical Codes adopted by reference, and this Charter available to the people of the Village for public inspection and available for purchase at a reasonable price.

Section 4.9 Annual Tax Levy.

The Village shall have the right to levy, assess and collect all such taxes as are permitted by law, including without limitation ad valorem, excise, franchise or privilege taxes and taxes on services and utilities.

Section 4.10 Independent Audit.

The Village Council shall provide for an annual independent audit of all Village accounts and may provide more frequent audits as it deems necessary. Those audits shall be made in accordance with generally accepted auditing standards by a certified public accountant or firm of such accountants who have no personal interest in the fiscal affairs of the Village governed or by its officers. (Residency, per se, shall not constitute a direct or indirect interest.) A summary of the results, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or any indirect subsidy.

ARTICLE 5. ELECTIONS

Section 5.1 Elections.

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

(b) *Nonpartisan Elections.* All elections for the Village Council and Mayor shall be conducted on a nonpartisan basis and no ballot shall show the party designation of any candidate.

(c) *Election Dates.* A general election shall be held in November of each even-numbered year, on the day U.S. Congressional elections are held, or if none is held in any such year, on the first Tuesday following the first Monday in November. A runoff election, if necessary, shall be held on the third Tuesday in November.

(d) *General Election.* The ballot for the general election shall contain the names of all qualified candidates for Mayor, if the Mayor's term is expiring, and for each of the two (2) Council positions which are to be filled as a result of two (2) members' terms expiring, and shall instruct electors to cast one (1) vote for Mayor, if applicable, and one vote for each Council seat, with a maximum of one (1) vote per candidate. If any candidate for Mayor receives a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate shall be the duly elected mayor. If any candidate(s) for Council receive(s) a number of votes greater than fifty percent (50%) of the total number of ballots cast, such candidate(s) shall be duly elected to the Council.

(e) *Runoff Election.* The ballot for the runoff election shall contain the names of the two (2) candidates for Mayor, if applicable, and the names of the two candidates for each Council seat who received the most votes in the general election. The ballot shall instruct electors to cast one vote for Mayor and to cast one vote for each Council seat, with a maximum of one (1) vote per candidate. The candidate for Mayor receiving the most votes shall be duly elected Mayor. The candidates for each Council seat receiving the most votes shall be duly elected to that Council seat.

(f) *Ties.* In the event that there is a tie in the regular election and it is necessary to break the tie in order to determine the two (2) names to be placed on the ballot at the runoff election, or in the event that there is a tie in the runoff election, then the winner or winners shall be determined by the drawing of straws, with the person or persons drawing the longest straw or straws being declared the winner.

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

(h) *Single Candidates.* No election for Mayor or any Council seat shall be required in any election if there is only one duly qualified candidate for Mayor or for any Council seat. That candidate shall be considered elected automatically.

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

(j) *Commencement of Terms.* The term of office of any elected official will commence on the day following the day of the general or runoff election in which he/she is elected, at 12 o'clock noon, and will end at the end of the day on which regular elections are held in the year in which his/her term expires.

Section 5.2 Initiative and Referendum.

(a) *Power to Initiate and Reconsider Ordinances.*

- i) *Initiative.* The electors of the Village shall have power to propose ordinances to the Council and, if the Council 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, pursuant to such annual budget.
- ii) *Referendum.*
 - a. The electors of the Village shall have power to require reconsideration by the Council of any adopted ordinance and, if the Council 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, pursuant to such annual budget.
 - b. Notwithstanding anything to the contrary in the preceding paragraph, the referendum power shall extend to any ordinance levying ad valorem taxes in the specific event that: (1) the ordinance increases the millage rate above the prevailing millage rate of unincorporated Miami-Dade County, or, if, at any time, Miami-Dade County consists solely of municipalities, then the power of referendum shall apply if the Pinecrest millage rate is increased above the average of the five (5) municipalities with the lowest millage rate in Miami-Dade County; (2) proceedings with respect to the referendum are commenced within twenty (20) days after the adoption of the ordinance; and (3) all petitions with respect to the referendum are filed within thirty (30) days after the date of adoption of the Ordinance. In this case, the referendum, if successful, shall apply *not* to the current fiscal year but to the *following* fiscal year, and the millage rate would then be adjusted to the rate of the prior fiscal year.

(b) *Commencement of Proceedings.* Any ten (10) electors may commence initiative or referendum proceedings by filing with the Clerk or other official designated by the Council an affidavit stating they will constitute the petitioners' 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 petitioners' committee is filed, the Clerk or other official designated by the Council shall at the committee's request, issue the appropriate petition blanks to the petitioners' committee at the committee's expense. Petitioners' proposed ordinance shall be approved as to legal sufficiency by the Village Attorney prior to circulation.

(c) *Petitions.*

- i) *Number of Signatures.* Initiative and referendum petitions must be signed by electors of the Village equal in number to at least ten percent (10%) of the total number of electors registered to vote at the last regular Village election.
- ii) *Form and Content.* All papers of a petition shall be assembled as one instrument of filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the 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.
- iii) *Affidavit of Circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that s/he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his/her presence that s/he believes them to be the genuine signatures of the persons whose names they purport to be and that each signer has an opportunity before signing to read the full text of the ordinance proposed or sought to be reconsidered.
- iv) *Filing Deadline.* All initiative and referendum petitions must be filed within sixty (60) days of the date on which proceedings with respect to such initiative or referendum are commenced.

(d) *Procedure for Filing.*

- i) *Certificate of Clerk; Amendment.* Within twenty (20) days after initiative petition is filed or within five (5) days after a referendum petition is filed, the Clerk or other official designated by the Council shall complete a certificate as to its sufficiency ("the Certificate") specifying, if it is insufficient, the particulars wherein it is defective and shall promptly send a copy of the Certificate to the petitioners' committee by registered mail. Grounds for insufficiency are only those specified in subsection (c) of this Section. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of

intention to amend it with the Clerk or other official designated by the Council within two (2) business days after receiving the copy of the Certificate and files a supplementary petition upon additional papers within ten (10) days after receiving the copy of such Certificate. Such supplementary petition shall comply with the requirements of paragraphs (i), (ii) and (iii) of subsection (c) of this Section, and within five (5) days after it is filed the Clerk or other official designated by the Council, shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of such certificate to the petitioners' committee by registered mail as in the case of an original petition. If a petition or amended petition is certified sufficient, or if a petition or amended petition is certified insufficient and the petitioners' committee does not elect to amend or request Council review under paragraph (ii) of this subsection (d) within the time required, the Clerk or other official designated by the Council shall promptly present his/her certificate to the Council and within sixty (60) days the Certificate shall then be a final determination as to the sufficiency of the petition.

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

(e) *Action on Petitions.*

- i) *Action by Council.* When an initiative or referendum petition has been finally determined sufficient, the Council shall promptly consider the proposed initiative ordinance or reconsider the referred ordinance by voting its repeal, all in the manner provided in Article 4. If the Council fails to adopt a proposed initiative ordinance without any change in substance within forty-five (45) days or fails to repeal the referred ordinance within thirty (30) days, it shall submit the proposed or referred ordinance to the electors of the Village. If the Council fails to act on a proposed initiative ordinance or a referred ordinance within the time period contained in paragraph (i) of subsection (e) of this Section, the Council shall be deemed to have failed to adopt the proposed initiative ordinance or failed to repeal the referred ordinance on the last day that the Council was authorized to act on such matter.

- ii) *Submission to Electors.* The vote of the Village on a proposed or referred ordinance shall be held not less than thirty (30) or more than sixty (60) days from the date the Council acted or was deemed to have acted pursuant to paragraph (i) of this subsection (e) that the petition was determined sufficient. If no regular election is to be held within the period described in this paragraph, the Council shall provide for a special election, except that the Council may, in its discretion, provide for a special election at an earlier date within the described period. Copies of the proposed or referred ordinance shall be made available at the polls.
- iii) *Withdrawal of Petitions.* An initiative or referendum petition may be withdrawn at any time prior to the fifteenth (15th) day preceding the day scheduled for a vote by the Village by filing with the Clerk or other official designated by the Council a request for withdrawal signed by at least eight/tenths (8/10) of the petitioners' committee. Upon the filing of such request, the petition shall have no further force or effect and all proceedings thereon shall be terminated.

(f) *Results of Election.*

- i) *Initiative.* 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 the proposed initiative ordinance fails, it or any ordinance that is substantially similar, may not be submitted in accordance with this Article for at least a period of one (1) year from the election.
- ii) *Referendum.* If a majority of the qualified electors voting on a referred ordinance vote against it, it shall be considered repealed upon certification of the election results.

Section 5.3 Form of Ballots.

A Charter amendment, ordinance or other ballot issue to be voted on by the electors shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described [amendment/ordinance/proposal] be adopted?" Immediately below such question shall appear, in the following order, the word "YES" and also the word "NO".

**ARTICLE 6.
CHARTER AMENDMENTS**

Section 6.1 Procedure to Amend.

The Charter may be amended in accordance with these provisions:

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

(b) *Initiation by Petition.* The electors of the Village may propose amendments to this Charter by petition. Each petition proposing amendments to this Charter shall be commenced, in the form, filed, certified as to its sufficiency and/or withdrawn in the same manner as an ordinance proposed by initiative pursuant to Section 5.2. Upon certification of the sufficiency of the petition, the Council shall submit the proposed amendment to a vote of the electors at the next general election if such election is scheduled to be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified or at a special election called for that purpose. A special election, if necessary, shall be held not less than sixty (60) days or more than one hundred and twenty (120) days from the date on which the petition was certified.

(c) *Charter Revision Commission.* Every six years, commencing March 2006, at its first regular meeting in March, the Council shall appoint a Charter revision commission ("Commission") consisting of five (5) persons including three (3) from the Residential Areas from which the Councilmembers were elected, except in the case of the At-Large Councilmember in which case the Commission member may reside anywhere in the Village. In addition, the Mayor may appoint (1) person to the Commission who is a member of the Council but who shall be a nonvoting Commission member. The Mayor shall not be eligible for appointment to the revision commission. The revision Commission shall commence its proceedings within forty-five (45) days after appointment by Council. If the Commission determines that a revision is needed, including but not limited to a change in the boundaries or number of Residential Areas, it shall draft such amendments to this Charter as it deems appropriate and submit the same to the Village Council no later than the ninetieth (90th) day after their appointment by the Council. The Council shall submit the proposed amendment to a vote of the electors at the next general election held within the Village or at a special election called for such purpose in accordance with the provisions of Section 6.1 except that the provisions of subsections (a) and (b) of such Section shall not apply.

(d) *Results of Election.* If a majority of the qualified electors voting on a proposed amendment vote for its adoption, it shall be considered adopted upon certification of the election results. If conflicting amendments are adopted at the same election, the one

receiving the greatest number of affirmative votes shall prevail to the extent of such conflict.

Section 6.2 Form of Ballot.

Any Charter amendment ballot issue to be voted on by the electors shall be presented on the ballot in the form required by Section 5.3 of this Charter.

**ARTICLE 7.
GENERAL PROVISIONS**

Section 7.1 Severability.

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

Section 7.2 Conflicts of Interest; Ethical Standards.

All Councilmembers, officials and employees of the Village shall be subject to the standards of conduct for public officers and employees set by law. In addition, the Council may, by ordinance, establish a Code of ethics for Councilmembers, officials and employees of the Village which may be supplemental to law, but in no case may such an ordinance diminish the provisions of this Section or of general law.

Without in any way limiting the generality of the foregoing, no Councilmembers shall have a financial interest, direct or indirect, or by reason of ownership of stock or other equity ownership in any corporation or entity, in any contract or in the sale to the Village or to a contractor supplying the Village of any land or rights or interests in any land, material supplies, or services unless, after full disclosure to the Village Council of the nature and extent of such interest, the same is authorized by the Council before the event or accepted and ratified by the Council after the event. No member of the Village Council who possesses such a financial interest shall vote on, or participate in the Council deliberations concerning, any such contract or sale. Any violation of this Section with the knowledge of the person or entity contracting with the Village shall render the contract voidable by the Council.

Section 7.3 Village Personnel System.

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

Section 7.4 Variation of Pronouns.

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

Section 7.5 No Discrimination.

The Village shall not adopt any ordinance that discriminates against any person due to race, religion, color, national origin, physical or mental disability, creed, age, sexual preference or sex.

Section 7.6 Conflicting Provisions.

In case of a conflict between the provisions of this Charter and the provisions of the Code to be adopted pursuant thereto and/or the Citizen's Bill of Rights, the Charter terms shall control. Moreover, nothing in this Charter shall be construed to alter, abolish, affect or amend the general laws of this State, now in force, or which hereinafter may be enacted relative to or affecting this Village, except where such laws are in direct conflict in which case the provisions of this Charter or Code adopted pursuant thereto shall supersede and be in full force and effect.

Section 7.7 Effect of Current County and State Laws.

All Miami-Dade County ordinances, resolutions, orders and regulations which are in force when this Charter becomes fully effective are repealed to the extent that they are inconsistent or interfere with the effective operation of this Charter or the Code adopted pursuant thereto. To the extent the Constitution and the laws of the State of Florida permit, all laws relating to or affecting this municipality which are in force when this Charter becomes fully effective are superseded to the extent they are inconsistent or interfere with the operation of this Charter or the Code adopted pursuant thereto.

APPENDIX A. RESIDENTIAL AREAS

